Article 3

The provisions of the Law, which, due to the specific character of administrative matters in different administrative domains, regulate necessary exceptions to the rules of the general administrative procedure, must be in line with the basic principles determined by this Law.

The Principle of Legality
Article 4

(1) A state authority, a local self-government authority, as well as institutions and other legal persons (hereinafter: authorities) proceeding in administrative matters shall decide in accordance with the law and other regulations.

(2) In administrative matters, in which an authority is statutorily authorized to make a discretionary decision, the decision shall stay within the framework of the authorization and shall be in accordance with the objective for which the authorization had been given.

The Principle of Protection of Citizens' Rights and of Protection of the Public Interest
Article 5

(1) When conducting a procedure and deciding in administrative matters, the authorities shall enable parties to as easily as possible protect and realize their rights and legal interests, taking into account that the realization of their rights and legal interests shall not be to the detriment of rights and legal interests of other persons, or opposite to the legally established public interests.

(2) When an authorized official, with regard to the existing state of affairs, discovers or rates that a party or other participant in the procedure has grounds for the realization of some right or legal interest, official shall warn them about it.

(3) If by virtue of the law obligations are imposed on parties and other participants in the procedure, shall apply measures determined by regulations, which are more favourable for them, if such measures are sufficient for the achievement of the objective of the law.

The principle of Efficiency
Article 6

Authorities that conduct procedure and make decisions in administrative matters shall provide for efficient and quality realization and protection of rights and legal interests of private persons, legal persons or other parties.

The Principle of Truth
Article 7

It is essential that all facts and circumstances of significance to make a lawful decision (decisive facts) are established accurately and wholly in the procedure.

The Principle of Hearing the Party
Article 8

(1) Prior to passing a decision, the party shall be asked to make a statement on the facts and circumstances of significance for making a lawful decision.

(2) The decision may be made without prior hearing of the party only in cases when this is permitted by the law.

The Principle of Assessment of Evidence
Article 9

The decision on which facts are to be accepted as established shall be made by the authorised official according to his/her conviction, based on conscientious and careful assessment of each piece of evidence individually and all evidence together, as well as on the basis of the results of the entire procedure.

The Principle of Independence in Decision Making
Article 10

(1) An authority shall conduct the procedure and make a decision independently, in the framework of authorization determined by the law or other regulations.

(2) An authorized official shall establish facts and circumstances independently and apply regulations to a specific case on the basis of established facts and circumstances.

The Obligation of the Party to Speak the Truth
Article 11

(1) During a procedure, the parties shall be obliged to speak the truth and honestly use their vested rights in accordance to this or other law, i.e. regulation of a self-government authority.

(2) The competent authority shall prevent any abuse of rights that a party has in a procedure.

The Principle of Two Instances (Right to Appeal)
Article 12

The procedure shall be conducted without delay and at the lowest possible costs for the party and other participants in the procedure, yet in the way that all evidence essential for an accurate and complete establishment of the facts and for making a lawful and correct decision be ensured.

The Principle of Assistance to the Party
Article 14

The competent authority conducting the procedure shall ensure that ignorance and illiteracy of the party and other participants in the procedure shall not be to the detriment of rights they are statutorily entitled to.

The Use of Language and Script in the Procedure
Article 15

(1) The competent authority shall conduct the procedure using the language

(1) An authority may not take over a particular administrative matter which falls under the jurisdiction of another authority and deci

(2) In the case of doubt in the existence and the scope of diplomatic immunity, the ministry competent for foreign affairs shall give a clarification.

(3) Official proceedings concerning persons enjoying diplomatic immunity shall be performed through the ministry competent for foreign affairs.

3. Territorial Limitation of Jurisdiction
Article 25

(1) An authority shall perform official proceedings within its territory.

(2) If delay may cause a danger, and the official proceeding should be performed outside the authority's territory, the authority may perform the proceeding outside its territory. It shall forthwith notify the authority, on whose territory it had performed the proceeding.

(3) Official proceedings in buildings and other premises used by the Armed forces of Serbia and Montenegro shall be performed on prior notification to the competent military officer.

(4) Official proceedings performed in an exterritorial locality shall be performed through the ministry competent for foreign affairs.

4. Conflict of Jurisdiction
Article 26

(1) The conflict of jurisdiction between administrative and judicial authorities, the conflict

(4) The provision of Article 21, paragraph 2 of this Law, shall apply accordingly in the case of conflict of jurisdiction.

5. Legal Assistance

Article 28

(1) For the performance of certain actions in the procedure, which have to be undertaken outside the territory of the competent authority this authority shall make a request to the competent authority, on whose territory the action is to be undertaken.

(2) In the case that the rendering of legal assistance between state authorities and local self-government authorities requires particular expenses, the legal assistance shall be rendered, if the authority seeking the assistance covers the necessary expenses.

(3) The authority competent to make a decision in an administrative matter may, for the sake of easier and faster performance of the proceeding, or avoidance of unnecessary expenses, entrust the performance of a certain action in the procedure to another authority authorized to undertake such a proceeding.

Article 29

(1) The authorities shall be obliged to render each other legal assistance in the administrative procedure. That assistance shall be applied for by an official request.

(2) The requested authority mentioned in paragraph 1 of this Article shall act upon the request without delay, and not later than 30 days from the day of receipt of the official request.

(3) Legal assistance for the execution of certain actions in the procedure may be requested from the court in accordance with specific regulations. Exceptionally, the authority may, in order to make a decision in the administrative matters, seek from the court the delivery of documents necessary for the conducting the administrative procedure. The court shall obey this request, provided it does not obstruct the court procedure. The court may determine the deadline in which the documents shall be returned.

(4) For legal assistance in relation with international authorities, the provisions of international agreements shall apply, and if there are no such agreements, the principle of reciprocity shall apply. In the case of doubt in the existence of reciprocity, the ministry competent for foreign affairs shall give instructions.

(5) The authorities shall render legal assistance to international authorities in a manner set forth by the law. An authority shall refuse legal assistance, if the performance of an action is requested, which is contrary to the law and order. An action that is the matter of a request of an international authority may as well be performed in the manner requested by the international authority, if such proceeding is not in contrary to the public order.

(6) If the possibility of direct communication with international authorities is not provided

by international agreements, the authorities shall communicate with international authorities through the ministry competent for foreign affairs.

6. Exemption
Article 30

An official deciding in administrative matters or performing certain actions in the procedure shall be exempted in the following cases:

1) if he/she is a party, co-proxy, respectively co-tributary, witness, assessor, attorney or legal agent of the party in the case, in which the procedure is conducted;

2) if his/her relationship to the party, his agent or attorney is in direct blood kinship or side-line kinship up to the fourth degree inclusive, or if he/she is spouse or partner, or in in-law relationship up to the second degree inclusive, even if the matrimony has ceased;

3) if his/her relationship with the party, the agent or attorney of the party is one of guardianship, adoptive parent, adoptive child or foster parent;

(2) The exemption of a minister, i.e. head of an administrative authority, shall be decided by the Government.

(3) The exemption of a head of a local self-government authority shall be decided by the mayor.

(4) The exemption of a head of an institution or other legal person, who exercises public authority, shall be decided on by the authority performing control over their operation.

(5) Exemption shall be decided by a conclusion.

Article 34

(1) In the conclusion on exemption another official shall be assigned to make a decision in the administrative matter, i.e. to perform certain actions in the procedure relating to the case in which the exemption has been determined.

(2) Special appeal against the conclusion determining the exemption shall not be permitted.

Article 35

(1) The provisions of this Law regulating exemption shall apply accordingly to members of collegiate bodies.

(2) The conclusion on exemption of a member of a collegiate authority shall be made by that authority.

Article 36

(1) The provisions of this Law governing exemption shall apply accordingly to the record clerk as well.

(2) The conclusion on exemption of the record clerk shall be made by the official conducting the procedure.

Chapter III

THE PARTY TO THE PROCEDURE AND THEIR REPRESENTATION

1. The Party to the procedure

Article 37

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

Article 38

(1) A party to the procedure may be any private or legal person.

(2) A state authority, organization, settlement, group of persons and others who do not have the attribute of a legal person may be parties, if they are entitled to be holders of rights and obligations or legal interests on which the procedure has been started.

Article 39

(1) The right to participate in the procedure shall have every person who declares a legal

specific regulation.

(5) When an authority conducting a procedure ascertains that the legal representative of a person under custodianship fails to demonstrate due attention in the procuration, it shall notify the custody authority thereof.

Article 42

(1) During the entire procedure, the authority shall ex officio overview whether the person appearing as a party can be a party to the procedure and whether the party is represented by its legal representative, i.e. an authorized representative.

(2) If during the procedure the party deceases, respectively if the legal person ceases, the procedure may be cancelled or continued, depending on the character of the administrative matter that is the object of the procedure. If, due to the character of affairs the procedure can not be continued, the authority shall terminate the procedure by a conclusion, against which a special appeal is permitted.

3. The Temporary Representative
Article 43

(1) If a party lacking procedural capacity has no legal representative, or if it is required to undertake a proceeding against a person whose domicile, i.e. residence is unknown,

(1) If the attorney is an attorney, and the power of attorney was issued for the entire procedure, he may perform all actions in the procedure, except filing of extraordinary legal remedies, for what a specific power of attorney is required.

(2) If the attorney represents a party that deceased during the course of the procedure, and his/her legal successors are joining th

day during working hours.

Article 55

(1) The authority competent for the receipt of petition requests shall accept the petition request being delivered to it, i.e. take a petition request, which is communicated orally, into the record.

(2) An officer who receives a petition request shall, upon a verbal request of the submitter, confirm the receipt of the petition request. No fees shall be charged for such a confirmation.

(3) If an authority is not competent for the receipt of a petition requests, the officer within that authority shall notify the submitter thereof and refer him/her to the authority competent for reception. If the submitter nevertheless insists that his/her petition request be accepted, the officer shall accept such a petition request. If the authority finds not to be competent to act upon such a petition request, it shall bring a conclusion, by which it will reject the petition request on account of non-competence.

(4) When an authority receives per post a petition request for the receipt of which it is not competent, and there is no doubt about which authority is competent for the receipt thereof, it shall send the petition request forthwith to the competent authority, respectively to the court and notify the party thereof. In the case that the authority having received a petition request can not determine which authority is competent to act thereon, it shall forthwith pass a conclusion, by which it rejects the petition request on account of non-competence and immediately deliver the conclusion to the party.

(5) Special appeal shall be permitted against the conclusion passed in compliance with the provisions of paragraphs 3 and 4 of this Article.

(6) If an authority receives per post a complaint for the commencement of an administrative dispute, it shall forthwith be delivered to the competent court, on which it shall notify the applicant of the complaint.

Article 56

(1) The petition request must be intelligible and, in order that it can be treated properly, it shall include in particular the following: the designation of the authority it is addressed to, the case it refers to, a request, i.e. motion; who the representative or attorney is, if there is any, as well as the first name, family name and domicile, respectively residence and address, or company and headquarters of the submitter, i.e. representative or attorney.

(2) The applicant shall personally sign the petition request. Exceptionally, the petition request may be signed on behalf of the submitter by his/her spouse, one of his/her parents, the son or daughter, or the attorney who drew up the petition request by virtue of the party's authorization. The person having signed the petition request shall put his/her name and address on it.

(3) It shall be considered that the electronic petition request is accurate, if it was signed with an electronic signature with a qualified verification.

(4) A petition request that is submitted by electronic delivery or by telegraph, need not

procedure, it may be determined that these expenses be borne by the defaulting party. The conclusion on the apprehension, the pronouncement of the fine, and the payment of expenses, shall be passed by the official conducting the procedure, in agreement with the officer authorized for deciding in the administrative matter, and at the petitioned authority – in agreement with the head of that authority, respectively with the officer authorized for deciding in similar administrative matters. Special appeal against this conclusion shall be allowed.

(4) If the default to appear was committed by a member of the military or the police, the authority shall refer to the competent headquarters, i.e. the competent authority, with the request to bring him/her, while he may be fined according to paragraph 3 of this Article, respectively he may be ordered to bear the expenses caused by the default.

3. The Record
Article 63

(1) A record shall be drawn up on the oral hearing or another major action in the procedure, as well as on significant verbal statements of the parties or third persons in the procedure.

(2) A record shall generally not be drawn up on less significant actions and statements of parties and third persons that have no major impact on the decision making of the administrative matter, on the line of conduct during the procedure, on

signed by the persons having been confronted.

(4) If the record consists of a number of pages, they shall be paginated with ordinal numbers. The bottom of each page shall be verified by the signature of the

(3) The request to view and transcribe, respectively copy documents may be submitted

(2) The authority whose document is to be delivered, may for particularly important reasons determine that the delivery be made even on a Sunday or on a holiday, as

(8) The addressee to whom the delivery is made in the manner set forth in this Article may substantiate an absence longer than thirty days, if he quotes justifiable reasons for which he/she was not able to accept the documents or to assign a proxy for

(2) In case that an organization, settlement, group of persons or others who do not have the attribute of a legal person (Article 38, paragraph 2) partake in a procedure, the delivery shall be carried out by handing the document to the person they authorized, respectively assigned therefore (Article 41, paragraph 4).

(3) If the messenger shall not find the person assigned to receive documents during working hours, he/she may make the delivery to any employee in the state authority, institution, or other legal person mentioned in paragraph 1 of this Article, who is present in their premises.

4) Delivery to other Persons
Article 82

(1) The delivery to persons who are abroad, as well as to persons in the country who enjoy diplomatic immunity, shall be carried out by the assistance of the ministry competent for foreign affairs, unless otherwise stipulated by an international agreement.

(2) The delivery to citizens abroad of registry documents, certificates, testimonials and other documents, issued on the request of a party, may be carried out directly. The delivery of decisions and conclusions shall be carried out through the state's diplomatic and consular representative offices abroad.

(3)The delivery to members of the military or the police and to persons employed in the overland, river, maritime and aerial traffic shall be carried out through the relevant headquarters, respectively authority, or through the institution or other legal person they are employed with.

Article 83

The delivery to imprisoned persons shall be carried out through the administration of the institution they are situated in.

5) Delivery by Means of Public Announcement
Article 84

In case that there are a number of persons who are not known to the authority, or who can not be identified, the delivery shall be carried out by means of a public announcement at the notice board of the authority having issued the document. The delivery shall be considered as carried out after expiration of 15 days from the day of the posting of the announcement at the notice board, if the authority that issued the document does not determine a longer period. Beside the announcement at the notice board, the authority shall as well publish an announcement in the daily press, respectively in other means of public information or in another customary manner.

6) Refusal of Acceptance
Article 85

(1) In case that the addressee of the document, or an adult member of his/her household should refuse to accept a document without a legal ground, or if this is done by an employee in a state authority, enterprise or other legal person, or a

attorney’s office, or if this is done by the person assigned to receive documents by an organization, settlement, group of persons or others who do not have the attribute of a legal person (Article 38, paragraph 2), the messenger shall leave the document in the apartment or in the premise where the respective person is employed, or attach the document to the door of

(5) If the delivery was carried out according to Article 75 of this Law, the day of announcement, as well as the day of delivery of the document to the competent authority, on whose territory the domicile, respectively residence of the addressee is, or to the post office in his/her domicile, respectively residence, shall be noted on the delivery receipt.

(6) The Ministry competent for state administration shall stipulate the form and manner of electronic delivery.

6. Errors in the Delivery

Article 91

(1) The commencement and course of a deadline shall not be withheld by Sundays and holidays.

(2) If the last day of a deadline falls on a Sunday or a holiday, or on another day when the authority, before which the action is to be undertaken, does not work, the deadline shall terminate at the end of the next subsequent working day.

Article 92

(1) A petition request is submitted within a deadline, if it arrives in the authority, with which it was to be filed, before the expiration of the deadline.

(2) When a petition request was sent by registered mail or by telegraph, respectively

(1) In case that a party has failed to perform an action of a procedure within the

Article 97

(1) Appeal against a conclusion granting restitution shall not be permitted, unless the restitution was granted upon an untimely filed or illegitimate request (Article 95, paragraph 3).

(2) Special appeal against a conclusion, by which a request for restitution was rejected, may be filed, unless the conclusion was passed by a second instance authority.

(3) Appeal shall not be permitted against a conclusion on a request for restitution that was passed by the authority competent for decision-making in second instance on the head matter.

Article 98

(1) The request for restitution shall not defer the course of the procedure, yet the authority relevant for decision/making in this request may temporarily interrupt the procedure pending the finality of the conclusion on the request.

(2) When restitution is granted, the procedure shall be restored to the condition in which it had been prior to the omission, and all decisions and conclusions passed in relation to the omission shall be nullified.

Chapter VIII

KEEPING ORDER WITHIN THE PROCEDURE

Article 99

(1) An authorized official shall keep order during the procedure.

(2) An authorized official shall warn persons disturbing the work of the authority, as well as undertake other measures necessary for keeping order.

(3) Persons who attend the administrative procedure must not bring arms or dangerous weapons. If such persons do possess any arms or dangerous weapons, they shall deliver it to the authorized official. Otherwise, such persons shall not be allowed to attend the procedure. Upon completion of the actions of the procedure, arms i.e. dangerous weapons shall be returned to the persons who handed them over to an authorized official.

Article 100

(2) Should, pursuant to paragraph 1 of this Article, a party that has no attorney, be

(3) When an administrative procedure initiated ex officio is completed in favour of a party, the procedural costs shall be borne by the authority that has instituted the procedure.

Article 104

(1) Each party to the administrative procedure shall, as a rule, bear its own costs caused by the procedure, such as: costs of arrival waste of time, expenses regarding fees, legal representation and expert assistance.

(2) When in an administrative procedure, two or more parties having opposite interests participate, the party that has caused the procedure and to the detriment of which the procedure has been completed, shall compensate the adverse party to the procedure for all reasonable costs incurred within the procedure. Should it happen that, in such an case, one party has just partially succeeded in its request; it shall compensate the adverse party for the costs proportionate to that part of its request by which it has failed. The party that incurred costs in the procedure to the other party out of prank, shall be obliged to recompense it for such costs.

(3) The claim for compensation of costs pursuant to the provisions of paragraphs 1 and 2 of this Article must be lodged in a timely manner, in order to enable the competent

Article 107

(1) In the decision by which the administrative procedure is to be completed, the authorized authority shall decide who shall bear the procedural costs, as well as the amount of such costs, authorities to which it has to be paid and the time limit specified for payment.

(2) Specifically stated in the decision shall be whether or not the party which bears the costs must compensate the other party for the costs (Article 104, paragraphs 2 and 3).

damage to the necessary maintenance of the party or his/her family. The authority shall pass a conclusion, on the request of the party to the procedure, on the basis of an official certificate on his/her property issued by a competent authority.

(2) Exemption from payment of procedural costs shall mean the exemption from fees and expenses of the authority in charge of the administrative procedure, such as travelling costs of official persons, expenses for witnesses, experts and interpreters, inquiry on the spot, announcements etc., as well as exemption from payment of a deposit for the costs.

(3) Foreign citizens shall be exempted from the payment of costs when so prescribed by the international treaty or, if there is no such treaty, according to the principle of reciprocity. In the case of any doubt in respect to the existence of such reciprocity, a relevant explanation shall be obtained from the ministry competent for foreign affairs.

Article 111

The authorized authority may cancel the conclusion on exemption from payment of procedural costs should it ascertain that the reasons due to which a party has been released from payment of costs, exist no more.

Article 112

A party may lodge a special appeal against the conclusion by which the party's claim for exemption of costs payment was rejected, as well as against the conclusion referred to in Article 111 of this Law.

PART TWO
FIRST- INSTANCE PROCEDURE

Chapter X
INSTITUTION OF A PROCEDURE AND CLAIMS BY PARTIES TO THE PROCEDURE

1. Institution of a Procedure
Article 113

The administrative procedure shall be instituted by an authority ex officio or on request of a party.

Article 114

(1) The competent authority shall institute the procedure ex officio if so prescribed by the law or other regulation and when it ascertains or comes to the knowledge that, taking into consideration the existing state of facts, the procedure should be initiated for the purpose of protection of public interest.

(2) On the occasion of institution of the administrative procedure ex officio, the competent authority shall take into consideration any likely requests of citizens and organizations as well as admonition given by the competent authorities.

Article 115

The administrative procedure initiated ex officio shall be deemed instituted as soon as

eight days. Should the adverse party fail to say anything, it shall be deemed as if the party agrees with the abandonment of action.

(3) When the procedure has been initiated regarding a party's claim, whereas the party desists from its claim, the authorized shall make a decision on the stay of the procedure. The adverse party, if there is any, shall be informed in that respect.

(4) Should further continuation of the procedure be in the public interest or if so required by the adverse party, the authority shall continue with administration of the procedure.

(5) When the procedure has been instituted ex officio, the authority may interrupt the procedure. If the procedure on the same administrate matter could have been initiated on request of a party, the procedure shall be continued if so required by the party.

(6) An appeal may be lodged against the decision on the termination of the administrative procedure.

Article 123

(1) A party may abandon its claim by making a statement to the authorized authority. The party may cancel its abandonment of action until the authorized authority renders a decision on termination of the procedure and presents it to the party.

(3) An authorized official shall collect ex officio the data regarding the facts official records of which are maintained by the authority in charge of deciding on administrative matters. It is in the same manner that the authorized official shall proceed in respect to the facts official records of which are maintained by another authority.

(4) Official records in accordance to this law shall be deemed to mean records established by the law or other enactments, used for an organized registration or recording of data or facts intended for specific purposes i.e. needs of specific users.

Article 128

(1) The factual state grounded upon which is the party's claim, shall be presented by the party in question in an accurate, complete and precise manner.

(2) Should it be not about the facts of common knowledge, the party shall be obliged to propose evidences for its assertions and to present hem, if possible. If the party fails to do that, the authorized official shall ask it to proceed accordingly. The party shall not be required either to collect and produce that can be collected more easily and efficiently by the authorized authority or to present certificates and other documents that authorities are not obliged to issue pursuant to the provisions of Articles 165 and 166 of this law.

(3) Should it happen that a party fails to propose or produce, if possible, evidences in the subsequently specified time limit, the authority shall reject the claim by rendering a decision as if it were not appropriately lodged (Article 57, Paragraph 2). An appeal shall be permitted against such a decision.

Article 129

(1) A party shall, as a rule, make its statement in oral form.

(2) When it is about a complex administrative matter or when more extensive expert explanations are required, an authorized official may order the party to make a statement in written form and within the set time limit. In that case, the party shall also have the right to request to obtain a written statement.

(3) Should it be ordered or permitted to a party to make a statement in a written form, it shall not be deprived of the right to make its statement in oral form.

Article 130

(1) Should it happen that in the course of the procedure a person appears who has not participated in the procedure so far as a party to the procedure, and if that person requires to participate in the procedure as a party, a authorized official may, at the special oral hearing, investigate his/her right to be a party to the procedure and thereupon pass a relevant decision in that respect.

(2) An appeal shall be permitted against the decision by which that right is or is not recognized.

(3) The procedure shall be continued upon coming into effect of the decision.

Article 131

(1) An authorized official shall be obliged to give an admonition, if needed, to a party regarding its rights in the procedure and to indicate in the course of the procedure to the legal consequences of its actions or failures to act.

(2) The authorized authority shall, prior to the commencement of the preliminary investigative procedure, summon up all persons who are deemed to be able to state their legal interest for participation in the procedure. Should the authority dispose of no information regarding first and family names of persons who may state their legal interest for participation in the procedure, he/she can invite them by delivering a public notification or in other appropriate manner.

(3) If the persons invited in such a manner make their written statement, they should not be invited to attend the procedure in person.

(4) Persons invited in the manner referred to in Paragraph 2 of this Article and informed about the procedure, but who failed to answer the invitation, shall not be entitled to an appeal against the decision passed in the procedure.

(5) Persons who assert that they have not been offered an opportunity to participate in the procedure, though they have been entitled to that, may ask that an decision be submitted to them within the time period set for lodging an appeal by the party that decision has been rendered to.

Preparatory Procedure
Article 132

(1) Preparatory procedure shall be determined by the authorized authority, if an oral hearing i.e. inquiry is to be conducted.

(2) The authorized authority must, at least seven days prior to the preparatory

(7) No appeal shall be permitted against the decision referred to in the preceding Paragraph 6 of this Article.

prescribed by the law), determine the oral hearing and examination, as well as everything needed for its conduct, decide which of the evidences are to be presented and decide on all proposals and statements made in the course of the procedure.

(4) An authorized official shall decide whether the hearing and presentation of evidences shall be conducted separately for each particular disputable issue, or uniformly for the entire subject matter.

Article 135

(1) A party shall have the right to participate in the investigative procedure and to give needed data for the purpose of obtaining the aim of the procedure and to defend its rights and interests guaranteed by the law.

(2) A party shall have the right to present the facts that may be of relevance for resolution of the administrative matter, to propose evidences for the purpose of ascertainment of these facts and to deny authenticity of statements that do not agree with its assertions. It shall have the right to supplement and explain its assertions prior to the passage of an decision, and if it does so after the oral hearing, it shall be obliged to explain why it has failed to proceed in that manner at the hearing.

(3) An authorized official shall be obliged to enable a party to the procedure to declare itself on all circumstances and facts presented within the investigative procedure and on proposals and offered evidences, as well as to participate in presentation of evidences and to put questions to other parties, witnesses and experts through an authorized official or directly with his/her permit, and to be acquainted with the results of presentation of evidences and to give its opinion in that respect. The authority should not pass an decision prior to enabling a party to give its opinion on the facts and circumstances the decision should be grounded on, and on which the party has not been offered an opportunity to present its opinion (unless the examination of the party is excluded either by the present or a special act).

Precedent Issue
Article 136

(1) Should the authorized authority be encountered with an issue without resolution of which the administrative matter itself cannot be decided, whereas that issue represents

Article 137

(1) The authorized authority must interrupt the procedure when the precedent issue refers to the existence of a criminal offence, existence of a marriage, affiliation or when so envisaged by the law.

(2) When the precedent issue is related to a criminal offence prosecution for which is undertaken ex officio, and if there are no possibilities for criminal prosecution, the authorized authority shall also discuss that issue.

Article 138

If for the reason of a precedent issue the administrative procedure should not be interrupted, the authorized authority may take into consideration by itself the precedent issue and discuss it as being the constituent part of the administrative matter and on these grounds resolve the administrative matter.

Article 139

(1) Should the authorized authority fail to take into consideration the precedent issue in virtue of Article 138 of this law, whereas the procedure that can be administered solely

(1) The procedure may be interrupted in the following cases:

1. if a party to the procedure dies, while the rights and obligations i.e. legal interest that are decided upon within the administrative procedure may be transferred to

7. Oral Hearing

Article 142

(1) An authorized official shall determine, upon its own initiative or upon a proposal of a party, the oral hearing whenever it is deemed useful for explanation of an administrative matter, but it must be determined in the following cases:

1) in administrative matters in which two or more parties participate having adverse interests, or

2) when an investigation has to be conducted or a witness or expert to be interrogated.

(2) In case of deciding on the request referred to in Article 39, Paragraph 1 of this law, an authorized official may call for an oral hearing.

(3) Should the authority dispose of adequate technical conditions, an authorized official may, on proposal of a party, call for a video hearing.

(4) In the case of a video hearing, provisions of this law related to an oral hearing shall apply accordingly.

Article 143

(1) An oral hearing shall be open to public.

(2) An authorized official may order the exclusion of public, either completely or partially, in the following cases:

1) if so required by reasons of moral or public security,

2) if there exists a serious and immediate danger of disturbance of the oral hearing,

3) if the oral hearing is regarding the relations within a family,

4) if the oral hearing is regarding the circumstances that represent a secret from the domain of state, military, official, business, professional, scientific or art affairs.

(3) The proposal for the exclusion of public may be also submitted by an interested person.

(4) A decision shall be passed on the exclusion of public which must be supported by reasons and publicly announced within the information system in charge of communications and information issues.

(5) On the occasion of publication of a decision upon the completed procedure, the public cannot be excluded.

Article 144

(1) Exclusion of public shall not refer to parties, their representatives, proxies, authorized persons and expert assistants.

(1) An authorized official shall be obliged to determine at the very beginning of the oral hearing which of the summoned persons are present, and as regards the absent – to check whether invitations have been delivered to them regularly.

(2) Should it happen that any of the parties still unexamined fails to appear at the oral hearing, while it is not determined whether the invitation has been delivered or not, an

(3) For presentation of evidences in written form produced subsequently, it shall not be needed that the oral hearing be called for again, but the party shall be offered a possibility to declare itself on the produced evidences.

B. Presentation of Evidence / Probative Procedure

1. Common Provisions

Article 152

(1) Facts on the basis of which a decision is to be passed (decisive facts) shall be ascertained by evidences.

(2) All sources appropriate for the ascertainment of the state of affairs suitable for a specific case can be used as evidences, such as: documents, statements by witnesses, statements by parties, findings and opinions of experts, inquiry on the spot.

Article 153

Article 156

(1) Should the authority deciding on the administrative matter have no adequate knowledge of the law applicable in a foreign country, it can be informed about that in the ministry competent for foreign affairs.

(2) The authority deciding on the administrative matter may request from a party to present a public document issued by a competent foreign authority to confirm the law applicable in the country by the authority of which the public document has been issued. It is permitted to present evidences that the foreign law is not the one contained in the public document, unless otherwise provided by the international treaty.

2. Documents
Article 157

(1) A document issued in a prescribed form by a state authority within the scope of its competencies i.e. by an institution and other legal person within the public powers assigned by the law (official document) shall be deemed to prove all that is verified or ascertained by it. That document can be made suitable for electronic data processing.

(2) The factual state can also be ascertained on the basis of data from computerized records. It shall be deemed the data from such computerized records represent a part of the document though not contained therein. Entered in the minutes i.e. official report shall be where and how these data can become accessible.

(3) Within the procedure of presentation of evidences (probative procedure), a microfilm or electronic copy of an official document or reproduction of such a copy shall have the same validity as the document referred to in Paragraph 1 of this Article should that microfilm copy or reproduction of that copy be issued by an authority within the limits of its competencies i.e. within the public powers assigned by the law.

(4) It is permitted to prove that in the document i.e. microfilm or electronic copy of a document or reproduction of that copy facts are untruly verified or that the official document itself i.e. the microfilm copy of that document or reproduction of that copy are drawn up irregularly.

(5) It is permitted to prove that a microfilm or electronic copy of an official document i.e. reproduction of that copy do not represent a true copy of the original.

Article 158

Official documents shall have probative force unlimited by time, if the legal facts (legal affairs) after their issuance cannot be changed. If any subsequent changes to the legal or factual effects may influence the contents of an official document, the official document shall be deemed to have probative force limited by time. An authorized official may investigate whether the facts stated in

administrative matter in question. In that case, the authority may impose a fine to that party for violation of procedural discipline in the amount of EUR 50, while that fine can

day of submission of the request, unless otherwise provided by the regulation established by which are official records.

(4) Should the authority reject the request for issuance of a certificate or other document regarding the facts contained in the official records maintained by it, such an authority shall be obliged to pass a special conclusion in that respect. Should within the period of 15 days of submission of the request it fails either to issue a certificate or other document regarding the facts contained in the official records maintained by it or to pass and deliver to the party in question its resolution rejecting its request, the party may lodge a complaint as if its request were rejected.

(5) Should the party, on the basis of evidences disposing of, considers that the certificate in question or other document regarding facts for which official records are maintained, has not been issued in conformity with data from such records, the party my ask for changes to be made or issuance of a new certificate or other document. The authority shall be obliged to pass a special resolution if it rejects the party's request for changes or issuance of a new certificate or document. Should within the period of 15 days of submission of the request for changing or issuing a new certificate or other document, that be not done, the party in question may lodge an appeal as if its request were rejected.

Article 166

(1) Competent authorities shall also issue certificates or other documents regarding the facts for which they do not maintain official records if so provided by the law or other regulations. In that case, facts shall be ascertained within the procedure set forth by the provisions of this Chapter.

(2) Certificates or other documents issued in the manner provided by Paragraph 1 of this Article shall not oblige the authority to which it has been submitted as evidence and which has to decide on an administrative matter. That authority may proceed with ascertaining the facts stated in the certificate or other document.

(3) A certificate or other document shall be issued to a party i.e. a conclusion on rejection of a request shall be passed and delivered to a party within 30 days of submission of the request; should it be not proceeded in that manner, the party in question may lodge an appeal as if its request were rejected.

3. Witnesses
Article 167

(1) A witness may be any person capable of perceiving a fact on which if has to testify and who is able to communicate such a perception.

(2) A person who participates in the administrative procedure in the capacity of an authorized official cannot be admitted as a witness.

Article 168

Article 169

Interrogated as a witness cannot be the person who would jeopardize by its testimony statement the duty of keeping a state, military or official secret until released of that duty by the competent authority.

Article 170

(1) A witness may deny testifying:

1) if an answer to some questions would expose to a serious infamy, considerable damage to property or criminal prosecution

Article 172

(1) A witness must be previously warned on his/her obligation to speak the truth, that he/she should not conceal anything and that he/she may make his/her statement under

(1) Should it happen that a witness, regularly summoned up, fail to respond to summons, or fail to justify his/her non-appearance, or should he/she be removed from the place of interrogation without any permission or justified reason, the authorized authority may order that the witness in question be brought forcedly and to bear the costs incurred on that occasion, while a fine may be imposed to such a witness for violation of the procedural discipline in the amount EUR 50.00.

(2) Should it happen that a witness arrive and deny to testify with no justified reason, though warned about the consequences of such a denial, he/she can be punished again for the violation referred to in Paragraph 1 of this Article, by a fine amounting to EUR 50.00. Decision on imposition of a fine shall be passed by an authorized official, in consent with an authorized official for decision - making on the administrative matter, and when other authority is asked to proceed in that matter – in consent with the head of that authority i.e. a person acting in an official capacity who is in charge of deciding on similar matters.

(3) Should it happen that a witness justifies subsequently its non-appearance, an authorized official, shall make void the decision on the fine and pertaining costs. Should the witness give his/her subsequent consent to testify, the authorized official may make void the decision on fine.
(4) An authorized official may decide that the witness bear the costs incurred by his/her non-appearance or denial to testify.

(5) A special complaint shall be permitted against the decision on fine or costs passed pursuant to the provisions of this Article.

4. Statements by the Parties to the Procedure
Article 176

(1) Should there exist no immediate proof for ascertainment of a specific fact or should such fact cannot be ascertained on the basis of other evidences, then for ascertainment of such a fact can also be used as a proof an orally made statement by a party to the procedure. The statement by a party may also be admitted as evidence in administrative matters of a minor significance should a specific fact be ascertained by hearing a witness living far away from the headquarters of the competent authority, or if the collection of other evidences would interfere with the exercise of rights of a party to the procedure.

(2) Authenticity of the statement by a party shall be assessed according to the principle of interrogation of the party set forth in Article 8 of this law.

(3) Prior to taking a statement by parties

(3) An authorized official shall decide on the expert's challenge by passing a relevant decision.

Article 183

(1) Prior to commencement of expert investigation, an expert has to be warned that he/she shall be obliged to consider carefully the subject matter of expert investigation and to state precisely into his expert findings everything he/she has observed and found out, as well as to present his/her opinion supported by relevant reasons in an impartial manner and in conformity with the rules of science and expertise.

(2) An authorized official shall order the expert in respect of which facts he/she has to give his/her findings and opinion.

(3) When the expert present his/her findings and opinion, an authorized official, as well as parties to the procedure, may put questions and ask for explanations in respect to the presented findings and opinion.

(4) Provisions of Article 172 of this law shall apply accordingly to the hearing of experts.

(5) An expert shall not be obliged to take an oath.

Article 184

(1) An expert may be ordered to conduct expert investigation out of the oral hearing, as well. In that case, the expert may be required to give an explanation of his/her written findings and opinion.

(2) Should more than one expert be appointed, they can present together their findings and opinions.

Article 185

(1) Should the expert's findings and opinion be not enough clear or precise or complete or are findings and opinions of experts are essentially different, or opinions are not sufficiently explained, or should there arise any well founded suspicion, as regards accuracy of the presented opinion, but these deficiencies cannot be eliminated by rehearing of experts, expert investigation shall be repeated with the same or other experts, whereas expert investigation may be required from a scientific or a professional organization.

(2) Expert investigation by a scientific or a professional investigation may also be

been incurred in the course of the procedure due to an unjustified non-appearance of the expert, his/her denial to testify or failure to present written findings and opinion, it can be decided that such costs are to be borne by the expert.

(2) A decision on the fine i.e. payment of costs shall be passed by an authorized official, in consent with an authorized official who is in charge of deciding on the administrative matter, and when another authority is asked to proceed in that matter – in consent with the official of that authority i.e. a person acting in an official capacity in charge of deciding on similar matters.

(3) Should it happen that an expert justifies subsequently his/her non-appearance or justifies subsequently his/her untimely presentation of his/her findings and opinion, an authorized official shall cancel the decision ordering the fine i.e. payment of costs, and should an expert subsequently agree on the conduct of expert investigation, the authorized official may cancel the decision on fine.

(2) Should not the owner or possessor allow that inquiry on the spot be conducted, provisions of this law on denial of testimony shall be applied accordingly.

(3) Measures applied against witnesses who deny to testify (Article 175, Paragraphs 2 and 4), shall be applied accordingly against owners or possessors who unreasonably prevent the conduct of inquiry. A special appeal shall be permitted against the decision pronounced by which is such a measure.

DECISION

1. Authority Competent to Issue a Decision

Article 196

(1) The authority competent for decision-making shall issue a decision on administrative matter that is subject of the procedure based on decisive facts determined in course of the procedure.

(2) In cases where a collegial authority makes a decision on the administrative matter, it shall proceed with issuing a decision in presence of majority of its members whereas the decision shall be issued by majority vote unless the law or other regulations provide a specific definition of qualified majority.

Article 197

When the law or other regulations stipulate that two or more authorities may issue a decision regarding certain matter, each of the respective authorities shall decide on the matter. Those authorities shall come to an agreement as to which one of them shall be responsible for issuing a decision and in such decision a reference to other authorities' acts shall be made.

Article 198

(1) In cases where the law or other regulations stipulate that certain authority may issue a decision only with prior consent of another authority, the decision may be issued only upon acquiring such consent. The authority responsible for issuing the decision shall include in its decision a reference to the document by which the other authority provided its consent.

(2) In cases where the law or other regulations stipulate that an authority competent for issuing a decision needs another authority's consent to it, the authority responsible for issuing the decision shall draft the decision and submit it, together with a complete set of supporting documents, to the other authority which may record certification of its consent on the submitted document or may issue a separate act. In this case it shall be considered that the decision is issued when the other authority consents to it and such decision is considered an act of the authority that passes i.e. issues it.

(3) Provision of paragraph 2 of this Article shall also apply in cases where the law or other regulations stipulate that the decision is issued by one authority with the certification or approval from another authority.

(4) In cases where the law or other regulations stipulate that the competent authority is required to obtain an opinion from another authority prior to issuing a decision, the decision shall be issued upon obtaining such opinion.

(5) The authority responsible for giving consent or providing an opinion required in order to issue a decision shall give its consent i.e. opinion within one month from the date the request has been made unless the deadline is otherwise defined by other

regulations. If this authority fails to give or deny its consent to the authority responsible for issuing the decision within the given deadline, such consent shall be deemed given and if it fails to provide an opinion, the competent authority may issue the decision without obtaining such opinion unless otherwise stipulated by other regulations.

Article 199

If the person authorized to conduct the procedure is not authorized to issue a decision, this person shall submit a draft decision to the authority responsible for issuing it. This person shall initial the draft decision.

2. Form and Components of a Decision

Article 200

by a collegial authority, the date of its meeting related to deciding on the subject matter shall be indicated in the introduction.

Article 202

(1) The disposition shall include decisions on the matter of procedure as well as on all requests of interested parties that have not been separately resolved in the course of procedure.

(2) The disposition may define a condition that needs to be fulfilled prior to acquiring rights granted by the decision.

(3) In cases where certain actions are ordered by the decision, deadline for performing such actions shall be defined in the disposition.

Article 204

(1) Instruction on legal remedy shall provide information to the party about its options regarding filing an appeal or instituting an administrative or other procedure in court.

(2) In cases where an appeal may be filed against the decision, the instruction shall state the authority to which such appeal should be submitted as well as deadline for filing an appeal, number of copies and fees payable for submission, and it shall also state that the appeal may also be filed against the record.

(3) In cases where an administrative or other legal procedure can be instituted against the decision, the instruction shall state the court to which such a complaint should be submitted as well as number of copies and deadline for submission.

(4) In cases where the decision contains incorrect instruction, party may act in accordance with relevant regulations or in accordance with the instruction given. Party that acts in accordance with incorrect instruction shall not suffer negative consequences of such action.

(5) In cases where the decision contains no instruction or contains incomplete instruction, party may act in accordance with relevant regulations and it may also request the authority to amend the decision whereas the deadline for such request shall be eight days from the date of delivery of the decision.

(6) In cases where an appeal may be filed against the decision but the party is incorrectly instructed that no appeal may be filed against such decision and it is also incorrectly instructed that an administrative procedure may be instituted against the decision, the deadline for filing an appeal shall start from the date of delivery of the administrative act by which the party's complaint has been found illegitimate and therefore refuted, unless the party has already filed an appeal to the competent authority.

(7) In cases where an appeal may not be filed against the decision but the party is incorrectly instructed that such appeal may be filed and proceeds with filing it, therefore missing the deadline for instituting administrative procedure, the deadline for instituting administrative procedure shall start from the date of delivery of the decision refuting the appeal, unless the party has already requested institution of the administrative procedure.

(8) Instruction on legal remedy, as a separate part of the decision, shall be placed after exposition, on the left hand side.

Article 205

(1) The decision shall be signed by an authorized official competent for issuing it.

(2) Decision issued by a collegial authority shall be signed by the chairperson unless otherwise stipulated by the law or other regulations.

(3) In cases where collegial authority issues a complete decision all parties shall receive certified copy of the decision and in cases where collegial authority decides on

administrative matter in form of a conclusion, the decision shall be drafted in accordance with such conclusion. Certified copy of the decision shall be delivered to all parties.

Article 206

(1) If an administrative matter involves a number of persons, all of whom are familiar to the authority, a single decision may be issued for all persons whereas names of all those persons shall be stated in disposition and the reasons relating to each one of them shall be stated in exposition. Such decision shall be delivered to each person except in cases defined in Article 80 of this Law.

(2) If an administrative matter involves a number of persons not familiar to the authority, s single decision may be issued for all persons but it must contain data clearly identifying persons the decision relates to (for example: citizens or owners of real estate in particular street and similar cases).

Article 207

(1) In administrative matters of lesser importance where party's request is granted and the public interest or third party's interest remain unaffected by that, the decision may contain only disposition in form of a record in the documents of the matter provided that reasons for such action are evident and that there are no other relevant regulations.

(2) Decision referred to in paragraph 1 of this Article, as a rule, shall be j-42.7(the)0T a caw(ri(t)8.6ec)-10.9(( )5.6(d)-5.3(ecic)-5.2(i)35(io)-5.3(n).4( )5.6(s)-525(hall beis(su)-532tedrin)-5.3e party

(1) In cases where an administrative matter involves decision on a number of issues whereas only some of them are ready to be considered for decision and when issuing a separate decision regarding these issues is proved to serve the purpose, the authority may issue a decision related to those issues only (partial decision).

(2) Partial decision shall be considered independent in terms of legal remedies and execution.

Article 210

(1) In cases where the authority fails to issue a decision related to all issues covered by the procedure the authority may, based on party's proposal or ex officio, issue a separate decision (supplementary decision) related to issues still pending following previous decision. If the party's proposal for issuing supplementary decision is rejected it may file a special appeal against such decision.

(2) In cases where it is considered that a matter has been sufficiently addressed, supplementary decision may be issued without re-conducting separate examining procedure

(3) Supplementary decision shall be considered independent in terms of legal remedies and execution.

Article 211

(1) In cases where circumstances indicate that there is a need to issue an decision in order to temporarily settle relations or matters at issue prior to completion of the procedure, such decision shall be issued based on information available at the point when it is being issued. It shall be clearly indicated in the decision that it is considered to be a temporary decision.

(2) As a condition for issuing a temporary decision based on party's proposal, the authority may request provision of guaranties for damages that may be caused to the opposite party by execution of such decision in case that the primary request of party proposing temporary decision is not granted in the end.

(3) Decision on head matter issued upon completion of the procedure shall nullify the temporary decision issued during the course of the procedure.

(4) Temporary decision is considered independent in terms of legal remedies and execution

4. Deadline for Issuance of Decision

(1) In cases where the procedure is instituted on party's request i.e. ex officio if that proves to be in party's interest, and where there is no need to conduct a separate examining procedure and there are no reasons whatsoever that prevent issuing of a decision without delay (deciding on prior issue or other), the authority shall issue a

decision and deliver it to the party as soon as possible and not later than one month after the submission of proper request i.e. one month from the date of commencement of procedure ex officio, unless a shorter deadline is stipulated by the law. In rest of the cases where the procedure is instituted on party's request i.e. when it is instituted ex officio if that proves to be in party's interest, the competent authority shall issue a decision and deliver it to the party within two months unless a shorter deadline is stipulated by the law.

(2) In case that the authority whose decisions are subject to appeal fails to issue a decision and deliver it to the party within determined deadline, the party shall have the right to lodge an appeal on the presumption that its request has been refused. In case that the party is not permitted to lodge an appeal, the party may institute an administrative dispute before a competent court in accordance with law that regulates administrative dispute.

5. Correction of Mistakes in Decision

Article 213

(1) Authority competent for issuing a decision i.e. person authorized to sign or issue a

(2) An appeal against a conclusion is lodged within same deadline, in same manner and to the same authority as the appeal against a decision.

(3) Conclusion against which no separate appeal is allowed may be nullified by an appeal against the decision lodged by interested parties and other persons having legal interest except in cases where appeal against conclusion is not permitted by this law.

(4) Appeal shall not delay execution of a conclusion, unless otherwise stipulated by the law or the conclusion itself.

PART THREE

LEGAL REMEDIES

Chapter XIV

APPEAL

1. Right to Lodge an Appeal

Article 219

(1) A party may lodge an appeal against first instance decision.

(2) An appeal may also be lodged by a person who was not given the opportunity to participate in the procedure of first instance provided that the decision affects his or her rights and legal interests (interested person). If such person requests that the decision be delivered to him/her within the deadline approved for filing an appeal by a party, such person has the right to file an appeal within the deadline for issuing a decision on party's appeal.

(3) State prosecutor and other state authorities, provided that they are authorized by law, may lodge an appeal against a decision if it represents violation of law and is to the benefit of private or legal person at the expense of public interest.

Article 220

(1) An appeal may be lodged against a first instance decision issued by a ministry only in cases defined by the law and in cases of matters for which no administrative dispute may be instituted.

(2) An appeal may be lodged against a first instance decision issued by an administrative authority, local self-government authority, institution or other legal persons holding public authority.

(3) No appeal may be lodged against decision issued by the Government.

2. Competence of Authorities in Decision-Making on Appeals

Article 221

(1) In cases where it is permitted to lodge an appeal against ministry's and administrative authority's first instance decision issued by an organizational unit established for performance of certain administrative tasks, such appeal shall be decided on by the respective ministry or another administrative authority.

(2) In case of an appeal against first instance decision issued by administrative authority, local self-government authority, institution or other legal person holding public authority, such appeal shall be decided on by the respective supervisory authority.

Article 222

(1) An appeal against a decision issued in accordance with Article 197 or Article 198 of

appeal in cases of need for urgent measures (Article 133 paragraph 1 point 4) or in cases where delay of execution might cause irremediable damages to a party. In the latter, it is permitted to request adequate guarantees from the party having interest in the execution and make provision of such guarantees a condition for execution.

4. Reasons for Disputing Decisions by Appeal

Article 226

(1) A decision may be disputed by an appeal in case of:
1) violation of rules of procedure,
2) incomplete or incorrect establishment of facts,
3) incorrect application of material law.

(2) Major violations of rules for administrative procedure exist in case that:
1) the decision is issued by a truly incompetent authority
2) the person that was supposed to participate as a party or interested person, was not given the opportunity to participate in the procedure;
3) the party or interested person was not given the opportunity to make a declaration on all facts and circumstances essential to issuing a decision;
4) the party was not represented by a legal representative i.e. if the authorized representative did not hold a power of attorney;
5) the provisions of this law related to the language were violated;
6) a person which, by this law, should have been exempted from participating in this procedure or decision-making process or a person that does not meet requirements for conducting a procedure or issuing decision did take part in the process;
7) if disposition of a decision is contradictory to its exposition, thus making it

submitted in a number of copies corresponding to number of all parties involved. In that case the authority shall deliver a copy to each party and define deadline for all parties' declaration regarding new facts and evidence. This deadline shall be not less

could have had an influence on deciding on the administrative matter, it may amend the procedure in compliance with the provisions of this Law.

(2) The authority which has issued first instance decision shall also amend the procedure if the appellant presents facts and evidence in the appeal which could have influenced a different solution of an administrative matter provided that the appellant should have been given the opportunity to participate in the procedure prior to issuing the decision and such possibility was not granted to him or her or it was granted but he or she failed to use it which was justified in his or her appeal.

(3) According to the result of the additional procedure, the authority that issued first instance decision may, within the limits of a party's demand, decide on the administrative matter differently and replace it by new decision which nullifies the previous one.

(4) A party has the right of appeal against the decision from paragraph 3 of this Article.

Article 232

When the decision is issued without prior special examining procedure in case where it was compulsory, or when the decision is issued pursuant to Article 133, paragraph 1, point 1, 2 and 3 of this Law and the party was not granted a possibility to declare itself on the facts and circumstances important for issuing the decision, the party may require execution of a special examining procedure in its appeal, i.e. it may require to be given a possibility to declare itself on those facts and circumstances in which case a first instance authority shall execute such procedure. Upon executing the procedure, a first instance authority may acknowledge the request from the appeal and issue a new decision.

Article 233

(1) When an authority which issued a first instance decision finds that the submitted appeal is permitted and that it is lodged in timely manner and by an authorized person, fails to replace the decision against which the appeal is lodged with a new decision, it shall, without any delay and not later that 15 days from the day the appeal is submitted, forward the appeal to the authority competent for deciding on appeals.

(2) A first instance authority shall enclose all documents relating to the matter of appeal pursuant to paragraph 1 of this Article.

(3) If a first instance authority does not submit the documents related to the matter to the second instance authority within the period defined in paragraph 1 of this Article, the second instance authority shall request the first instance authority to submit all related documents and shall set a deadline respectively. The second instance authority may decide on the administrative matter even without the related documents.

8. Second Instance Authority Competent for Deciding on Appeals

Article 234

(1) If an appeal is not permitted, untimely or lodged by an unauthorized person, and a first instance authority fails to reject it based on those reasons, the authority competent for deciding on the appeals shall reject it.

(2) If a second instance authority fails to reject the appeal, it shall proceed with issuing decision on the matter.

(3) A second instance authority may overrule the appeal, nullify the decision as a whole or partially, or amend it.

Article 235

(1) A second instance authority shall refuse an appeal when it determines that the procedure prior to the decision was executed correctly and in accordance with the law whereas the appeal is devoid of merit.

(2) An second instance authority shall also refuse an appeal when it finds that there were shortcomings in the first instance procedures but that such shortcomings could not have had influence on issuing an decision on the administrative matter, and that they represent no serious violation of the rules of procedure from Article 226 of this Law.

(3) When a second instance authority finds that first instance decision is based on the provisions of the Law but for reasons other than the ones stated in the decision, it shall state such reasons in its decision, and refuse the appeal.

Article 236

(1) If a second instance authority determines that there were irregularities in the first instance procedure that make the decision null and void, it shall declare such a decision null and void, as well as the part of the procedure conducted after determination of the irregularity.

(2) If a second instance authority determines that a truly incompetent authority issued first instance decision, it shall nullify that decision ex officio and forward the matter to the competent authority.

(3) If a second instance authority determines that there were serious violations of rules of procedure from Article 226, paragraph 2 of this Law, it shall nullify that decision based on the appeal, that is, ex officio and return the matter to the first instance authority for retrial, except in the case defined by Article 226, paragraph 2, point 3 in which it shall decide on the matter by itself and do so by removing all serious violations of the rules of procedure.

Article 237

(1) When a second instance authority finds that a first instance procedure did not follow the rules of procedure that apply on issuing a decision on the matter but that there were no serous violations of rules of procedure from Article 226 of this Law, it shall amend the procedure and remove the stated shortcomings by itself or through a first

instance authority or another authority requested to intervene. If a second instance authority finds that, based on the facts stated in the amended procedure, there is a need to issue an decision on the administrative matter different from the one issued by the first instance authority, the second instance authority shall nullify the first instance decision by its own decision and resolve the administrative matter by itself.

(2)

Article 241

(1) If an appeal is lodged by a party because a first instance authority has not issued a

RETRIAL OF THE PROCEDURE

law if such a reason was unsuccessfully stated in the earlier procedure.

(4) The State Prosecutor may request retrial under the same conditions that apply to the party.

Article 246

If a decision, according to which a retrial is requested, was a subject of an administrative

Article 248

(1) The procedure can be repeated for reasons defined in Article 244, point 2 even in cases that a criminal procedure cannot be instituted and that there are

examine whether the circumstances, that is, the evidences that are stated as a reason for retrial are such that they could lead to a different decision, and if the authority determines that they could not, it shall refuse the request by passing a decision.

Article 252

(1)

the request for retrial, provided that there are sufficient grounds for presuming acceptance of such request, may issue the decision to postpone the execution until decision on retrial is issued.

(2) The conclusion that permits retrial shall delay the execution of the decision against which the retrial was granted.

Chapter XVI

EXCEPTIONAL CASES OF ANNULLMENT, CANCELLATION AND CHANGES TO THE DECISION

1. Changes and Cancellations of Decision Related to Administrative Dispute

Article 256

An authority against whose decision an administrative dispute is timely instituted may nullify or change its own decision prior to settlement of the dispute and provided that it accepts all the requests of the appeal, for the same reasons for which the court may annul such decision, if this does not violate the right of the party regarding the administrative procedure or the rights of a third person.

2. Annulment and Cancellation Based on Official Supervision

Article 257

(1) A competent authority, based on the official supervision, shall nullify the decision that

(1) A decision may be nullified or cancelled based on the official supervision of a second

4. Declaring Decision Null

Article 260

A decision shall be declared null when:

(1) it was issued in the administrative procedure whereas it is in court's jurisdiction or if it concerns the matter that cannot be solved in an administrative procedure under any circumstances;

(2)

6. Duties to Inform Competent Authority on Existence of Reasons for Retrial, Annulment, Cancellation and Changes to the Decision
Article 263

An authority that finds out that the law has been violated by a decision whereas such violation can justify retrial, annulment, cancellation and changes of the decision, shall inform, without any delay, the authority competent for instituting procedure and issuing the decision, i.e. the State Prosecutor, of this matter

PART FOUR

EXECUTION

Chapter XVII

1. General Provisions
Article 264

(1) Decisions adopted in the procedure shall be executed with a view to fulfilling monetary and non-monetary obligations**.**

(2) Decisions adopted in the procedure shall be executed when they become effective.

(3) First instance decisions shall become effective:

1) on expiry of appeals term, if the appeal has not been made;
2) on delivery to the party to the procedure, if no appeal could be made;
3) on delivery to the party to the procedure, if the appeal does not stay the execution;
4) on delivery to the party to the procedure of the decision rejecting or refusing the appeal.

(4) Second instance decisions changing the first instance decision shall take effect on delivery to the party to the procedure**.**

(5) If the decision specifies that the action that is the subject of execution may be performed within the specified period of time, the decision shall take effect on expiry of such period. If the decision does not specify the term for the performance of the action, the decision shall take effect within 15 days of the delivery date. The term permitted for execution under the decision, i.e. the 15-day period prescribed for execution, shall start as of the date when the decision referred to in paragraphs 3 and 4 of this Article takes effect.

(6) The execution can also be performed on the basis of a settlement, but only against persons taking part in the settlement.

(7) If the appeal stays the execution of the decision, and the decision refers to two parties to the procedure or more parties that take part in the procedure with identical requests, the a.08(a)-.2(l Ge.08(.5(ec)-)-5.6(t)8(5.5(ce)y)-5.6(tim)7h.5( )5.6(a)-.2(a)t in)te eth( )-5.7de( )-5or

Article 265

(1) The conclusion made in the administrative procedure shall be executed when it takes effect.

(2) The conclusion that may be subject to special appeal and the conclusion that may be subject to appeal through a separate appeal that does not prevent its execution shall take effect on notification, and where no prior notification occurred, on delivery to the party to the procedure.

(3) When the law or the conclusion itself specifies that the appeal shall not prevent the

Article 269

(1) The execution for the fulfilment of monetary and non-monetary obligations of subjects of execution shall be administered through an administrative procedure.

(2) The execution of deeds on property and shares in a company or other form of business organization shall be administered through a judicial procedure under the law governing the execution procedure.

Article 270

(1) The administrative execution shall be administered by the authority in charge of the first instance procedure, unless otherwise prescribed by other regulation.

(2) Public office holders may enforce their decisions provided they obtain the permission from the minister competent for state administration, or the mayor.

(3) If it is prescribed that an administrative execution cannot be administered by the authority that was in charge of that administrative case in the first instance, and the special regulation does not specify which authority is responsible, the execution shall be administered by the state authority competent for the territory of permanent residence, or temporary residence or the headquarters of the object of execution, unless otherwise specified by the law.

(4) The authority competent for internal affairs shall be obligated to provide the authority responsible for execution, at its request, with assistance in the execution procedure.

Article 271

(1) The authorized authority shall adopt, either ex officio or on the request of the execution petitioner, the conclusion authorizing the execution. Such conclusion shall state that the decision to be executed has become effective and define the method and mechanisms of execution. Appeals can be lodged against such a conclusion to the relevant second instance authority.

(2) If it is the decision referred to in Article 133, sub-paragraph 4, the conclusion authorizing the execution, method, term and mechanisms of execution shall be included in the decision so that no separate conclusion approving the execution shall be issued.

(3) The conclusion authorizing the execution of the decision that was adopted in the administrative procedure ex officio shall be promptly adopted by the authority in charge of execution of decisions when such a decision takes effect, not later than within 30 days of the date the decision takes effect, unless otherwise prescribed by another regulation. Failure to adopt the conclusion within date period does not eliminate the obligation to adopt it.

(4) When a decision is not executed by the authority that adopted it in the first instance, the petitioner of execution shall submit the proposal for the approval of execution to the authority that adopted the decision to be executed. If the decision has become effective,

that authority shall issue a document to confirm that the decision has become effective (notification of effect) and submit it for execution to the authority in charge of execution, while at the same time proposing the method and mechanisms of execution. The authority in charge of execution shall issue a conclusion authorizing the execution.

(5) When the decision issued by the authority that is not in charge of execution must be administered ex officio, that authority shall submit an approval proposal for execution to the authority in charge of execution after the procedure prescribed in paragraph 3 of this Article has been completed.

Article 272

(1) The administrative execution that is administered by the authority that was in charge of the procedure in the first instance shall be administered under the decision that took effect and the conclusion authorizing the execution.

(2) The administrative execution that is not administered by the authority that was in charge of the procedure in the first instance, shall be administered under the decision that includes the approval of enforceability and the conclusion authorizing execution.

Article 273

(1) During the administrative execution procedure, an appeal can be lodged only against the execution, and cannot be used to dispute the regularity of decision that is being executed.

(2) The appeal shall be lodged to the competent second instance authority. The appeal shall not prevent the execution. The appeal deadline and authority in charge of appeals procedure shall be subject to the provisions of Articles 221 to 225 of this Law.

Article 274

(1) The administrative execution shall be suspended ex officio and the steps already made annulled if it is established that the obligation has not been performed in its entirety, that the execution has not been authorized, that it has been administered against a person not having such an obligation, and if the petitioner of execution drops the petition or if the execution document has been annulled or cancelled.

(2) The administrative execution shall be prolonged if it is established that there is a clause allowing for delayed performance of obligation, or that instead of the temporary decision that is administered, another decision has been made relating to the major subject that is different from that in the temporary decision. The prolongation of execution shall be authorized by the authority that has issued the conclusion authorizing the execution.

Article 275

(1) Decisions on monetary obligations, i.e. fines pronounced under this law or regulations on special administrative procedure, shall be executed by the administrative authority in charge of public revenues.

(2) The fine shall be collected to the benefit of the budget financing operations and the authority that has pronounced the fine.

Article 276

(1) When judicial execution needs to be administered of a decision made in the administrative procedure, the authority whose decision is to be executed shall issue a conclusion authorizing the execution (Article 271, paragraph 3) and submit it for

person, it shall range from 50 to 500 Euros. A fine can be repeatedly imposed as long as the obligation had been fulfilled.

(4) The collected fine shall not be returned.

Article 280

If the execution of a non-financial obligation in due time or generally cannot be performed through implementation of mechanisms referred to in Articles 278 and 270 of this law, depending on the nature of obligation, the execution can also be administered through direct coercion, unless otherwise prescribed by the regulation.

Article 281

(1) When a decision is followed by execution, and the decision is later annulled or changed, the subject of execution shall have the right to request the refund of what has been taken away from him/her, or that the matter shall be returned to the condition arising from the later decision.

(2) The request of the subject of execution shall be decided on by the authority that has issued the conclusion authorizing the execution.

Chapter XVIII

SAFEGUARD EXECUTION AND TEMPORARY DECISION

1. Safeguard Execution

Article 282

(1) So as to ensure execution, the conclusion can permit the execution of the decision even before it takes effect, if the execution would otherwise be threatened or made considerably more difficult after the decision takes effect.

(2) If these are obligations that are executed by coercion only following the request of the party, such a party must prove the threat, and the authority can order the execution referred to in paragraph 1 of this Article conditional on the provision of guarantee in accordance with Article 211, paragraph 2 of this law.

(3) Special appeals can be lodged against the conclusion issued on the proposal of the party for safeguard execution, as well as against the conclusion issued ex officio. The appeal against the conclusion prescribing the safeguard execution shall not prevent the execution.

Article 283

(1) Safeguard execution can be administered through either administrative or judicial procedures, and the safeguard execution over property or shares in companies or other forms of business organization shall be administered through a judicial procedure under the provisions of the Law on Execution Procedure.

(2) When the safeguard execution is administered through a judicial procedure, the court shall in accordance to the law regulating the execution procedure and the provisions of other laws applicable to judicial execution.

Article 284

The execution of a temporary decision can be administered only to the extent and in those cases when such safeguard execution is permitted.

2. Temporary Safeguard Conclusion

Article 285

(1) If there is the obligation of the party or if it has at least been made possible, and there is danger that the party under obligation will somehow threaten or make considerably more difficult the performance of obligation, the authority in charge of issuing the

PART FIVE

IMPLEMENTATION OF THE LAW, INSPECTION CONTROL AND TRANSITIONAL AND FINAL PROVISIONS

Chapter XIX

IMPLEMENTATION OF THE LAW

Article 287

(1) Decisions adopted in administrative procedures shall be subject to official record keeping.

(2) The records referred to in paragraph 1 of this Article shall include the following data: number of lodged requests; number of procedures initiated ex officio; method and terms allowed for administrative procedures at first instance and second instance levels; number of nullified, or cancelled administrative acts, as well as number of rejected requests, and the number of terminated procedures.

(3) Data referred to in paragraph 2 of this Article shall be kept and represented by the authorities by respective areas of administrative affairs. The said authorities shall report the same to th9 TD.00rm7.1(l)-2.28nntou7sęr o

cost of administrative procedure, implementation of regulations in office work and record

Chapter XX

TRANSITIONAL AND FINAL PROVISIONS

Article 294

Administrative procedures that have been initiated before this law comes into effect shall be subject to the provisions of this law, unless the procedure has resulted in the final decision, if that is more favourable for the party.

Article 295

(1) Secondary legislation based on this law shall be enacted within six months of the date this law comes into effect.

(2) Until regulations referred to in paragraph 1 of this Article are adopted, secondary legislation enacted on the basis of the Law on General Administrative Act (“Official Gazette of the Federal Republic of Yugoslavia’’ No. 33/97) shall be used.

Article 296

As of the date this law comes into effect, the provisions of Article 26 and Chapter “IV Administrative Inspection” and Articles 29-32 of the Law on Inspection Control (“Official Gazette of the Republic of Montenegro, No. 50/92) shall become invalid.

Article 297

This law shall come into effect on the eight day of its publication in the “Official Gazette of the Republic of Montenegro”.