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If a whole or part of a section has been amended, the date of the amending law appears in square brackets at the end of the section. If a whole section, paragraph or clause has been deleted, the date of the deletion appears in square brackets beside the deleted section, paragraph or clause.

The *Saeima*<sup>1</sup> has adopted and the President has proclaimed the following Law:

## **Administrative Procedure Law**

### **Part A General Provisions**

#### **Chapter 1 Basic Provisions of Administrative Procedure**

##### **Section 1. Terms Used in this Law**

(1) An **institution** is a legal entity (an authority, a unit or an official) on which specific public authority powers in the field of State administration have been conferred by a regulatory enactment or public law contract.

(2) A **higher institution** is a legal entity (an authority, a unit or an official) which may, in accordance with hierarchical procedures, issue orders to an institution or set aside a decision thereof.

(3) An **administrative act** is a legal instrument directed externally, which is issued by an institution in an area of public law with regard to an individually indicated person or individually indicated persons establishing, altering, determining or terminating specific legal relations or determining an actual situation. Administrative acts are also decisions regarding the establishing, alteration or termination of the legal status of, or the disciplinary punishment of employees of or persons specially subordinate to the institution, as well as other decisions if they significantly limit the human rights of the employees of or persons specially subordinate to the institution. Decisions or other types of actions of an institution in the sphere of private law, and internal decisions which affect only the institution itself, bodies subordinate to it or persons specially subordinate to it, are not administrative acts. Political decisions (political announcements,

<sup>1</sup> The Parliament of the Republic of Latvia

declarations, invitations, election of officials, and similar) by the *Saeima*, the President, the Cabinet or local government city councils (district and parish councils), as well as decisions regarding criminal proceedings and court adjudications are also not administrative acts.

(4) **Norms of law** are comprised of regulatory enactments (parts thereof) and general principles of law.

(5) **External regulatory enactments** are comprised by the Constitution (*Satversme*), laws, Cabinet regulations and binding regulations of local governments, as well as international agreements.

(6) An **internal regulatory enactment** is a legal instrument which has been issued by a public legal entity with the aim of determining its own internal working procedures or those of its subordinate authority or to clarify the procedures regarding application of an external regulatory enactment in the area of its activity (an instruction, recommendation, by-law. etc).

(7) The **legal norms of international law** are comprised by international agreements binding on Latvia, international customary law and general principles of international law.

(8) A **private person** is a natural person, a public law legal person or an association of such persons.

(9) A **public legal entity** is a public law legal person, the institutions thereof or other similarly institutionally formed person, who has an administrative procedural capacity to act.

[15 January 2004]

## **Section 2. Basic Objectives of this Law**

The basic objectives of this Law are as follows:

1) to ensure the observance of basic democratic, law-governed state principles, especially human rights, in specific public legal relations between the State and a private person;

2) to subject actions of executive power relating to specific public legal relations between the State and a private person to the control of an independent, impartial and competent judicial power; and

3) to ensure just, accurate and effective application of the norms of law in public legal relations.

[15 January 2004]

## **Section 3. Operation of this Law**

(1) This Law shall be applied to administrative procedure in institutions to the extent that special norms of law in other laws do not provide otherwise.

(2) Administrative proceedings in court shall take place in accordance with this Law.

## **Section 4. Principles of Administrative Procedure**

(1) The following general principles of law shall be applied in administrative proceedings:

1) the principle of observance of the rights of private persons (Section 5);

2) the principle of equality (Section 6);

3) the principle of the rule of law (Section 7);

4) the principle of reasonable application of the norms of law (Section 8);

5) the principle of not allowing arbitrariness (Section 9);

- 6) the principle of confidence in legality of actions (Section 10);
- 7) the principle of lawful basis (Section 11);
- 8) the principle of democratic structure (Section 12);
- 9) the principle of proportionality (Section 13);
- 10) the principle of priority of laws (Section 14); and
- 11) the principle of procedural equity (Section 14.<sup>1</sup>).

(2) In administrative proceedings, general principles of law not referred to in Paragraph one of this Section, which have been discovered, derived or developed within institutional practice, or within jurisprudence, as well as legal science shall also be applied.

(3) Administrative acts, and the actual actions of institutions (Chapter 7), shall comply with the general principles of law referred to in Paragraph 1 of this Section.

[15 January 2004]

### **Section 5. Principle of Observance of the Rights of Persons**

In administrative proceedings, especially in adopting decisions on the merits, institutions and courts shall, within the scope of the applicable norms of law, facilitate the protection of the rights and legal interests of private persons.

[15 January 2004]

### **Section 6. Principle of Equality**

In matters where there are identical factual and legal circumstances, institutions and courts shall adopt identical decisions (in matters where there are different factual or legal circumstances – different decisions) irrespective of the gender, age, race, skin colour, language, religious beliefs, political or other views, social origin, nationality, education, social and financial status, type of occupation or other circumstances of participants in the administrative proceedings.

[15 January 2004]

### **Section 7. Principle of the Rule of Law**

The actions of an institution and a court shall comply with the norms of law. Institutions and courts shall operate within the scope of their powers as prescribed by regulatory enactments and may use their powers only in conformity with the meaning and purpose of their empowerment.

### **Section 8. Principle of Reasonable Application of Norms of Law**

Institutions and courts, in applying the norms of law, shall use the basic methods of the interpretation of the norms of law (grammatical, systemic, historical and teleological methods) in order to achieve the most equitable and useful result (Section 17).

## **Section 9. Principle of Not Allowing Arbitrariness**

Administrative acts and court adjudications may be based on facts such as are necessary for the taking of a decision and on the objective and rational legal considerations arising from such facts.

## **Section 10. Principle of Confidence in Legality of Actions**

A private person may have confidence that the actions of an institution will be legal and consistent. An institution's error, for the occurring of which a private person can not be held at fault, may not cause unfavourable consequences for the private person.

[15 January 2004]

## **Section 11. Principle of Lawful Basis**

An institution may issue an administrative act or perform an actual action unfavourable to a private person on the basis of the Constitution (*Satversme*), laws or the provisions of international law. Cabinet regulations or binding regulations of local governments may be a basis for such administrative act or actual action only if the Constitution (*Satversme*), law or the provisions of international law either directly or indirectly contain an authorisation for the Cabinet, in issuing regulations, or for local governments, in issuing binding regulations, to provide for such administrative acts or actual actions therein. If the Constitution (*Satversme*), law, or provisions of international law have authorised the Cabinet, then the Cabinet may, in its turn, by regulations authorise local governments.

[15 January 2004]

## **Section 12. Principle of Democratic Structure**

Institutions and courts shall, in applying the norms of law, consider whether an administrative act or actual action unfavourable to a person is necessary in a democratic society in order to protect the rights of other private persons, the democratic structure of State, and public security, welfare or morals.

[15 January 2004]

## **Section 13. Principle of Proportionality**

The benefits which society derives from the restrictions imposed on an addressee must be greater than the restrictions on the rights or legal interests of the addressee (Section 66). Significant restrictions on the rights or legal interests of a private person are only justified by a significant benefit to society.

[15 January 2004]

## **Section 14. Principle of Priority of Laws**

An administrative act favourable to a private person, which regulates legal relations in an issue vital to a democratic society and the structure of the State (freedom of expression and of

the press, freedom of thought, conscience and religious belief, freedom of assembly and association, as well as the political system), may be issued by an institution on the basis of the Constitution (*Satversme*) or law.

[15 January 2004]

#### **Section 14.<sup>1</sup> Principle of Procedural Equity**

Institutions and courts shall, in taking decisions, observe impartiality and shall give the participants in the proceedings an appropriate opportunity to express the viewpoint thereof and to submit evidence. An official in respect of whose impartiality there may exist justified doubts shall not participate in the taking of the decision.

[15 January 2004]

#### **Section 15. Application of External Regulatory Enactments, General Principles of Law and Legal Norms of International Law**

(1) In administrative proceedings, institutions and courts shall apply external regulatory enactments, the legal norms of international law and the European Union (Community), as well as the general principles of law (Section 4).

(2) Institutions and courts shall observe the following hierarchy of the legal force of external regulatory enactments:

- 1) the Constitution (*Satversme*);
- 2) laws, and Cabinet regulations adopted in accordance with Article 81 of the Constitution (*Satversme*);
- 3) Cabinet regulations; and
- 4) binding regulations of local governments.

(3) The legal norms of international law regardless of their source shall be applied in accordance with their place in the hierarchy of legal force of external regulatory enactments. If a conflict between a legal norm of international law and a norm of Latvian law of the same legal force is determined, the legal norm of international law shall be applied.

(4) The legal norms of the European Union (Community) shall be applied in accordance with their place in the hierarchy of legal force of external regulatory enactments. In applying the legal norms of the European Union (Community), institutions and courts shall take into account European Court of Justice case law.

(5) General principles of law shall be applied if the relevant issue is not governed by an external regulatory enactment, as well as in order to interpret regulatory enactments (Section 17).

(6) If a conflict between the norms of law of differing legal force is determined, the norm of law of higher legal force shall be applied.

(7) If a conflict between a general and a special norm of law of equal legal force is determined, the general norm of law shall be applied insofar as it is not restricted by the special norm of law.

(8) If a conflict between external regulatory enactments of equal legal force is determined, the most recent external regulatory enactment shall be applied. The date of adoption of the external regulatory enactment shall be determinative.

(9) If a conflict between a most recent general and an older special norm of law of equal legal force, the older special norm of law shall be applied insofar as its purpose is not in conflict with the purpose of the most recent general norm of law (regulatory enactment).

(10) In deciding which of the norms of law of equal legal force is to be given priority, their objective significance in the common context formed by these norms of law shall be considered and priority given to such norm of law as governs an issue vital to a democratic society and the structure of the State.

(11) If an institution is required to apply a norm of law, but has a well-founded doubt as to whether this norm is compatible with a norm of law of higher legal force, the institution shall apply such norm of law and shall immediately inform a higher institution and the Ministry of Justice of its doubt in a reasoned written report.

(12) Institutions and courts may not refuse to decide an issue on the grounds that such issue is not regulated by law or other external regulatory enactment (prohibition of legal obstruction by institutions and courts). They may not refuse to apply a norm of law on the grounds that such norm does not provide for the mechanism of application, it is not exhaustive or no other regulatory enactments have been issued which would more closely regulate the application of the relevant norm. This shall not apply only in cases where an institution, which is required to apply this norm or participate in its application in another way, has not been established or is not operating.

[15 January 2004]

## **Section 16. Application of Internal Regulatory Enactments**

(1) Internal regulatory enactments are binding on the public legal entity issuing them, as well as on bodies subordinate to it. Internal regulatory enactments are not binding on private persons.

(2) If an institution determines that there is a conflict between two internal regulatory enactments, it shall apply the enactment issued by the institution's higher institution. If an institution determines that there is a conflict between an internal regulatory enactment issued by the institution's higher institution, it shall apply the enactment, which has been issued by the functionally higher institution.

(3) If an institution determines that there is a conflict between a general and a special norm of law of equal legal force contained in internal regulatory enactments, the general norm of law shall be applied insofar as it is not restricted by the special norm of law.

(4) If an institution determines that there is a conflict between internal regulatory enactments issued by one public legal entity, the institution shall apply the most recent enactment. The date of adoption of the regulatory enactment shall be determinative.

(5) If an institution is required to apply an internal regulatory enactment, but it has a well-founded doubt as to whether such enactment is compatible with another internal regulatory enactment issued by the public legal entity, the institution shall apply such enactment, but shall immediately inform a higher institution and the public legal entity which issued such regulatory enactment, as well as the Ministry of Justice of its doubt by means of a reasoned written report.

(6) If an institution is required to apply an internal regulatory enactment, but it has a well-founded doubt as to whether such enactment is in compliance with an external regulatory enactment and the general principles of law, as well as the legal norms of international law or the European Union (Community), the institution shall not apply such internal regulatory enactment and, by means of a reasoned written report, shall immediately inform a higher institution and the public legal entity which has issued such regulatory enactment, as well as the Ministry of Justice. The public legal entity that has issued such regulatory enactment may issue an order in writing for such enactment to be applied. The order shall be executed if the public legal entity has set out

therein the legal basis as to why the grounds for doubt of the institution should be dismissed and the relevant internal regulatory enactment complies with the external regulatory enactment and the general principles of law, as well as the legal norms of international law or the European Union (Community).

[15 January 2004]

### **Section 17. Interpretation and Analogy of Norms of Law**

(1) In interpreting (construing) the norms of law institutions and courts shall apply the following basic methods of interpretation:

1) grammatical (linguistic) interpretation method, that is, ascertaining the meaning of the norm of law linguistically;

2) historical interpretation method, that is, ascertaining the meaning of the norm of law, considering the circumstances on the basis of which it has been created;

3) systemic interpretation method, that is, ascertaining the meaning of the norm of law in relation to other norms of law; and

4) teleological (meaning and purpose) interpretation method, that is, ascertaining the meaning of the norm of law on the basis of the useful and equitable purpose as is to be attained pursuant to the relevant norm of law.

(2) If an institution or a court finds a gap in the system of law, it may rectify it by using the method of analogy, that is, by a systematic analysis of the legal regulation of similar cases and by applying the principles of law determined as a result of this analysis to the particular case. Such administrative acts as infringe human rights of an addressee may not be based on analogy.

(3) If, in interpreting a norm of law in accordance with different methods, it is possible to come to a result conforming to the system of law and a result contrary to some norm of law, then such interpretation method shall apply the result of which in the specific case conforms to the system of law.

(4) If, in interpreting a norm of law in accordance with different methods, it is possible to come to different results and each of them conforms to the system of law, then such interpretation method shall be applied by which it is possible to attain the most useful and equitable result in the specific case.

(5) If the Constitutional Court has interpreted the relevant norm of law in a judgment, institutions and courts shall apply this interpretation.

(6) An institution shall, where a higher institution has interpreted a norm of law in an internal regulatory enactment, apply such interpretation. The authorisation of an institution as are referred to in Section 16, Paragraphs five and six of this Law shall remain unaffected.

[15 January 2004]

### **Section 18. Costs of Administrative Proceedings**

(1) Administrative proceedings in an institution shall be free of charge for private persons, unless prescribed otherwise by law.

(2) A State fee in accordance with the procedures and in the amount set out in Chapter 13 of this Law shall be paid for submission of an application to a court.

(3) The Cabinet shall determine the procedures and amount for payment of remuneration from the State budget to witnesses, interpreters and experts in administrative proceedings in court.

(4) In administrative matters, which are complicated for the addressee, pursuant to a decision of an institution or court, and taking into account the financial circumstances of the natural person, remuneration to a representative of the natural person shall be paid from the State budget.

[15 January 2004]

## **Chapter 2**

### **Administratively Procedural Legal Capacity and Capacity to Act**

#### **Section 19. Legal Capacity and Capacity to Act**

(1) Administratively procedural legal capacity is the capacity of a person to have administratively procedural rights and duties.

(2) Administratively procedural capacity to act is the capacity to exercise administratively procedural rights and fulfil administratively procedural duties.

#### **Section 20. Administratively Procedural Legal Capacity of Private Persons**

(1) Administratively procedural legal capacity shall be recognised equally for natural persons and private law legal persons.

(2) Administratively procedural legal capacity shall also be recognised in regard to associations of persons if the persons are associated with sufficiently durable linkages in order to achieve a specific purpose and the association of persons has specific procedures for the taking of decisions.

[15 January 2004]

#### **Section 21. Administratively Procedural Legal Capacity of Private Persons**

(1) Administratively procedural legal capacity is:

1) a natural person of legal age having the capacity to act;

2) a private law legal person; and

3) an association of persons, which has been recognised as having procedural legal capacity.

(2) Procedural rights of those natural persons who have not attained the age of 15 years or who have been found to lack capacity to act, shall be exercised by their legal representatives.

(3) Procedural rights of those natural persons who have attained an age from 15 to 18 years shall be exercised by their legal representatives. In such matters the institution or the court shall invite the relevant minor to also participate.

(4) In cases prescribed by law, minors shall be entitled to independently exercise their procedural rights and fulfil duties. If by law the right to independently apply to an institution is conferred upon a minor who has attained the age of 15 years, he or she has the right to independently appeal an administrative act or actual action of an institution to a court. In such matters, at the discretion of the institution or the court, legal representatives of such persons may be invited in order to provide assistance to them in the conducting of the matter.

(5) Matters of private law legal persons shall be conducted by the bodies or authorised persons thereof.



(6) Matters of associations of persons shall be conducted by the contractual representative or authorised person thereof.

[15 January 2004]

### **Section 22. Administratively Procedural Legal Capacity of Public Legal Entities**

(1) Administratively procedural legal capacity in full extent is possessed by:

- 1) the Republic of Latvia as the initial public law legal person; and
- 2) local governments and other derived public law legal persons.

(2) Other public legal entities possess administrative procedural legal capacity in matters pertaining to spheres in which they operate within the limits of their own independent budget in accordance with law.

[15 January 2004]

### **Section 23. Administratively Procedural Capacity to Act of Public Legal Entities**

(1) On behalf of a public legal entity shall act a jurisdictional authority, institution (official) or other authorised legal entity.

(2) A public legal entity which is possessed of administratively procedural legal capacity (Section 22, Paragraph two), shall also be in the same amount possessed of administratively procedural capacity to act, and on its behalf shall act institutions (officials) or other authorised legal entities.

[15 January 2004]

## **Chapter 3 Participants in Administrative Proceedings within Institutions and in Court**

### **Section 24. Participants in Administrative Proceedings**

The following are participants in administrative proceedings:

- 1) submitters (Section 25);
- 2) institutions in the record keeping of which is the administrative matter;
- 3) addressees (Section 27);
- 4) third parties (Section 28);
- 5) legal entities and private persons who have the right to act as defenders of the rights and legal interests of private persons (Section 29);
- 6) applicants (Section 31);
- 7) defendants (Section 34); and
- 8) representatives (Sections 35 - 40).

[15 January 2004]

### **Section 25. Submitters**

(1) A submitter is a private person who is applying to an institution in order to establish, alter, determine or terminate specific public legal relations. A private person for the protection of

whose rights and legal interests a matter has been initiated pursuant to a submission by a legal entity or private person referred to in Section 29 of this Law shall also be considered a submitter.

(2) In cases here the public legal entity may be the addressee of an administrative act or it may be affected by actual actions, as well as in other cases specified in external regulatory enactments, the submitter may also be a public law legal person. In the administrative procedure in which the submitter or addressee is a public legal entity the norms of this Law shall be appropriately applied, except in the cases where it arises from the nature of the public legal entity that such norms are not applicable.

[15 January 2004]

## **Section 26. Procedural Participation within Institutions**

(1) A submission to an institution may be submitted by several submitters (co-submitters).

(2) Each co-submitter participates in proceedings independently.

(3) Co-submitters may assign the conducting of the proceedings to one submitter from amongst them or to one joint representative.

(4) Procedural actions and decisions, including administrative acts, of institutions establish, alter, determine or terminate legal relations with each co-submitter separately. Each co-submitter may exercise his or her procedural rights, in particular rights to contest and appeal procedural actions and administrative acts, independently of other co-submitters.

## **Section 27. Addressee**

(1) An addressee is a private person in regard to whom an administrative act is issued or an actual action is (is to be) carried out.

(2) A public legal entity may also be an addressee of an administrative act or it may be affected in actual action cases where it finds itself in a similar situation as a private person and in the specific case is subject to the same legal regulations as private persons.

[15 January 2004]

## **Section 28. Third Parties**

(1) A private person whose rights or legal interests may be infringed by the relevant administrative act or who may be affected by a court judgment in the matter may be a third party in administrative proceedings.

(2) A public legal entity may be a third party in cases where it finds itself in a similar situation as a private person who may be a third party in administrative proceedings, as well as where such is specified in an external regulatory enactment.

(3) A third party shall be granted the status of a participant in administrative proceedings by the decision of an institution or a court pursuant to the submission of such party. A third party may also be invited to participate in the matter pursuant to the initiative of a participant in the administrative proceedings or the court.

(4) Provisions regarding procedural legal capacity and capacity to act of participants in administrative proceedings apply to third parties. Third parties have the procedural rights of submitters and of applicants subject to exceptions stipulated in this Law.

(5) A decision regarding allowing the participation of a third party at an institution may be disputed by such person, an addressee or potential addressee to a higher institution but if there is no higher institution or it is the Cabinet, appealed to a court, within seven days after the respective person is given notice of the decision or such person otherwise becomes informed thereof. The decision of a higher institution may be appealed to a court within seven days. The decision of the court may not be appealed.

(6) The allowing of or inviting a third party to participate in court shall take place in accordance with Section 146 of this Law.

[15 January 2004]

### **Section 29. Legal Entities Having the Right to Defend the Rights and Legal Interests of Private Persons**

(1) In cases provided for in law, public legal entities or public law legal persons have the right to submit a submission to an institution or an application to a court in order to defend the rights and legal interests of private persons.

(2) A legal entity referred to in Paragraph one of this Section may become acquainted with the materials of a matter, apply for recusals or removals, provide explanations, submit evidence, participate in the examination of evidence, submit petitions, dispute and appeal administrative acts or actual actions, as well as carry out other procedural actions provided for by law, regarding submitters or applicants.

(3) Withdrawal by legal entities referred to in Paragraph one of this Section of a submission or application submitted by them in accordance with Paragraph one of this Section shall not deprive the private person for the defence of whose rights and legal interests the submission or application has been submitted, of the right to require that an institution or court adjudicate the matter on the merits.

(4) If in the course of administrative proceedings a legal entity referred to in Paragraph one of this Section and the private person for the defence of whose rights and legal interests the submission or application has been submitted have different opinions regarding the conducting of the proceedings or the substance of the matter, the opinion of the private person shall be determinative. Pursuant to a submission by the appropriate person, an institution shall take a decision regarding termination of a matter or the court shall terminate judicial proceedings.

### **Section 30. Participation of Authorities in Proceedings in order to Provide Opinions**

(1) An institution or a court in cases prescribed by law shall invite an authority to participate in a proceeding in order, within the limits of its competence, to provide its opinion in the matter.

(2) The authority referred to in Paragraph one of this Section has the right to become acquainted with the materials of the matter, to participate in examination of evidence, to submit petitions and to provide an opinion.

### **Section 31. Applicants**

(1) An applicant is a private person who applies to a court for it to control the legality and validity considerations of an administrative act issued by an institution or of the actual action of an institution within the scope of discretionary powers in order to decide regarding the existence

in effect or fulfilment of a public legal contract or also to determine the public legal duties and rights of a private person. A private person for the protection of whose rights and legal interests a matter has been initiated pursuant to an application by a legal entity referred to in Section 29 of this Law shall also be considered to be an applicant.

(2) Except for cases prescribed by law, a private person whose rights or legal interests have been infringed or may be infringed may submit an application.

(3) In matters regarding cases of the existence in effect or fulfilment of a public legal contract where the public legal entity may be the addressee of the administrative act or it may be affected by actual actions, as well as in other cases specified in external regulatory enactments, the applicant may also be a public law legal person.

[15 January 2004]

### **Section 32. Procedural Participation in Court**

(1) An application to a court may be submitted by several applicants (co-applicants).

(2) Each co-applicant participates in the procedure independently.

(3) Co-applicants may assign the conduct of the proceedings to one applicant from amongst their number or to one joint representative.

(4) A court adjudication shall be adopted separately in respect of each co-applicant. Each co-applicant may use his or her procedural rights independently from other co-applicants.

### **Section 33. Assumption of Procedural Rights of Participants in Administrative Proceedings**

(1) If a participant in the administrative proceeding in a matter withdraws (a natural person dies, a legal person ceases to exist, etc), the institution or the court may replace such participant in the administrative proceedings with their successor in interest.

(2) Assumption of procedural rights is possible at any stage of the procedure.

(3) All actions performed in the proceedings until the time the successor in interest enters therein, shall be as mandatory for the successor in interest as they were for the person whose rights have been succeeded to.

### **Section 34. Defendants**

(1) The Republic of Latvia, a local government or any other derived public law legal person (Section 22, Paragraph one) or other public legal entity in the case referred to in Section 22, Paragraph two of this Law may be a defendant in court.

(2) The institution from which an applicant requires particular action or another authority if this is stipulated in a regulatory enactment shall be invited to participate on the defendant's side.

(3) If the applicant in a matter regarding the existence in effect or fulfilment of a public legal contract is a public law legal person (Section 103, Paragraph three, Clause 3), the defendant may also be a private person. In such case, the legal norms of Parts C and D of this Law shall be applied respectively.

[15 January 2004]

### **Section 35. Right to Representation in Administrative Proceedings**

Participants in administrative proceedings may participate in the proceedings with the assistance of or through their representative. The representative may be any natural or legal person with capacity to act, subject to the restrictions set out in Sections 36 and 37 of this Law.

### **Section 36. Persons who May not Act as Representatives in Administrative Proceedings**

(1) The following persons may not act as representatives:

1) a person, who has not attained legal age or, in accordance with the procedures provided for by law, has been found as lacking the capacity to act;

2) a person who, pursuant to the judgment of a court, has been deprived of the right to conduct the matters of other persons; or

3) a person who has provided legal assistance in the same matter to another participant in such administrative proceeding (except in the cases prescribed in Sections 26 and 32 of this Law).

(2) If any of the circumstances referred to in Paragraph one of this Section are ascertained, the institution or the court shall not allow such person to participate at the adjudicating of the matter.

### **Section 37. Persons who May not Act as Representatives of an Institution**

(1) The following persons may not represent an institution in an administrative proceeding, or act procedurally on the side of an institution:

1) a person for whom a conflict of interest arises or may arise regarding the specific matter;

2) a person in regard to whose impartiality well-founded doubts exist; or

3) a person to whom other restrictions provided for by law apply.

(2) Participants in administrative proceedings may in writing petition, setting out grounds for their petition, the institution or the court to replace a person who is participating in the matter on behalf of the institution. The institution shall take a decision concerning such petition within seven days. If the petition is rejected, pursuant to the request of the submitter the decision regarding such rejection shall be issued in writing. Within seven days after the respective person has been notified of the decision or otherwise become informed of it, such decision may be disputed to a higher institution, but if there is not a higher institution or it is the Cabinet, appealed to a court. The decision of the higher institution may be appealed within seven days to a court. The decision of the court may not be appealed.

### **Section 38. Formalising Representation**

(1) Representation of a natural person shall be formalised with a notarised power of attorney. A natural person may also authorise his or her representative orally at the institution or in court. The institution shall draw up such authorisation in writing and the authoriser shall sign it, but an oral authorisation given in a court sitting shall be recorded in the minutes of the court sitting.

(2) Representation of an association of persons shall be formalised with a notarised power of attorney or certified with a contract from which flows the right of relevant persons to represent the association of persons without specific authorisation.

(3) Representation of a legal person or an institution shall be formalised by a written power of attorney or certified by documents from which flows the right of an official to represent the legal person or the institution without specific authorisation. The provisions of Sections 39 and 147 of this Law regarding the requirement for special authorisation are not applicable to a representative authorised by an institution.

(4) Neither the provisions of Section 40 of this Law regarding revocation of representation, nor the provisions of Section 39 and 147 of this Law regarding requirement for special authorisation shall apply to employees (officials) designated by an institution.

(5) Parents, adopters, guardians and trustees shall present documents confirming their rights to the institution or the court.

(6) If participants in an administrative procedure take part in the matter themselves, they have the right to retain a sworn advocate for the provision of legal assistance. Authorisation of the advocate in such cases shall be confirmed by a retainer.

[15 January 2004]

### **Section 39. Scope of Authority of Representatives**

(1) An authorisation to conduct a matter gives a representative the right, on behalf of the person represented, to perform all procedural actions, except actions for the performance of which special authorisation is required by law.

(2) All procedural actions performed by a representative within the scope of the authorisation given to him or her are binding on the person represented.

### **Section 40. Revocation or Renunciation of Representation**

(1) The person represented may revoke the authorisation granted to the representative at any time by a written or oral notice. An institution shall draw up such notice in writing, whereas a court shall record it in the minutes of the court sitting.

(2) Representatives have the right to withdraw from the conduct of a matter by giving timely written notice thereof to the person represented and to the institution or the court.

## **Chapter 4 Procedural Time Periods**

### **Section 41. Setting of Procedural Time Periods**

Procedural actions shall be completed within the time periods set out in the law. If a procedural time period is not specified by law, it shall be determined by a court or a judge. The time period set by a court or a judge must be such that the performance of the procedural action is feasible.

### **Section 42. Commencement of a Procedural Time Period**

(1) A procedural time period which is to be calculated in years, months or days shall commence on the day next following the date or event pursuant to which its commencement is stipulated.

(2) A procedural time period that is to be calculated in hours, shall commence with the next hour following the event pursuant to which its commencement is stipulated .

### **Section 43. Termination of Procedural Time Periods**

(1) The last day of a time period that is calculated in months shall be the respective date of the last month of the time period. If there is no such respective date in the last month of the time period, the last day of the time period shall be the last day of such month.

(2) If the last day of a time period is Saturday, Sunday or a public holiday prescribed by law, the last day of the time period shall be the next working day.

(3) A time period stipulated to run until a specific date expires on that date.

(4) Procedural actions for which a time period expires may be performed until midnight of the final day of the time period. If a document has been submitted to the communications authority (post office) on the last day of the time period by midnight, it shall be considered to have been submitted within the time period. If such action is to be performed in an institution or a court, the time period shall be considered to have expired at the hour when the relevant institution or court closes.

### **Section 44. Consequences of Default regarding Procedural Time Periods**

The right to perform procedural actions shall lapse after expiration of the time period stipulated by law, an institution, a court or a judge. Documents submitted after the expiration of the procedural time period shall not be examined.

### **Section 45. Suspension of Procedural Time Period**

If judicial proceedings in a matter, or the execution of an administrative act unfavourable for an addressee are stayed, the calculation of the time period shall be suspended. The calculation of the time period shall be stopped as of the time when the circumstance constituting the basis for the suspension of the time period occurs. The calculation of the procedural time period shall continue from the day when the judicial proceedings in the matter or the execution of the administrative act are renewed.

### **Section 46. Renewal of Procedural Time Period**

(1) Procedural time periods regarding which there has been default may, pursuant to the petition of a participant in an administrative proceeding, be renewed by institutions, courts or judges if they find the reasons for default justified.

(2) Upon renewing a time period in regard to which there has been default, an institution or court shall concurrently permit the carrying out of the procedural action regarding which there has been default.

### **Section 47. Extension of Procedural Time Period**

A time period stipulated by an institution, a court or a judge may be extended pursuant to the petition of a participant in an administrative proceeding.

#### **Section 48. Procedures for Renewal and Extension of Procedural Time Periods**

(1) A petition regarding extension of a procedural time period or renewal of a time period regarding which there has been default, shall be submitted to the institution or the court in respect of which the action regarding which there has been default was to be performed. The institution shall decide the issue within seven days. The court shall decide the issue in a court sitting upon prior notice to the participants in the administrative proceeding of the time and place of the sitting. Failure of such persons to attend is not an impediment to the deciding of the issue in court.

(2) An ancillary complaint may be submitted regarding a refusal of a court or a judge to extend or renew a time period.

#### **Section 49. Consequences of Failing to Comply with Time Periods Stipulated for Institutions**

(1) The provisions of this Chapter regarding the calculation of the commencement of a procedural time period (Section 42), the expiration of a procedural time period (Section 43) and the provisions of this Section shall apply to time periods prescribed by this Law or other regulatory enactments for institutions, within which they are required to perform some procedural action.

(2) If an institution fails to comply with a time period prescribed by this Law or other regulatory enactments, within which, in the course of administrative proceedings, it is required to carry out a procedural action on behalf of a participant in an administrative proceeding, such participant in the administrative proceeding may submit a complaint to a higher institution, but if there is not a higher institution or it is the Cabinet, to a court. The higher institution or the court shall within seven days take a decision, pursuant to which it shall assign to the institution the performance of the relevant procedural action, setting a specific time period.

(3) If an institution fails to comply, within the set time period, with the decision of a higher institution or the court referred to in Paragraph two of this Section, the relevant procedural action shall be deemed to have been performed, if that is practically and legally feasible. If that is not practically and legally possible, participants in the administrative proceedings for whose benefit the relevant time period has been stipulated have the right to claim compensation in accordance with the provisions of Chapter 8 of this Law; moreover, failure to comply with the time period shall of itself be considered as moral harm within the meaning of Section 92 of this Law.

(4) If this Law or other regulatory enactment specifies a time period within which, in the course of an administrative proceeding an institution is required to carry out a procedural action unfavourable to the submitter or the potential addressee of an administrative act, then such procedural action may no longer be carried out after expiration of the time period.

#### **Section 50. Consequences of Failing to Comply with a Time Period Specified for a Court**

(1) The court shall carry out procedural actions in compliance with the commencement of the calculation of a procedural time period (Section 42) and expiration of a procedural time period (Section 43) prescribed in this Law, and with the provisions of this Section.



(2) If a court fails to comply with the time period for performing a procedural action prescribed by this Law, a participant in the administrative proceedings has the right to submit a complaint to the chief judge. The chief judge may assign the carrying out of the relevant procedural action to a judge, setting a specific time period.

(3) Submission of a complaint regarding the action of a judge may be grounds for recusal of the judge.

(4) If a judge fails to comply with the time period set by the chief judge for carrying out the relevant procedural action, a participant in the administrative proceeding may claim compensation in accordance with the procedures prescribed by law.

## **Part B** **Administrative Proceedings in Institutions**

### **Chapter 5** **Jurisdiction, Co-operation and Freedom of Information**

#### **Section 51. Jurisdiction in Administrative Matters**

An administrative matter shall be adjudicated by an institution in accordance with the competence conferred on it by regulatory enactment.

#### **Section 52. Change of Jurisdiction**

(1) If during the course of administrative proceedings the institution which has jurisdiction in a matter changes or it is determined that the institution dealing with the matter does not have jurisdiction in regard to it, the matter shall be transferred to an institution which has jurisdiction in such matter.

(2) If there is a change in territorial jurisdiction during the course of administrative proceedings, a matter may, pursuant to the written consent of both institutions and the submitter, be left to be adjudicated by the previous institution.

#### **Section 53. Co-operation in Administrative Proceedings**

(1) Pursuant to the request of the institution that has jurisdiction in the matter, other authorities, irrespective of their subordination, shall provide all necessary information as is at their disposal, or other forms of assistance to it. The assistance shall be provided free of charge, except in cases provided for by regulatory enactments.

(2) The assistance referred to in Paragraph one of this Section may be denied by substantiating in writing that:

- 1) it is impossible for practical reasons;
- 2) it is impossible for legal reasons, in particular, if the information requested may not be provided in accordance with regulatory enactments regarding information protection;
- 3) it may be provided by another institution with less expenditure of resources; or
- 4) the expenditure of the resources necessary for providing assistance exceeds the need for such assistance by the relevant institution.

(3) The institution may request a higher authority, in accordance with the procedures of subordination of the relevant authority, to evaluate the validity of the denial of assistance. If there is not such a higher authority or it is the Cabinet, the issue shall be decided by an institution authorised by the Cabinet.

#### **Section 54. Provision of Information to Private Persons**

(1) If a request for information in connection with some administrative procedure is received from a private person, an institution shall provide the relevant information at its disposal, except in cases where this information is to be considered restricted access information in accordance with the law.

(2) If contained in part of the requested information is information as, in accordance with law, is not to be disclosed, the private person shall be provided part of the information, if its meaning is not lost or changed after the part not to be disclosed is removed.

(3) Information regarding the private life of a natural person, except in cases provided for in the norms of law, may be given with the consent of such person. If in accordance with the norms of law such information may be requested and received by another private person, the information may be provided if such private person substantiates the validity of his or her interest.

(4) A private person has the right to become acquainted with all information at the disposal of an institution concerning himself or herself, and to require correction of errors, as well as deletion of such information as collection and storage of which is not provided for by the norms of law or as has been obtained illegally.

[15 January 2004]

### **Chapter 6 Conduct of Administrative Proceedings in Institutions**

#### **Section 55. Initiation of an Administrative Matter in an Institution**

An administrative matter in an institution shall be initiated:

- 1) on the basis of a submission;
- 2) on the basis of an initiative of the institution; or
- 3) on the basis of an order by a higher institution or of a notification by another authority.

#### **Section 56. Initiation of a Matter on the Basis of a Submission**

(1) Submissions may be submitted orally or in writing. In the submission shall be set out the given name, surname and place of residence of the submitter (for a legal person – the name, address, registration number) and the claim; it shall bear the signature of the submitter. The institution shall immediately formalise an oral submission in writing and the submitter shall sign it.

(2) If the submitting of a submission does not accord with jurisdiction, an authority may refuse to accept such submission. Regarding this a written notice shall be issued to the submitter without delay, in which the institution having jurisdiction over the matter shall also be indicated. The authority to which the submitter has applied may also accept the submission and deliver it to the institution that has jurisdiction over the matter. If such submission has been sent by mail, the

relevant authority shall forward it in accordance with jurisdiction within a seven-day period and notify the submitter thereof.

(3) Disputes regarding jurisdiction over a matter shall be decided by a common higher authority in accordance with procedures regarding subordination or by an authority determined by the Cabinet .

(4) An institution that has jurisdiction over the matter shall accept a submission by a person even if it considers that the submission is not drawn up properly or is not well founded.

(5) An institution shall, insofar as possible, provide a submitter with the necessary information or other form of assistance for successful resolving of the matter in accordance with the interests of the submitter.

### **Section 57. Initiation of a Matter pursuant to the Initiative of an Institution**

An institution which has jurisdiction over a matter shall initiate an administrative matter if it becomes aware of facts on the basis of which, in accordance with the norms of law, an appropriate administrative act must or may be issued, and also where an institution has grounds for considering that such facts may exist.

### **Section 58. Initiation of a Matter on the Basis of an Order by a Higher Institution or of a Notification by Another Authority**

(1) If a matter is not within the jurisdiction of an institution that has discovered the relevant facts but within the jurisdiction of a lower institution, a higher institution shall give an order to a lower institution to initiate an administrative matter.

(2) If a matter is within the jurisdiction of another institution, the authority that has discovered the relevant facts shall notify the institution that has jurisdiction over the matter thereof. The institution that has jurisdiction over the matter shall decide regarding initiation of an administrative matter.

### **Section 59. Acquiring Information**

(1) After initiation of an administrative matter, an institution shall acquire information as, in accordance with regulatory enactments, is necessary so that an appropriate decision will be taken.

(2) In acquiring information, an institution may use all legal methods, and obtain information from participants in the administrative proceeding and from other authorities, as well as by means of the assistance of witnesses, experts, inspections, documents or other type of evidence. If the information needed by an institution is not at the disposal of participants in the administrative proceeding but is at the disposal of another authority, the institution shall acquire the information itself rather than requiring it from participants in the administrative proceeding.

(3) If the necessary information contains information regarding the private life of a natural person (personal identity number, nationality, citizenship, place of residence, marital status, state of health, criminal record, income, property, religious and political opinions or any other information), the institution shall explain to the private person the regulatory enactments on which it is based, and the purpose for the acquisition of the information wanted by the institution,

as well as whether it is mandatory for the private person to provide the information in accordance with an external regulatory enactment, or the provision thereof is voluntary.  
[15 January 2004]

### **Section 60. Restrictions on Acquisition of Information**

(1) An institution may collect or require the submission of such information as is provided for by the relevant regulatory enactment or is directly necessary for deciding the matter. Other information may be appended to the matter only if it is not possible to separate it from the information necessary to take the decision.

(2) An institution may not collect, or use in an administrative proceeding information acquired by illegal methods.

### **Section 61. Right to Become Acquainted with a Matter**

A participant in an administrative proceeding has the right to become acquainted with the matter and express his or her opinion at any stage of the proceedings. This right does not extend to information which in accordance with Section 54 of this Law may not be disclosed. Opinions submitted to the institution in writing shall be attached to the matter.

### **Section 62. Hearing of Participants in Administrative Proceedings**

(1) In deciding in regard to the issuing of such administrative act as might be unfavourable to the addressee or a third party, an institution shall clarify and assess the opinions and arguments of the addressee or the third party in such matter.

(2) Clarification of the opinion and arguments of a person is not required if:

1) the issue of the administrative act is urgent and any delay may directly endanger the security of the State, public order, or the life, health or property of persons;

2) the case is objectively insignificant; or

3) it flows from the substance of the case that the clarification of the opinion of the person is impossible or inadequate.

(3) If an administrative act is issued in writing and the opinion and arguments of a person have not been clarified the reason shall be stated in the reasons for the administrative act.

### **Section 63. Decision regarding Termination of a Matter or Issue of an Administrative Act**

(1) After determination of all necessary facts and hearing of the participants in the administrative proceeding, an institution shall without delay assess the facts of the matter and take a decision:

1) regarding the termination of the matter due to a lack of facts;

2) regarding the termination of the matter due to the fact that the issue of an administrative act is not useful – if the norm of law to be applied confers upon the institution the right of choice regarding the issue thereof (Section 65, Paragraph two or four); or

3) regarding the issue of an administrative act – if the norm of law to be applied provides that an administrative act must be issued (Section 65, Paragraph one or three), or it confers upon the institution the right of choice regarding the issue thereof (Section 65, Paragraph two or four).

(2) An institution shall notify a submitter, as well as other participants in the administrative procedure, if they have been called to express their opinion, of the decision to terminate the matter and of the reasons thereof. Such decision, as an administrative act, may be disputed and appealed in accordance with general procedures.

#### **Section 64. Time Periods regarding Issuing of Administrative Acts**

(1) If an administrative matter is initiated on the basis of a submission, an institution shall take a decision regarding the issue of an administrative act or termination of the matter within a month from the day the submission is submitted, provided that a shorter term is not prescribed in a regulatory enactment.

(2) If due to objective reasons it is not possible to comply with the one month time period, the institution may extend it for a period not exceeding four months from the day the submission is submitted, notifying the submitter thereof. If a lengthy determination of facts is necessary, the time period for taking a decision may be extended for up to one year pursuant to a reasoned decision of the State secretary of the ministry or the head of the local government administration, but if the institution is not subordinated to the Cabinet, the head of the institution, notifying the submitter thereof. The decision regarding extension of the time period may be disputed and appealed. The decision of a court may not be appealed.

(3) In urgent cases, the submitter may apply to the institution with a substantiated submission and request that time period for the issue of the administrative act be abbreviated. The institution shall examine such submission without delay and take a decision in writing. In the event of refusal, the decision shall be notified to the submitter without delay. Such decision may be disputed and appealed. The decision of a court may not be appealed.

#### **Section 65. Considerations in Taking a Decision to Issue an Administrative Act and Determining the Content Thereof**

(1) If it is prescribed by the norm of law as is to be applied that an administrative act of specified content is to be issued (a mandatory administrative act), an institution shall issue such administrative act.

(2) If the norm of law to be applied allows an institution to decide whether to issue or not to issue an administrative act, but in the event it is issued, prescribes the specific content thereof (issue choice administrative act), the institution shall consider the usefulness of issue. If the institution comes to the conclusion that the administrative act is to be issued, it shall issue an administrative act of such content as is provided for by the norm of law to be applied. If the institution concludes that the issue of an administrative act is not useful, it shall terminate the matter.

(3) If the norm of law to be applied prescribes that an administrative act is to be issued, but does not prescribe the specific content thereof (content choice administrative act), an institution shall issue such act, observing the limits laid down by the norm of law, and, within this framework, on the basis of considerations of usefulness, shall determine the content of the administrative act.

(4) If the norm of law to be applied allows an institution to decide whether to issue or not to issue an administrative act and, in the event of issue, does not determine its specific content (free administrative act), the institution shall first consider the usefulness of issue. If the institution concludes that the administrative act is to be issued, it shall issue such act, observing the limits laid down by norms of law and, within this framework, on the basis of considerations of

usefulness, determine the content of the administrative act. If the institution concludes that the issue of the administrative act is not useful, it shall terminate the matter.

#### **Section 66. Substance of Considerations of Usefulness**

(1) In considering the usefulness of the issue of, or of the content of an administrative act (Section 65), an institution shall take a decision regarding:

- 1) the necessity of the administrative act for the attaining of a legal (legitimate) goal;
- 2) the suitability of the administrative act for the attaining of the relevant goal;
- 3) the need for the administrative act, that is, whether it is possible to attain such goal by means which are less restrictive of the rights and legal interests of participants in the administrative proceeding; and
- 4) the conformity of the administrative act, comparing the infringement of the rights of a private person and the benefits for the public interest, as well as taking into account that substantial restriction of the rights of a private person may only be justified by a significant benefit to the public.

(2) The restriction of human rights, if this in substance deprives the addressee of the relevant rights, is not proportionate in any case.

[15 January 2004]

#### **Section 67. Form and Component Parts of Administrative Acts**

(1) Administrative acts shall be issued in writing, except in cases provided for in Section 69 of this Law.

(2) Administrative acts issued in writing shall include the following component parts:

- 1) the name and address of the institution;
- 2) the addressee (for natural persons – given name, surname, place of residence or other information as is of assistance in identifying a person; for legal persons – name, address, registration number);
- 3) if the administrative matter is initiated on the basis of a submission – the claim of the submitter;
- 4) opinions and arguments of the participants in the administrative proceedings, if such opinions have been expressed;
- 5) determination of facts;
- 6) basis for the administrative act, including, in particular, considerations of usefulness (Sections 65 and 66);
- 7) a separate list of the norms of law applied (indicating also the section, paragraph, clause or sub-clause of the regulatory enactment);
- 8) the legal duty imposed on the addressee (actions or prohibition of actions stipulated) or the rights granted, approved or rejected regarding such addressee; and
- 9) an indication as to where and within what time period such administrative act may be disputed or appealed.

(3) In the determination of the facts part of an administrative act, shall be set out the evidence upon which conclusions are based and the grounds on the basis of which evidence has been rejected.

(4) Institutions shall base administrative acts upon the Constitution (*Satversme*), laws, Cabinet regulations or binding regulations of local governments, norms of international law or the European Union (Community) and general principles of law. In the basis part shall be set out the section, paragraph, clause or sub-clause of the relevant external regulatory enactment.

(5) In the basis part of the administrative act, an institution may use arguments, which have been expressed in published court judgments and legal literature, as well as other special literature.

(6) An institution may not base an administrative act upon an internal regulatory enactment. If the institution has applied an internal regulatory enactment, this shall be indicated in the basis part of the administrative act, indicating the issuer, the date of issue, the name of the internal regulatory enactment and the applied norm of law. Such indication is informative in nature.

(7) If an institution fully satisfies the claim of a submitter and other participants in the administrative proceeding have not expressed divergent opinions, the information referred to in Paragraph two, Clauses 4, 6, and 9 of this Section is not required.

[15 January 2004]

### **Section 68. Conditions of an Administrative Act**

(1) If the norm of law to be applied provides for conditions restricting the operation of an administrative act – time periods, prerequisites, tasks, reservations (including the reservation of revocation), they shall be set out separately in the administrative act.

(2) If the norm of law to be applied does not provide for restrictive conditions, an institution may only include them in the administrative act, if:

1) the institution itself may decide whether to issue or not to issue the relevant administrative act (Section 65, Paragraphs two and four); or

2) the relevant administrative act may not be executed without such conditions.

(3) A condition shall be commensurate with the substance of the administrative act and it shall conform to the meaning and purpose of the administrative act.

### **Section 69. Non-compliance with the Form of an Administrative Act**

(1) An administrative act may be issued orally or otherwise without complying with provisions of Section 67 of this Law if one of the following conditions is present:

1) the issue of the administrative act is urgent and any delay directly endangers State security, public order, or the life, health or property of private persons;

2) it is provided for by the regulatory enactment to be applied;

3) the case is objectively insignificant; or

4) the issue of an administrative act in writing is impossible or inadequate.

(2) If an administrative act is issued in a form other than in writing, or it is issued in writing but does not comply with the requirements of Section 67 of this Law, the addressee has the right to require the institution to formalise it in writing in accordance with the requirements of Section 67 within a one-month period. The institution shall issue the administrative act in writing within two weeks from the receipt of the relevant request.

(3) If an administrative act, as of the submission of a request, has ceased to be in effect, an institution shall issue it:

1) if it is necessary for the addressee in order to protect his or her rights or legal interests, or the rights or the legal interests of other private persons;

2) in order for compensation to be claimed in accordance with the provisions of Chapter 8 of this Law; or

3) in order to prevent recurrence of similar cases.

[15 January 2004]

#### **Section 70. Notification and Validity of Administrative Acts**

(1) Provided that it is not otherwise stipulated in an external regulatory enactment or the administrative act itself, an administrative act shall come into effect at the time the addressee is notified of it. The manner in which the addressee is notified of the administrative act – in writing, orally or otherwise – shall not affect its coming into effect.

(2) If an administrative act in writing is sent by mail, the addressee shall be considered to have been notified of the administrative act on the seventh day after it is delivered to the post office. If an administrative act unfavourable to the addressee is sent by mail, it shall be sent in the form of registered mail. In case of uncertainty, the institution shall prove when the item to be sent was delivered to the post office. If the addressee asserts that he or she has not received the administrative act delivered to the post office, he or she shall substantiate their statement, with reference to believable reasons.

(3) An administrative act shall be in effect until it is revoked, is executed, or may no longer be performed because of a change in the actual or legal circumstances.

#### **Section 71. Notification of Administrative Acts to Other Participants in Administrative Proceedings**

(1) Notice of an administrative act shall be given to third parties.

(2) If the addressee and the submitter are not one and the same person, notice of the administrative act shall be given to the submitter.

(3) Repeated notice of an administrative act shall be given if an institution has corrected clerical or mathematical calculation errors in the constituent parts thereof referred to in Section 67, Paragraph two, Clauses 7, 8 or 9 of this Law.

#### **Section 72. Correction of Clerical and Mathematical Calculation Errors**

(1) An institution may at any time correct manifest clerical or mathematical calculation errors in the text of an administrative act if that does not change the substance of the decision.

(2) An addressee has the right to request that errors referred to in Paragraph one of this Section be corrected.

(3) The addressee may, within a period of seven days, dispute the refusal by the institution to correct the errors referred to in Paragraph one of this Section to a higher institution or if there is not such an institution or it is the Cabinet, to appeal it to a court. The decision of a court may not be appealed.



### **Section 73. Explanation of Administrative Acts**

An addressee has the right to request an institution to explain the duty imposed by an administrative act orally or, pursuant to the request of the addressee, in writing. This shall not affect the validity of and time periods regarding the administrative act.

### **Section 74. Invalid Administrative Acts**

(1) An administrative act shall be invalid if:

- 1) it is not objectively discernible who has issued it;
- 2) it has been issued by an institution that does not have jurisdiction to issue the specific administrative act (except in the case referred to in Section 52, Paragraph two);
- 3) the norms of law applied are not listed in an administrative act which is issued in writing and is unfavourable to the addressee; or
- 4) it requires the addressee to violate the norms of law or to perform actions that practically or legally are not possible.

(2) An addressee shall without delay notify the institution of his or her doubts regarding the validity of an administrative act. If the institution considers that the doubts of the addressee are unfounded (and the administrative act may be disputed), it shall inform the addressee within a period of seven days, appropriately extending the time period for dispute prescribed by law.

### **Section 75. Administrative Acts as may be Disputed**

(1) An administrative act shall be in effect, but may be disputed if:

- 1) the legal duty imposed on the addressee (specific actions or prohibition of specific actions) or rights granted, approved or refused to him or her may not be unambiguously construed therefrom;
- 2) this Law or other norms of law, which determine the procedure for issue of the relevant administrative act, have not been observed in the course of administrative procedure (procedural error); or
- 3) it is, in accordance with its substance, in conflict with the norms of law or the institution has incorrectly applied the norms of law (or has relied upon erroneous facts), or it has not observed the hierarchy of the legal force of norms of law or has erred regarding considerations of usefulness (mistakes regarding substance).

(2) If an administrative act as may be disputed is not disputed, it shall be in effect until it is set aside, is executed or may no longer be performed because of a change in the actual or legal circumstances.

### **Section 76. Right to Dispute Administrative Acts**

(1) An administrative act may be disputed by a submitter, an addressee, a third party, a legal entity referred to in Section 29 of this Law, as well as by a private person whose rights or legal interests are restricted by the relevant administrative act and who has not been invited to participate in the administrative proceeding as a third party.

(2) An administrative act may be disputed to a higher authority in accordance with procedures regarding subordination. The law or Cabinet regulations may determine another institution where

the relevant administrative act may be disputed. If there is not such an institution or it is the Cabinet, the administrative act may be immediately appealed to a court.

(3) The disputing of an administrative act is a continuation of the initial administrative matter. The provisions of this Law apply thereto, except the procedures regarding disputation.

(4) If an administrative act is not disputed within the time period stipulated in Section 79 of this Law, it becomes non-disputable. The same institution, which examines a submission regarding the disputing of an administrative act, shall decide regarding a petition to renew a time period.  
[15 January 2004]

### **Section 77. Procedures for Disputing Administrative Acts**

A submission regarding the disputing of an administrative act shall be submitted in writing or orally to the institution that has issued the administrative act. If a submission is submitted orally, the institution shall immediately draw it up in writing and the submitter shall sign it. Such submission shall be forwarded for examination to a higher institution within a period of seven days.

### **Section 78. Submission Regarding the Disputing of an Administrative Act**

(1) There shall be set out in a submission regarding the disputing of an administrative act:

- 1) what administrative act is being disputed;
- 2) to what extent the administrative act is disputed; and
- 3) the petition.

(2) There may also be set out in a submission regarding the disputing of an administrative act the grounds for disputing the administrative act.

### **Section 79. Time Periods for Disputing Administrative Acts**

(1) An administrative act may be disputed within a one-month period from the day it comes into effect, but if there is not set out in an administrative act issued in writing a statement as to where and within what time period it may be disputed – within a one-year period from the day it comes into effect.

(2) Private persons whose rights or legal interests are restricted by the relevant administrative act and who have not been invited to participate in the administrative proceedings as a third party, may dispute such administrative act within a one-month period from the day when the private person become informed of it, but not later than within a one-year period from the day the relevant administrative act comes into effect.

[15 January 2004]

### **Section 80. Suspension of Operation of a Disputed Administrative Act**

(1) A submission regarding the disputing of an administrative act shall suspend its operation from the time when the submission is received at the institution.

(2) If a higher institution leaves the administrative act unvaried, the operation of the administrative act shall resume as of the day when the time period for appealing the administrative act has expired and it has not been appealed.

## **Section 81. Decisions regarding Disputed Administrative Acts**

(1) A higher institution shall re-adjudicate the matter on the merits in general or in the part to which the objections of the submitter are applicable.

(2) A higher institution by its decision may:

- 1) leave the administrative act unvaried;
- 2) revoke the administrative act;
- 3) set aside the administrative act in a part thereof;
- 4) issue a different administrative act in terms of its substance; or
- 5) determine whether an administrative act, which has ceased to be in effect (Section 82),

was legal or illegal.

(3) A decision regarding a disputed administrative act (an administrative act) may not be more unfavourable to the interests of the addressee than the disputed administrative act, except in a case where it is determined by a higher institution that mandatory material legal norms have been violated or such procedural legal norms have been violated as protect the public interest.

(4) If the grounds of dispute are referred to in the submission regarding the disputing of an administrative act, the arguments relating to such grounds of the submitter shall be set out in the basis for the decision of the higher institution .

(5) A disputed administrative act shall be finally formalised in such form as it was formalised in the decision regarding the disputed administrative act. It shall be executed and may be appealed to a court in such form.

[15 January 2004]

## **Section 82. Disputing of Administrative Acts which have Ceased to be in Effect**

(1) An administrative act may be disputed if it has already been executed or has otherwise ceased to be in effect in the following cases:

- 1) the decision regarding legality of the disputed administrative act is necessary for protection of the rights of a private person;
- 2) for claiming compensation in accordance with Chapter 8 of this Law; or
- 3) in order to prevent recurrence of similar cases.

(2) If an administrative act ceases to be in effect during the course of the proceeding wherein it is disputed, but the submitter substantiates the necessity for continuing the proceeding, the proceeding shall be continued until a decision regarding the contested administrative act is taken.

[15 January 2004]

## **Section 83. Setting Aside of Undisputed Administrative Acts**

(1) An institution, in compliance with the provisions of Sections 85 and 86 of this Law, may, pursuant to its own initiative or the request of the addressee, set aside administrative acts which have not been disputed.

(2) An administrative act shall be set aside by a new administrative act.

[15 January 2004]

## **Section 84. Legality of Administrative Acts**

An administrative act is legal, if it complies with the norms of law, but illegal, if it does not comply with the norms of law.

## **Section 85. Revocation of a Legal Administrative Act**

(1) A legal administrative act unfavourable to an addressee may be revoked at any time, except for the case where in accordance with the norms of law it would be required that an administrative act of the same content immediately be issued anew.

(2) A legal administrative act favourable to the addressee may be revoked if at least one of the following circumstances exist:

1) the norms of law permit revocation of the administrative act and this has been indicated in such administrative act;

2) the administrative act has been issued under some other condition and such condition has generally not been fulfilled, has not been adequately fulfilled or has not been fulfilled in good time;

3) the actual or legal circumstances of the matter have changed, such that had they so existed at the time the administrative act was issued, the institution may have not issued such administrative act. In such case, the administrative act may be revoked within a period of three months from the day the institution comes to know that it is possible to revoke it, but not later than within a one-year period from the day it comes into effect; or

4) the actual or legal circumstances of the matter have changed such that had they so existed at the time the administrative act was issued, the institution may have not issued such administrative act, and the continuation of the administrative act being in effect affects significant interests of the public.

(3) If the administrative act is revoked in accordance with Paragraph two, Clause 3 or 4 of this Section, the relevant public law legal person shall, in accordance with Chapter 8 of this Law, compensate the addressee for losses and personal harm caused him or her as a result of revocation of the administrative act.

[15 January 2004]

## **Section 86. Revocation of Illegal Administrative Acts**

(1) An unlawful administrative act unfavourable to the addressee may be revoked at any time.

(2) An administrative act favourable to the addressee may be revoked if at least one of the following circumstances exist:

1) the addressee has not yet exercised his or her rights, which are confirmed or granted by such administrative act;

2) norms of law permit the revocation of the administrative act and this is indicated in the administrative act, except in the case where the cause of illegality of the administrative act is precisely the illegality of such indication;

3) the continuation of the administrative act being in effect affects essential interests of the public. If the addressee on the basis of such administrative act has received money or other benefits, the administrative act shall cease to be in effect as of the day it is revoked. The relevant public law legal person shall, in accordance with Chapter 8 of this Law, compensate the

addressee for losses or personal harm caused him or her as a result of revocation of the administrative act; or

4) the addressee has achieved the issue of the administrative act by knowingly providing false information, by bribery, duress, threats or other illegal actions. In such case, the institution shall assess the illegality of the actions carried out by the addressee and shall revoke the administrative act as of the day of its issue. The addressee has a duty to reimburse the relevant public legal entity for everything such addressee has obtained from the public legal entity on the basis of the administrative act.

(3) The revocation of an administrative act in accordance with Paragraph two, Clause 1 of this Section is permissible within a three-month period from the day when the institution comes to know that it is possible to revoke it, but not later than within a one-year period from the day it comes into effect.

[15 January 2004]

### **Section 87. Initiation of an Administrative Proceeding *de Novo* on the Basis of a Submission**

(1) If an administrative act has become non-disputable, an administrative proceeding regarding the same matter may be initiated *de novo* on the basis of a submission of the addressee if at least one of the following circumstances exist:

1) the actual circumstances of the matter, which were the basis for taking the decision, have changed;

2) the legal circumstances of the matter have changed in favour of the addressee; or

3) the European Court of Human Rights or another international or supranational court has made an adjudication in the matter from which it follows that the administrative procedure has to be initiated *de novo*. In such case, the institution in taking a decision in the resumed matter shall rely on the facts determined in the relevant court adjudication and the legal assessment thereof.

(2) If an administrative act has become non-disputable, an administrative proceeding regarding the same matter may be initiated *de novo* on the basis of a submission of a third party if the following aggregate of circumstances is present:

1) the actual or legal circumstances of the matter which formed the basis for taking the decision have changed in favour of such private person; and

2) the addressee has not yet exercised the rights that are granted or confirmed by the relevant administrative act.

(3) A submission regarding initiation of an administrative proceeding *de novo* may be submitted:

1) while the administrative act is in effect; or

2) within a six-month period from the day when the relevant participant in the administrative proceedings comes to know of the facts giving him or her the right to do this.

(4) A submission regarding initiation of the administrative proceeding *de novo* shall be submitted in the same matter, to the institution which has jurisdiction over the matter in the administrative proceeding initiated *de novo*.

[15 January 2004]

## **Section 88. Initiation of Administrative Proceeding *de Novo* pursuant to the Initiative of an Institution**

(1) If an administrative act has come into effect and has become non-disputable, an institution pursuant to its own initiative may initiate an administrative proceeding *de novo* in the same matter if new evidence has become known or accessible to the institution as may serve as a basis for issuing an administrative act more favourable to the addressee than the existing administrative act.

(2) The institution has a duty to initiate an administrative proceeding *de novo* in the same matter if it is necessary for execution of a Constitutional Court judgment taken in this matter, pursuant to which the norm of law applied is recognised as not conforming to a norm of law of higher legal force.

(3) The institution has a duty to initiate an administrative proceeding *de novo* in the same matter if it is necessary for execution of an adjudication adopted in this matter by the European Court of Human Rights or another international or supranational court. In such case, the institution in taking a decision in the resumed matter shall rely on the facts determined in the court adjudication and the legal assessment thereof.

(4) An administrative proceeding may be initiated *de novo* in the same matter by the institution which has jurisdiction over the matter in the administrative proceeding initiated *de novo* irrespective of which institution has issued the relevant administrative act in the initial administrative proceeding.

## **Chapter 7 Actual Action of an Institution**

### **Section 89. Concept of Actual Action of an Institution**

(1) An actual action is an action of an institution in the sphere of public law in any way other than by issuing an administrative act, if a private person has a right to such action or such action results or may result in infringement of the rights or legal interests of the private person.

(2) An actual action is also the failure to act of an institution, if the institution in accordance with the norms of law had or has a duty to perform some action, as well as a certificate issued by the institution.

[15 January 2004]

### **Section 90. Notification of Actual Action of an Institution**

If an institution foresees or is required to foresee its actual action before the performance of the actual action, it shall notify the relevant persons of the necessity, place and time of the actual action. Such notification may be individual or public.

### **Section 91. Submission Regarding Actual Action of an Institution**

(1) A person, who considers that their rights or legal interests are or may be infringed by a planned or an already commenced actual action of an institution, may apply to the institution

with a submission regarding a change of intention on the part of the institution in regard to the actual action.

(2) The institution shall examine and assess the submission before carrying out or, if it is possible, before completing the actual action. The institution shall give notice of its decision in accordance with general procedures.

(3) A private person may dispute or appeal the decision of the institution as an administrative act.

(4) A private person who considers that a certificate issued by the institution is incorrect, may apply to such institution with a submission regarding the issuing of the correct certificate. If the institution does not satisfy the petition of the submitter, the submitter may dispute or appeal the decision of the institution as an administrative act.

(5) In other cases, a private person may apply directly to a court with an application regarding the actual actions of an institution.

[15 January 2004]

## **Chapter 8 Compensation**

### **Section 92. Right to Compensation**

Everyone is entitled to claim due compensation for financial loss or personal harm, including moral harm, which has been caused him or her by an administrative act or an actual action of an institution.

### **Section 93. Jurisdiction over Matters Regarding Compensation**

(1) In submitting a submission regarding the disputing of an administrative act to a higher institution, compensation may concurrently be claimed.

(2) If there is not a higher institution, it is the Cabinet or in accordance with a regulatory enactment, the administrative act may be appealed to a court without being disputed at a higher institution, compensation may concurrently be claimed in the application regarding appeal of the administrative act. Compensation may also be claimed in appealing an actual action of an institution.

(3) If compensation has not been claimed concurrently with the disputing or appealing of an administrative act or appealing of an actual action, a submission regarding compensation may be submitted to the institution which caused the loss or harm. Compensation may be claimed from an institution if adjudication of the relevant administrative matter on its merits has been completed (an administrative act issued by a higher institution has come into effect, and it has not been appealed, or a court judgment has come into effect). The provisions of this Law regarding administrative acts are applicable to a submission regarding compensation.

### **Section 94. Responsibility for Compensation**

(1) Compensation shall be claimed from:

1) the Republic of Latvia if the financial loss or personal harm was caused by a direct administrative institution;

2) a local government or other derived public law legal person, if the financial loss or personal harm was caused by an intermediary administrative institution fulfilling functions

which are within the scope of the autonomous competence of the relevant public law legal person;

3) the Republic of Latvia, if the financial loss or personal harm was caused by an intermediary administrative institution fulfilling the functions or tasks of the Republic of Latvia; and

4) other public legal entities, if they have procedural legal capacity and have their own independent budget (Section 22, Paragraph two), which is not part of any budgets of the public law legal persons referred to in Paragraph one, Clause 1 or 3 of this Section and the public legal entity has caused loss or personal harm in a sphere where it operates within the limits of its own budget.

(2) If an institution is financed from various budgets and it is not possible to separate, which public law legal person's tasks it is implementing, compensation shall be claimed from the public law legal person's budget of which the institution receives the most financing. If the financing of two or more public legal entities is the same, compensation shall be claimed from one public legal entity at the choice of the submitter or applicant. If one of the budgets is the State basic budget, compensation shall be claimed from the Republic of Latvia.

(3) If an institution is a private person, compensation shall be claimed from the public law legal person referred to in Paragraph one of this Section to which the authority or institution which has conferred public powers on the private person belongs.

(4) The duty to compensate may be fulfilled by the relevant public legal entity by renewing the situation, which existed before the loss or harm was caused, or if that is not possible or fully possible or is not adequate, by paying the appropriate compensation in money.

[15 January 2004]

## **Section 95. Determination of Compensator**

(1) If, in the claiming of compensation, the relevant public legal entity referred to in Section 94 of this Law has not been indicated correctly, the institution shall accept the submission for compensation and itself shall determine the relevant public legal entity.

(2) If a dispute between public legal entities arises with respect to which public legal entity referred to in Section 94 of this Law the compensation is to be claimed from, the submitter of the submission for compensation may apply to the court, if the relevant public legal entities have not reached an agreement within one month. The court itself shall determine the public legal entity from which compensation is to be claimed.

(3) The submitter (applicant) shall be given notice of a decision taken in accordance with Paragraphs one or two of this Section.

[15 January 2004]



## **Section 96. Duty of Submitter to Reduce Losses and to Co-operate**

Submitters have a duty, within the limits of their knowledge and of practical possibility to do everything possible to reduce their losses or harm, as well as to inform the institution of the circumstances necessary in order to determine the basis of liability of the relevant public legal entity and the amount of losses or harm caused. If the submitter unjustifiably fails to perform this duty, he or she may not refer to the relevant circumstances later, in disputing the decision of the institution to a higher institution or in appealing to a court.

[15 January 2004]

## **Section 97. Application of Principles of Civil Law to Determination of the Amount of Compensation**

In determining the pre-conditions of the financial loss and personal harm and the amount of compensation, the principles of civil law shall be applied if the law does not specify otherwise.

[15 January 2004]

### **Chapter 9 Statement Regarding One's Rights**

## **Section 98. Right to a Statement Regarding One's Rights**

(1) A private person has the right to receive a statement regarding his or her rights in a specific legal situation (hereinafter - statement).

(2) A submission regarding a statement shall be submitted to an institution within whose competence it lies to decide the issue on its merits.

(3) A submission regarding a statement shall contain:

1) a description of facts;

2) the specific question arising from the stated facts, the answer to which depends on the legal assessment thereof;

3) an explanation as to why such statement is necessary; and

4) at the discretion of the submitter – also legal considerations.

(4) If the answer to the question depends on considerations of usefulness (Sections 65 and 66), the right to a statement shall apply to the determination of the limits of the freedom of action granted to the institution. The institution in its answer may refer to general considerations as to how such freedom of action is to be used. The legal consequences stipulated in Section 101, Paragraphs two and three of this Law shall not apply to these considerations.

(5) If is not otherwise prescribed by this Chapter, the provisions of this Law pertaining to an administrative act shall be applicable to a statement to the extent they are applicable having regard to the substance of the statement.

[15 January 2004]

## **Section 99. Preparation of a Statement**

- (1) In preparing a statement, the institution may require additional information from the submitter, if necessary.
- (2) In preparing a statement, the institution may request assistance from a higher institution, the Ministry of Justice and other authorities.
- (3) Prior to giving notification of the statement to the addressee thereof, the institution shall, in good time, send a copy of the statement to a higher institution. Subsequent to giving notification of the statement, the institution shall send a copy thereof to the Ministry of Justice, as well as other authorities for which the statement may be of interest or which were involved in its preparation.

## **Section 100. Form of Statement**

A statement shall be issued in writing. Included in the constituent parts thereof shall be:

- 1) the name of the institution;
- 2) the addressee of the statement (for a natural person – given name, surname, place of residence or other information as assists in identifying the person; for a legal person – name, address, registration number);
- 3) the submitter if he or she is not identical with the addressee of the statement;
- 4) the submitted description of facts, the question and the explanation as to why the addressee of the statement requires such statement;
- 5) the answer to the question;
- 6) the legal basis for the answer; and
- 7) a separate list of the norms of law applied (indicating also section, paragraph, clause or sub-clause of the regulatory enactment).

## **Section 101. Legal Consequences and Disputing of Statements**

- (1) A statement shall not be binding on the addressee of the statement. The legal consequences of a statement for an institution are stipulated in the provisions of Paragraphs two and three of this Section.
- (2) If the addressee of a statement has acted in conformity with the statement issued, the administrative act issued later by the institution concerning the question regarding which the statement was given may not be more unfavourable to the addressee, even if the institution subsequently determines that the statement was not correct.
- (3) If the question regarding which the statement was given is one of many questions to be assessed by the institution in a further administrative matter, such assessment may not be more unfavourable to the addressee, except for a case where the total outcome of the matter otherwise would be more unfavourable to the addressee or it would be unlawful.
- (4) A statement may be disputed to a higher institution. If there is not such an institution or it is the Cabinet, the statement may not be disputed. It may not be appealed to a court.
- (5) The legal consequences stipulated in Paragraphs two and three of this Section shall not come into effect if the statement has not been issued in writing or it has been obtained by false information being knowingly provided, or by bribery, duress, threats or any other illegal actions which are criminally or administratively punishable.

**Part C**  
**Administrative Procedure in Court**

**Division One**  
**General Provisions of Judicial Proceedings**

**Chapter 10**  
**Basic Provisions**

**Section 102. Force of the Law which Regulates Judicial Proceedings in the Administrative Procedure over Time**

(1) [15 January 2004]

(2) Judicial proceedings in an administrative matter shall take place in accordance with the norms of the law of administrative procedure which are in effect at the time of the adjudication of the matter, performance of individual procedural actions or execution of a court judgment.

[15 January 2004]

**Section 103. Substance of Administrative Procedure in Court**

(1) The substance of administrative procedure in court shall be court control of the legality and validity of administrative acts issued by institutions or actual actions of institutions within the scope of freedom of action, as well as the determination of public legal duties or rights of private persons and the adjudication of disputes arising from public legal contracts.

(2) Within the course of administrative proceedings, while performing its duties, a court shall itself (*ex officio*) objectively determine the circumstances of a matter and provide a legal assessment of these, adjudicating the matter within a reasonable time.

(3) In the course of an administrative proceeding the court shall determine:

1) whether the administrative act and the actual action of the institution complies with the provisions of this Law and other norms of law;

2) whether the norms of law and public legal contract give specific rights to or impose duties on the participants in an administrative proceeding; and

3) the compliance of the public legal contract with the norms of law, the fact of its being in force and the correctness of fulfilment.

[15 January 2004]

**Section 104. Control of Hierarchy of Norms of Law**

(1) In examining the legality of an administrative act or actual action and in ascertaining public legal duties or rights of private persons, in case of doubt the court shall verify whether the norm of law applied by the institution or to be applied in the administrative court proceeding conforms to the norms of law of higher legal force.

(2) If a court acknowledges that a norm of law does not conform to the Constitution (*Satversme*) or norms (acts) of international law, it shall suspend court proceedings in the matter and send a substantiated application to the Constitutional Court. After the coming into force of the decision

or judgment of the Constitutional Court, the court proceedings in the matter shall be renewed the following court proceedings shall be based upon the view of the Constitutional Court.

(3) If a court acknowledges that the binding regulations of a local government do not conform to Cabinet regulations or the law or Cabinet regulations do not conform to the law, or an internal regulatory enactment does not conform to an external regulatory enactment or directly applicable general legal principles, it shall not apply the relevant legal norm. The court shall substantiate its view regarding non-conformity with the norms of law of higher legal force in the decision or judgment.

[15 January 2004]

#### **Section 104.<sup>1</sup> Assigning of Matters to the European Court of Justice**

A court in the cases provided for by European Union (Community) legal norms, shall assign matters to the European Court of Justice regarding the interpretation or validity of European Union (Community) legal norms for the rendering of a preliminary ruling.

[15 January 2004]

#### **Section 105. Judicial Proceedings Instances in Administrative Matters**

(1) Administrative matters shall be adjudicated on the merits by a court of first instance, but pursuant to a complaint of participants in an administrative proceeding regarding a judgment of such court, also by a court of second instance in accordance with appeal procedures.

(2) Participants in an administrative proceeding may appeal from a judgment of a court of second instance in accordance with cassation procedures.

#### **Section 106. Initiation of an Administrative Matter in Court**

(1) A court shall initiate an administrative matter pursuant to the application of an applicant.

(2) A court shall also initiate an administrative matter pursuant to the application of a legal entity referred to in Section 29 of this Law.

#### **Section 107. Determination of Facts in Administrative Matters**

(1) A court shall determine the facts of a matter by adjudicating the matter by way of oral or written procedure.

(2) In adjudicating a matter by way of oral procedure, the facts of the matter shall be determined in a court sitting.

(3) In adjudicating a matter by way of written procedure, the facts of the matter shall be determined on the basis of the evidence in the matter.

(4) In order to determine the true facts of a matter within the limits of the claim and achieve legal and fair adjudication of the matter, the court shall give instructions and make recommendations to the participants in the administrative proceeding, as well as collect evidence on its own initiative (principle of objective investigation).

## **Section 108. Openness of Adjudication of Administrative Matters**

- (1) There shall be open adjudication of administrative matters in court.
- (2) Pursuant to a reasoned court decision, an administrative matter may be adjudicated in a closed court sitting in order that facts regarding the private lives of the participants in the administrative proceeding not be disclosed, as well as to protect State, professional, commercial or adoption secrets.
- (3) The participants in the administrative proceeding and, if necessary, experts and interpreters shall participate in a closed court sitting.
- (4) In a closed court sitting, the matter shall be adjudicated in compliance with the relevant provisions of judicial proceedings.
- (5) A court adjudication shall be publicly pronounced. In a matter which has been adjudicated in a closed court sitting the introductory part and operative part of the court adjudication shall be publicly pronounced.
- (6) Mass media employees may record the course of a court sitting (use sound or image recording and transmission media) with the permission of the court. A court may stipulate a prohibition regarding the publishing of such recording until specific procedural actions are performed or the judgment is pronounced.

## **Section 109. Adjudication of Administrative Matters Sitting Alone and Collegially**

- (1) At a court of first instance, an administrative matter shall be adjudicated by a judge sitting alone. If the matter is particularly complicated, the chief judge of the court of first instance may stipulate that the matter be adjudicated collegially. In such case, the matter shall be adjudicated by a panel of three judges of the court of first instance.
- (2) Administrative matters in courts of appellate or cassation instance shall be adjudicated collegially.

## **Section 110. Language of Judicial Proceedings**

- (1) Judicial proceedings shall take place in the official language.
- (2) Participants in an administrative proceeding shall submit documents in a foreign language by attaching thereto translations into the official language certified in accordance with the prescribed procedures.
- (3) A court may also allow individual procedural actions in another language, if this is petitioned for by a participant in the administrative proceeding and other participants agree. Minutes of a court sitting and the court adjudication shall be written in the official language.
- (4) A court shall ensure the right of a participant in an administrative proceeding who lacks fluency in the official language, except a representative of a legal person, to become acquainted with the materials of the matter and to participate in procedural actions with the aid of an interpreter.
- (5) The court in its discretion may also provide an interpreter for a legal person.

### **Section 111. Restrictions on a Judge in Court Adjudication**

- (1) A court sitting in which a matter is adjudicated on the merits shall take place without change in the panel of judges.
- (2) If a judge is replaced by another judge in the course of the adjudication of a matter, the adjudication of the matter shall commence *de novo*.
- (3) None of the judges of a court panel is entitled to participate in the adjudicating of another matter before the court sitting is pronounced closed.
- (4) The provisions of this Section do not apply to written procedure.

### **Section 112. Direct Adjudication of an Administrative Matter**

- (1) Courts of first instance and of appellate instance shall themselves examine the evidence in the matter.
- (2) The adjudging of a matter by a court shall be based upon the evidence the court has itself examined.

### **Section 113. Oral Procedure**

- (1) In oral procedure, the trial of an administrative matter shall take place at a court sitting.
- (2) Persons called and summonsed to court shall give their testimony and explanations orally.
- (3) The recorded testimony of previously questioned witnesses, documentary evidence and other documents shall be read out at the court sitting, except for cases where the attending participants in the administrative proceeding agree that the reading out of such evidence is not necessary.

### **Section 114. Written Procedure**

- (1) A court may adjudge a matter without a court sitting if the documents in the matter are sufficient and the participants in the administrative proceeding have consented thereto in writing.
- (2) [15 January 2004]
- (3) If a participant in an administrative proceeding has consented to the adjudicating of the matter by way of written procedure, it shall be considered that they have also consented to written procedure in ensuing court instances. Consent to written procedure does not prevent a participant in an administrative proceeding from requesting that the matter be adjudicated by way of oral procedure in the next court instance.  
[15 January 2004]

## **Chapter 11 Composition of the Court**

### **Section 115. Deciding Issues in Court**

Issues arising in the course of a matter being adjudicated collegially shall be decided by a majority vote of judges. None of the judges is entitled to abstain from voting.

### **Section 116. Prohibition of Judges from Participating in a Repeated Adjudication of a Matter.**

(1) A judge, who has participated in the adjudicating of a matter in a court of first instance, may not participate in adjudicating of such matter in a court of appellate or cassation instance, or in re-adjudication of the matter in a court of first instance, if the adjudication rendered with participation of the judge has been set aside.

(2) A judge who has participated in the adjudicating of a matter in a court of appellate or cassation instance may not participate in an adjudication *de novo* of this matter in a court of first instance or of appellate instance.

(3) A judge who has participated in adjudication of a matter in a court of appellate instance may not participate in adjudication of this matter in a court of cassation instance, except in a case where the matter is adjudicated in plenary session of the Administrative Department of the Senate.

### **Section 117. Standing Down or Recusal of a Judge**

(1) A judge is not entitled to participate in the adjudicating of a matter if the judge:

1) in previous adjudicating of the matter has participated in the proceedings as a participant in the administrative proceeding, witness, expert, interpreter or registrar of the court sitting;

2) is in kinship relations up to the third degree, or in affinity relations up to the second degree, with any participant in the administrative proceeding;

3) is in kinship relations up to the third degree, or affinity relations up to the second degree, with any judge who is in the panel of the court adjudicating the matter; or

4) has a direct or indirect personal interest in the outcome of the matter, or if there are other circumstances that cause well-founded doubt as to his or her impartiality.

(2) If the circumstances set out in Paragraph one of this Section, or in Section 116 of this Law are present, the judge shall stand down prior to the commencement of the adjudicating of the matter.

(3) If a judge discovers the circumstances mentioned in Paragraph one of this Section in the course of the adjudicating of the matter, the judge shall stand down, stating the reasons for his or her standing down. In such case, the court shall adjourn the adjudicating of the matter.

(4) A participant in the administrative proceeding may, on the bases stated in this Section, apply for recusal of a judge or of the entire court panel.

### **Section 118. Application for Recusal**

(1) A participant in an administrative proceeding may apply for recusal of a judge or the entire court panel in writing or orally. An entry regarding this shall be made in the minutes of a court sitting.

(2) Grounds for recusal shall be provided and recusal shall be applied for before the adjudicating of a matter on the merits has been commenced. Recusal may be applied for later if the person who applies for the recusal becomes aware of the grounds for the recusal during the adjudicating of the matter.

## **Section 119. Procedures regarding Adjudicating of Recusal Applications**

- (1) If recusal has been applied for, a court shall hear the opinion of other participants in the administrative proceeding and hear the judge whose recusal has been applied for.
- (2) The court shall take a decision regarding the recusal applied for in the form of a separate procedural document.
- (3) In a matter being adjudicated by judge sitting alone, the decision regarding the recusal applied for shall be taken by the judge himself or herself.
- (4) In a matter being adjudicated collegially the decision regarding the recusal applied for shall be taken in accordance with the following procedure:
  - 1) if the recusal of a single judge has been applied for, the decision shall be taken by the rest of the court panel. In the event of a tied vote the judge shall be recused; and
  - 2) if the recusal of several judges or the entire court panel has been applied for, the decision shall be taken by the entire panel of the same court by a majority vote.

## **Section 120. Consequences of Recusal**

- (1) If a judge or the entire court panel has been recused, the matter shall be adjudicated by another judge or another court panel.
- (2) If it is not possible to form another court panel in the relevant court, the matter shall be forwarded to another district (city) court or to another regional court.
- (3) If the recusal of a judge has been applied for in the course of the adjudicating of a matter, in the event the recusal applied for is allowed, the adjudicating of the matter shall be commenced *de novo*.

## **Chapter 12 Subordination and Jurisdiction of Administrative Matters**

### **Section 121. Subordination**

- (1) Appealed administrative acts and actual actions shall be adjudicated in court as administrative matters.
- (2) In cases prescribed by this Law, a court shall also examine applications that are not in the nature of administrative legal disputes.
- (3) The issue of the subordination of a matter shall be decided by a court or a judge. If the court or the judge finds that the adjudication of the matter is not subject to a court, the decision shall indicate the institution within the competence of which the adjudicating of the matter lies.

[15 January 2004]

### **Section 122. Jurisdiction**

- (1) A district administrative court shall adjudicate an administrative matter in the first instance.
- (2) Natural or legal persons shall submit applications regarding administrative matters to the court according to the address of the institution whose action is being appealed, unless stipulated otherwise by law.

[15 January 2004]



### **Section 123. Transferring Matters accepted as a Court Proceeding to Another Court**

(1) A court shall adjudicate a matter, which it has accepted as a court proceeding in compliance with jurisdictional provisions, on the merits notwithstanding that in the course of the adjudicating of the matter there may be a change regarding the jurisdiction thereof.

(2) A court may transfer a matter for it to be adjudicated in another court if:

1) in adjudicating the matter in the court, the matter is found to have been accepted in breach of jurisdictional provisions;

2) after the standing down or recusal of one or several judges, their substitution in the same court is not possible; or

3) it is found that such matter may be adjudicated by another court more quickly, completely and comprehensively, particularly at the location of the greater part of the evidence.

(3) An ancillary complaint may be submitted regarding a decision to transfer the matter for it to be adjudicated in another court.

(4) A matter shall be transferred for it to be adjudicated in another court on the basis of a court decision when the time period for appeal of this decision has expired, but if the decision has been appealed, after the ancillary complaint is dismissed.

(5) A matter, which has been transferred from one court to another, shall be accepted for adjudication by the court to which the matter has been forwarded.

## **Chapter 13 State Fees**

### **Section 124. State Fees**

(1) A State fee in the amount of ten lati shall be paid in regard to the submission of an application regarding initiation of a matter in court.

(2) A State fee in the amount of five lati shall be paid in regard to an appellate complaint.

(3) No payment of State fees is required in regard to cassation complaints or ancillary complaints.

### **Section 125. Repayment of State Fee**

(1) A State fee shall be repaid fully or partly in the following cases:

1) the fee paid exceeds the fee prescribed by law;

2) a judge refuses to accept the application;

3) judicial proceedings in the matter are terminated on the grounds that the matter may not be adjudicated in accordance with the procedures set out in this Law; or

4) the application is left without adjudication on the grounds that the applicant has not complied with prescribed extrajudicial examination procedures or the application has been submitted by a person lacking capacity to act or the application is left without adjudication pursuant to a petition of the applicant prior to commencement of the adjudication of the matter on the merits, but in a proceeding by way of written procedure – before the court sitting for pronouncement of the judgment has been set.

(2) A State fee shall be repaid if the application for its repayment has been submitted to the court within one year from the day when the relevant amount was paid into the State budget.

(3) A State fee shall be repaid from State budget funds on the basis of a decision of a court or a judge.

#### **Section 126. Reimbursement of State Fees**

- (1) If an application is fully or partly allowed, the court shall adjudge as against the defendant, in favour of the applicant, the State fee paid by the applicant.
- (2) If the applicant was exempted from payment of the State fee and the application has been fully or partly allowed, the State fee shall be adjudged as against the defendant.
- (3) If the applicant was exempted from payment of the State fee, in case the application is dismissed, the applicant shall not be charged the State fee.

#### **Section 127. Payment and Repayment of State Fees**

Payment and repayment of State fees shall be made in accordance with procedures determined by the Cabinet.

#### **Section 128. Exceptions from General Provisions Regarding State Fees**

- (1) Legal entities referred to in Section 29 of this Law shall be exempt from payment of the State fee.
- (2) If a legal entity referred to in Section 29 of this Law withdraws an application which has been submitted in behalf of a person, but such person demands that the matter be adjudicated on the merits, the State fee shall be paid in accordance with general provisions.
- (3) A court or a judge, taking into account the financial situation of a natural person, may decrease the amount of the State fee.

#### **Section 129. Appeal of Decisions regarding State Fee Issues**

An ancillary complaint may be submitted regarding a decision concerning State fees.

### **Chapter 14 Court Notifications and Summoning**

#### **Section 130. Summoning and Summoning to Court**

- (1) Participants in an administrative procedure shall be summoned to court by a court summons.
- (2) Witnesses, experts and interpreters shall be summonsed to court by a court summons.
- (3) Notice of being summoned or of being summonsed to court shall be given in good time.

#### **Section 131. Court Summons**

There shall be set out in a court summons:

- 1) the given name, surname and the place of residence of the natural person to be summoned or summonsed or other address indicated by such person (for a legal person – name, legal address or other address of an authorised representative indicated by such legal person);

- 2) the name and address of the court;
- 3) the time and place of attendance;
- 4) the name of the matter to which the person is summoned or summonsed;
- 5) why the person is being summoned or summonsed;
- 6) a statement that a person who receives a summons due to the absence of the person to be summoned or summonsed, has a duty to provide it to the latter; and
- 7) the consequences of failing to attend.

### **Section 132. Delivery of Summons**

- (1) A summons shall ordinarily be delivered by mail or by a messenger to the address indicated by the person to be summoned or summonsed.
- (2) A participant in an administrative proceeding, with the consent of a judge, may receive a summons for delivery to another person to be summoned or summonsed in the matter.
- (3) If a person to be summoned or summonsed has indicated another form of communication or the case is of particular urgency, the person may be summoned or summonsed to a court sitting by means of another form of communication.
- (4) If the person is not able to be reached at the address indicated, the summons shall be delivered to the place of residence or legal address of the person to be summoned or summonsed.
- (5) A summons to a person to be summoned or summonsed who is residing abroad or whose legal address is in a foreign state shall be delivered through the Ministry of Foreign Affairs or in accordance with the procedures prescribed in international agreements.

### **Section 133. Service of Court Summons**

- (1) A court summons shall be personally served upon the person to be summoned or summonsed and such person shall sign for it. In the signature part of the summons, the time when the summons is received shall also be indicated.
- (2) If a deliverer of a summons does not meet the person at the address indicated by such person, the summons shall be delivered to adult family members residing with the person to be summoned or summonsed. In that case, the recipient of the court summons shall write his or her given name and surname, as well as indicate his or her relationship with the person to be summoned or summonsed in the signature part of the court summons. It is the duty of the recipient of the court summons to provide the summons to the person summoned or summonsed without delay.
- (3) A court summons addressed to an institution or a legal person shall be provided to the relevant employee thereof.
- (4) If the person to be summoned or summonsed to a court is absent, the deliverer of the court summons shall make a note in the signature part of the court summons, as well as indicate the place the person to be summoned or summonsed has left for and the time when he or she is expected to return.
- (5) The signature part of the court summons shall be returned to the court.

### **Section 134. Consequences of Refusing to Accept a Court Summons**

- (1) It is the duty of the person summoned or summonsed to court to accept the court summons.

- (2) If a person summoned or summonsed to court refuses to accept the court summons, the deliverer shall make a note in the signature part of the court summons and return it to the court.
- (3) The refusal to accept a court summons is not an impediment to the adjudicating of the matter.

### **Section 135. Duty of Persons to be Accessible**

- (1) It is the duty of persons as may be summoned or summonsed to be accessible.
- (2) If a court summons has been delivered in accordance with the procedures set out in this Chapter, it shall be considered that the person to be summoned or summonsed has been notified of the place where and time when the matter is to be adjudicated, except in the case specified in Section 133, Paragraph four of this Law.
- (3) If the court summons has been delivered to the person to be summoned or summonsed in accordance with the procedures set out in Section 132, Paragraph four of this Law, it shall be considered that the person to be summoned or summonsed has been notified, of the place where and time when the matter is to be adjudicated, on the seventh day after the delivery of the summons to the post office.

## **Chapter 15 Minutes**

### **Section 136. Duty to Keep Minutes**

- (1) Minutes of a court sitting shall be kept at each court sitting.
- (2) In the cases provided for by this Law, minutes shall also be kept regarding procedural actions performed outside a court sitting.

### **Section 137. Content of Minutes**

- (1) In the minutes of court sittings shall be set out:
  - 1) the time when (year, date, month) and the place where the court sitting takes place;
  - 2) the name of the court adjudicating the matter, the court panel and the registrar of the court sitting;
  - 3) the time when the court sitting is opened;
  - 4) the title of proceedings in the matter;
  - 5) information concerning the attendance of the participants in the administrative proceeding, and of witnesses, experts and interpreters;
  - 6) information as to the procedural rights and duties of the participants in the administrative proceeding having been explained to such participants;
  - 7) information as to interpreters, witnesses and experts having been warned regarding criminal liability in accordance with the Criminal Law;
  - 8) explanations of participants in the administrative proceeding, testimony of witnesses, oral explanations of experts regarding their opinions, and information regarding examination of demonstrative and documentary evidence;
  - 9) applications and petitions of participants in the administrative proceeding;
  - 10) court orders and decisions as have not been adopted in the form of separate procedural documents;

- 11) a brief summary of the opinion of an authority referred to in Section 30 of this Law;
  - 12) a brief summary of the court argument;
  - 13) information concerning retirement of the court to render judgment or take a decision;
  - 14) information regarding the reading out of a court judgment or of a court decision adopted in the form of a separate procedural document;
  - 15) information regarding the substance of a judgment (decision) and the explaining of appellate procedures and time periods;
  - 16) information as to when the participants in the administrative proceeding may become acquainted with the minutes of the court sitting and the full text of the judgment (decision);
  - 17) the time when the court sitting is closed; and
  - 18) the time when the minutes of the court sitting are signed.
- (2) The chairperson of the court sitting and the registrar of the court sitting shall sign the minutes of the court sitting.
- (3) The minutes of separate procedural actions performed outside a court sitting shall conform to the requirements stated in this Section.
- (4) [15 January 2004]  
[15 January 2004]

### **Section 138. Writing of Minutes**

- (1) The registrar of the court sitting shall write the minutes.
- (2) The minutes shall be signed not later than the third day after completion of the court sitting or performance of a separate procedural action, but in complicated matters, not later than the fifth day.
- (3) All additions and amendments to the minutes shall be deliberated before the chairperson and the registrar of the court sitting sign the minutes. Incomplete lines and other blank spaces in the minutes shall be crossed out. Erasures or blocking out shall not be permitted in the text of the minutes.

### **Section 139. Notes to the Minutes**

- (1) Participants in an administrative proceeding may become acquainted with the minutes and, within three days from the day they are signed, submit notes in writing regarding the minutes, stating the defects and errors present therein.
- (2) The notes submitted shall be examined by the chairperson of the court sitting within five days. If he or she agrees to the notes he or she shall confirm their correctness and attach them to the minutes of the court sitting.
- (3) If the chairperson of the court sitting does not agree with the notes submitted, such notes shall be examined in a court sitting with the same court panel as there was at the adjudicating of the matter, within fifteen days from the day the notes are submitted. If the matter has been adjudicated by a panel of three judges and it is not possible to ensure the same court panel, the issue shall be adjudicated by a court in the panel of which are at least two of the judges who participated in the adjudicating of the matter.
- (4) Participants in the administrative proceeding shall be notified of the time when and place where the court sitting is to take place. Failure of such persons to attend is not an impediment to the adjudicating of the matter.

(5) After examining the notes, the court take a decision regarding their correctness or rejection.

## **Chapter 16** **Procedural Sanctions**

### **Section 140. Forms of Procedural Sanctions**

In cases provided for by this Law, a court may apply the following procedural sanctions:

- 1) a warning;
- 2) expulsion from the courtroom;
- 3) pecuniary penalty; and
- 4) forced conveyance to the court.

### **Section 141. Warning**

(1) A judge shall give a warning to a person who disturbs order during the adjudicating of a matter. A note regarding this shall be made in the minutes of the court sitting.

### **Section 142. Expulsion from the Courtroom**

If a participant in an administrative proceeding, a witness, an expert or an interpreter disturbs order repeatedly, they may, pursuant to a court decision, be expelled from the courtroom. Other persons in attendance, who disturb the order, may be expelled pursuant to an order of the chairperson of the court sitting even without prior warning.

### **Section 143. Pecuniary Penalty**

- (1) A court shall impose a pecuniary penalty in the amount prescribed by this Law.
- (2) A copy of a court decision regarding imposition of a pecuniary penalty shall be sent forthwith to the person on whom the pecuniary penalty is imposed.
- (3) A person on whom a pecuniary penalty has been imposed, within a ten-day period from the receipt of the copy of the court decision, may petition the court which has imposed the pecuniary penalty to release him or her from the payment of the pecuniary penalty or to reduce the amount thereof. The submission shall be adjudicated in a court sitting, upon prior notice of the sitting to the person on whom the pecuniary penalty has been imposed. Failure of such person to attend is not an impediment to the adjudicating of the submission. The decision of the court may not be appealed.
- (4) A pecuniary penalty imposed on an official shall be paid by him or her from his or her personal funds.

### **Section 144. Forced Conveyance**

- (1) A court may take a decision concerning the bringing of a witness to the court by forced conveyance.
- (2) Such decision shall be executed by the police institution stipulated by the court.

## **Chapter 17**

### **Rights and Duties of Participants in an Administrative Proceeding in the Court**

#### **Section 145. Procedural Rights of Applicants and Defendants**

- (1) An applicant and a defendant have the right:
- 1) to become acquainted with materials of the matter, make extracts or copies therefrom and prepare copies thereof (hereinafter – copies);
  - 2) to participate at court sittings;
  - 3) to apply for recusals or removals;
  - 4) to submit evidence;
  - 5) to participate in the examination of evidence;
  - 6) to submit petitions;
  - 7) to provide oral and written explanations to the court;
  - 8) to express their arguments and considerations;
  - 9) to raise objections against petitions, arguments and considerations of other participants in the administrative proceeding;
  - 10) to appeal court judgments and decisions; and
  - 11) to receive a copy of judgments and decisions existing in the matter, as well as to exercise other procedural rights granted to them by this Law.
- (2) An applicant also has the right:
- 1) to withdraw the claim contained in an application in full or in part; and
  - 2) until commencement of the adjudicating of the matter, to amend in writing the basis or subject of the application, as well as the amount of the claim.
- (3) A defendant also has the right to raise objections against the claim contained in the application and to admit it in full or as to a part thereof.

#### **Section 146. Rights and Duties of Third Parties**

- (1) Third parties shall be admitted or invited to participate in the matter in accordance with a court decision.
- (2) An ancillary complaint may be submitted regarding a court decision by which a petition regarding a third party entering into or being invited to participate in a matter is dismissed.
- (3) A third party with independent claims has the rights and duties of an applicant.
- (4) A third party who does not submit independent claims has the procedural rights and duties of an applicant and defendant, except the right to amend the basis or subject-matter of the application, withdraw the claim, admit a claim or require execution of the court judgment.
- (5) There shall be set out in a submission regarding invitation of a third party to participate in a matter and the submission of a third party regarding entering into a matter on the side of the applicant or the defendant why a third party should be allowed to participate in the matter.

#### **Section 147. Formalisation of Representation and the Scope of Powers of Representatives**

- (1) Representation in the court shall be formalised in accordance with the provisions of Section 38 of this Law. The provisions of Section 39 shall apply to the scope of powers of a representative.

(2) There shall specifically be set out in an authorisation issued to a representative the right to submit an application, to withdraw the claim contained in the application in full or in part, to amend the subject-matter of the application, to admit the claim in full or in part, to appeal from a court adjudication in accordance with appellate or cassation procedures, to submit an execution document for execution, to receive the property or money adjudged and to terminate execution proceedings.

#### **Section 148. Duties of Participants in Administrative Proceedings**

(1) Participants in an administrative proceeding have the duty to:

- 1) attend in court pursuant to a summons;
- 2) notify in good time of the reasons that prevent them from attending a court sitting; and
- 3) perform other procedural duties imposed upon them in accordance with this Law.

(2) Participants in an administrative proceeding shall exercise their rights and perform their duties in good faith.

### **Division Two Evidence**

#### **Chapter 18 General Provisions Regarding Evidence**

#### **Section 149. Evidence**

Evidence in an administrative matter is information regarding facts upon which the claims and objections of participants in the administrative proceeding are based, and information regarding other facts that are significant in the adjudicating of the matter.

#### **Section 150. Burden of Proof**

- (1) An institution shall prove the facts upon which it relies as the grounds for its objections.
- (2) An institution may only refer to those grounds that have been stated in an administrative act.
- (3) An applicant, according to his or her capacity, shall participate in collecting evidence.
- (4) If the evidence submitted by a participant in an administrative proceeding is not sufficient, the court shall collect it on its own initiative.

#### **Section 151. Relevance of Evidence**

The court shall accept only such evidence as is relevant to the matter.

#### **Section 152. Admissibility of Evidence**

- (1) The court shall admit only such means of proof as are stipulated by law.
- (2) Facts that, in accordance with law can be proved only by particular evidentiary means, may not be established by any other evidentiary means.



### **Section 153. Basis for not Requiring Proof**

- (1) If the court acknowledges a fact to be universally known, it need not be proved.
- (2) A fact, which has been established in the resolute part of a court judgment, which has come into effect, need not be proved again in the adjudicating of an administrative matter.
- (3) A fact, which has been established in the reasoned part of a court judgment, which has come into effect, need not be proved again in the adjudicating of an administrative matter in which the same participants in the proceedings participate.
- (4) A fact considered by law as established need not be proved in the adjudicating of a matter.

### **Section 154. Assessment of Evidence**

- (1) A court shall assess the evidence in accordance with its own convictions which shall be based on comprehensively, completely and objectively verified evidence, and in accordance with judicial consciousness based on laws of logic, findings of science and principles of justice.
- (2) No evidence shall have such predetermined effect as would bind a court.
- (3) A court judgment shall state why preference has been given to certain evidence in comparison with other, and why certain facts have been recognised as proven while other facts as not proven.

## **Chapter 19 Securing of Evidence**

### **Section 155. Allowing Evidence to be Secured**

- (1) If a person has cause to believe that the submitting of evidence necessary for him or her may later be impossible or problematic, they may petition the court to secure such evidence.
- (2) An application regarding securing of evidence may be submitted either before initiation of court proceedings or during the adjudicating of a matter.
- (3) Before initiation of court proceedings evidence shall be secured by the district (city) court in the territory of the operation of which, the source of the evidence to be secured is located. After a matter is initiated in court, evidence shall be secured by the court adjudicating the matter.

### **Section 156. Applications for Securing of Evidence**

In an application for the securing of evidence there shall be set out:

- 1) the given name, surname and address of the applicant (for a legal person – the name, registration number and legal address), the matter the adjudicating of which requires that the evidence be secured and its potential participants;
- 2) the evidence that needs to be secured;
- 3) the facts for which this evidence is necessary as proof; and
- 4) the reasons due to which the applicant requests securing of evidence.

### **Section 157. Procedures for Examining Applications for the Securing of Evidence Prior to Initiation of Court Proceedings**

- (1) An application for the securing of evidence shall be adjudicated in a court sitting within ten days from the day it is received.
- (2) The applicant and potential participants in the administrative proceeding shall be summoned to the court sitting. Failure of such persons to attend is not an impediment to the adjudicating of the application.
- (3) Evidence may be secured without summoning the potential participants in the administrative proceeding only in emergency situations or in cases where it is not possible to determine the potential participants in the administrative proceeding.
- (4) Examination of witnesses, as well as inspection on site and expert-examination shall be performed in accordance with the norms of this Law.
- (5) The minutes of the court sitting and the material collected in the course of securing evidence shall be kept until required by the court that adjudicates the matter.
- (6) An ancillary complaint may be submitted regarding the decision of a court to refuse to accept an application.

### **Section 158. Procedures regarding the Adjudicating of Applications for Securing of Evidence After Court Proceedings are Initiated**

- (1) An application for the securing of evidence shall be adjudicated in a court sitting.
- (2) The applicant and other participants in the administrative proceeding shall be notified of the time and place of the sitting. Failure of such persons to attend is not an impediment to the adjudicating of the application.

### **Section 159. Court Assignments**

- (1) If the court adjudicating the matter is unable to collect evidence located in another city or district, it shall assign to an appropriate court the performing of specific procedural actions.
- (2) A decision regarding a court assignment shall briefly state the substance of the matter to be adjudicated, set out the facts required to be determined, and the evidence to be collected by the court performing the assignment. Such decision shall be mandatory for the court to which it is addressed and the court shall execute it within fifteen days from the receipt of the court assignment.

### **Section 160. Procedure regarding Performing of Court Assignments**

- (1) Court assignments shall be performed in a court sitting in accordance with the procedure prescribed in this Law. Participants in the administrative proceeding shall be notified of the time and place of the court sitting. Failure of such persons to attend is not an impediment to the performing of the assignment.
- (2) Minutes and other materials of the matter, which have been gathered in performing the assignment, shall be sent to the court adjudicating the matter within three days.

## **Chapter 20**

### **Evidentiary Means**

#### **Section 161. Explanations**

- (1) Explanations of participants in an administrative proceeding containing information concerning facts on which their claims or objections are based shall be considered as proof, if they are confirmed by other evidence as has been examined and assessed.
- (2) If one participant in an administrative proceeding admits a fact on which the claims or objections of another participant in the administrative procedure are based, the court may find such fact as proven, if it has no doubt that the admission has not been made as a result of the influence of fraud, violence, threat or mistake or for the purpose of concealing the truth.
- (3) If there are no other evidentiary means or they are not reliable enough, an applicant who is a natural person may confirm his or her explanations under oath. The applicant may be held criminally liable in accordance with the Criminal Law for knowingly providing false information. The applicant may give an oath only in person and representation shall not be permitted.
- (4) An oath shall not be allowed as evidentiary means in respect of such facts as have been established by a court decision which has come into effect, as well as for confirmation or confutation of universally known facts.

#### **Section 162. Testimony of Witnesses**

- (1) A witness is a person who has been summonsed to a court sitting by a court in order to testify about facts relevant to a matter.
- (2) A participant in an administrative proceeding, in requesting that a witness be examined, shall indicate what facts of significance in the matter the witness may confirm.
- (3) No witness summonsed to a court has the right to refrain from giving testimony, except in the cases prescribed in Sections 163 and 164 of this Law.
- (4) A witness may only be examined regarding facts to be determined in the relevant matter.
- (5) Evidence may not consist of testimony based on information from unknown sources, or on information obtained from other persons, if such persons have not been examined,.

#### **Section 163. Persons who May not be Witnesses**

The following persons may not be summonsed and examined as witnesses:

- 1) ministers – regarding circumstances that have come to their knowledge in hearing confession,
- 2) persons who pursuant to their position or profession do not have the right to disclose the information entrusted to them – regarding such information;
- 3) minors – regarding facts constituting evidence against their parents, grandparents, brothers or sisters;
- 4) persons whose physical or mental deficiencies render them incapable of correctly perceiving circumstances of significance to the matter; and
- 5) children less than seven years of age.

#### **Section 164. Persons who may Refuse to Testify**

The following persons may refuse the duty to testify:

- 1) relatives of a participant in an administrative proceeding in a direct line and in the first or second degree of collateral lines, the spouse, first degree affinity relatives, and members of the family of a participant in the administrative proceeding;
- 2) guardians and trustees of a participant in an administrative proceeding and persons under the guardianship or trusteeship of the relevant participant in the administrative proceeding;
- 3) a person who is litigating in another matter against one of the participants in an administrative proceeding; and
- 4) a person whose testimony may turn against the person himself or herself.

#### **Section 165. Duties of Witnesses**

- (1) A person summonsed as a witness shall attend in court and give true testimony regarding the facts known to him or her.
- (2) A witness shall answer the questions of the court and participants in the administrative proceeding.
- (3) If a witness cannot attend the court due to illness, old age, disability or other justified reason, the court may examine the witness at the place where he or she are located.

#### **Section 166. Liability of Witnesses**

- (1) A witness may be held criminally liable in accordance with the Criminal Law for knowingly providing false testimony and for refusal to testify due to reasons which a court has found unjustified.
- (2) If, a witness fails, without justified reason, to attend pursuant to court summoning, the court may impose on him or her a pecuniary penalty not exceeding one hundred lati or take a decision concerning forced conveyance.

#### **Section 167. Documentary Evidence**

Documentary evidence is information concerning facts of significance to a matter which is recorded in documents and other written matter or in corresponding recording media (audio, video tapes, floppy discs, compact discs, digital video-discs) by letters, figures or other written symbols or the assistance of technical means.

#### **Section 168. Procedures for Submitting Documentary Evidence**

- (1) A participant in an administrative proceeding who is submitting documentary evidence or is petitioning for it to be required, shall state what facts relevant to the matter may be confirmed by such evidence.
- (2) Documentary evidence shall be submitted in original form or in the form of a copy certified in accordance with prescribed procedures. The copy may also be certified by a judge. If part of a written document or other written matter is sufficient to determine those facts as are of significance in the matter, a certified extract therefrom may be submitted to the court.

(3) Original documents shall be submitted, if law or international agreements provide that the specific facts may only be proved by original documents.

(4) If a copy of documentary evidence or an extract therefrom has been submitted to a court, the court may, pursuant to the reasoned petition of a participant in the administrative proceeding or its own initiative, require that the original be submitted if it is necessary for determining the facts of the matter.

#### **Section 169. Procedures for Requiring Documentary Evidence**

(1) A court may, pursuant to its own initiative or the reasoned petition of a participant in the administrative proceeding, require documentary evidence from institutions and persons.

(2) A participant in an administrative proceeding, who petitions a court to require documentary evidence, shall describe such evidence and provide reasons why he or she considers that it is in the possession of the person he or she has referred to or the relevant institution.

(3) An institution or a person who is unable to submit the required documentary evidence to the court or cannot submit such within the time period set by the court, shall notify the court of this in writing, and indicate the reason.

(4) If, without denying that such evidence is in his or her possession, a participant in an administrative proceeding refuses to submit the required documentary evidence to the court, the court may recognise as proven the fact for confirmation of which such documentary evidence has been referred to by another participant in the administrative proceeding.

#### **Section 170. Return of Documentary Evidence in a Matter**

After a court judgment has come into effect the court shall, pursuant to the reasoned request in writing of institutions or persons who have submitted the originals of documentary evidence, return to them such evidentiary means. If such evidence has been referred to in the adjudication of the court, copies of such documentary evidence certified by the judge shall be left in the matter.

#### **Section 171. Inspection of Documentary Evidence at the Place it is Kept**

If submission of documentary evidence to a court is impossible or problematic because of its amount, size or other reasons, the court may require that excerpts from the documentary evidence, certified in accordance with prescribed procedures, be submitted or may carry out inspection and investigation of the documentary evidence at the place it is kept.

#### **Section 172. Demonstrative evidence**

Demonstrative evidence consists of tangible things which by their characteristics, special features or very existence may be of use in determining the facts of significance in a matter.

#### **Section 173. Procedure for Requiring Demonstrative Evidence**

(1) A court, pursuant to its own initiative or the reasoned petition of a participant in an administrative proceeding, may require demonstrative evidence from institutions and persons.

(2) A participant in an administrative proceeding, who submits demonstrative evidence or petitions for it to be required, shall indicate what facts of significance in the matter may be confirmed by this evidence.

(3) A participant in an administrative proceeding, who is petitioning a court to require demonstrative evidence, shall describe such evidence and provide reasons why he or she considers that the evidence is in the possession of the person he or she has referred to or of the relevant institution.

(4) An institution or a person who is unable to submit the required demonstrative evidence to the court or to submit it within the time period set by the court, shall notify the court of this, and indicate the reason.

#### **Section 174. Inspection of Demonstrative Evidence at the Place it is Kept**

If submission of demonstrative evidence to a court is impossible or problematic because of its amount, size or other reasons, the court may carry out inspection and investigation of the demonstrative evidence at the place where it is kept.

#### **Section 175. Keeping of Demonstrative evidence**

(1) Demonstrative evidence shall be appended to the matter file or kept at the court depository of demonstrative evidence.

(2) Objects that cannot be delivered to the court shall be kept at the place where they are located. They shall be described and, where necessary, photographed or filmed. Such descriptions and representations shall be appended to the matter.

(3) A court shall inspect rapidly perishable tangible evidence without delay, notifying the participants in the administrative proceeding regarding this. Following the inspection, such demonstrative evidence shall be returned to the institution or person from which it was received.

#### **Section 176. Return of Demonstrative evidence**

(1) After a court judgment has come into effect, the court shall return demonstrative evidence to the institution or person from whom it has been received or shall provide it to the person whose rights to these things the court has recognised.

(2) Demonstrative evidence which in accordance with law or a court judgment may not be returned to the participant in the administrative proceeding or to the person from whom it has been received shall be provided by the court to the appropriate State authority.

(3) In individual cases, demonstrative evidence may be returned prior to a judgment coming into effect, if that causes no harm to the adjudicating of the matter.

### **Section 177. Liability for Failure to Submit Documentary and Demonstrative Evidence**

If a court has not been notified that it is not possible to submit the required documentary or demonstrative evidence or it has not been submitted because of reasons found by the court to be unjustified, the court may impose upon the relevant person a pecuniary penalty not exceeding twenty-five lati. Payment of the pecuniary penalty shall not release such person from the duty to submit the evidence required by the court.

### **Section 178. Expert-Examination**

(1) A court shall order expert-examination in a matter in all cases where special knowledge in science, engineering, art or other sectors is necessary for the determining of facts of significance to the matter. Where necessary, a court shall order more than one expert-examination.

(2) Expert-examination shall be performed by experts of an appropriate expert-examination institution or by other specialists. An expert shall be selected by the court, taking into account the views of the participants in the administrative proceeding. Where necessary, more than one expert may be selected.

(3) Participants in an administrative proceeding have the right to submit to the court questions which, in their opinion, require the opinion of an expert. Questions requiring the opinion of an expert shall be determined by the court. The court shall give reasons for rejecting questions submitted by the participants in the administrative proceeding.

(4) A court shall set out in a decision regarding the ordering of expert-examination the questions regarding which the opinion of an expert is required and to whom the carrying out of the expert-examination has been assigned.

(5) Expert-examination shall be carried out in the court, or outside the court if its carrying out in court is impossible or problematic.

### **Section 179. Duties and Rights of Experts**

(1) A person selected as an expert shall attend pursuant to being summoned by the court.

(2) If an expert who has been summoned fails to attend a court sitting due to reasons which have been found unjustified by the court, the sanction of a pecuniary penalty not exceeding fifty lati may be imposed on the expert.

(3) An expert has the right to become acquainted with the materials of the matter, to put questions to participants in the administrative proceeding and to witnesses, and to request the court to require additional materials.

(4) An expert shall give an objective opinion in his or her own name and is personally liable therefor.

(5) An expert may refuse to provide an opinion if the material provided for his or her investigation is not sufficient or if the questions asked are beyond the scope of his or her specialised knowledge. In such cases the expert shall notify the court in writing that it is not possible to provide an opinion.

(6) An expert may be held criminally liable in accordance with the Criminal Law for refusal to perform his or her duties without justified reason or for knowingly giving a false opinion.

## **Section 180. Withdrawal or Removal of an Expert**

- (1) An expert may not participate at the adjudicating of a matter, if he or she has participated in a previous adjudicating of such matter as a judge, as well as in the other cases stipulated in Section 117 of this Law.
- (2) An expert may also not participate at the adjudicating of a matter if:
  - 1) pursuant to his or her official position or otherwise he or she is or has been dependent on a participant in the administrative proceeding;
  - 2) a participant in administrative proceedings in the matter being adjudicated has, prior to the matter being initiated, been connected with the performing of professional duties by such expert; or
  - 3) it is ascertained that he or she is not competent regarding the relevant issue.
- (3) If the circumstances referred to in Paragraphs one or two of this Section are present, an expert has the duty to withdraw himself or herself prior to the commencement of the trial of the matter.
- (4) A participant in an administrative proceeding has the right to apply for the removal of an expert.
- (5) Removal of an expert shall be applied for and the court shall decide it in accordance with the procedures prescribed in Sections 118 and 119 of this Law.

## **Section 181. Expert Opinion**

- (1) An expert opinion shall be reasoned and substantiated.
- (2) The expert shall express his or her opinion in writing and submit it to the court. The expert opinion shall contain an accurate description of research carried out, conclusions drawn as a result of such research and reasoned replies to questions put by the court. If, in carrying out expert examination, the expert determines facts which are of significance in the matter and regarding which questions have not been put to him or her, the expert may refer to these facts in his or her opinion.
- (3) If more than one expert is selected, they may consult with each other. If the experts reach a joint opinion, it shall be signed by all the experts. If the opinions of the experts conflict, each expert shall write a separate opinion.

## **Section 182. Assessment of Expert Opinion**

- (1) A court shall assess expert opinion in accordance with the provisions of Section 154 of this Law.
- (2) If the expert opinion is not clear enough or is incomplete, a court may order supplementary expert-examination, assigning performance thereof to the same expert.
- (3) If the expert opinion is not substantiated or reasoned, or if the opinions of several experts contradict one another, the court may order repeated expert-examination, assigning performance thereof to another expert or several experts.



### **Section 183. Views of Associations of Persons (*Amicus curiae*)**

(1) An association of persons which is considered a recognised representative of interests in some sector and from which expert opinions may be expected may petition the court in writing to permit it to submit its opinion regarding facts or rights in the relevant sector.

(2) If the court considers that the opinion of the relevant association of persons may assist the court in taking an objective decision in the matter, it shall determine questions regarding which the association of persons may submit its opinion. Such questions must relate to the matter to be adjudicated. The association of persons may not give factual or legal assessment in the specific administrative matter.

(3) If the court considers that the received opinion complies with the requirements of Paragraph two of this Section, it shall forward the opinion to all participants in the administrative proceeding and set a time period during which the participants in the procedure may express their opinions. The court shall send copies of received opinions of participants in the administrative proceeding to other participants in the administrative proceeding.

## **Division Three Judicial Proceedings in a Court of First Instance**

### **Chapter 21 Submission of Applications**

#### **Section 184. Subject-matter of Applications**

Applications may be submitted regarding:

1) the issue, setting aside (setting aside in full or in part, including variation) or validity (declaring invalid, declaring as having ceased to be in effect, or declaring valid a revoked administrative act) of administrative acts;

2) actual actions of institutions;

3) the existence, non-existence or the substance of specific public legal relations arising directly from an external regulatory enactment, if it is not possible to exercise the relevant legal interests by means of an application referred to in Clauses 1 and 2 of this Section; and

4) conformity of a public legal contract with the norms of law, and the validity or correctness of fulfilment thereof.

[15 January 2004]

#### **Section 185. Stay of Operation of Appealed Administrative Acts**

(1) Submission of an application to the court regarding the setting aside of an administrative act or declaring it as having ceased to be in effect or invalid, stays the operation of the administrative act from the day the application is submitted.

(2) Paragraph one of this Section does not apply to the following cases:

1) the administrative act imposes a duty to pay tax, duties or another payment into the State or a local government budget;

2) it is provided for by other laws;

3) the institution, setting out grounds for urgency of execution in respect of the specific matter, has specifically provided in the administrative act that it shall be executed without delay; or

4) an administrative act of the police, border guard, national guard, fire-fighting service and other officials authorised by law is issued with the aim of immediate prevention of direct danger to State security, public order, or the life, health or property of persons.

(3) In cases stipulated by Paragraph two of this Section, the applicant may petition the court, providing reasons for his or her petition, to stay the operation of the administrative act. The court shall adjudicate the petition within seven days.

(4) If the petition of the applicant, in accordance with Paragraph three of this Section, is fully or partly allowed, the institution may submit an ancillary complaint within seven days. A regional administrative court shall examine the complaint within seven days.

(5) If the court dismisses the application regarding the setting aside of an administrative act, declaring it as having ceased to be in effect or invalid, the operation of the administrative act shall be renewed as of the day the judgment comes into effect.

[15 January 2004]

### **Section 186. Form and Content of Applications**

(1) Applications shall be submitted in writing.

(2) In an application shall be set out:

1) the name of the court to which the application is submitted;

2) the given name, surname and place of residence or other address where the person is reachable, of the applicant, and of his or her representative if the application is submitted by a representative. If the applicant or his or her representative is a legal person, its name, registration number, if any, and the legal address shall be indicated;

3) the name and address of the institution;

4) the grounds for the application and evidence, if it is at the applicant's disposal;

5) the claim;

6) the amount of the claim, if it contains a claim for compensation for losses;

7) a list of documents appended to the application, if they have been appended; and

8) the place and time of the completion of the application.

(3) In the application may be set out:

1) the defendant, the authority representing the defendant and the address of the authority;

2) the amount of the claim if the application contains a claim to compensate for personal harm; and

3) other information which may be significant in the adjudicating of the matter.

(4) The application shall be signed by the applicant or his or her representative. If the application is submitted on behalf of the applicant by a representative, he or she shall attach to the application an appropriate authorisation or other document which confirms the authorisation of the representative to submit the application.

### **Section 187. Documents to be Appended to an Application**

(1) An application shall have appended documents, which attest to the following:

- 1) the payment of State fees;
  - 2) compliance with extrajudicial examination procedures, if such are prescribed by law;
- and

3) the facts on which the claim is based.

(2) The application and the documents appended to it shall be submitted to the court, with as many copies as there are defendants and third parties in the matter.

(3) A judge, depending on the circumstances and nature of the matter, may relieve an applicant who is a natural person of the duty to submit copies of the application and documents appended to it for forwarding to defendants and third parties.

### **Section 188. Time periods for Submission of Applications**

(1) An application regarding the issue, setting aside or validity of an administrative act may be submitted within one month from the day when the administrative act of a higher institution (decision regarding the disputed administrative act) comes into effect.

(2) If there is not a higher institution or it is the Cabinet, the application may be submitted within a month from the day when the administrative act comes into effect.

(3) If it is not set out in the administrative act where and within what time period it may be appealed, in the cases referred to in Paragraphs one or two of this Section the application may be submitted within a year from the day the administrative act comes into effect.

(4) An application regarding an actual action of an institution may be submitted within a year from the day when the applicant comes to know of the specific actual action of the institution, if a restriction regarding the time period is not prescribed by other laws or Cabinet regulations.

(5) If an institution or a higher institution has failed to notify the applicant of the decision regarding his or her submission, the application may be submitted to a court within a year from the day when the person applied with his or her submission to the institution or the higher institution.

### **Section 189. Submission of Applications to Court**

(1) An application shall be submitted to a court in accordance with the provisions regarding jurisdiction.

(2) An application may be submitted by the applicant or by a person authorised by him or her. The application may also be sent by mail or using other means of communication prescribed by regulatory enactments.

(3) If the application is submitted by an authorised person, his or her authorisation must be certified in accordance with the procedures prescribed by law.

### **Section 190. Deciding in regard to Applications**

A judge shall, within three days after an application is received in court, take a decision regarding:

- 1) acceptance of the application and initiation of a court matter;
- 2) refusal to accept the application; or
- 3) leaving the application not proceeded with.

## **Section 191. Grounds for Non-Acceptance of Applications**

(1) A judge shall refuse to accept an application if:

- 1) the matter may not be adjudicated in accordance with administrative procedure;
- 2) within the judicial proceedings in the same court or another court is a matter between the same participants in administrative proceedings, regarding the same subject-matter and on the same basis;
- 3) a court judgment or a court decision to terminate judicial proceedings, due to withdrawal of a claim by the applicant, has come into effect in a matter between the same participants in administrative proceedings, the same subject-matter and on the same basis.
- 4) the matter is not within the jurisdiction of such court;
- 5) the applicant has not complied with preliminary extrajudicial examination procedures prescribed by law for such category of matter;
- 6) the application has been submitted by a person lacking capacity to act;
- 7) the application has been submitted on behalf of the applicant by a person who is not authorised in accordance with the procedures prescribed by law; or
- 8) the application has been submitted by a person who does not have a right to submit the application.

(2) A judge shall take a reasoned decision regarding refusal to accept an application. The decision together with the submitted application shall be provided to the applicant.

(3) An ancillary complaint may be submitted regarding a decision to refuse to accept an application. The time period for submission of an ancillary complaint shall be calculated from the day when the applicant receives a copy of such decision.

(4) Refusal of a judge to accept an application on the basis of Paragraph one, Clauses 4-7 of this Section is not an impediment to the submission of such application to the court at such time as the existing deficiencies are rectified.

## **Section 192. Leaving Applications Not Proceeded With**

(1) A judge shall leave an application not proceeded with if:

- 1) the application does not comply with the requirements prescribed in Section 186 of this Law; or
- 2) the application is not accompanied by all of the documents referred to in Section 187, Paragraph one, Clauses 1 and 2 of this Law.

(2) A judge shall take a reasoned decision regarding leaving an application not proceeded with, notify the applicant thereof and stipulate a time period for rectification of deficiencies. Such time period may not be less than 20 days from the day the decision is sent. An ancillary complaint may be submitted regarding the decision. The time period for appeal shall be calculated from the day when the applicant receives a copy of the decision.

(3) If the applicant rectifies the deficiencies within the time period stipulated, the application shall be considered as submitted as of the day it was first submitted to the court.

(4) If the applicant fails to rectify the deficiencies within the time period stipulated, the application shall be deemed as not submitted and shall be returned to the applicant.

(5) The return of the application to the applicant is not an impediment to its repeated submission to the court in compliance with the general procedures for submitting applications prescribed by this Law.

### **Section 193. Joinder regarding Claims and Administrative Matters**

- (1) An applicant may join several mutually related claims in one application.
- (2) If within the judicial proceedings of a court are two or more similar matters wherein one and the same participants in administrative proceedings are participating, or matters where an application of one applicant is submitted against two or more defendants or applications of more than one applicant are submitted against one and the same defendant, the court may join such matters in one judicial proceeding, if such joinder facilitates quicker and more correct adjudication of the administrative matters.

### **Section 194. Separation of Claims and Administrative Matters**

- (1) A court or a judge may direct an applicant to separate out one or more of claims which have been joined, into a separate application, if separate adjudication of the claims is found to be useful.
- (2) The court adjudicating a matter may, pursuant to its decision, separate out one or more of claims which have been joined, into a separate matter, if the adjudicating thereof in one judicial proceeding has become problematic or impossible.

## **Chapter 22 Provisional Regulation**

### **Section 195. Basis for Provisional Regulation**

- (1) If there is cause to believe that execution of a court judgment in a matter may become problematic or impossible, a court may, pursuant to the reasoned request of an applicant, take a decision regarding provisional regulation. In an application for provisional regulation shall be set out the means of provisional regulation.
- (2) Provisional regulation may be applied at any stage of the matter.

### **Section 196. Means of Provisional regulation**

Means of provisional regulation may be as follows:

- 1) a court decision which, pending judgment of the court, substitutes for the requested administrative act or actual action of the institution; or
- 2) a court decision which imposes an duty on the relevant institution to carry out a specific action within a specified time period or prohibits a specific action.

### **Section 197. Procedures for Deciding Applications for Provisional Regulation**

An application for provisional regulation shall be adjudicated in a court sitting upon notice to the participants in the administrative proceeding. Failure of such persons to attend is not an impediment to the adjudicating of the application.

### **Section 198. Varying the Means of Provisional Regulation**

Pursuant to the application of a participant in the administrative proceeding, a court may replace the stipulated means of provisional regulation with another means of provisional regulation. The application shall be adjudicated in a court sitting upon notice to the participants in the administrative proceeding. Failure of such persons to attend is not an impediment to the adjudicating of the application.

### **Section 199. Execution of Decisions Regarding Provisional regulation**

A decision regarding provisional regulation shall be executed without delay in accordance with the procedures prescribed for execution of court judgments.

### **Section 200. Revocation of Provisional Regulation**

- (1) Provisional regulation may be revoked by the same court pursuant to the application of a participant in the administrative proceeding.
- (2) An application regarding revocation of provisional regulation shall be decided in a court sitting upon notice to the participants in the administrative matter. Failure of such persons to attend is not an impediment to the adjudicating of the application.
- (3) An application regarding revocation of provisional regulation may also be decided in the course of the adjudicating of the matter.

### **Section 201. Termination of Provisional Regulation**

If an application regarding the revocation of provisional regulation is dismissed, the provisional regulation shall remain in effect until the day when the judgment comes into effect.

### **Section 202. Appeal against Decisions Regarding Provisional Regulation**

- (1) An ancillary complaint may be submitted with respect to a decision regarding provisional regulation.
- (2) If a decision regarding provisional regulation has been taken in the absence of a participant in the administrative procedure, the time period for submitting the ancillary complaint shall be calculated from the day when he or she receives a copy of such decision.
- (3) Submission of an ancillary complaint with respect to a decision regarding provisional regulation does not stay the execution of the decision.
- (4) Submission of an ancillary complaint regarding a decision by which provisional regulation is revoked or the means of provisional regulation is varied stays the execution of the decision.

## **Chapter 23**

### **Preparation of Administrative Matters for Trial**

#### **Section 203. Forwarding of Applications to Defendants and Explanations of Defendants**

(1) After an application is accepted for adjudication, copies of the application and documents appended to it shall be sent to the defendant without delay and he or she shall be invited to provide the court with an explanation in writing. The judge shall set a time period for providing explanations, which may not exceed fourteen days from the day the copy of the application was sent.

(2) In the explanation the defendant shall set out objections against the application and attach the evidence by which they are confirmed. The defendant may also admit the claim of the applicant in full or in part.

(3) An explanation shall be submitted to the court with as many copies as there are applicants and third parties in the matter.

(4) Failure to submit an explanation is not an impediment to the adjudicating of the matter.

#### **Section 204. Actions of a Judge in Preparing a Matter for Trial**

(1) In preparing a matter for it to be tried, a judge may carry out the following procedural actions:

- 1) decide issues regarding invitation of third parties to participate in the matter;
- 2) decide issues regarding securing of evidence;
- 3) decide issues regarding sending of assignments by the court to other courts;
- 4) decide issues regarding the inviting of an authority to participate referred to in Section 30 of this Law;
- 5) decide issues regarding summoning of witnesses to the court sitting;
- 6) decide issues regarding the ordering of expert-examination in the matter;
- 7) request documentary and demonstrative evidence in accordance with the procedures prescribed in Sections 169 and 173 of this Law;
- 8) decide issues as to whether the matter is to be adjudicated by way of written procedure;
- 9) determine the defendant or decide issues regarding substitution of the defendant if a defendant is not indicated in the application or is indicated incorrectly; and
- 10) carry out other necessary procedural actions.

(2) Where necessary, a judge may concurrently invite participants in the administrative proceeding and their representatives in order to question them regarding the substance of the matter, objections against the application, to explain their procedural rights and duties, to ascertain their opinion in respect of the feasibility of adjudicating the matter by way of written procedure, and to decide other questions related to the preparation of the matter.

(3) A judge may direct participants in the administrative proceeding to answer questions regarding the factual circumstances and legal substance of the matter in writing, as well as require their opinion in respect of the feasibility of adjudicating the matter by way of written procedure.

### **Section 205. Sending Copies of an Explanation**

After an explanation is received from a defendant, the court shall send copies thereof to an applicant and third parties without delay.

### **Section 206. Setting of Court Sittings**

(1) After explanations are received, or after expiration of the time period set for their submission, a judge shall take a decision in which the date and time of the court sitting shall be set and the persons to be summoned or summonsed to the court determined.

(2) The provisions of Paragraph one of this Section are not applicable to matters which are to be adjudicated by way of written procedure.

## **Chapter 24 Court Sittings**

### **Section 207. Restrictions on Presence of Persons in a Courtroom**

The number of persons to be admitted to a courtroom shall be determined in accordance with the number of places in the courtroom. Relatives of an applicant or other persons invited by applicant, and mass media employees have priority rights in regard to being present at the adjudicating of a matter.

### **Section 208. Procedure regarding Court Sittings**

(1) Participants in an administrative proceeding, witnesses, experts and interpreters and other persons present at a court sitting shall observe the procedures set out in this Law and without objection obey the instructions of the chairperson of the court sitting and the decisions of the court.

(2) Persons present in the courtroom shall behave so as not to disturb the course of the court sitting.

(3) When the court enters and when the court leaves the courtroom all persons present in the courtroom shall rise.

(4) While giving explanations and testimony to the court, participants in administrative proceedings, witnesses, experts and interpreters shall stand.

(5) All persons present in a courtroom shall stand while hearing the judgment of the court.

(6) Derogation from the provisions of Paragraphs three, four or five of this Section may only be allowed with the permission of the chairperson of the court sitting.

### **Section 209. Maintaining Order at a Court Sitting**

(1) The court shall give a warning to a person who disturbs the order during the adjudicating of a matter.

(2) If a person who is not a participant in the proceeding disturbs the order repeatedly, the court shall expel him or her from the courtroom. Such person may also be held liable for contempt of court in accordance with the procedures prescribed by law.



(3) If a participant in an administrative proceeding, a witness, an expert or an interpreter disturbs order repeatedly, a court may impose on such person a pecuniary penalty not exceeding fifty lati or expel him or her from the courtroom.

(4) If an expelled applicant, defendant or third party are admitted to the same court sitting anew, the chairperson of the court sitting shall acquaint such person with the procedural actions which have been carried out during his or her absence.

### **Section 210. Recording of the Course of a Court Sitting**

The course of a court sitting may, without its taking place being disturbed, be written down or otherwise recorded. Sound or image recording or transmission equipment may be used at a court sitting only with the permission of the court. Before deciding such issue, the court shall hear the opinion of the participants in the administrative proceeding.

## **Chapter 25 Trial of Administrative Matters**

### **Section 211. Presiding over a Court Sitting**

(1) A court sitting shall be presided over by one of the judges who is participating in the adjudication of the matter (hereinafter – the chairperson of the court sitting).

(2) The chairperson of the court sitting shall so preside over the adjudicating of the matter that equal opportunity to participate in examining the facts of the matter and the objective adjudicating of the matter is ensured for all participants in the administrative proceeding.

[15 January 2004]

### **Section 212. Commencement of a Court Sitting**

At the time set for the adjudicating of a matter, the court shall enter the courtroom, open the court sitting, announce what matter is to be adjudicated and identify the court panel, and the interpreter if an interpreter is participating in the matter.

### **Section 213. Verifying Attendance of Summoned and Summoned Persons**

(1) The registrar of the court sitting shall report to the court which persons summoned or summonsed in the matter are in attendance, whether the persons who are not in attendance have been notified of the court sitting and what information has been received regarding the reasons for their failing to attend.

(2) The court shall verify the identity of the persons present and the authorisations of officials and representatives.

#### **Section 214. Consequences of Failure to Attend of Participants in Administrative Proceedings, Witnesses, Experts or Interpreters**

(1) If a participant in an administrative proceeding, a witness, an expert or an interpreter has failed to attend a court sitting, the court shall commence adjudicating the matter, provided that there are not grounds for adjourning it in accordance with Sections 268 or 269 of this Law.

(2) If a participant in an administrative proceeding, who has failed to attend a court sitting, has not notified the court of the reason for his or her failure to attend in good time, the court may impose on this person a pecuniary penalty not exceeding fifty lati.

(3) If a participant in an administrative proceeding fails to attend a court sitting due to reasons such as the court finds unjustified, the court may impose on such person a pecuniary penalty not exceeding one hundred lati.

(4) Witnesses and experts who have failed to attend a court sitting shall be subject to the procedural sanctions stipulated in Sections 166 and 179 of this Law.

#### **Section 215. Participation of Interpreters in a Court Sitting**

(1) A court shall explain to an interpreter his or her duty to translate the explanations, questions, testimony, applications and petitions of those persons who are not fluent in the language of the judicial proceedings, and to translate to such persons the explanations, questions, testimony, applications and petitions of other participants in the administrative proceeding, the content of documents read, court instructions and court adjudications.

(2) The court shall warn the interpreter that he or she may be held criminally liable in accordance with the Criminal Law for refusal to translate or for knowingly translating falsely.

(3) If it is ascertained that an interpreter is failing to provide appropriate translation, removal of the interpreter may be applied for.

#### **Section 216. Exclusion of Witnesses from a Courtroom**

Witnesses shall be excluded from a courtroom until commencement of their examination. The chairperson of the court sitting shall ensure that witnesses who have been examined by the court do not communicate with witnesses who have not been examined.

#### **Section 217. Explanation of Rights and Duties to Participants in Administrative Proceedings**

(1) The court shall explain to participants in administrative proceedings their procedural rights and duties.

(2) In the course of adjudicating the matter the court shall explain to participants in administrative proceedings the consequences of performance or non-performance of procedural actions.

#### **Section 218. Decisions regarding Recusals and Removals**

(1) A court shall ascertain whether the participants in administrative proceedings have grounds for recusal of a judge or removal of an expert or interpreter.

(2) The court shall decide recusal or removal applied for in accordance with the procedures set out in Section 119 of this Law.

### **Section 219. Explanation of Rights and Duties to Experts**

A court shall explain to experts their rights and duties and warn them that an expert may be held criminally liable in accordance with the Criminal Law for refusal to give an opinion or for knowingly giving a false opinion.

### **Section 220. Deciding Petitions Presented by Participants in Administrative Proceedings**

The court shall determine whether the participants in the administrative proceeding have petitions related to the trial of the matter and decide these after hearing the opinion of other participants in the administrative proceeding.

### **Section 221. Commencement of the Adjudicating of a Matter on the Merits**

(1) The adjudicating of a matter on the merits shall commence with a report by a judge regarding the facts of the matter.

(2) After the report, the court shall determine whether the applicant maintains the claim contained in the application, and whether the defendant admits it.

[15 January 2004]

### **Section 222. Withdrawal of a Claim and Admission of a Claim**

(1) Withdrawal of a claim expressed orally in a court sitting shall be entered in the minutes of the court sitting and signed by the applicant. Withdrawal of a claim which has been submitted to the court in writing shall be attached to the matter.

(2) The admission of a claim at a court sitting shall be entered in the minutes of the court sitting and signed by the defendant. The admission of a claim which has been submitted to the court in writing shall be attached to the matter.

(3) A claim may be withdrawn or admitted so long as the adjudicating of the matter on the merits is not completed.

(4) In regard to the withdrawal of a claim by the applicant, a court shall take a decision, by which the judicial proceedings in the matter shall concurrently be terminated.

### **Section 223. Explanations of Participants in Administrative Proceedings**

(1) Participants in administrative proceedings shall give explanations at a court sitting in the following order: applicants, third parties with independent claims and defendants.

(2) If a third party who does not have an independent claim participates in the matter, he or she shall give explanations following the applicant or the defendant, depending on whose side the relevant third party participates in the proceeding.

(3) A legal entity who has come to the court with an application in order to protect the rights and legal interests of a person shall be the first to give explanations at a court sitting.

- (4) Representatives of participants in the administrative proceeding shall give explanations on behalf of the persons they represent.
- (5) Participants in administrative proceedings shall state in their explanations the facts on which their claims or objections are based. If an applicant or a defendant have admitted a legal fact, it shall be entered in the minutes of the court sitting and signed by the applicant, defendant or both participants in the administrative proceeding respectively.
- (6) If participants in administrative proceedings refer to evidence and the court finds that it is necessary, the court may direct that the evidence be submitted.
- (7) Participants in administrative proceedings are entitled to submit their explanations to the court in writing.
- (8) Explanations in writing of participants in administrative proceedings shall be read out at the court sitting in the order prescribed by this Section, in compliance with the provisions of Section 113 of this Law.

#### **Section 224. Oath of Applicant**

- (1) If there is no other evidence or the evidence is not sufficiently reliable, an applicant who is a natural person may, pursuant to the invitation of the court, affirm by an oath his or her explanations containing information concerning facts on which his or her claims or objections are based.
- (2) Before giving the explanation the applicant shall sign an attestation in content as follows:  
"I, (given name and surname), by oath affirm that I will, to the best of my conscience, tell the truth and only the truth and will not conceal anything. It has been explained to me that for knowingly deceiving the court I may be held criminally liable in accordance with the Criminal Law."
- (3) The attestation with the signature of the applicant shall be attached to the matter.

#### **Section 225. Procedures regarding the Putting of Questions**

- (1) Participants in administrative proceedings may put questions to each other with the permission of the court. The court shall reject questions that are not relevant to the matter.
- (2) The court may put questions to the participants in the administrative proceeding at any time during the trial of a matter.

#### **Section 226. Determining Procedures for Examination of Evidence**

The court, pursuant to its own initiative or the petition of a participant in administrative proceedings, may determine a different order of examination of evidence than as set out in this Law.

#### **Section 227. Warning of Witnesses**

- (1) Prior to the examination of a witness, a court shall ascertain his or her identity, explain the right to refuse to testify and warn him or her that he or she may be held criminally liable for knowingly giving false testimony or for unjustified refusal to testify.
- (2) Prior to questioning, the witness shall sign an attestation of the following content:

"I, (given name, surname), undertake to testify to the court regarding everything that I know in regard to the matter in which I have been summoned as a witness. It has been explained to me that for knowingly providing false testimony or for unjustified refusal to testify I may be held criminally liable in accordance with the Criminal Law".

(3) The attestation shall be attached to the matter.

(4) A court shall explain to a witness who has not attained the age of fourteen years his or her duty to give true testimony, tell everything he or she knows in regard to such matter, but shall not warn such witness regarding the consequences of unjustified refusal to testify or regarding knowingly giving false testimony.

### **Section 228. Examination of Witnesses**

(1) Each witness shall be examined separately.

(2) A witness shall give his or her testimony and answer questions orally.

(3) A court shall determine the relations between the witness and the participants in the administrative proceedings and invite the witness to tell the court everything he or she personally knows regarding the matter, avoiding the providing of information the source of which he or she cannot indicate, and the expressing of his or her assumptions and conclusions. The court shall interrupt the narrative of the witness, if he or she is discussing circumstances not relevant to the matter.

(4) Participants in administrative proceedings may put questions to the witness with the permission of the court. The participant in the administrative proceeding at whose request the witness has been summonsed shall firstly put questions and other participants in the administrative proceeding thereafter. The applicant shall firstly put questions to a witness summonsed pursuant to the initiative of the court and other participants in the administrative proceeding thereafter. The court shall reject questions that are not relevant to the matter.

(5) The court may put questions to a witness at any time during his or her examination.

(6) Where necessary, a court may examine a witness for a second time at the same or at the next sitting, as well as confront witnesses with each other.

(7) If the facts for whose determination witnesses have been summonsed are determined, with the consent of participants in the administrative proceeding, the court may proceed to not examine the witnesses who are present, taking an appropriate decision regarding this.

### **Section 229. Right of a Witness to Use Written Notes**

While testifying, a witness may use written notes if his or her testimony is related to calculations or other data which are difficult to remember. Such notes shall be presented to the court and the participants in the administrative proceeding and pursuant to a decision of the court may be attached to the matter.

### **Section 230. Examination of Witnesses who are Minors**

(1) At the discretion of the court, examination of a witness who is a minor may be conducted, in the presence of a lawful representative, a specialist in children's rights, a psychologist or a teacher. Such persons may also put questions to the minor witness.

(2) If it is essential for determination of truth, any participant in the administrative proceeding and any person present in the courtroom may, pursuant to a court decision, be excluded from the courtroom during the examination of a minor witness. After the participant in the administrative proceeding has returned to the courtroom, he or she shall be acquainted with the testimony of the minor witness and given an opportunity to put questions to such witness.

### **Section 231. Reading Out Testimony of a Witness**

Testimony of a witness which has been obtained in accordance with the procedures regarding securing of evidence or court assignments or in a previous court sitting shall be read out at the court sitting in compliance with the provisions of Section 113 of this Law.

### **Section 232. Duty of a Witness who has been Examined**

A witness who has been examined shall remain in the courtroom until the end of the trial of the matter. He or she may leave the courtroom before the end of the trial of the matter in accordance with a court decision, taken after hearing the opinion of the participants in the administrative proceeding.

### **Section 233. Examination of Expert Opinion and Examining Experts**

- (1) Expert opinion shall be read out in the court sitting in compliance with the provisions of Section 113 of this Law.
- (2) The court and the participants in the administrative proceeding may put questions to the expert in accordance with the same order and procedures as with respect to witnesses.
- (3) A court may order supplementary or repeated expert-examination in cases set out in Section 182 of this Law.

### **Section 234. Examination of Documentary Evidence**

- (1) Documentary evidence in a matter or minutes regarding the inspection thereof shall be read out at a court sitting in compliance with the provisions of Section 113 of this Law or presented to participants in the administrative proceeding, and, where necessary, also to experts and witnesses.
- (2) The court shall decide the issue regarding the appending of the documentary evidence to the matter after familiarising the participants in the administrative proceeding with the contents of such evidence and after hearing the opinions of the participants.
- (3) Personal correspondence may be read out at an open court sitting only with the consent of the persons between whom the correspondence took place. If there is no such consent or the relevant persons are dead, such evidence shall be read out and examined at a closed court sitting.

### **Section 235. Contesting Documentary Evidence**

- (1) Participants in an administrative procedure may contest the veracity of documentary evidence.

(2) The veracity of documentary evidence may not be protested by a person who has signed such evidence. Such person may contest the evidence if the signature was given under the influence of violence, threat or fraud.

(3) The submitter of the contested documentary evidence shall explain at the same court sitting whether he or she wishes to use this documentary evidence or requests that it be excluded from the evidence.

(4) If a participant in the administrative proceeding wishes to use the contested evidence, the court shall consider the admissibility of its use after comparing such evidence with other evidence in the matter.

(5) The veracity of land registers, notarised documents and other acts certified in accordance with procedures prescribed by law may not be disputed. They may be contested by bringing a separate action.

### **Section 236. Application Regarding Forgery of Documentary Evidence**

(1) Participants in administrative proceedings may submit a reasoned application regarding forgery of documentary evidence.

(2) A person who has submitted such evidence may petition the court to exclude it from evidence.

(3) In order to examine an application regarding forgery of documentary evidence, a court may order expert-examination or require other evidence.

(4) If a court finds that documentary evidence has been forged, it shall exclude it from evidence and notify the Office of the Prosecutor of the fact of forgery.

(5) If a court finds that a participant in the administrative proceeding has knowingly without good cause initiated a dispute regarding forgery of documentary evidence, it may impose a pecuniary penalty not exceeding one hundred lati upon such participant in the administrative proceeding.

### **Section 237. Examination of Demonstrative Evidence**

(1) Demonstrative evidence shall be examined at a court sitting and produced to the participants in the administrative proceeding, and, where necessary, also to experts and witnesses.

(2) Participants in administrative proceedings may give explanations and express their views and requests regarding demonstrative evidence.

(3) Minutes regarding inspection of demonstrative evidence drawn up in accordance with the procedures regarding securing of evidence or court assignments shall be read out at a court sitting in compliance with the provisions of Section 113 of this Law.

### **Section 238. Inspection and Examination of Evidence on Site**

(1) If documentary or demonstrative evidence can not be delivered to the court, the court shall take a decision regarding its inspection and examination at the place where it is located.

(2) A court shall notify the participants in the administrative proceeding regarding on-site inspection of evidence. Failure of such persons to attend is not an impediment to the carrying out of an inspection.

(3) A court may summons experts and witnesses in regard to an inspection at the place where evidence is located.

(4) The process of inspection shall be recorded in the minutes of the court sitting, to which shall be appended plans, drawings and representations of demonstrative evidence drawn up and examined during the inspection.

### **Section 239. Hearing Opinions of Authorities**

(1) Following the examining of evidence, a court shall hear the opinion of an authority referred to in Section 30 of this Law which is participating in the proceedings in accordance with the law.

(2) The judge and the participants in the administrative proceeding may put questions to the representative of such authority in respect of the opinion.

### **Section 240. Termination of the Adjudicating of a Matter on the Merits**

(1) After the evidence submitted has been examined, the court shall ascertain the views of the participants in the administrative proceeding regarding the possibility of terminating the adjudicating of the matter on the merits.

(2) If it is not necessary to examine additional evidence, the court shall ascertain whether the applicant is maintaining the claim contained in the application.

(3) If the applicant does not withdraw the claim, the court shall declare the adjudicating of the matter on the merits terminated and proceed to the court argument.

### **Section 241. Court Argument**

(1) During court argument, applicants or their representative shall speak first and thereafter, defendants or their representatives. Legal entities who have applied to the court to defend the rights and legal interests of persons shall speak first during the court argument.

(2) If a third party participates in the proceeding with independent claims, such person or his or her representative shall speak after applicants and defendants.

(3) A third party who has no independent claims or his or her representative shall speak after applicants or defendants, depending on whose side such third party participates in the proceeding.

(4) A participant in the court argument is not entitled to refer in their statements to such facts and evidence as have not been examined at the court sitting.

(5) The court shall interrupt a participant in the argument, if the participant discusses circumstances not relevant to the matter.

### **Section 242. Reply**

(1) Participants in an administrative proceeding, after they have spoken in court argument, have the right to one reply each.

(2) Defendants or their representatives have the right of last reply .

(3) The court may restrict the length of a reply.



### **Section 243. Announcement Regarding Rendering of Judgment**

- (1) Following the court argument and replies, if any, the court shall retire to render judgment, announcing this to the persons present in the courtroom and specifying the time when and place where the judgment is to be pronounced.
- (2) If the court finds that it is not possible to render the operative part of the judgment at this court sitting, it shall set the next court sitting within the next ten days at which it shall announce the judgment.

### **Section 244. Resumption of the Trial of a Matter**

- (1) If during court deliberations the court finds it necessary to determine new facts of significance to the matter or to additionally examine the existing or new evidence, it shall resume the adjudicating of the matter on the merits.
- (2) In that case the court sitting shall continue in accordance with the procedures set out in this Chapter.

### **Section 245. Adjudicating of Administrative Matters by way of Written Procedure**

The court shall render judgment on the basis of the documents in the matter, in compliance with the procedures for rendering judgment prescribed by law.  
[15 January 2004]

## **Chapter 26 Judgments**

### **Section 246. General Provisions**

- (1) Court adjudications pursuant to which matters are adjudged on the merits shall be made in the form of a court judgment and pronounced in the name of the people of Latvia.
- (2) Judgments shall be rendered and pronounced following the adjudicating of a matter.
- (3) Judgments shall be legal and well-founded.
- (4) No direct or indirect interference with the rendering of a judgment or bringing of influence upon a court shall be permitted.

### **Section 247. Legality and Basis of Judgments**

- (1) In rendering judgment, the court shall base itself upon the norms of substantive and procedural law.
- (2) The court shall base its judgment on the facts which have been established by the evidence in the matter or which in accordance with Section 153 of this Law are not required to be proved.
- (3) A court may base its judgment only on such facts as the participants in the administrative proceeding have had an opportunity to express their views orally or in writing in regard to.

## **Section 248. Procedures regarding Rendering of Judgments**

- (1) If a judgment is rendered collegially, the judge who has prepared the report regarding the matter (rapporteur) shall express his or her opinion last.
  - (2) In rendering judgment, a court shall adopt all adjudications by a majority vote. A judgment shall be signed by all of the judges.
  - (3) A judgment in a matter adjudicated by a judge sitting alone, shall be signed by such judge.
  - (4) After a judgment is signed, the varying thereof or alterations thereto are not permitted.
- [15 January 2004]

## **Section 249. Observance of Claim Limits**

A court shall render judgment regarding the subject-matter of the application as set out by the applicant, not exceeding the limits of the claim.

## **Section 250. Scope of Examination and Objection Limits**

- (1) A court shall render judgment having examined whether:
  - 1) the administrative acts have been issued in compliance with procedural and formal preconditions;
  - 2) the administrative acts comply with the norms of substantive law; and
  - 3) the bases for administrative acts justify duties imposed on addressees or rights conferred, confirmed or denied to addressees.
- (2) In assessing the legality of an administrative act, the court in its judgment shall have regard only to those facts referred to by the institution as the basis for the administrative act.
- (3) In regard to actual actions of institutions, a court shall render judgment having examined whether the actual action has been carried out in compliance with procedural and formal preconditions, and whether it complies with the norms of substantive law.

## **Section 251. Form and Content of Judgments**

- (1) Judgments shall be drawn up in writing.
- (2) A judgment shall consist of an introductory part, a descriptive part, a reasoned part and an operative part.
- (3) In the introductory part shall be set out that the judgment has been rendered in the name of the people of Latvia, the time when the judgment is rendered, the name of the court which rendered the judgment, the court panel, the participants in the administrative proceeding and the subject-matter of the application. If a matter has been adjudicated by way of written procedure, the introductory part shall indicate such fact.
- (4) In the descriptive part shall be set out the claims of the applicant and the objections of the defendant, as well as the substance of the explanations given by the participants in the administrative proceeding. If a matter has been adjudicated by way of written procedure, the descriptive part shall indicate the assent of the participants in the administrative proceeding.
- (5) In the reasoned part shall be set out:
  - 1) the facts determined in the matter, the evidence upon which the court conclusions are based and the arguments pursuant to which one or more items of evidence have been rejected;

- 2) the norms of law on which the court has based itself;
  - 3) legal assessment of the facts determined in the matter;
  - 4) references to published court judgments and legal literature, as well as to other special literature, which has been used by the court in its reasoning; and
  - 5) the court conclusions regarding the validity of the application.
- (6) In the operative part shall be set out the judgment of the court regarding the allowing or the dismissal, in full or in part, of the application, and the substance of the judgment. Additionally, there shall be set out who is to pay State fees, the time periods specified in Section 253, 254 and 255 of this Law, and the time period and procedures for appeal of the judgment.

### **Section 252. Abridged Judgment**

- (1) In exceptional cases the court may draw up a judgment in abridged form, consisting of an introductory part and an operative part.
- (2) In such case the court shall draw up a full judgment within ten days, indicating the date when it was signed.

### **Section 253. Judgment regarding the Setting Aside of an Administrative Act or Declaring it Invalid**

- (1) If a court finds an application for setting aside an administrative act or declaring it invalid as well-founded, it shall set aside the relevant administrative act in full or in part or declare it invalid. In a case where an administrative act is set aside, the court shall stipulate the day as of which the administrative act is to be considered set aside.
- (2) Where necessary, especially if before an administrative act is set aside or declared invalid the execution thereof has been commenced, the court shall set out in the judgment in what way the institution shall rectify the consequences of the commenced execution and shall direct the institution to carry out specific actions for this purpose within a stipulated time period.
- (3) In cases provided for by law a court may vary an administrative act and determine the specific substance thereof.
- (4) If a court acknowledges the right of the applicant to compensation, it shall direct in the judgment that compensation be paid to the applicant and shall specify the amount thereof.

### **Section 254. Judgment regarding Issue of a Favourable Administrative Act**

- (1) If a court finds an application regarding the issue of an administrative act to be well-founded, it shall instruct the institution to issue an appropriate administrative act.
- (2) In the judgment the court shall specify the substance of the administrative act and the time period for its issue if the institution is not still required to carry out consideration of its usefulness. The institution is not still required to carry out consideration if its usefulness, if it is:
  - 1) a mandatory administrative act (Section 65, Paragraph one); or
  - 2) a choice of content administrative act (Section 65, Paragraph three), but the court has already carried out all necessary consideration and come to the conclusion that only an administrative act of one specific content may be correct.
- (3) If the institution is still required to carry out consideration of usefulness, the court shall stipulate in the judgment that the institution shall issue the administrative act within a set time

period. In the issuing of the administrative act, the facts determined in the judgment and the legal assessment thereof are mandatory for the institution.

(4) In a case indicated in Paragraph two of this Section, the court judgment shall replace the administrative act until it is issued by the institution.

### **Section 255. Judgments Regarding Actual Actions of Institutions**

(1) If a court finds an application requesting an actual action from an institution to be well-founded, it shall render a judgment regarding the duty of the institution to carry out specific actions and specify the time period for the carrying out thereof.

(2) If a court finds an application, which requests that an institution be prohibited from carrying out a specific actual action, to be well-founded, the court shall render a judgment in which the institution is prohibited from carrying out the specific actual action.

### **Section 256. Judgments regarding Determination of the Existence or Non-existence or of the Substance of Public Legal Relations**

If the subject-matter of an application is the determination of the existence or non-existence, or the substance of specific public legal relations, a court shall render a judgment in which it shall be determined that the specific public legal relations exist or that they do not exist, or in which the substance of the specific public legal relations shall be determined (the rights and duties arising therefrom).

### **Section 256.<sup>1</sup> Judgments regarding Public Legal Contracts**

(1) If an application regarding the setting aside of a public legal contract is recognised by a court as justified, it shall set aside the relevant public legal contract fully or a part thereof. The court shall determine from which moment the contract shall be deemed to be set aside.

(2) If an application regarding which an institution is requested to enter into a public legal contract is recognised by a court as justified, it shall render a judgment regarding the duty of the institution to enter into a public legal contract and shall determine the time period for the fulfilment thereof. The facts determined in the judgment and the judicial evaluation thereof are mandatory for the institution.

(3) If the subject-matter of the application is the validity of a specific public legal contract, a court shall render a judgment in which it is determined that the specific public legal contract is in effect or is not in effect.

(4) If the subject-matter of the application is the correctness of the fulfilment of a public legal contract, a court shall render a judgment in which it is determined whether the public legal contract has been correctly fulfilled or how it should be correctly fulfilled.

(5) If a court acknowledges the right of the applicant to compensation, it shall direct in the judgment that compensation be paid to the applicant and shall specify the amount thereof.

[15 January 2004]

### **Section 257. Judgment in Favour of Several Applicants or against Several Defendants**

- (1) In a judgment in favour of several applicants it shall be indicated which part of the judgment applies to each of them.
- (2) In a judgment against several defendants it shall be indicated which part of the judgment shall be executed by each of them, or that their liability is solidary.

### **Section 258. Pronouncement of Judgment**

- (1) A judgment shall be pronounced at a court sitting by being read out by the chairperson of the court sitting. With the assent of the participants in the administrative proceeding the court may read out only the introductory part and the operative part of the judgment. In such case a copy of the court judgment shall be given to the participants in the administrative proceeding immediately after the pronouncement of the judgment.
- (2) When pronouncing an abridged judgment, the court shall announce the date when a full judgment will be drawn up.
- (3) After a judgment is pronounced, the court shall explain the substance thereof and the procedures and time periods for appeal therefrom.

### **Section 259. Pronouncement of Judgment in Matters Adjudicated by way of Written Procedure**

- (1) If a matter has been adjudicated by way of written procedure, the participants in the proceedings shall be notified in good time of the date when a true copy of the judgment may be received from the office of the clerk of court. Such date shall be deemed the date of the pronouncement of the judgment.
- (2) On the basis of a petition by the participants in the proceedings, the true copy of the judgment may be sent by post or if it is possible, by another way. The true copy of the judgment shall be sent on the date referred to in Paragraph one of this Section or the next working day after it. The receipt of the judgment shall not influence the computation of the time period.

[15 January 2004]

### **Section 260. Correction of Clerical and Mathematical Calculation Errors**

- (1) Pursuant to its own initiative or the application of a participant in the administrative proceeding, a court may correct clerical and mathematical calculation errors in a judgment. An issue regarding correction of errors shall be decided at a court sitting upon prior notice to the participants in the administrative proceeding. Failure of such persons to attend is not an impediment to the adjudicating of an issue regarding correction of errors.
- (2) Clerical and mathematical calculation errors in a judgment shall be corrected pursuant to a court decision.
- (3) A participant in the administrative proceeding may submit an ancillary complaint regarding a court decision to correct errors in a judgment.

## **Section 261. Supplementary Judgment**

(1) The court which rendered the judgment in a matter may, pursuant to its own initiative or an application by a participant in the administrative proceeding, render a supplementary judgment if:

1) judgment has not been rendered in respect of a claim for which evidence had been submitted and regarding which, if the matter was adjudicated by way of oral procedure, the participants in the administrative proceeding have given explanations; or

2) the court has not stipulated the actions to be performed by an institution, the amount of money adjudged, the property to be transferred or the compensation of the State fees to the applicant or the State.

(2) The rendering of a supplementary judgment may be initiated within the time period stipulated by law for the appealing of judgments.

(3) The court shall notify the participants in the administrative proceeding of the time when and place where such issue is to be adjudicated. Failure of such persons to attend is not an impediment to the deciding of the issue regarding the rendering of a supplementary judgment.

(4) An ancillary complaint may be submitted regarding a court decision by which the rendering of a supplementary judgment is refused.

## **Section 262. Explanation of Judgment**

(1) Pursuant to the application of a participant in the administrative proceeding, the court which rendered a judgment may, pursuant to its decision, explain it, without changing its substance .

(2) Explanation of a judgment is permitted, if it has not yet been executed and the time period for its compulsory execution has not expired.

(3) An issue regarding explanation of a judgment shall be adjudicated at a court sitting, upon prior notice to the participants in the administrative proceeding. Failure of such persons to attend is not an impediment to the adjudicating of the issue regarding explanation of the judgment.

(4) An ancillary complaint may be submitted regarding a court decision with respect to an issue concerning explanation of a judgment.

## **Section 263. Coming into Effect of Judgments**

(1) Court judgments shall come into effect after the time period for the appeal thereof in accordance with appellate procedure has expired and a complaint has not been submitted.

(2) If a part of a judgment has been appealed, the judgment shall come into effect regarding the part which has not been appealed, after expiration of the time period for its appeal.

(3) After a judgment has come into effect, a participant in the administrative proceeding and his or her successor in interest do not have the right to submit an application to a court anew regarding the same subject-matter on the same basis or to contest facts established by the court in another procedure.

(4) A judgment which has come into effect shall have the force of law, its execution shall be mandatory and it may be set aside only in cases and in accordance with the procedures prescribed by law.

(5) Pursuant to the petition of an applicant the court shall issue to him or her a copy of the judgment with an endorsement regarding its coming into effect.

#### **Section 264. Execution of Judgments**

A judgment shall be executed after it has come into effect, except in cases where the court has stipulated that the judgment is to be executed without delay.

#### **Section 265. Judgments to be Executed without Delay**

- (1) Pursuant to the petition of an applicant, a court may stipulate in the judgment that it shall be executed in full or in part without delay.
- (2) Execution of a judgment without delay may be allowed if due to special circumstances delay in the execution of the judgment may cause substantial losses to the applicant or the execution of the judgment may become impossible.

#### **Section 266. Division into Time Periods, Varying of the Form and Procedure of the Execution of a Judgment**

- (1) Pursuant to the application of a participant in the administrative proceeding, a court which has rendered the judgment in a matter may, having regard to the particular circumstances, divide the execution of the judgment into time periods, or vary the form or the procedures regarding its execution.
- (2) The application shall be adjudicated at a court sitting, upon prior notice to the participants in the administrative proceeding. Failure of such persons to attend is not an impediment to the adjudicating of the application.
- (3) An ancillary complaint may be submitted regarding a court decision dividing the execution of a judgment into time periods, or varying the form and procedures for executing a judgment.

#### **Section 267. Sending of a Copy of a Judgment**

- (1) A copy of a judgment shall be sent to a participant in the administrative proceeding who has not participated in the court sitting within three days after the judgment is pronounced, but if an abridged judgment has been pronounced – within three days after the full judgment is drawn up.
- (2) If a participant in a matter has participated in the court sitting and the court has pronounced an abridged judgment, pursuant to such participant's request in writing, a copy of the full judgment shall be sent to him or her within three days after it is drawn up.

### **Chapter 27 Adjournment of the Adjudicating of Administrative Matters**

#### **Section 268. Duty of a Court to Adjourn the Adjudicating of a Matter**

A court shall adjourn the adjudicating of a matter if:

- 1) the defendant has not received a copy of the application and therefore requests that the adjudicating of the matter be adjourned;
- 2) it is necessary to invite as a participant in the administrative proceeding a person whose rights or legal interests may be infringed by the judgment of the court; or

3) a participant in the administrative proceeding fails to attend the court sitting and he or she was not notified of the time when and place where the court sitting was to take place.

### **Section 269. Rights of a Court to Adjourn the Adjudicating of a Matter**

A court may adjourn the adjudicating of a matter if it finds that:

- 1) the adjudicating of the matter is impossible because a participant in the administrative proceeding, a witness, an expert or interpreter has failed to attend; or
- 2) evidence still needs to be gathered.

### **Section 270. Decisions Regarding Adjournment of the Adjudicating of a Matter**

- (1) A decision regarding adjournment of the adjudicating of a matter shall be entered in the minutes of the court sitting.
- (2) In a decision regarding adjournment of the adjudicating of a matter shall be set out the procedural actions which are to be carried out up to the next court sitting, as well as the date set for the next court sitting.
- (3) A court shall notify the persons who are present at the court sitting of the date of the next court sitting, regarding which such persons shall sign. Persons who are not present shall be summoned or summonsed to the court sitting anew.
- (4) A decision regarding adjournment of the adjudicating of a matter may not be appealed, except for decisions where the date of the next court sitting has not been set.

### **Section 271. Examination of Witnesses when Adjudicating of a Matter is Adjourned**

- (1) If all participants in an administrative proceeding are present at a court sitting, the court, in adjourning the adjudicating of the matter, may examine witnesses who are in attendance.
- (2) Where necessary, witnesses who have been examined may be summonsed to the next court sitting.

### **Section 272. Resuming the Adjudicating of a Matter**

- (1) Upon a trial being resumed after the adjournment of a matter, the court shall not repeat previously performed procedural actions.
- (2) Pursuant to the request of a participant in the administrative proceeding, the court shall read out the minutes of the previous court sitting.

## **Chapter 28 Stay of Judicial Proceedings in Administrative Matters**

### **Section 273. Duty of Courts to Stay Judicial Proceedings**

A court shall stay judicial proceedings if:

- 1) such natural person has died or such legal person has ceased to exist as is an applicant or third party with independent claims in the matter, if rights in regard to the contested legal relations are capable of being assumed;



- 2) an applicant or third party has lost the capacity to act;
  - 3) the adjudicating of the matter is not possible until another matter has been decided in a court or an institution;
  - 4) it takes a decision to submit to the Constitutional Court an application regarding the conformity of the legal norms to the Constitution (*Satversme*) or international legal norms (acts) or also the Constitutional Court has initiated a matter in relation to a constitutional appeal by the applicant; or
  - 5) it takes a decision to assign a matter to the European Court of Justice regarding the interpretation or validity of European Union (Community) legal norms.
- [15 January 2004]

#### **Section 274. The Right of a Court to Stay Judicial Proceedings**

A court may stay judicial proceedings if:

- 1) it orders expert-examination; or
- 2) an applicant or third party is not able to participate in the adjudicating of the matter due to illness, old age, disability or other substantial reason.

#### **Section 275. Time periods for Stay of Judicial Proceedings**

Judicial proceedings shall be stayed:

- 1) in cases provided for in Section 273, Clause 1 of this Law – until determination of a successor in interest or appointment of a lawful representative;
  - 2) in cases provided for in Section 273, Clause 2 of this Law – until appointment of a lawful representative;
  - 3) in cases provided for in Section 273, Clause 3 of this Law – until the judgment or decision in the relevant matter comes into effect;
  - 4) in a case provided for in Section 274, Clause 1 of this Law – until the time when the expert opinion is received;
  - 5) in a case provided for in Section 274, Clause 2 of this Law – until the end of the time period set by the court for formalising representation;
  - 6) in a case provided for in Section 273, Clause 4 of this Law – until the day the adjudication of the Constitutional Court comes into effect; and
  - 7) in a case provided for in Section 273, Clause 5 of this Law – until the day the preliminary ruling of the European Court of Justice comes into effect.
- [15 January 2004]

#### **Section 276. Decisions Regarding Stay of Judicial Proceedings**

- (1) A court shall take a reasoned decision regarding stay of judicial proceedings, in the form of a separate procedural document.
- (2) In the decision shall be set out the conditions until the coming into effect or ceasing of which judicial proceedings are stayed, or the time period until the end of which the judicial proceedings are stayed.
- (3) An ancillary claim may be submitted regarding a court decision to stay judicial proceedings.

### **Section 277. Resumption of Judicial Proceedings**

A court shall renew judicial proceedings pursuant to its own initiative or the application of a participant in the administrative proceeding.

## **Chapter 29 Leaving Applications without Adjudication**

### **Section 278. Duty of the Court to Leave an Application without Adjudication**

A court shall leave an application without adjudication if:

- 1) the applicant has not complied with preliminary extrajudicial examination procedures prescribed by law regarding the matter;
- 2) the application has been submitted by a person lacking capacity to act;
- 3) the application has been submitted on behalf of the applicant by a person who is not authorised regarding this in accordance with procedures prescribed by law; or
- 4) an administrative matter between the same administrative proceedings participants, regarding the same subject-matter and on the same basis is to be adjudicated by the same or another court.

### **Section 279. The Right of a Court to Leave an Application without Adjudication**

A court may leave an application without adjudication:

- 1) pursuant to the petition of the applicant; or
- 2) if an applicant, who has been notified of the time when and place where the court sitting is to take place, repeatedly fails to attend the court sitting without justified reason and has not petitioned for the matter to be adjudicated in his or her absence.

### **Section 280. Decision Regarding Leaving an Application without Adjudication**

(1) A court shall take a reasoned decision regarding leaving an application without adjudication, in the form of a separate procedural document.

(2) An ancillary complaint may be submitted regarding the decision of a court to leave an application without adjudication.

### **Section 281. Consequences of Leaving an Application without Adjudication**

If an application is left without adjudication, the applicant may submit the application to the court anew in compliance with the procedures prescribed by law.

## **Chapter 30 Termination of Judicial Proceedings in Administrative Matters**

### **Section 282. Basis for Terminating Judicial Proceedings**

A court shall terminate judicial proceedings in a matter if:

- 1) the matter may not be adjudicated in accordance with the procedures regarding administrative proceedings;
- 2) an application is submitted by a person who does not have the right to submit the application;
- 3) a court judgment rendered in a matter between the same administrative proceedings participants, regarding the same subject-matter and on the same basis has come into effect;
- 4) the applicant withdraws his or her application;
- 5) rights regarding the disputed legal relations are not capable of being assumed following the death of the natural person who is the applicant in the matter; or
- 6) the legal person who is the applicant in the matter has ceased to exist and there is no successor in interest thereto.

### **Section 283. Decisions Regarding Termination of Judicial Proceedings**

- (1) The court shall take a reasoned decision regarding termination of judicial proceedings, in the form of a separate procedural document.
- (2) An ancillary complaint may be submitted regarding the decision of a court to terminate judicial proceedings.

### **Section 284. Consequences of Terminating Judicial Proceedings**

If judicial proceedings are terminated, repeated application to the court against the same defendant regarding the same subject-matter and on the same basis shall not be permitted.

## **Chapter 31 Court Decisions**

### **Section 285. Taking of Decisions**

- (1) A court adjudication pursuant to which a matter is not adjudged on its merits shall be taken in the form of a decision.
- (2) A decision shall be drawn up in the form of a separate procedural document or resolution, or it shall be entered in the minutes of the court sitting.
- (3) In regard to procedural actions of a judge performed outside a court sitting, a decision shall be taken which shall be drawn up in the form of a separate procedural document.
- (4) The decision may be drawn up in the form of a resolution, if it may not be appealed.

### **Section 286. Content of a Decision**

- (1) A court shall set out in a decision:
  - 1) the place where and date when the decision is taken;
  - 2) the name of the court, and the court panel;
  - 3) the participants in the administrative proceeding and the subject-matter of the application;
  - 4) the issues regarding which the decision has been taken;
  - 5) reasons for the decision;

- 6) the adjudication of the court or the judge; and
  - 7) the procedure regarding and the time period for appeal of the decision.
- (2) In exceptional cases the court may draw up a decision without the reasoned part thereof (abridged decision). The court shall draw up a full decision not later than the next day.

### **Section 287. Notification of the Decision**

- (1) Notice of a court decision shall be given to the participants in the administrative proceeding.
- (2) A decision which has been taken in the form of a separate procedural document shall be sent within three days to a participant in the administrative proceeding if he or she has not participated in the court sitting, as well as to the person to whom it applies.
- (3) In regard to a decision which has been taken outside of a court sitting, an appropriate notice shall be sent to participants in the administrative proceedings within three days.

### **Section 288. Ancillary Court Decision**

- (1) A court may take an ancillary decision, if in the adjudicating of a matter facts are determined which evidence possible violation of the norms of law, as well as in other cases. An ancillary decision shall be sent to the appropriate authority.
- (2) In an ancillary decision the court may set a specific time for performance of assignments, as well as determine which authority shall provide a reply and the time period therefor. The court may impose a pecuniary penalty not exceeding one hundred lati on an official who fails to execute an ancillary decision or does not provide a reply in good time.
- (3) If in adjudicating a matter, a court discovers the elements of a criminal offence, it shall send an ancillary decision to the Office of the Prosecutor.

## **Division Four Judicial Proceedings in Courts of Appellate Instance**

### **Chapter 32 Submission of Appellate Complaints**

### **Section 289. Right to Submit an Appellate Complaint**

Participants in administrative proceedings may submit an appellate complaint regarding a judgment, and regarding a supplementary judgment of a court of first instance.

### **Section 290. Procedures regarding Submitting of Appellate Complaints**

- (1) A judgment of a district administrative court, which has not come into effect, may be appealed by way of appellate procedure to the relevant Administrative regional court.
  - (2) An appellate complaint, which is addressed to a regional administrative court, shall be submitted to the court, which rendered the judgment.
  - (3) If an appellate complaint is directly submitted to a regional administrative court within the prescribed time period, the time period shall be considered to have been complied with.
- [15 January 2004]

### **Section 291. Time Periods for Submitting Appellate Complaints**

- (1) An appellate complaint may be submitted within twenty days from the day the judgment is pronounced.
- (2) If a court sets another time period for drawing up a full judgment, the time period for appeal shall be calculated from this day. If the full judgment is drawn up after the time period set, the time period for appeal shall be calculated from the day when the full judgment is drawn up.
- (3) An appellate complaint submitted after expiration of the time period shall not be accepted and shall be returned to the submitter.

### **Section 292. Content of Appellate Complaints**

- (1) In an appellate complaint shall be set out:
    - 1) the name of the court to which the complaint is addressed;
    - 2) the given name, surname and place of residence or other address where they may be reached of submitters of complaints, and of their authorised representatives if the appellate complaint is submitted by a representative (for legal persons – name, registration number and legal address);
    - 3) the authority representing a defendant and its location;
    - 4) the judgment regarding which the complaint is submitted;
    - 5) the extent to which the judgment is appealed;
    - 6) how the error in judgment manifests itself;
    - 7) whether a petition regarding gathering of evidence is submitted (regarding what facts and why this evidence was not submitted to the court of first instance);
    - 8) the claim of the submitter of the complaint;
    - 9) whether adjudicating of the matter by way of written procedure is consented to, if the matter was adjudicated by way of oral procedure in the district administrative court;
    - 10) a list of the documents appended to the complaint; and
    - 11) the date on which the complaint was prepared.
  - (2) An appellate complaint shall be signed by the submitter or his or her authorised representative.
  - (3) An appellate complaint submitted by a person who has not been authorised to do this shall not be accepted and shall be returned to the submitter.
- [15 January 2004]

### **Section 293. Copies of an Appellate Complaint**

- (1) An appellate complaint shall be accompanied by copies thereof corresponding to the number of participants in the administrative proceeding, as well as a document attesting to payment of the State fee. If other documents are appended to the appellate complaint, copies thereof corresponding to the number of participants in the administrative proceeding shall also be submitted. This provision does not apply to documents, the originals or copies of which are already in the possession of the participants in the administrative proceeding.
- (2) A court, depending on the facts and nature of the matter, may relieve a submitter of a complaint who is a natural person of the duty to submit copies of the appellate complaint and

documents appended to it for the forwarding thereof to other participants in the administrative proceeding.

#### **Section 294. Limits to an Appellate Complaint**

- (1) The subject-matter or the basis of a claim may not be amended and new claims, which were not submitted in the court of first instance, may not be included in an appellate complaint.
- (2) The following shall not be considered to be new claims:
  - 1) refinement of a claim;
  - 2) correction of manifest errors in an application;
  - 3) a claim for compensation for the value of property in connection with alienation or loss of the property claimed or changes in what it consists of;
  - 4) within the limits of the total amount of claims, amendments to the components of such amount; and
  - 5) a claim that altering of rights be recognised, with respect to a claim for restoration of infringed rights, as a result of changes in circumstances during the course of the matter.

#### **Section 295. Joining in an Appellate Complaint**

- (1) Co-applicants and third parties, who participate in a proceeding on the side of a participant in the administrative proceeding who has submitted an appellate complaint, may join in the submitted complaint.
  - (2) A regional administrative court shall be notified in writing of the joining in a complaint not later than ten days prior to the adjudicating of the matter.
  - (3) A State fee shall not be charged for the submission regarding joining in an appellate complaint.
- [15 January 2004]

#### **Section 296. Leaving an Appellate Complaint Without Adjudication**

- (1) A judge of a court of first instance shall take a decision regarding the leaving of an appellate complaint without adjudication if:
  - 1) the submitter has not signed the appellate complaint or it does not comply with the requirements of Section 292 of this Law;
  - 2) the appellate complaint is not accompanied by all required copies; or
  - 3) State fees for the appellate complaint have not been paid.
- (2) In the decision a time period shall be stipulated for the rectifying of deficiencies by the submitter. An ancillary complaint may be submitted regarding the decision. The time period for submission of the ancillary complaint shall be calculated from the day when the person receives a copy of the decision.
- (3) If the deficiencies are rectified within the stipulated time period, the appellate complaint shall be considered to have been submitted as of the day when it was first submitted to the court. Otherwise, the complaint shall be deemed to not have been submitted and shall be returned to the submitter.

(4) The returning of the appellate complaint to the submitter is not an impediment to its repeated submission to the court in compliance with the provisions of this Law regarding submission of appellate complaints.

### **Section 297. Appeal of Refusal**

An ancillary complaint may be submitted regarding a decision to refuse to accept an appellate complaint. The time period for submission of the ancillary complaint shall be calculated from the day when the person receives a copy of the decision.

### **Section 298. Actions after Acceptance of Appellate Complaints**

(1) After an appellate complaint is accepted, the court shall notify other participants in the administrative proceeding thereof within three days and shall forward to them copies of the complaint and documents appended to the complaint, indicating the time period for submission of a written explanation.

(2) After the time period for submission of an appellate complaint has expired, the matter, with the complaint and the appended documents, shall be sent to a regional administrative court within three days.

[15 January 2004]

### **Section 299. Written Explanations by Participants in an Administrative Proceeding**

(1) A participant in an administrative proceeding shall submit to a regional administrative court a written explanation regarding the appellate complaint together with copies of the explanation corresponding to the number of participants in the administrative proceeding, within thirty days from the day when a copy of the appellate complaint was forwarded.

(2) The copies of the explanation shall be forwarded to other participants in the administrative proceeding.

[15 January 2004]

### **Section 300. Appellate Cross Complaint**

(1) A participant in an administrative proceeding may submit an appellate cross complaint regarding an appellate complaint.

(2) An appellate cross complaint shall comply with the provisions of Sections 289, 292, 293 and 294 of this Law and a State fee in the amount of five lati shall be paid.

(3) An appellate cross complaint shall be submitted to a court of appellate instance within the time period provided for in Section 299 of this Law.

(4) After receipt of an appellate cross complaint, a regional administrative court shall send copies of the appellate cross complaint to the participants in the administrative proceeding.

[15 January 2004]

## Chapter 33

### Adjudication of Administrative Matters in Courts of Appellate Instance

#### **Section 301. Initiation of Appellate Proceedings**

(1) Having satisfied himself or herself that the procedures regarding the submission of an appellate complaint have been observed, after receipt of an explanation or after expiration of the time period for its submission, the judge acting as rapporteur shall take a decision regarding the initiating of appellate proceedings and shall set a day and time for a court sitting.

(2) Having determined that an appellate complaint has been forwarded to an appellate court in breach of the procedures regarding submission of an appellate complaint, the judge acting as rapporteur shall take one of the following decisions:

1) regarding refusal to initiate appellate procedures, if the time period prescribed for submission of the appellate complaint has been breached or if the appellate complaint has been submitted by a person who is not authorised to do this; in that event, the complaint together with the matter shall be sent to the court of first instance, which shall return the complaint to the submitter; or

2) regarding the forwarding of the matter to the court of first instance for the actions stipulated by law to be performed if, in the submitting of the appellate complaint the provisions of Section 292, Paragraphs one or two of this Law have not been observed or State fees have not been paid.

(3) If it is determined at a court sitting that the conditions set out in Paragraph two, Clause 1 of this Section exist, the court shall take a decision regarding leaving the appellate complaint without adjudication.

#### **Section 302. Limits to the Adjudicating of a Matter at Appellate Instance**

(1) An appellate instance court shall adjudicate a matter on the merits in connection with the appellate complaint and the appellate cross complaint to the extent petitioned for in such complaints.

(2) An appellate instance court shall adjudicate only such claims as have been adjudicated by a court of first instance.

(3) The cases referred to in Section 294 of this Law shall not be considered new claims.

(4) An appellate instance court shall adjudicate a matter on the merits, except in the cases referred to in Section 303 of this Law.

#### **Section 303. Exceptional Cases where a Judgment of a Court of First Instance shall be Set Aside and the Matter shall be Sent to a Court of First Instance to be Adjudicated *de novo***

(1) Irrespective of the grounds for the appellate complaint, an appellate court shall by its decision set aside a judgment of a court of first instance and send the matter to the court of first instance to be adjudicated *de novo* in the following cases:

1) the court, when adjudicating the matter, was unlawfully constituted;

2) the court adjudicated the matter in breach of the norms of procedural law which stipulate that participants in the administrative proceeding shall be notified of the time and place



of a court sitting, or has adjudicated the matter by way of written procedure notwithstanding that the written consent of the participants in the administrative proceeding was not obtained;

3) in the adjudicating of the matter, the norms of procedural law regarding the language of judicial proceedings have been breached;

4) the court judgment determines the rights and duties of persons who have not been invited to the matter as participants in the administrative proceeding; or

5) there is not a full judgment or full minutes of the court sitting in the matter.

(2) Having found that an appellate complaint, regarding a court judgment in regard to the part thereof by which judicial proceedings are terminated in a matter or an application is left without adjudication, is well-founded, an appellate court shall set aside the judgment of the court of first instance in regard to such part and send such part of the matter to the court of first instance for the adjudicating thereof.

#### **Section 304. Procedures regarding Hearings in Courts of Appellate Instance**

(1) An appellate instance court shall adjudicate a matter collegially in a panel of three judges.

(2) The participants in an administrative proceeding shall be summoned and other persons shall be summonsed to court in accordance with the provisions of Chapter 14 of this Law. (3) Court sittings shall take place in accordance with the provisions of Chapters 24 and 25 of this Law, observing that explanations shall first be given by the submitter of the appellate complaint, but if complaints have been submitted by both the applicant and the defendant – by the applicant.

#### **Section 305. Examination of Evidence in Appellate Instance Courts**

(1) An appellate instance court shall examine and assess evidence in accordance with the provisions of Chapters 18, 19 and 20 of this Law.

(2) Where necessary, the court shall order the participants in the administrative proceeding to submit additional evidence or it shall require the evidence itself.

(3) An appellate instance court may choose to not examine facts as have been determined by a court of first instance and are not contested.

#### **Section 306. Withdrawing Appellate Complaints (Appellate Cross Complaints)**

(1) A submitter of an appellate complaint (appellate cross complaint) may withdraw it so long as the adjudicating of the matter on the merits is not completed.

(2) If an appellate complaint is withdrawn, the court shall take a decision regarding the termination of the appellate proceedings, except in cases where an appellate complaint (appellate cross complaint) has been submitted by another participant in the administrative proceeding.

(3) If appellate proceedings are terminated in connection with the withdrawal of an appellate complaint, the State fee shall not be refunded.

## **Chapter 34**

### **Appellate Instance Court Adjudications**

#### **Section 307. Appellate Instance Court Judgments**

- (1) Judgment shall be rendered in courts of appellate instance in accordance with the procedures set out in Sections 246 to 257 of this Law, provided that it is not otherwise stipulated in this Section.
- (2) In the introductory part of the judgment the information stipulated in Section 251, Paragraph three of this Law shall be set out, and the submitter of the appellate complaint and the court judgment regarding which the complaint has been submitted shall be referred to.
- (3) In the descriptive part of the judgment the information stipulated in Section 251, Paragraph four of this Law shall be set out and there shall be included the substance of the judgment of the court of first instance, appellate complaints (appellate cross complaints) and a summary of objections.
- (4) In the reasoned part of the judgment the information stipulated in Section 251, Paragraph five of this Law shall be set out, and reasons provided for an opinion regarding the judgment of the court of first instance.

#### **Section 308. Pronouncement of a Judgment of an Appellate Instance Court**

- (1) An appellate instance court shall pronounce judgment in accordance with the procedures prescribed in Sections 258 and 259 of this Law.
- (2) A copy of the judgment shall be sent to the participants in the administrative proceeding in accordance with the procedures set out in Section 267 of this Law.

#### **Section 309. Effect of Judgments of Appellate Instance Courts**

- (1) A judgment of an appellate instance court shall come into effect when the period for the appeal thereof, by way of cassation procedure, has expired and no cassation complaint has been submitted.
- (2) If a cassation complaint is submitted, the appellate court judgment shall come into effect at the same time as:
  - 1) the decision of the Senate assignments sitting if the initiating of cassation proceedings is refused; or
  - 2) the judgment of the Senate if the appellate court judgment has not been set aside.
- (3) The provisions of Section 263 of this Law are applicable to judgments of appellate instance courts.

#### **Section 310. Correction of Clerical and Mathematical Calculation Errors in Judgments of Appellate Instance Courts**

- (1) An appellate instance court may correct clerical or mathematical calculation errors in a judgment in accordance with the procedures prescribed in Section 260.
- (2) A participant in the administrative proceeding may submit an ancillary complaint regarding the decision of a court to correct errors in a judgment.

### **Section 311. Supplementary Judgment of an Appellate Court**

(1) Pursuant to its own initiative or the application of a participant in an administrative proceeding, an appellate instance court may render a supplementary judgment if:

1) judgment has not been rendered regarding a claim in the matter in regard to which evidence has been submitted and regarding which, if the matter has been adjudicated by way of oral procedure, the participants in the administrative proceeding have given explanations; or

2) the court has not stipulated the amount of money adjudged, the property to be transferred, the actions to be performed or the compensating of State fees to the applicant or the State.

(2) An issue regarding rendering of a supplementary judgment may be raised within thirty days from the day when judgment is pronounced.

(3) A court shall render a supplementary judgment after the issue has been adjudicated in a court sitting, upon prior notice thereof to the participants in the administrative proceeding. Failure of such persons to attend is not an impediment to the deciding of the issue regarding rendering a supplementary judgment.

(4) A supplementary judgment shall come into effect in accordance with the procedures prescribed in Section 309 of this Law.

(5) An ancillary complaint may be submitted regarding the decision of a court to refuse to render a supplementary judgment.

### **Section 312. Explanation of Judgments of Appellate Instance Courts**

(1) An appellate court may explain its judgments in accordance with the procedures prescribed in Section 262 of this Law.

(2) An ancillary complaint may be submitted regarding the decision of a court with respect to an issue concerning the explaining of a judgment.

### **Section 313. Execution of Judgments of Appellate Instance Courts**

(1) A judgment of an appellate instance court shall be executed after it has come into effect, except in cases where the court has stipulated that the judgment shall be executed without delay.

(2) Pursuant to the petition of a participant in an administrative proceeding, an appellate instance court shall decide, in accordance with the procedures prescribed in Sections 265 and 266 of this Law, as to execution of a judgment without delay, division of execution of a judgment into time periods or varying of the form of and procedures regarding execution of a judgment.

(3) An ancillary complaint may be submitted regarding the decision of a court to divide execution of a judgment into time periods, or to vary the form of and procedures for its execution.

### **Section 314. Stay of Judicial Proceedings in Administrative Matters, Leaving Applications Without Adjudication and Termination of Judicial Proceedings in Administrative Matters, in Courts of Appellate Instance**

Judicial proceedings shall be stayed, applications left without adjudication and judicial proceedings terminated in accordance with the provisions of Chapters 28, 29 and 30 of this Law.

**Division Five**  
**Appeal of Decisions of Courts of First Instance and Courts of Appellate Instance**

**Chapter 35**  
**Appeal of Court Decisions**

**Section 315. Right to Appeal Decisions**

(1) A participant in an administrative proceeding may appeal from a decision of a court of first instance or a court of appellate instance separately from a court judgment by submitting an ancillary complaint:

- 1) in cases stipulated by this Law; or
- 2) if the court decision hinders the conducting of the matter.

(2) Objections regarding other decisions of a court of first instance or of a court of appellate instance may be raised in an appellate or cassation complaint.

**Section 316. Time Period for Submission of Ancillary Complaints**

(1) An ancillary complaint may be submitted within ten days from the day when a decision is taken by the court, except in the cases provided for by this Law.

(2) An ancillary complaint submitted after the expiration of the stated time period, shall not be accepted and shall be returned to the submitter.

**Section 317. Procedures regarding Submission of Ancillary Complaints**

(1) An ancillary complaint shall be submitted to the court that has taken such decision. The ancillary complaint shall be addressed to:

- 1) the Administrative regional court – regarding decisions of a court of first instance; or
- 2) the Senate – regarding decisions of a court of appellate instance.

(2) State fees shall be charged in regard to an ancillary complaint.

(3) If an ancillary complaint is submitted within the stipulated time period directly to the court which is to adjudicate it, it shall be considered that the time period has been complied with.

[15 January 2004]

**Section 318. Content of Ancillary Complaints**

(1) In an ancillary complaint shall be set out:

- 1) the name of the court to which the complaint is addressed;
- 2) the given name, surname and place of residence or other address where they may be reached of submitters of complaints, and of their authorised representatives, if an appellate complaint is submitted by a representative (for a legal person – its name, registration number and legal address);
- 3) an authority representing a defendant and its location;
- 4) the judgment regarding which the complaint is submitted;
- 5) the extent to which the judgment is appealed;
- 6) how the error in judgment is manifested;

- 7) the petition of the submitter of the complaint;
  - 8) a list of documents appended to the complaint; and
  - 9) the date on which the complaint was prepared.
- (2) An ancillary complaint shall be signed by the submitter or his or her authorised representative.

### **Section 319. Copies of Ancillary Complaints**

- (1) An ancillary complaint shall be accompanied by copies thereof and copies of documents appended to it corresponding to the number of participants in the administrative proceeding.
- (2) A court, depending on the circumstances and nature of the matter, may relieve a submitter of a complaint who is a natural person of the duty to submit copies of the ancillary complaint and documents appended to it for them to be forwarded to other participants in the administrative proceeding.

### **Section 320. Leaving Ancillary Complaints without Adjudication**

- (1) In regard to an ancillary complaint which is not signed by the submitter or which is not accompanied by all copies required or which does not comply with the requirements of Section 318 of this Law, a judge shall take a decision regarding leaving the ancillary complaint without adjudication and set a time period for rectification of deficiencies. An ancillary complaint may be submitted regarding the decision. The time period for submission of an ancillary complaint shall be calculated from the day when the submitter receives a copy of the decision.
- (2) If the submitter fulfils the directions given in the decision within the set time period, the appellate complaint shall be considered to have been submitted as of the day when it was first submitted to the court. Otherwise, the ancillary complaint shall be deemed to not have been submitted and shall be returned to the submitter.
- (3) Return of an ancillary complaint to the submitter is not an impediment to its repeated submission to the court, in compliance with the provisions of this Law regarding submission of ancillary complaints.

### **Section 321. Actions of a Court following Receipt of an Ancillary Complaint**

- (1) Following the acceptance of an ancillary complaint, a judge shall forward copies of the complaint and copies of documents appended to it to participants in the administrative proceeding within three days.
- (2) Following expiration of the time period for appeal, the matter, together with the ancillary complaint, shall be forwarded to the court to which the complaint is addressed, within three days.

### **Section 322. Procedures regarding Adjudicating of Ancillary Complaints**

An ancillary complaint shall be adjudicated in accordance with the procedures prescribed by this Law for the adjudicating of matters in an appellate court.

### **Section 323. Competence of Regional Administrative Court and Senate**

In adjudicating an ancillary complaint, a regional administrative court and the Senate have the right:

- 1) to leave the decision unvaried but to dismiss the complaint;
- 2) to set aside the decision in full or in part and refer the issue for it to be adjudicated *de novo*, to the court which took the decision;
- 3) to set aside the decision in full or in part and, pursuant to its decision, decide the matter on the merits; or
- 4) to vary the decision.

[15 January 2004]

### **Section 324. Effect of Decisions Taken Regarding Ancillary Complaints**

(1) A decision taken regarding an ancillary complaint may not be appealed and shall come into effect from the time it is taken.

(2) A decision of a regional administrative court to reject an ancillary complaint regarding a decision by which judicial proceedings in a matter have been terminated on the basis of Section 282, Clauses 1 and 2 of this Law, or to refuse acceptance of an application on the basis of Section 191, Paragraph one, Clauses 1 and 8 of this Law, may be appealed to the Senate within ten days from the day when it is taken.

[15 January 2004]

## **Division Six Judicial Proceedings in a Court of Cassation Instance**

### **Chapter 36 Submission of Cassation Complaints**

### **Section 325. Right to Submit a Cassation Complaint**

Participants in administrative proceedings may appeal, in accordance with cassation procedure, from judgments and supplementary judgments of courts of appellate instance if the court has breached the norms of substantive law or of procedural law or, in adjudicating the matter, has exceeded the limits of its competence.

### **Section 326. Breach of Norms of Substantive Law**

It shall be considered that a norm of substantive law has been breached if a court:

- 1) has not applied such norm of substantive law as should have been applied;
- 2) has applied a norm of substantive law which should not have been applied; or
- 3) has erred in its interpretation of a norm of substantive law.

### **Section 327. Breach of Norms of Procedural Law**

(1) It shall be considered that a norm of procedural law has been breached if the court:

- 1) has not applied such norm of procedural law as should have been applied;
  - 2) has applied a norm of procedural law which should not have been applied; or
  - 3) has erred in its interpretation of a norm of procedural law.
- (2) Breach of norms of procedural law may be the basis for appeal of a judgment in accordance with cassation procedure if such breach has resulted or may have resulted in erroneous adjudging of the matter.
- (3) The following shall be regarded as breach of a norm of procedural law which may have resulted in erroneous adjudging of a matter:
- 1) the court, when adjudicating the matter, was unlawfully constituted;
  - 2) the court has adjudicated the matter in breach of the norms of procedural law which stipulate that participants in administrative proceedings shall be notified of the time and place of a court sitting, or the court has adjudicated the matter by way of written procedure notwithstanding that consent in writing of the participants in the administrative proceeding was not obtained;
  - 3) in the matter being adjudicated, the norms of procedural law regarding the language of judicial proceedings were breached;
  - 4) the judgment of the court determines rights and duties of persons who were not invited to participate in the matter as participants in the administrative proceeding; or
  - 5) there are not a full judgment or full minutes of the court sitting in the matter.

### **Section 328. Content of Cassation Complaint**

- (1) In a cassation complaint shall be set out:
- 1) the name of the court to which the complaint is addressed;
  - 2) the given name, surname and place of residence or other address where they may be reached of submitters of complaints and of their authorised representatives, if the cassation complaint is submitted by a representative (for a legal person – its name, registration number and legal address);
  - 3) the judgment regarding which the complaint is submitted;
  - 4) the extent to which the judgment is appealed;
  - 5) what norms of substantive law or of procedural law the court has breached and how this breach is manifested;
  - 6) the petition made to the Senate;
  - 7) whether there is consent to the matter being adjudicated by way of written procedure if the matter was adjudicated by way of oral procedure in the appellate instance court; and
  - 8) the date on which the complaint was prepared.
- (2) A cassation complaint shall be signed by the submitter thereof or by his or her authorised representative. If a cassation complaint is submitted on behalf of the submitter by a representative, he or she shall append to the complaint an appropriate authorisation or other document from which the right of the representative to submit the complaint flows.
- (3) A cassation complaint which has been submitted by a person who has not been authorised to do this shall not be accepted and shall be returned to the submitter.

### **Section 329. Time Periods for Submission of Cassation Complaints**

- (1) A cassation complaint may be submitted within thirty days from the day when judgment is pronounced.
- (2) If a court has set another time period for drawing up a full judgment, the time period for appeal shall be calculated from such day. If the full judgment is drawn up after the time period set, the time period for appeal shall be calculated from the day when the full judgment is drawn up.
- (3) A complaint which has been submitted after the expiration of such time period shall not be accepted and shall be returned to the submitter.

### **Section 330. Appeal of a Decision by a Judge**

An ancillary complaint may be submitted regarding a decision of a judge to refuse to accept a cassation complaint.

### **Section 331. Procedures regarding Submission of a Cassation Complaint**

- (1) A cassation complaint shall be submitted to the court which rendered the judgment.
- (2) If a cassation complaint is submitted directly to the Senate within the prescribed time period, it shall be considered that the time period has been complied with.

### **Section 332. Copies of a Cassation Complaint**

- (1) A cassation complaint shall have appended copies thereof, corresponding to the number of participants in the administrative proceeding.
- (2) A judge of an appellate instance court, depending on the circumstances and nature of the matter, may relieve the submitter of a complaint who is a natural person of the duty to submit copies of the cassation complaint and documents appended to it for forwarding to other participants in the administrative proceeding.

### **Section 333. Leaving a Cassation Complaint Without Adjudication**

- (1) If a cassation complaint is submitted as is not signed by the submitter, is not accompanied by all the copies required or does not comply with Section 328, Paragraph one, Clauses 1-4 or 6, a judge of the appellate instance court shall take a decision regarding leaving the cassation complaint without adjudication. In the decision a time period shall be set for rectification of deficiencies. An ancillary claim may be submitted regarding the decision. The time period for submission of the ancillary complaint shall be calculated from the day when the submitter receives a copy of the decision.
- (2) If the submitter of the cassation complaint rectifies the deficiencies within the time period set, the complaint shall be considered to have been submitted as of the day when it was first submitted.
- (3) If the submitter of the cassation complaint does not rectify the deficiencies within the time period set, the complaint shall be deemed to not have been submitted and shall be returned to the submitter.



(4) Return of the cassation complaint to the submitter is not an impediment to its repeated submission to the court, in compliance with the provisions of this Law regarding submission of cassation complaints.

(5) If the deficiencies indicated in Paragraph one of this Section are ascertained in the Senate, the cassation complaint shall be returned to the appellate instance court for the carrying out of the actions stipulated in Paragraphs one, two and three of this Section.

#### **Section 334. Action by an Appellate Instance Court following Receipt of a Cassation Complaint**

(1) An appellate instance court shall forward copies of a cassation complaint to participants in the administrative proceeding and notify them that they have the right to submit explanations to the Senate in regard to the cassation complaint within thirty days from the day when the copies are forwarded.

(2) Upon expiration of the time period for appeal of the judgment, the appellate instance court shall forward the administrative matter file together with the cassation complaint to the Senate within three days.

#### **Section 335. Joining in a Cassation Complaint**

(1) Co-applicants and third parties participating in proceedings on the side of such participant in an administrative proceeding as has submitted a cassation complaint, may join in the submitted complaint.

(2) The Senate shall be notified in writing of the joining in a cassation complaint not later than ten days before the adjudicating of the matter.

#### **Section 336. Withdrawal of Cassation Complaint**

(1) A submitter may withdraw a cassation complaint up to the court sitting.

(2) If a cassation complaint is withdrawn, the cassation proceedings shall be terminated.

[15 January 2004]

#### **Section 337. Submission of Cross Complaint**

(1) A participant in an administrative proceeding may submit a cross complaint within thirty days from the day when a copy of the cassation complaint is forwarded.

(2) In the submission of a cross complaint, the provisions of Sections 325, 326, 327, 328 and 332 of this Law shall be complied with.

(3) If a cassation complaint is withdrawn, the cross complaint shall be adjudicated independently.

**Chapter 37**  
**Adjudicating of Administrative Matters**  
**in a Court of Cassation Instance**

**Section 338. Assignments Sitting**

(1) A cassation complaint shall be adjudicated at an assignments sitting in order to decide whether it complies with the requirements of Sections 325-329 of this Law and whether a cassation proceeding should be initiated.

(2) An administrative matter shall be adjudicated in an assignments sitting by a collegium of the Senate consisting of three senators designated in accordance with the prescribed procedures by the Chairperson of the Administrative Matters Department of the Senate.

(3) If the collegium of the Senate unanimously recognises that a cassation complaint does not comply with the requirements of law, it shall by its assignments sitting decision refuse to initiate cassation procedures.

(4) If the opinion of senators differs, or all senators consider that the matter should be adjudicated by a court of cassation instance, the college of the Senate shall, pursuant to its decision, initiate cassation proceedings and refer the matter for it to be adjudicated by way of cassation procedure.

(5) Pursuant to a decision of the collegium of the Senate, a matter may be referred for adjudication in accordance with cassation procedures to a plenary sitting of the Department of Administrative Matters of the Senate.

(6) If cassation proceedings are initiated, pursuant to the petition of a participant in the administrative proceeding, execution of the judgment may be stayed by a decision of the assignments sitting.

(7) If in an assignments sitting of the Senate, the collegium of the Senate takes a decision to assign a matter to the European Court of Justice for the taking of a preliminary ruling, it shall suspend court proceedings until the day of the coming into effect of the European Court of Justice ruling.

[15 January 2004]

**Section 339. Fixing a Court Sitting in the Senate**

(1) The panel of a court and the rapporteur shall be designated by the chairperson of the Administrative Matters Department of the Senate in accordance with a predetermined order. The day and time for the adjudicating of a matter shall be set by the rapporteur.

(2) Participants in the administrative proceeding shall be notified of the time and place for the adjudicating of a matter.

(3) At cassation instance a matter shall be adjudicated by three senators but in cases prescribed by this Law – at a plenary sitting of the Department of Administrative Matters of the Senate.

**Section 340. Commencement of the Adjudicating of a Matter**

(1) The chairperson of the sitting shall open the court sitting and announce the matter being adjudicated by the Senate.

(2) The registrar shall report to the court which persons from those summoned and summonsed in the matter are in attendance, whether persons who are not in attendance have been notified of the court sitting and what information has been received regarding the reasons for their failing to attend.

### **Section 341. Explanation of Rights and Duties to Administrative Proceedings Participants**

(1) The chairperson of the sitting shall announce the court panel, identify the interpreter, if one is participating in the court sitting, and explain to the participants in the administrative proceeding their right to apply for recusals or removals, as well as other procedural rights and duties.

(2) The grounds for and procedures regarding the adjudicating of recusal or removal shall be as prescribed by Sections 117-119 of this Law.

### **Section 342. Consequences if Administrative Proceedings Participants Fail to Attend a Court Sitting**

The failure to attend of participants in an administrative proceeding who have been duly notified of the time and place of a cassation court sitting, is not an impediment to the adjudicating of the matter.

### **Section 343. Deciding Applications of Administrative Proceedings Participants**

Applications of participants in an administrative proceeding which are related to the adjudicating of the matter shall be decided in a court sitting after hearing the opinions of other participants in the administrative proceeding.

### **Section 344. Report regarding the Matter**

The adjudicating of a matter on the merits in the Senate shall commence with a report on the matter by the rapporteur.

### **Section 345. Explanations by Administrative Proceedings Participants**

(1) Following the report of the rapporteur, the court shall hear the explanations of the participants in the administrative proceeding. The Senate may determine the amount of time to be allotted to explanations in advance; however, the amount of time given to the participants in the administrative proceeding shall be equal.

(2) The participant in the administrative proceeding who has submitted the cassation complaint shall speak first. If the judgment has been appealed by both the applicant and the defendant, the applicant shall speak first.

(3) Senators may put questions to the participants in the administrative proceeding.

(4) Each participant in the administrative procedure has the right to one reply.

## **Section 346. Rendering Judgment**

- (1) Following the explanations of the participants in an administrative proceeding, the court shall retire to render judgment.
- (2) If in a matter being adjudicated by a panel of three senators, the court does not reach a unanimous opinion, or all senators consider that the matter should be adjudicated in a plenary sitting of the Administrative Matters Department of the Senate, the court shall take a decision to refer the matter for it to be adjudicated in a plenary sitting of the Administrative Matters Department of the Senate.
- (3) In a plenary sitting a judgment shall be rendered by a majority vote of senators. The judgment shall be signed by all judges.
- (4) Following deliberation, the court shall return to the courtroom and the chairperson of the court sitting shall pronounce the judgment by reading the introductory part and the operative part thereof.
- (5) Thereafter the Senate shall announce when the participants in the administrative proceeding may acquaint themselves with the full text of the judgment.

## **Section 346.<sup>1</sup> Suspension of Court Proceedings, Application left without Adjudication, Termination of Court Proceedings**

A cassation instance court shall suspend court proceedings, leave an application without adjudication and terminate court proceedings by appropriately applying the legal norms of Chapters 28, 29 and 30 of this Law.

[15 January 2004]

## **Chapter 38 Cassation Instance Court Adjudications**

### **Section 347. Limits regarding the Adjudicating of a Matter**

- (1) In adjudicating a matter by way of cassation procedure, a court shall examine the legality of the existing judgment in the appealed part thereof in relation to a participant in the administrative proceeding who has appealed the judgment or joined in a cassation complaint, and also the arguments which are referred to in a cassation complaint.
- (2) If the court determines that such breaches of the norms of law exist as have led to erroneous adjudging of the entire matter, it may set aside the judgment in full, even though only a part of it has been appealed.

### **Section 348. Judgment of a Court of Cassation Instance**

A court, having adjudicated a matter, may render one of the following judgments:

- 1) to leave the judgment unvaried, but to dismiss the complaint;
- 2) to set aside the judgment in full or in part and forward the matter for it to be adjudicated *de novo* in a court of appellate instance or a court of first instance; or
- 3) to set aside the judgment in full or in part and to terminate judicial proceedings or leave the application without adjudication if the appellate court has not complied with the provisions of Sections 278 or 282 of this Law.

### **Section 349. Contents of a Cassation Instance Court Judgment**

- (1) A cassation instance court judgment shall consist of an introductory part, a descriptive part, a reasoned part and an operative part.
- (2) In the introductory part shall be set out:
- 1) the name of the court, and the court panel;
  - 2) the date when the judgment is rendered;
  - 3) the participants in the administrative proceeding and the subject-matter of the application;
  - 4) the participant in the administrative procedure who submitted the cassation complaint (cassation cross complaint) or has joined in it; and
  - 5) whether the matter was adjudicated by way of written procedure.
- (3) In the descriptive part shall be set out:
- 1) a brief statement of the facts of the matter;
  - 2) the substance of the judgment of the court of appellate instance;
  - 3) the reasons for the cassation complaint;
  - 4) the reasons for the cross complaint, or the substance of the explanations; and
  - 5) the consent of participants in the administrative proceeding shall be indicated, if the matter is adjudicated by way of written procedure.
- (4) In the reasoned part shall be set out:
- 1) in dismissing a cassation complaint – arguments on the basis of which the complaint has been dismissed; and
  - 2) in allowing a cassation complaint – arguments regarding breaches of law allowed by an appellate court, erroneous application of the norms of law or the exceeding of the limits of competence.
- (5) In the operative part shall be set out the adjudication of the Senate in accordance with the relevant clause of Section 348 of this Law.

### **Section 350. Mandatory Nature of Interpretation of Norms of Law**

- (1) The interpretation (construing) of the norms of law stated in a judgment of a court of cassation instance shall be mandatory for the court which adjudicates the matter *de novo*.
- (2) In its judgment, the cassation court shall not indicate what judgment is to be made when the matter is adjudicated *de novo*.

### **Section 351. Effect of a Judgment by a Cassation Court**

A cassation court judgment may not be appealed and it shall come into effect at the time when it is pronounced.

### **Section 352. Correction of Clerical and Mathematical Calculation Errors**

- (1) Pursuant to its own initiative or the application of a participant in an administrative proceeding, the Senate may correct clerical and mathematical calculation errors in a judgment. An issue concerning correction of errors shall be decided in a court sitting upon prior notice to

the participants in the administrative proceeding. Failure of such persons to attend is not an impediment to the adjudicating of the issue concerning correction of errors.

(2) Clerical and mathematical calculation errors in a judgment shall be corrected pursuant to a decision of the court.

## **Division Seven**

### **Adjudicating of Matters *de novo* after a Judgment or Decision Comes into Effect**

#### **Chapter 39**

#### **Adjudication of Matters *de novo* in Connection with Newly-Discovered Facts**

#### **Section 353. Newly-Discovered Facts**

The following shall be considered to be newly-discovered facts:

1) essential facts of a matter which existed at the time of the adjudicating of the matter but were not known to the court;

2) pursuant to a court judgment which has come into effect in a criminal matter, it has been determined that there was knowingly false testimony of witnesses, knowingly false expert opinion, knowingly false translation or fraudulent documentary or demonstrative evidence, as a result of which an unlawful or an unfounded judgment was rendered;

3) pursuant to a court judgment which has come into effect in a criminal matter, it has been determined that there were actions as a result of which an unlawful judgment was rendered or decision made;

4) the setting aside of a court judgment or revocation of a decision of an institution, which were the basis for the court in this administrative matter to render the relevant judgment or take the relevant decision;

5) a norm of law which was applied in adjudging the matter is found to not be in compliance with a norm of law of higher legal force; and

6) an adjudication of the European Court of Human Rights or other international or supranational court in this matter from which it follows that the administrative proceedings should be initiated *de novo*. In such case the court in taking a decision in the resumed matter shall rely on the facts determined in the adjudication of the European Court of Human Rights or other international or supranational court and the legal assessment thereof.

#### **Section 354. Submission of Applications**

(1) A matter in connection with newly-discovered facts may be initiated by a participant in an administrative proceeding by submitting an application:

1) regarding the setting aside of an adjudication of a district administrative court – to a regional court; and

2) regarding the setting aside of an adjudication of a regional administrative court – to the Senate.

(2) The application may be submitted within three months from the day when the facts which are the basis for the adjudicating *de novo* of the matter are ascertained.

(3) The application may not be submitted if more than three years have elapsed since the judgment or the decision came into effect.

[15 January 2004]

### **Section 355. Calculation of Time Periods for Submitting Applications**

The time period for the submitting of an application shall be calculated:

1) in connection with the facts referred to in Section 353, Clause 1 of this Law – from the day such facts were discovered;

2) in the cases set out in Section 353, Clauses 2 and 3 of this Law – from the day the judgment in the criminal matter comes into effect;

3) in a case set out in Section 353, Clause 4 of this Law – from the day of the coming into effect of the court adjudication setting aside the judgment in the administrative matter, civil matter or criminal matter or from the day of revocation of the decision of an institution, as were the basis for the judgment or decision that are being petitioned to be set aside or revoked due to newly-discovered facts;

4) in a case set out in Section 353, Clause 5 of this Law – from the day of the coming into effect of a judgment of the Constitutional Court as a result of which the norm of law applied ceases to be in effect as not being in compliance with a norm of law of higher legal force, and which was rendered in the matter as a result of the constitutional complaint of a participant in the administrative proceeding; and

5) in a case set out in Section 353, Clause 6 of this Law – from the day of the coming into effect of the adjudication of the European Court of Human Rights or other international or supranational court from which it follows that the administrative proceedings should be initiated *de novo*.

### **Section 356. Adjudicating of Applications**

(1) An application in connection with newly-discovered facts shall be adjudicated in a court sitting.

(2) Notice of the time and place of the court sitting and a copy of the application shall be sent to participants in the administrative proceeding. Failure of such persons to attend is not an impediment to the adjudicating of the application.

### **Section 357. Decisions of the Court**

(1) After it has examined the application, a court shall examine whether the facts indicated by the applicant should be found to be newly-discovered facts in accordance with Section 353 of this Law.

(2) If a court determines that there are newly-discovered facts, it shall set aside the appealed adjudication in full or in part and refer the matter to a court of first instance for it to be re-adjudicated.

(3) If a court finds that facts indicated in the application are not to be considered as newly-discovered, it shall dismiss the application. An ancillary claim may be submitted regarding such decision.

**Part D.**  
**Execution of Administrative Acts and Court Adjudications**

**Division Eight**  
**Execution of Administrative Acts**

**Chapter 40**  
**General Provisions Regarding Execution**

[15 January 2004]

**Section 358. Procedures regarding Execution of Administrative Acts**

- (1) The addressee of an administrative act shall execute the administrative act voluntarily.
- (2) Compulsory execution of an administrative act which has not been executed voluntarily shall be carried out in accordance with the procedures set out in this Law if other procedures are not prescribed by the law on the basis of which the administrative act has been issued.
- (3) If an administrative act which is unfavourable to the addressee must be executed by the institution itself, it shall be executed after the time period for the disputing (appeal) of such administrative act has expired and it has not been disputed (appealed) or a court judgment has come into effect pursuant to which the application of the addressee has been dismissed. This provision shall not be applied in cases where the law allows the administrative act to be executed without delay.
- (4) Concurrently with notification of the administrative act to the addressee, the institution may take measures prescribed by law to secure the execution of the administrative act.

**Section 359. Executive Institutions**

- (1) Compulsory execution of an administrative act shall be carried out by an executive institution:
  - 1) the institution, which has issued the administrative act;
  - 2) another authority;
  - 3) a bailiff; or
  - 4) the police.
- (2) The executive institution as has jurisdiction shall be determined pursuant to regulatory enactments.
- (3) If the execution of an administrative act is, in accordance with the law, within the jurisdiction of a bailiff, the provisions of the Civil Procedure Law are applicable to the execution.
- (4) If it is not prescribed which executive institution has jurisdiction, it shall be the institution that has issued the administrative act.
- (5) If the compulsory execution is directed against a public legal entity, the executive institution shall be the higher institution in respect of such public legal entity.

[15 January 2004]



### **Section 360. Preconditions regarding Compulsory Execution**

(1) An administrative act shall be carried out on a compulsory basis, where the following aggregate circumstances exist:

- 1) the administrative act has come into effect (Section 70);
- 2) the administrative act has become non-disputable (Section 76); and
- 3) until the commencement of compulsory execution, the administrative act has not been executed voluntarily.

(2) An administrative act may already be executed on a compulsory basis from the time it comes into effect, without waiting until it becomes indisputable and has not been executed voluntarily until the commencement of compulsory execution if:

- 1) compulsory execution from the time it comes into effect is provided for by another law;
- 2) the institution specifically determines in the administrative act that it is to be executed from the time it comes into effect, justifying such urgency on the basis that any delay may directly endanger State security, public order, or the life, health or property of persons; or
- 3) the administrative act is issued in accordance with the provisions of Section 69, Paragraph one of this Law.

(3) Administrative acts of the police, the border guard, the national guard, fire-fighting service and other officials authorised by law, which are issued to urgently prevent a direct danger to State security, public order, or the life, health or property of persons may be executed on a compulsory basis already from the time they come into effect.

(4) An administrative act may not be executed if more than three years have passed since it came into effect. In calculating the limitation period, the time during which the operation of the administrative act was suspended shall be deducted.

### **Section 361. Warning regarding Compulsory Execution**

(1) The addressee of an administrative act shall first be warned regarding compulsory execution.

(2) A warning regarding compulsory execution, of an administrative act which has been issued in writing, shall be issued in writing. It may be set out in the administrative act.

(3) The provisions set out in Section 70 of this Law regarding the coming into effect of an administrative act shall apply to the warning.

(4) A warning in writing shall include:

- 1) an indication as to which administrative act it applies;
- 2) an invitation to the addressee to execute the administrative act voluntarily;
- 3) an indication regarding compulsory execution of the administrative act if it is not executed voluntarily;
- 4) an indication as to the date when compulsory execution may be commenced;
- 5) the executive institution;
- 6) an indication regarding the applicable compulsory execution measures;
- 7) an indication that the compulsory execution will be carried out at the expense of the addressee; and
- 8) the place and date of issue of the warning and the signature of the official.

(5) A warning in writing may be disputed to a higher institution within seven days if the constituent parts referred to in Paragraph four of this Section are not included therein, or the

administrative act has already been executed voluntarily. If there is not a higher institution or it is the Cabinet, the warning may be appealed to a court. The decision of a higher institution may be appealed to a court within seven days. The decision of a court may not be appealed.

(6) If an administrative act is issued or may have been issued, in accordance with Section 69 of this Law, orally or otherwise, a warning may also be issued orally or otherwise. All of the constituent parts prescribed in Paragraph four of this Section are not required to be included therein but the warning must be such that the addressee will understand that it is a warning regarding compulsory execution of the administrative act.

(7) Compulsory execution shall be carried out in compliance with the conditions of the warning. If an institution wishes to change the conditions of compulsory execution, and in particular the applicable compulsory execution measures, it shall issue a new warning.

(8) A warning is not required in the cases referred to in Section 360, Paragraph three of this Law. A warning may be issued, if that is useful, but it is not required that it comply with the provisions of this Section and Section 362 (unofficial warning), and it may not be disputed.

### **Section 362. Restrictions regarding the Setting of Time Periods for Compulsory Execution**

(1) Compulsory execution shall be set to commence:

1) not earlier than on the day when the administrative act become indisputable (Section 76); and

2) with it being calculated so that the commencement of compulsory execution does not come within the time during which the time period for disputing of the warning has not yet expired.

(2) If a warning may be expressed orally or in some other way, or a warning is not required but has nonetheless been expressed, the time period for compulsory execution shall be set depending on the specific circumstances. In such case compulsory execution may be commenced immediately after the warning.

### **Section 363. Effect of Unlawful Compulsory Execution**

(1) A private person against whom compulsory execution is directed may submit a complaint if the actions of an executive institution which are directed towards compulsory execution of an administrative act do not comply with the provisions of this Chapter.

(2) A complaint may be submitted within seven days from the day the private person comes to know of the actions of the executive institution. The complaint shall be submitted to a higher institution, but if there is not a higher institution or it is the Cabinet – to a court. The decision of a higher institution may be appealed to a court within seven days. The decision of a court may not be appealed.

(3) A higher institution or a court, which has accepted a complaint, may issue an order to an executive institution to suspend or revoke the relevant action until a decision is taken.

(4) If as a result of unlawful compulsory execution of an administrative act losses are caused to a person, such private person has the right to compensation in accordance with the provisions of Chapter 8 of this Law.

[15 January 2004]

## **Section 364. Costs of Compulsory Execution of Administrative Acts**

- (1) Costs of compulsory execution of an administrative act shall be imposed upon the addressee.
- (2) The calculation of costs for compulsory execution of an administrative act drawn up by an institution may be appealed to a court according to the location of the institution. An ancillary claim may be submitted regarding the decision of the court.

## **Section 365. Procedures regarding Compulsory Execution**

The Cabinet may issue regulations in which the procedures for compulsory execution of administrative acts are regulated.

[15 January 2004]

### **Chapter 41**

#### **Compulsory Execution of Administrative Acts Directed towards Monetary Payment**

## **Section 366. Preconditions for Compulsory execution of an Administrative Act Directed towards Monetary Payment**

- (1) Administrative acts imposing a duty on the addressee to pay a specified monetary amount shall be executed on the basis of an execution order, applying the provisions of the Civil Procedure Law regarding recovery of monetary amounts.
- (2) An administrative act imposing a duty on the addressee to pay a specified monetary amount, shall be executed on a compulsory basis, if it is issued in writing in compliance with the provisions of Section 67 of this Law and if a written warning has been given to the addressee in accordance with Sections 361 and 362 of this Law. The exceptions prescribed in Sections 360, Paragraphs two and three and Section 361, Paragraphs six and eight of this Law, shall not be applicable.

## **Section 367. Execution Orders**

- (1) An execution order shall be issued by an executive institution. It shall have the effect of an execution document.
- (2) In an execution order shall be set out:
  - 1) the name of the institution which has issued the execution order;
  - 2) the given name, surname, personal identity number and place of residence of the addressee (for a legal person – the name, registration number and legal address);
  - 3) an indication as to which administrative act is to be executed;
  - 4) the amount to be recovered and other conditions of execution as are related thereto;
  - 5) an indication regarding the giving of a warning;
  - 6) the date when the administrative act to be executed came into effect;
  - 7) the date when the warning came into effect;
  - 8) the date when the administrative act became indisputable, or an indication that the administrative act, in accordance with Section 360, Paragraph two, Clause 1 of this Law, may already be executed from the time it comes into effect, before it becomes indisputable;
  - 9) an indication that the administrative act has not been executed voluntarily; and
  - 10) the place and date of issue of the execution order and the signature of the official.

(3) Pursuant to the petition of an addressee or an institution, an executive institution may, pursuant to its decision, explain the execution order without varying its substance.

## **Chapter 42**

### **Compulsory Execution of Administrative Acts Directed at Specific Actions or Prohibition of Actions**

#### **Section 368. Measures for Compulsory Execution of an Administrative Act Directed at Specific Actions or Prohibition of Actions**

(1) An administrative act imposing a duty on the addressee to carry out a specific action (including – to issue something specific) or prohibiting the carrying out of a specific action shall be executed on a compulsory basis by means of substitute execution, pecuniary penalty or direct force.

(2) Basing itself upon external regulatory enactments and having regard to considerations of usefulness (Section 66), an executive institution shall select compulsory execution measures and vary these until the goal is attained.

#### **Section 369. Substitute Execution Directed at Addressees**

(1) If an administrative act imposes a duty on the addressee to perform a specific action, which may practically and legally also be performed by an executive institution, another public legal entity or private person, such administrative act may be performed with the assistance of a substitute execution. In that case, the executive institution shall perform such action itself or also assign its performance to another public legal entity or private person.

(2) Costs of substitute execution shall be imposed upon the addressee.

(3) In selecting the manner of substitute execution and specific form thereof, an institution shall base itself upon external regulatory enactments and, having regard to considerations of usefulness (Section 66), shall select the manner which is most efficient and at the same time will least infringe the interests of the addressee, and the specific form thereof as will incur the lowest costs.

[15 January 2004]

#### **Section 370. Pecuniary Penalty Imposed on an Addressee**

(1) If an administrative act imposes a duty on the addressee to perform a specific action or refrain from a specific action and he or she fails to fulfil this duty, a pecuniary penalty may be imposed on the addressee.

(2) A pecuniary penalty may be imposed repeatedly until the addressee performs or ceases the relevant action. A repeated pecuniary penalty may be imposed not earlier than seven days after the previous occasion, if within these seven days the addressee has still not carried out or ceased the relevant action.

(3) The minimum pecuniary penalty is five lati but the maximum – one thousand lati. In determining the amount of pecuniary penalty, the executive institution shall observe the principle of proportionality (Section 13), in particular taking into account the financial situation of the addressee.

(4) A pecuniary penalty shall be imposed pursuant to the execution order of an executive institution. In the execution order shall be included:

1) the name of the executive institution which has issued the execution order regarding the pecuniary penalty;

2) an indication as to which administrative act is to be executed;

3) an indication regarding the giving of a warning;

4) the date when the administrative act to be executed came into effect;

5) the date when the warning came into effect;

6) the date when the administrative act became indisputable or an indication that the administrative act in accordance with Section 360, Paragraph two of this Law is already to be executed at the time it comes into effect, before it has become indisputable;

7) an indication that to date the administrative act has not been executed voluntarily;

8) the amount of the pecuniary penalty;

9) an indication as to where the pecuniary penalty is to be paid in; and

10) the place and date of issue of the execution order regarding the pecuniary penalty and the signature of the official.

(5) The provisions set out in Section 70 of this Law regarding the coming into effect of administrative acts shall apply to execution orders regarding pecuniary penalties.

(6) An execution order regarding imposition of a pecuniary penalty may be disputed or appealed if it does not contain the constituent parts referred to in Paragraph four of this Section, the administrative act has already been executed voluntarily, or the amount of the pecuniary penalty is not proportionate. The execution order may be disputed to a higher institution within seven days but if there is not a higher institution or it is the Cabinet – it may be appealed to a court. The decision of a higher institution may be appealed to a court within seven days. The decision of a court may not be appealed.

(7) An execution order regarding a pecuniary penalty shall be executed on a compulsory basis in conformity with the same provisions as are applicable to compulsory execution of an administrative act directed at monetary payment (Sections 366 and 367).

### **Section 371. Preconditions regarding Application of Direct Force**

(1) If an administrative act imposes a duty on the addressee to perform a specific action or refrain from a specific action, and he or she does not fulfil such obligation, it may be performed by application of direct force.

(2) Direct force may be applied by an executive institution itself or it may assign the performing of this to the police. In cases provided for by regulatory enactments, an executive institution may also assign the application of direct force to another authority. In such case, the police or the relevant authority shall, within the limits of their competence, act as an ancillary executive institution subjecting itself to the orders of the executive institution.

### **Section 372. Forms of Direct Force Application**

(1) Application of direct force includes:

1) application of physical force;

2) the use of special devices (handcuffs, service dogs, etc); and

3) the use of weapons (in particular, firearms).

- (2) An executive institution may apply physical force within the limits set by the relevant regulatory enactment.
- (3) An executive institution and an ancillary executive institution may use special devices only if it has been granted such rights by another regulatory enactment and only within the limits set by the relevant regulatory enactment.
- (4) An executive institution and an ancillary executive institution may use weapons only if such rights have been conferred upon them by another law and only within the limits set by the relevant law.

### **Section 373. Considerations of Usefulness regarding Application of Direct Force**

- (1) In selecting the general form of direct force and the specific form thereof, an institution shall base itself on the relevant considerations of usefulness (Section 66) and select the most efficient manner and the specific form thereof as least potential threat is posed by to the interests of other private persons and the public and at the same time least infringes upon the interests of private persons against whom the direct force is applied, in particular, least endangers their life, health and property.
- (2) Potential losses as may be caused to a private person against whom direct force is applied or to another private person, may not be manifestly disproportionate to the benefit of the public obtained from the compulsory execution of the administrative act.
- (3) Application of direct force that directly endangers the life of the private person against whom compulsory execution is directed shall only be allowed for the purpose of saving the life of another private person.

[15 January 2004]

### **Section 374. Right to Compensation in Connection with Compulsory Execution**

If, as a result of compulsory execution of an administrative act, a private person other than the one against whom the compulsory execution is directed suffers, such private person has the right to compensation in accordance with the provisions of Chapter 8 of this Law, irrespective of the fact whether the compulsory execution was lawful or unlawful.

[15 January 2004]

## **Division Nine Execution of Court Adjudications**

### **Chapter 43 General Provisions Regarding Execution of Court Adjudications**

#### **Section 375. Duty of an Institution to Execute a Court Adjudication**

- (1) It is the duty of an institution to properly and in good time execute a judgment or other decision (adjudication) directed against it, rendered or taken by a court in an administrative matter,.
- (2) The institution shall notify the applicant and the court of the execution of the court judgment.

(3) If an institution does not execute a court adjudication voluntarily, compulsory execution shall be directed at the institution in accordance with the provisions of this Law.

### **Section 376. Court Action in Connection with Execution of Court Adjudications**

(1) The court shall send a copy of the relevant judgment or decision to an institution for execution after the adjudication has come into effect, but if it is to be executed without delay – immediately after it is rendered or taken.

(2) Pursuant to the petition of an applicant the court shall issue to him or her a copy of a judgment with an endorsement regarding its coming into effect or a copy of the adjudication in which it is stipulated that it is to be executed without delay.

(3) The complaint of a participant in the administrative proceedings which has arisen in connection with the execution of a court adjudication shall be adjudicated in a court sitting. The participants in the administrative proceeding shall be notified of the court sitting. The failure of such persons to attend is not an impediment to the adjudicating of the complaint.

### **Section 377. Executive Institutions in regard to Court Adjudications**

(1) The Cabinet may specify an executive institution which shall perform compulsory execution of a court adjudication.

(2) If an executive institution having jurisdiction has not been determined, compulsory execution shall be performed by the ministry to which the institution which has issued the administrative act is subordinate.

(3) If the institution which has issued the administrative act is not subordinate to any ministry and another executive institution has not been determined by the Cabinet or prescribed by law, compulsory execution shall be performed by a bailiff.

(4) If a bailiff has jurisdiction over compulsory execution of a court adjudication, the provisions of the Civil Procedure Law are applicable to such compulsory execution.

[15 January 2004]

### **Section 378. Preconditions for Compulsory Execution of Court Adjudications**

A court adjudication shall be executed on a compulsory basis if:

1) until the commencement of compulsory execution the court adjudication has not been executed voluntarily; and

2) not more than three years have elapsed since the court adjudication came into effect.

### **Section 379. Warning regarding Compulsory Execution of a Court Adjudication**

(1) An institution shall be warned regarding compulsory execution, in writing.

(2) In the warning shall be included:

1) an indication to which court adjudication it applies;

2) an invitation to the institution to execute the adjudication voluntarily;

3) an indication of the date on which the compulsory execution may be commenced;

4) an indication regarding the compulsory execution measures to be applied; and

5) the place and date of issue of the warning and the signature of the official.

(3) The commencement of compulsory execution shall be set having regard to the time period stipulated in the court adjudication for the institution to perform the specific actions.

### **Section 380. Measures for Compulsory Execution of Court Adjudications**

(1) A court adjudication with respect to an institution may be executed on a compulsory basis by means of substitute execution or pecuniary penalty.

(2) Basing itself on considerations of usefulness, an executive institution shall select compulsory execution measures, and vary these until the goal is attained.

### **Section 381. Substitute Execution Directed at an Institution**

(1) If a court adjudication imposes a duty on an institution to perform a specific action, which may practically and legally be performed also by an executive institution or another authority, the court adjudication may be executed by means of substitute execution. In such case the executive institution shall perform such action itself or assign the performing thereof to another authority.

(2) In selecting substitute execution, the executive institution shall select the most efficient manner and the specific form thereof which results in the lowest costs.

### **Section 382. Pecuniary Penalty Imposed on Officials**

(1) If a court adjudication imposes a duty on an institution to perform a specific action or refrain from a specific action and the institution does not fulfil such duty, a pecuniary penalty may be imposed on the head or another official of the institution.

(2) A pecuniary penalty may be imposed repeatedly until the head or another official of the institution carries out or ceases the relevant action. A repeated pecuniary penalty may be imposed not earlier than after seven days.

(3) The minimum pecuniary penalty is one hundred lati, and the maximum – one thousand lati. In determining the amount of pecuniary penalty, the executive institution shall observe the principle of proportionality (Section 13).

(4) A pecuniary penalty shall be imposed pursuant to an execution order of an executive institution. In the execution order shall be included:

- 1) the name of the institution which has issued the execution order regarding the pecuniary penalty;
- 2) an indication which court adjudication is to be executed;
- 3) an indication regarding the giving of a warning;
- 4) the date when the court adjudication to be executed came into effect;
- 5) the date when the institution was notified of the warning;
- 6) an indication that the court adjudication has to date not been executed voluntarily;
- 7) the amount of the pecuniary penalty;
- 8) an indication as to where the pecuniary penalty is to be paid in; and
- 9) the place and date of issue of the order for execution regarding the pecuniary penalty and the signature of the official.

(5) The provisions set out in Section 70 of this Law regarding the coming into effect of administrative acts shall apply to execution orders regarding pecuniary penalty.



(6) An execution order regarding a pecuniary penalty may be appealed to a court within seven days according to the location of the executive institution if constituent parts thereof referred to in Paragraph four of this Section are not included therein, the court adjudication has already been executed voluntarily, or the amount of pecuniary penalty is not proportionate. The decision of a court may not be appealed.

### **Section 383. Costs of Compulsory Execution of Court Adjudications**

The calculation of costs regarding compulsory execution of a court adjudication which has been drawn up by the executive institution may be appealed to a court according to the location of the institution. An ancillary complaint may be submitted regarding the decision of a court.

## **Chapter 44 Ensuring Compulsory Execution of Separate Court Adjudications**

### **Section 384. Consequences of Separate Court Judgments**

(1) Consequences of a judgment regarding the setting aside of an administrative act or a declaration that it is invalid or has ceased to be in effect, prohibition of the carrying out an actual action or determination of existence of public legal relations shall come into being at the time when the judgment comes into effect.

(2) An institution may not act contrary to a court judgment.

(3) If a person considers that an institution is acting contrary to a court judgment, he or she may submit a complaint to a higher institution. If there is not a higher institution or it is the Cabinet, the private person may apply to a court. Decisions of a higher institution may be appealed to a court. The decision of a court may not be appealed.

[15 January 2004]

### **Section 385. Compulsory Execution of Court Adjudications as are Directed at Monetary Payment in respect of an Institution**

Access of executive institutions to budget resources shall be governed by a special law.

### **Transitional Provisions**

A special law shall prescribe the procedures for the coming into force of this Law.

Section 104.<sup>1</sup>; Section 273, Clause 5; Section 275, Clause 7 and Section 338, Paragraph seven of this Law shall come into force on 1 May 2004.

[15 January 2004]

This Law shall come into force on 1 February 2004.  
[12 June 2003]

This Law has been adopted by the *Saeima* on 25 October 2001.

President

V. Viķe-Freiberga

Rīga, 14 November 2001