



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE  
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2009

Country: Hungary

National correspondent

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## 1. Demographic and economic data

### 1. 1. General information

#### 1. 1. 1. Inhabitants and economic information

##### 1) Number of inhabitants

10045401

##### 2) Total of annual State public expenditure / where appropriate, public expenditure at regional or federal entity level (in €)

	Amount
State level	39359114548
Regional / entity level	

##### 3) Per capita GDP (in €)

10555

##### 4) Average gross annual salary (in €)

9392

##### 5) Exchange rate from national currency (non-Euro zone) to € on 1 January 2009

265

**Please indicate the sources for questions 1 to 4 and give comments concerning the interpretation of the figures supplied if appropriate:**

1-4 Office of Data

5 Official Journal of the European Union (2009/C 1/05); Euro exchange rates 2 January 2009 (Source: reference exchange rate published by the ECB)

The exchange rate on 2 January 2009: 265,48 HUF

### 1. 2. Budgetary data concerning judicial system

#### 1. 2. 1. Budget (courts, public prosecution, legal aid, fees)

##### 6) Total annual approved budget allocated to all courts (in €)

290200000

##### 7) Please specify

Million euro

Expenditure 290.2

Revenue 21.2

Subsidy 269.0

Source: Act CLXIX of 2007 on the budget of the Hungarian Republic in 2008

The state budgetary estimate contains the budget of the Supreme Court, the 5 High Courts of Appeal, the Metropolitan Court, the 19 County Courts, the Office of the National Council of Justice and the Chapters administered appropriations.

Chapters administered appropriations are the following:

- Investments of Justice
- Compensation according to the Act IV of 1959
- Programmes of temporary subvention
- Execution of the New Hungary Development Plan
- Expenditure of keeping account of the Treasury
- Balance reserve of the Chapter

**8) Does the approved budget of the courts include the following items? Please give for each item (or some of them) a specification of the amount concerned or indicate NA (not available) in case that the information cannot be supplied**

**Please provide comments to explain the data provided under question 8:**

Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	235340150
Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input checked="" type="checkbox"/> Yes	8800000
Annual public budget allocated to justice expenses	<input checked="" type="checkbox"/> Yes	5200000
Annual public budget allocated to court buildings (maintenance, operation costs)	<input checked="" type="checkbox"/> Yes	31300000
Annual public budget allocated to investments in new (court) buildings	<input checked="" type="checkbox"/> Yes	7200000
Annual public budget allocated to training and education	<input checked="" type="checkbox"/> Yes	300000
Other (please specify):	<input type="checkbox"/> Yes	

Comment :

Source:

The detailed budget of 2008 prepared by the program of the Hungarian Treasury and based on the budgetary act voted by the Parliament.

**9) Has the annual public budget of the courts changed (increased or decreased) over the last five years?**

☒ Yes

☐ No

If yes, please specify (i.e. provide an indication of the increase or decrease of the budget over the last five years:

The subsidy of the judicial chapter in the period 2004-2008:

In 2004 subvention was +34.6%  
 in 2005: -0.4%  
 in 2006: - 0.3%  
 in 2007: +1.3%  
 in 2008: +3.1%

In 2004 there was a remarkable growth in comparison to 2003 thanks to establishing the High Courts of Appeal. In 2005 and 2006 the subsidy of this chapter decreased a little bit but in 2007 and 2008 there was a soft growth to cover the new tasks.

**10) In general are litigants required to pay a court tax or fee to start a proceeding at a court of general jurisdiction:**

☐ for criminal cases?

☒ for other than criminal cases?

If yes, are there exceptions? Please specify:

In criminal cases a fee is requested only in cases of private accusation or when the request submitted is of civil law nature.

**11) If yes, please specify the annual income of court fees (or taxes) received by the State (in Euros)**

NA

**12) Total annual approved budget allocated to the whole justice system (in €)**

**Please provide information concerning the budgetary elements that included in the whole justice system budget:**

. ☒ Amount 1787400000

Comment :  
 Million euro  
 Courts 290,2  
 Prosecutor's Office of the Hungarian Republic 120,5  
 Ministry of Justice 1.376,7  
 Total: 1.787,4

Budgetary elements:  
 - personal benefits  
 - contrubitions which charge the employer  
 - material expenses  
 - other expenses

### 13) Total annual approved public budget allocated to legal aid (in €)

Please provide comments to explain the figure provided under question 13:

. ☒ Amount 319765

Comment :  
 This total is a framework sum for legal aid in litigious cases and extra-judicial cases as well. The framework sum is an appropriation figuring in the budget of the Ministry of Justice and Law Enforcement, which can be spent only on legal aid. The appropriation is opened from above, which means that if the sum appropriated is not sufficient, the Ministry of Finance may authorize the use of further necessary amounts at the request of the Ministry of Justice and Law Enforcement. In 2008 the state paid - exceeding the appropriated framework sum - €351366 for legal aid

### 14) If possible, please specify (if no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation):

	Annual public budget allocated to legal aid in criminal law cases	Annual public budget allocated to legal aid in non criminal law cases
Amount	NAP	NAP

Comment :  
 The availability of the framework sum is not divided between the two fields of law. It can be used for both civil and criminal proceedings. In 2008 the state paid - exceeding the appropriated framework sum - €351366 for legal aid in civil and criminal cases jointly. €321646 were spent on extra-judicial legal aid and €29719 on litigious legal aid (representation before court).

It is worthy of note that the providing of representation before court as legal aid has fallen under the scope of legal aid service since 1st January 2008. In the cases initiated previous to this date the providing of representation before court lies with the courts. In criminal cases the mandatory representation of the defendant does not come under the scope of legal aid service, but only the representation of injured parties (victims, substitute civil suitors, private prosecutors, other concerned parties).

### 15) Is the public budget allocated to legal aid included in the court budget ?

☐ Yes  
☒ No

### 16) Total annual approved public budget allocated to the public prosecution system (in €)

Please provide comments to explain the figure provided under question 16:

. ☒ Amount 120500000

Comment :  
 86% spent on salaries, income taxes, health insurance, social insurance for the staff  
 11% spent on functional costs including maintenance of office buildings  
 3 % reserve

**17) Is the budget allocated to the public prosecution included in the court budget?**

- ☐ Yes
- ☒ No

**18) Authorities formally responsible for the budget allocated to the courts:**

	Preparation of the total court budget	Adoption of the total court budget	Management and allocation of the budget among the individual courts	Evaluation of the use of the budget at a national level
Ministry of Justice	No	No	No	No
Other ministry	No	No	No	No
Parliament	No	Yes	No	Yes
Supreme Court	No	No	No	No
Judicial Council	Yes	No	Yes	Yes
Courts	Yes	No	No	Yes
Inspection body	No	No	No	Yes
Other	No	No	No	No

**19) If other Ministry and/or inspection body and/or other, please specify (in regards to question 18):**

inspection body: State Audit Office

**You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your budgetary system and the main reforms that have been implemented over the last two years
- if available an organisation scheme with a description of the competencies of the different authorities responsible for the budget process

**Please indicate the sources for answering the questions 6, 8, 11, 12, 13, 14 and 16.**

National Council of Justice  
 Ministry of Justice  
 Office of the Prosecutor General

## 2. Access to Justice and to all courts

### 2. 1. Legal aid

#### 2. 1. 1. Principles

#### 20) Does legal aid concerns:

	Criminal cases	Other than criminal cases
Representation in court	Yes	Yes
Legal advice	Yes	Yes
Other	Yes	Yes

#### 21) If other, please specify (in regards to question 20):

Legal aid is the institutional system ensuring that persons legally qualifying as persons without resources may receive expert legal advice, representation in the proceedings and cost benefits when enforcing their rights and solving their legal disputes.

Act LXXX of 2003 on Legal Aid will take effect in two steps: the rules concerning legal aid for legal cases not heard by a court already took effect on 1 April 2004, while the new rules on legal aid for court proceedings take effect on 1 January 2008. With the provisions of the Act that already took effect it became possible to use the forms of legal aid that are not connected to legal proceedings (legal advice and drafting). Legal aid for legal cases not heard by a court means that the fees paid for the legal expert providing a legal service defined by law for the party is paid or paid in advance by the state on behalf of the party.

4. Can legal aid be obtained for all disputes?

Under the current rules legal aid is available at both civil and criminal proceedings. During the proceedings the aid system is mainly run by the courts (in the case of criminal proceedings the investigating authorities, the prosecution and the courts). Several factors influence whether legal aid can be provided in the legal dispute in question; the type of legal dispute in question is just one among these. Depending on the type of the legal dispute, legal aid is not available for civil proceedings relating, for example, to company registrations, notarial formalities, etc.

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In criminal proceedings, legal aid depends basically on the situation of the accused. Accordingly, if the accused qualifies as a person without resources on the basis of his/her financial situation, then he or she may be given legal aid, irrespective of the offence charged. The applicant must be given legal aid regardless of his/her financial situation if he or she is for example underage, detained, etc.

12. If I qualify for legal aid, will this cover all the costs of my trial?

This mainly depends on what kind of benefit the applicant receives:

a) In civil proceedings cost benefits may be the following based on their content:

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\* exemption from costs is the broadest category: it includes exemption from court charges, exemption from advance payment and costs to be borne during the proceedings and the opportunity to request the appointing of a court-appointed lawyer,

\* exemption from court charges is a narrower category than exemption from costs: through it the party is exempted from the obligation to pay court charges but is not entitled to receive further benefits going together with exemption from costs,

\* in the case of right to levy registration the party enjoying this right may only be exempted from paying the charges in advance, and in such a case the party obliged by court will have to pay the charges after the proceedings are over.

Exemption from costs, exemption from charges and the right to levy registration do not concern the costs of a trial to be borne by the adversary and the obligation to refund the charges paid and the costs paid in advance (enforcement costs) by the parties in the enforcement process.

b) In the course of the criminal proceedings if it is probable that, due to his/her income or financial situation, the accused will not be able to pay the costs of the proceedings and he/she certifies this, the court or the prosecutor decides on the authorisation of personal exemption of costs for the accused the request of the accused or his/her defence attorney. If the personal exemption from costs is authorised:

- \* at the request of the accused the court, the prosecutor or the investigating authority appoints a defence attorney,
- \* no court charges have to be paid for providing the copies of the documents of the criminal case for the accused

and his/her appointed defence attorney on one occasion,

\* the state bears the fees and certified out-of-pocket costs of the court-appointed lawyer.

13. If I qualify for partial legal aid, who will pay the other costs?

Since the current legislation does not distinguish between partial or full exemption from costs at court proceedings, if the court authorises exemption from costs, then this covers all the costs of a trial - with the exceptions in point 12.

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14. If I qualify for legal aid, will it cover any review I might make following the trial?

If legal aid is authorised it extends to all phases of the proceedings, including the appeals procedure and enforcement on the basis of the proceedings.

15. If I qualify for legal aid, can it be withdrawn before the end of the trial (or even after the trial)?

a) In civil proceedings the court checks whether the conditions for eligibility for legal aid are still met as follows:

- \* until the final decision in the proceedings, annually on the basis of the date of the authorisation,
- \* before the issuing of the enforceable document, if already a year has passed since the final decision in the proceedings, and
- \* at any time during the proceedings - including the decision on the request for review - if data comes to light concerning the fact that the conditions were not fulfilled at the time of authorisation or at a later stage in the proceedings.

During the review the court revokes the aid if the party does not comply with what has been stated in the call of the court or if in the course of the review the court establishes that the applicant is no longer eligible.

b) During the criminal proceedings the accused receiving legal aid or the substitute private prosecutor must report all changes in his/her own or his/her dependant's income and financial situation - except where the income decreases or is no longer received - and all changes in his/her personal circumstances that concern the conditions of authorisation. The court and the prosecutor, on the basis of the statement but at least yearly, shall check whether the conditions for personal exemption from costs are still met. The court or, in the case of an accused, before the indictment the prosecutor, may review the eligibility for legal aid of its own motion if data comes to light to suggest that the conditions were not fulfilled at the time of authorisation or at a later stage in the proceedings.

If it emerges from the review that the conditions for legal aid were not fulfilled, the prosecutor before the indictment, or, in the case of a substitute private prosecutor, the court thereafter shall revoke it.

## 22) Does legal aid foresee the covering or the exoneration of court fees?

☒ Yes

☐ No

If yes, please specify:



The legal aid system consists of covering court fees and the service of an attorney at law for free.

12. If I qualify for legal aid, will this cover all the costs of my trial?

This mainly depends on what kind of benefit the applicant receives:

a) In civil proceedings cost benefits may be the following based on their content:

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- \* exemption from costs is the broadest category: it includes exemption from court charges, exemption from advance payment and costs to be borne during the proceedings and the opportunity to request the appointing of a court-appointed lawyer,
- \* exemption from court charges is a narrower category than exemption from costs: through it the party is exempted from the obligation to pay court charges but is not entitled to receive further benefits going together with exemption from costs,
- \* in the case of right to levy registration the party enjoying this right may only be exempted from paying the charges in advance, and in such a case the party obliged by court will have to pay the charges after the proceedings are over.

Exemption from costs, exemption from charges and the right to levy registration do not concern the costs of a trial to be borne by the adversary and the obligation to refund the charges paid and the costs paid in advance (enforcement costs) by the parties in the enforcement process.

b) In the course of the criminal proceedings if it is probable that, due to his/her income or financial situation, the accused will not be able to pay the costs of the proceedings and he/she certifies this, the court or the prosecutor decides on the authorisation of personal exemption of costs for the accused the request of the accused or his/her defence attorney. If the personal exemption from costs is authorised:

- \* at the request of the accused the court, the prosecutor or the investigating authority appoints a defence attorney,
- \* no court charges have to be paid for providing the copies of the documents of the criminal case for the accused and his/her appointed defence attorney on one occasion,
- \* the state bears the fees and certified out-of-pocket costs of the court-appointed lawyer.

13. If I qualify for partial legal aid, who will pay the other costs?

Since the current legislation does not distinguish between partial or full exemption from costs at court proceedings, if the court authorises exemption from costs, than this covers all the costs of a trial - with the exceptions in point 12.

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14. If I qualify for legal aid, will it cover any review I might make following the trial?

If legal aid is authorised it extends to all phases of the proceedings, including the appeals procedure and enforcement on the basis of the proceedings.

15. If I qualify for legal aid, can it be withdrawn before the end of the trial (or even after the trial)?

a) In civil proceedings the court checks whether the conditions for eligibility for legal aid are still met as follows:

- \* until the final decision in the proceedings, annually on the basis of the date of the authorisation,
- \* before the issuing of the enforceable document, if already a year has passed since the final decision in the proceedings, and
- \* at any time during the proceedings - including the decision on the request for review - if data comes to light concerning the fact that the conditions were not fulfilled at the time of authorisation or at a later stage in the proceedings.

During the review the court revokes the aid if the party does not comply with what has been stated in the call of the court or if in the course of the review the court establishes that the applicant is no longer eligible.

b) During the criminal proceedings the accused receiving legal aid or the substitute private prosecutor must report all changes in his/her own or his/her dependant's income and financial situation - except where the income decreases or is no longer received - and all changes in his/her personal circumstances that concern the conditions of authorisation. The court and the prosecutor, on the basis of the statement but at least

yearly, shall check whether the conditions for personal exemption from costs are still met. The court or, in the case of an accused, before the indictment the prosecutor, may review the eligibility for legal aid of its own motion if data comes to light to suggest that the conditions were not fulfilled at the time of authorisation or at a later stage in the proceedings.

If it emerges from the review that the conditions for legal aid were not fulfilled, the prosecutor before the indictment, or, in the case of a substitute private prosecutor, the court thereafter shall revoke it.

**23) Can legal aid be granted for the fees that are related to the execution of judicial decisions?**

- ☒ Yes  
☐ No

**24) Number of cases granted with legal aid provided by (national, regional, local) public authorities (if no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation):**

	Number
Total	43792
in criminal cases	2836
Other than criminal cases	40956

**Comment :**

These data are nationwide and pertain only to legal aid in litigious cases (i.e. representation before court). In extra-judicial cases 9621 client could seek legal advice and call for assistance in drafting legal documents in civil and criminal cases jointly. Beyond that the staff of the legal assistance service gave legal advice and guidance to 29941 clients on less complicated legal matters.

**25) In a criminal case, can any individual who does not have sufficient financial means be assisted by a free of charge (or financed by public budget) lawyer?**

- ☒ Yes  
☐ No

**26) Does your country have an income and asset test for granting legal aid:**

	Yes	Amount in €
for criminal cases	see below	
for other than criminal cases?	see below	

**Comment :**

The amounts below are to be considered as monthly net income per capita and in every case there is a further requirement of the client's (party) having no property (except the customary necessities, furnishings and the real properties of the party that serve as housing for the party and their dependants).

**In criminal cases:**

- under €107 monthly net income: the state pays (assumes) the party's legal services fees (lawyer's fees) in both extra-judicial cases and litigious cases
- under €554 monthly net income: it is applicable only in litigious cases initiated by the victims in connection with the criminal offense; in extra-judicial cases the state pays (assumes) the party's legal services fees, in litigious cases the state only advances the party's legal services fees (lawyer's fees)

**In civil cases:**

- under €107 monthly net income: the state pays (assumes) the party's legal services fees (lawyer's fees) in both extra-judicial cases and litigious cases
- between €107 and €277 monthly net income: the state only advances the party's legal services fees (lawyer's fees) in both extra-judicial cases and litigious cases

- under €554 monthly net income: it is applicable only in litigious cases initiated by the victims in connection with the criminal offense; in extra-judicial cases the state pays (assumes) the party's legal services fees, in litigious cases the state only advances the party's legal services fees (lawyer's fees).

7. Which documents should I attach to my request for legal aid?

In court proceedings the applicant must attach to the request for legal aid the documents needed to establish eligibility. These documents are the following:

- \* statement of personal data on the applicant and his/her dependant(s),
- \* statement on the financial situation of the applicant and his/her dependant(s),
- \* if the applicant or his/her dependant is employed, a certificate from the employer on his/her income at the date of the application,
- \* a certificate regarding taxable income received in the calendar year preceding the application,
- \* if the applicant receives a pension, the last postal certificate indicating the amount of the pension,
- \* if the applicant or his/her dependant receives unemployment benefit or other continuous social aid, the certificate stating the period of eligibility and the amount received.

The following documents must be attached to an application for legal aid for cases not heard by a court:

- \* statement of the personal data and financial situation of the applicant and the persons living in the same household,
- \* if the applicant or his/her dependant is employed, a certificate from the employer on his/her taxed income at the date of the application,
- \* if the applicant receives a pension, the monthly postal certificate from the month preceding the application or the latest account statement (copy),
- \* if the requesting person or his/her dependant receives unemployment benefit or other continuous social aid, the certificate stating the period of eligibility and the amount received.

**27) In other than criminal cases, is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action)?**

☒ Yes

☐ No

Please provide comments to explain the answer under question 27:

**28) If yes, is the decision for granting or refusing legal aid taken by:**

☒ the court?

☐ an authority external to the court?

☐ a mixed decision-making authority (court and external)?

**29) Is there a private system of legal expense insurance enabling individuals to finance court proceedings?**

☒ Yes

☐ No

Please specify:

**30) Do judicial decisions have an impact on who bears the legal costs which are paid by the parties during the procedure in:**

	Yes (the decision has an impact on who bears the legal costs)
criminal cases?	Yes
other than criminal cases?	Yes

**You can indicate below:**

**- any useful comments for interpreting the data mentioned in this chapter**

### - the characteristics of your legal aid system and the main reforms that have been implemented over the last two years

Costs of a trial are all costs that arise in connection with the trial, either at a court trial or at legal cases not heard by a court. The possible types of costs of a trial and the rules for bearing these costs is regulated differently for civil and for criminal proceedings.

a) Costs of a trial at civil proceedings:

For civil proceedings Act III. of 1952 on the Code of Civil Procedure contains the basic rules concerning the costs of a trial. The Act enumerates the possible types of costs of a trial by citing examples. Such costs might be for example the cost of preliminary enquiries and exchange of letters, levy on proceedings, fees of witnesses and experts, fees of trustees and interpreters, cost of local trial and inquiry. The out-of-pocket expenses and costs of the lawyer acting for the party, the legal adviser and the patent agent have to be counted towards the costs of the trial, as well.

The court awards costs in the final decision on the substance of the case, in which, as a general rule, the losing party is obliged to pay for the costs of the successful party. Under the Act the court may, as an exception, refrain from ordering the losing party to pay the costs of the trial or to pay part of them, but may oblige the persons concerned to bear the costs immediately (for example, if the witness, expert, or other any person not involved in the trial has to be ordered to pay the costs of an action of the trial). The court may take similar action if one of the parties bears the cost of any act of the trial without regard to the decision in the trial (e.g. where the party carries out acts of the trial unsuccessfully or is unjustifiably late with certain actions of the trial or misses a date or a deadline or causes unnecessary costs in any other way). If before the decision on the substance of the case a cost arises in the proceedings that one of the parties has to bear, this cost has to be paid on the party's behalf in advance. If the court decides on paying the costs in advance, then the proving party or the party whose actions generated the costs must temporarily bear the costs that have arisen, but the court decides in the decision on the substance of the case who should bear this cost in the end.

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b) Costs of a trial in criminal proceedings:

On the basis of Act XIX of 1998 on Criminal Proceedings the costs of a trial in criminal proceedings include the following costs:

- \* the cost that the state paid in advance in the case from the launching of the proceedings until the end of the enforcement of the sentence and during the extraordinary appeal procedure and the special proceedings,
- \* the out-of-pocket costs of the accused, the victim, the civil party, the substitute private prosecutor, the private prosecutor, or the legal representative of the accused and the victim, that arise in connection with the case even if the state did not pay it in advance,
- \* the out-of-pocket costs and fees of the designated counsel and the representative of the accused, the civil party and the substitute private prosecutor, even if the state did not pay in advance.

In criminal proceedings the court orders the accused to bear the expenses in criminal proceedings in the event of a conviction. The accused may only be obliged to bear the expenses in criminal proceedings that have arisen in connection with acts if he or she has been found guilty. The accused may not, however, be obliged to bear the expense in criminal proceedings that has arisen unnecessarily, unrelated to his/her misconduct. The portion of the expenses in criminal proceedings that the accused may not be obliged to bear is borne by the state. The state also bears costs that arise in connection with the accused being deaf, numb, blind, unable to speak Hungarian or using a regional or minority language during the process. Even if the accused is acquitted or the proceeding is terminated, the accused must bear costs that have arisen because of his/her misconduct.

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**Please indicate the sources for answering the questions 24 and 26**

## 2. 2. Users of the courts and victims

### 2. 2. 1. Rights of the users and victims

**31) Are there official internet sites/portals (e.g. Ministry of Justice, etc.) for the following, which the general public may have free of charge access to:**

- |   |   |                                    |
|---|---|------------------------------------|
| <input type="checkbox"/> legal texts (e.g. codes, laws, regulations, etc.)? Internet address(es): | <input checked="" type="checkbox"/> Yes | www.magyarorszag.hu,<br>www.irm.hu |
| <input type="checkbox"/> case-law of the higher court/s? Internet address(es):                    | <input checked="" type="checkbox"/> Yes | www.birosag.hu,<br>www.lb.hu       |
| <input type="checkbox"/> other documents (for examples forms)? Internet address(es):              | <input checked="" type="checkbox"/> Yes | www.irm.hu                         |

**32) Is there an obligation to provide information to the parties concerning the foreseeable timeframe of the proceeding?**

☐ Yes

☒ No

If yes, please specify:

**33) Is there a public and free-of-charge specific information system to inform and to help victims of crimes?**

☒ Yes

☐ No

If yes, please specify:





Regional services established based on Act 135 of 2005 on the help and compensation of victims of crimes.

#### The Hungarian Victim Support Service

The Hungarian Parliament passed Act CXXXV of 2005 on Crime Victim Support and State Compensation (hereinafter Act) on the 29th of November 2005. On the basis of equity and social solidarity the Act aims at providing services for those whose financial, social, physical and psychological conditions have deteriorated as a result of a crime.

#### Victim of Crime

Victim can be any natural persons who has suffered injuries as a direct consequence of criminal acts, in particular bodily or emotional harm, mental shock or economic loss.

Victims can be entitled to victim assistance if the crime was committed on the territory of Hungary and the persons are

- \* Hungarian citizens,
- \* citizens of any EU Member State,
- \* citizens of any non-EU country lawfully residing in the territory of the European Union,
- \* stateless persons lawfully residing in the territory of the Republic of Hungary,
- \* victims of trafficking in human beings, and
- \* any other persons deemed eligible by virtue of international treaties concluded between their respective states of nationality and the Republic of Hungary or on the basis of reciprocity.

According to the Act victim assistance is provided by the county offices of the Office of Justice Victim Support Service. Victim assistance covers victim support (facilitate the protection of victims' interests, grant instant monetary aid and provide legal aid) and state compensation. Our offices give widespread information and advice to anybody.

The financial forms of assistance aim only the mitigation of damages, we can not compensate all damages of the victim.

#### Information and advice

The Victim Support Service's county offices give information and advice on

- \* the rights and obligations the victim has in criminal proceedings,
- \* the forms of support available to the victim and the conditions for application therefor,
- \* any available benefits, allowances and opportunities to assert the victims's rights other than those provided for herein,
- \* the contact details of state, local government, civil and church organizations involved in helping victims of crime, and
- \* the opportunities to avoid secondary victimization with a view to the type of the criminal act.

The protection from secondary victimization means the victim's protection from further physical, psychological and pecuniary damages.

#### Victim support

The victims of any type of crime can be entitled to victim support in order to facilitate the protection of the victim's interest, to legal aid and to instant monetary aid.

- \* Facilitate the protection of victims' interests

The Victim Support Service helps to facilitate the enforcement of the victim's fundamental rights, to have resort to health care, social security and social benefits. In



order to be entitled to this aid the application form has to be submitted within six months after the crime was committed.

\* Legal aid

If the Victim Support Service states that someone is victim of a crime, the Legal Aid Service advances the fees of the legal aid for those whose net monthly income does not exceed the wage of HUF 159.100 in 2009. In order to be entitled to this support you application form has to be submitted within six months after the crime was committed.

\* Instant monetary aid

Instant monetary aid covers the victim's extraordinary expenses in connection with housing, clothing, nutrition and travel, medical and funeral expenses in the event where he/she is unable, as a consequence of being victimized, to cover such expenses. Victim Support Services may give a maximum of HUF 79.550 in 2009. The application form for this support has to be submitted within three working days after the crime was committed.

The Victim Support Service shall not provide services for a crime victim who

- \* has already been granted the support applied for in an earlier phase of his/her case,
- \* had provided false information in a previous application for victim support services, for a period of two years following the operative date of the relevant resolution ,
- \* obstructs the examination aimed at verifying the data furnished in his/her application for support,
- \* had obstructed the examination aimed at verifying data furnished in a former application for support, for a period of two years following the operative date of the relevant resolution ,
- \* has failed, although he/she would have been obliged, to repay to the State the amount of monetary aid or the fee of legal assistance granted hereunder.

State compensation

\* Those indigent victims are entitled to state compensation who suffered an intentional and violent act, unlawful in terms of criminal law, and as a result their physical integrity or health has been seriously damaged.

\* Furthermore, compensation can be provided to a natural person who was living at the time of the crime with the victim as a domestic partner and was a next of kin, adoptive parent, foster parent, adopted child, foster child, spouse or a common-law spouse of a deceased or an injured party. Furthermore, compensation can be provided to a natural person whom the victim is or was obliged to maintain pursuant to the provisions of a legal regulation, an enforceable court order or official decision or a valid contract.

\* Victims also have to be indigent to be entitled to compensation. Indigence is defined by the income position of the applicant. Based on income position, the applicant shall be considered as indigent if his/her income (in the case of persons living in a common household the per capita income) does not exceed HUF 159.100 in 2009. If the victim is participating in a refugee procedure in Hungary, his/her state of indigence is a presumption of law.

The application form for state compensation has to be submitted to any county office within three month after the crime was committed. The office helps to fill the form and transmits it to the deciding authority, the Budapest Office of Victim Support Service.

The citizens of the EU can also submit the application form in their Member State of residence. Compensation shall be paid for these victims also by the Hungarian Victim Support Service.

The sum of state compensation can be

- \* lump-sum payment if it aims at compensating pecuniary damages or
- \* regular monthly installments if it aims at compensating the diminution of regular income.

The lump-sum payment's maximum amount is HUF 1.193.250 in 2009.

Allowance may be given for the period of three years with the maximum sum of HUF 79.550 in 2009 monthly.

The payment of allotments to a victim shall be terminated if

\*

- o the victim's eligibility for regular social services or pension insurance benefits has been officially established with a view to the crime, and disbursement of such benefits commenced,
- o the victim has been granted annuity payments for damages by a non-appealable court order, and disbursement of such annuity has commenced,
- o an insurance company starts disbursing annuity benefits to the victim,
- o the victim's disability to work came to an end, or
- o the victim was absent from the compulsory expert medical examination without proper justification.

A crime victim shall be deemed ineligible for compensation if

a) any of the grounds for ineligibility set forth in Section 5 applies,

b) he/she failed to enforce his/her social security or other insurance claim arising from the crime, or he/she enforced his/her claim for damages or insurance claim and he/she was fully compensated for his/her damages (including payments made by any foreign state, insurance company or non-governmental victim protection organization) by the time of submission of the application for state compensation,

c) his/her behavior gave reason for the commission of the crime, or was instrumental in the occurrence of the loss as is established by the final court verdict,

d) his/her own actionable conduct caused the damage, or was instrumental in the occurrence thereof as is established by the final court verdict,

e) he/she declined to testify without cause in the criminal proceedings opened as a result of the crime giving rise to compensation, or failed to meet his/her obligation of cooperation in the expert examination, or a fine for contempt was imposed on him/her by a final judgment for non-compliance with summons,

f) he/she failed to meet his/her obligation of cooperation in the medical and professional examination conducted under the compensation proceedings or to furnish any requested supplementary information or was absent from the hearing without cause,

g) he/she failed to submit a civil motion that is necessary for the criminal proceedings,

h) he/she committed during criminal proceedings opened as a result of, or in relation to, the crime giving rise to compensation any of the following criminal acts:

1. false accusation (Sections 233 to 236 of the Criminal Code),

2. misleading of authority (Section 237 of the Criminal Code),

3. perjury (Sections 238 to 241 of the Criminal Code),

4. subornation of perjury (Section 242 of the Criminal Code),

5. obstruction of justice (Section 242/A of the Criminal Code),

6. suppressing extenuating circumstances (Section 243 of the Criminal Code),

7. aiding and abetting (Sections 244 of the Criminal Code),

8. breaking of seals (Section 249 of the Criminal Code),

9. violent offence or offence causing public danger against the offender or a relative of the offender

as is established by final court verdict.

In order to get help from the Victim Support Service a certificate issued by either the police, the public prosecutor's office or the court is required. If the victim cannot provide the certificate it must be obtained by the Service.

In the said certificate either the police, the public prosecutor or the judge certifies that either a report has been made or an investigation or criminal procedure has been commenced in the case.

**34) Are there special favourable arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons:**

	Information mechanism	Hearing modalities	Procedural rights	Other
Victims of rape	No	Yes	No	No
Victims of terrorism	No	No	No	No
Children/Witnesses/Victims	No	Yes	Yes	No
Victims of domestic violence	No	No	No	No
Ethnic minorities	No	No	Yes	Yes
Disabled persons	No	Yes	No	No
Juvenile offenders	Yes	Yes	Yes	No
Other	No	No	No	No

Comment :

ethnic minorities: use of mother tongue

**35) Does your country have a compensation procedure for victims of crimes?**

☒ Yes

☐ No

**36) If yes, does this compensation procedure consist in:**

☒ a public fund?

☐ a court decision?

☐ a private fund?

If yes, which kind of cases does this procedure concern?





1. Obtaining compensation in the form of damages from the offender
- 1.1. Under what conditions can I make a claim for damages in the trial against the offender (the criminal proceedings)?

Under Act XIX of 1998 on criminal proceedings, the victim (as a private party) can enforce a civil claim against the offender for damages arising directly from the act that forms the grounds of the indictment - in other words, in the criminal proceedings the accused is liable only for damage caused by the criminal offence.

- 1.2. At what point of the procedure should I put forward the claim?

A civil claim can be filed from the date of initiation of the criminal proceedings up until (at the latest) the date of the council meeting for first instance sentencing.

- 1.3. How should I put forward the claim, and to whom?

A civil claim can be filed by the injured party or, if he/she dies, by the heir/heirress. In certain cases it can be enforced by the prosecutor.

The injured party can file the civil claim with the investigating authority or the prosecutor's office before the indictment is submitted, and with the court after it has been submitted.

- 1.4. How should I present my claim (indicate a total amount and/or specify the individual losses)?

There is no legal provision concerning how the claim should be lodged or its amount. In addition to actual damages, a private party may claim compensation for profit lost, interest, out-of-pocket expenses and the representative's fee.

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- 1.5. Can I get legal assistance before and/or during the proceedings?

In the course of judging a civil claim, the private party must be informed about the consequences of that claim.

The Justice Office (overseen by the Ministry of Justice) offers assistance to victims, providing information and advice to the injured party at his/her request before criminal proceedings commence.

- 1.6. What evidence will I be required to present in support of my claim?

Proof of the damages for which the claim is made must be given by the private party. For this purpose the party must produce the corresponding pieces of evidence. In the course of the proceedings the private party may, with the court's permission, directly question the accused and the witness.

- 1.7. If I am awarded damages by the court, is there any special assistance available to me as a crime victim for the enforcement of the judgment against the offender?

At the private party's request, sequestration may be arranged in order to secure the civil claim. Sequestration may also extend to assets that are not related to the criminal offence. The detailed rules for enforcing a civil claim awarded by the court are set out in Act LIII of 1994 on judicial enforcement.

2. Obtaining compensation from the state or by a public body

- 2.1. Is it possible to obtain compensation from the state or by a public body?

Yes. Under Act CXXXV of 2005 on crime victim support and state compensation, compensation may be claimed from the Justice Office's Victim Support Service.

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- 2.2. Is the possibility limited to victims that have suffered certain types of crime?

Yes. Compensation for damages is payable only to natural persons who have suffered a violent intentional crime against their person.

- 2.3. Is the possibility limited to victims that have suffered certain types of injury?

Compensation for damages is payable only if the injured party died or sustained serious damage to their physical integrity or health as a result of the criminal act.

- 2.4. Can relatives or dependents of victims that have died as a result of the crime obtain compensation?

Yes. Compensation is payable to a natural person who, at the time of the offence, is a next of kin, adoptive parent, foster parent, adopted child, foster child, spouse or common-law spouse of a deceased or an injured party and lives in the same household as the person who died/suffered damages to his/her physical integrity or health as a result of a violent intentional crime. Compensation is also payable to a natural person

who is required to support any of the above under the law, a court or authority decision or a valid agreement.

2.5. Is the possibility of obtaining compensation limited to persons of a certain nationality or persons residing in a certain country?

Compensation can be obtained by Hungarian citizens, citizens of any EU Member State, displaced persons legally staying in the territory of the Republic of Hungary, victims of human trafficking, persons entitled to receive compensation under an international agreement or reciprocity between the State of his/her nationality and Hungary, and persons domiciled or having their habitual and legal place of residence in any EU Member State. Compensation is also payable to victims who have a residence or immigration permit for Hungary.

TopTop

2.6. Can I apply for compensation from Hungary if the crime was committed in another country? If so, under what conditions?

Yes. An application can be submitted in any EU Member State if the crime was committed in Hungary. In such cases, compensation for damages is payable if the applicant satisfies the requirements set out in Act CXXXV of 2005 on crime victim support and state compensation.

2.7. Is it necessary to have reported the crime to the police?

Yes. If no criminal proceedings are in progress, an application for compensation cannot be approved.

2.8. Is it necessary to await the outcome of any police investigations or criminal proceedings before I can apply?

No. An application may be submitted during the criminal proceedings.

2.9. If the offender has been identified, is it necessary to first try to obtain compensation from the offender?

No.

2.10. If the offender has not been identified or convicted, is it still possible to qualify for compensation? If so, what evidence do I need to supply in support of my application?

A victim is eligible for compensation even if the offender has not been identified.

If the accused has been acquitted, compensation for damages is payable only if the acquittal was on grounds of minority, mental incapacity, force or threat, error, legal protection, extreme necessity, the order of a superior officer, death of the offender, lapse, clemency, or if the danger to society posed by the act has ended or become negligible; or if the acquittal was on any other grounds provided for by Act IV of 1978 on the Criminal Code.

TopTop

2.11. Is there a time limit for making the application for compensation?

Yes.

Applications for compensation must be lodged within three months from the date the criminal offence was committed. There are three exceptions to this rule:

If the application was not submitted owing to unavoidable difficulties, it can be submitted within 3 months from cessation of the difficulties.

If an act previously investigated as part of administrative proceedings later proves to be a criminal offence, the application can be submitted within three months from the initiation of criminal proceedings.

If a causal link between the damage to the victim's physical integrity or health and the criminal offence becomes evident at a later stage, the application can be submitted within three months from that date.

2.12. For which losses can I be compensated?

So that the damages can be determined, the application must specify the amount of material damage suffered as a result of the criminal offence, the loss in income (with proof) and any costs incurred as a result of the criminal offence or to repair the damage caused by the criminal offence.

2.13. How will the compensation be calculated?

Compensation is payable in a lump sum or as a monthly allowance.

Amount of compensation paid as a lump sum:

- \* 100% of the damage not exceeding five times the basic amount,
- \* for damage between five and ten times the basic amount, the lump sum is five times the basic amount,

and 75% of the part that is above five times the basic amount.

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- \* In the case of damages exceeding ten times the basic amount, payment is 8.75 times the basic amount and 50% of the part above ten times the basic amount, but a maximum of 15 times the basic amount.

If the injured person's incapacity for work resulting from the criminal offence is expected to last for more than 6 months, he or she may claim an allowance as partial compensation for the drop in their regular income. The amount of the allowance is as follows:

- \* 75% of the certified drop in income if the victim is under 18 years of age or is reliant upon others' care,
- \* 50% of the certified drop in income if the victim is not reliant upon others' care.

2.14. Is there a minimum and/or maximum amount that can be awarded?

Yes.

The law recognises a basic amount, which represents 43% of the gross average national monthly income published by the Central Statistical Office for the year preceding the previous one (in 2006 this was HUF 62 651).

Total or partial reimbursement of the material loss caused by the criminal offence can be claimed by the victim in the form of a lump sum. A maximum of fifteen times the basic amount can be granted as lump-sum compensation.

The maximum amount of compensation paid in the form of a monthly allowance is equivalent to the basic amount. An allowance can be paid for a maximum of three years.

2.15. Will compensation that I have received, or can receive, for the same losses but from other sources (such as insurance) be deducted from the compensation paid by the state?

Yes.

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2.16. Are there other criteria that may influence my chance of receiving compensation, or how the amount of compensation is calculated, such as my own behaviour in relation to the event that caused the injury?

Yes.

A further condition for state compensation is the victim's means. The applicant's income situation is therefore assessed. A claimant whose net income (individual income, if he/she is member of a household) does not exceed twice the basic amount is eligible for compensation. (In 2006 the means threshold was HUF 125 302.)

The law rules out compensation in some instances on the grounds of the victim's behaviour: certain acts or omissions exclude him or her from damage compensation even if he or she is below the means threshold. Accordingly, the victim is not entitled to compensation if damages have already been recovered or if the insurance claim from which full or partial recovery of the damages could be expected has not been enforced; if the victim provoked the criminal act or contributed to the occurrence of damages; if the victim does not cooperate with the authorities in the criminal proceedings or damage compensation procedure; or if the victim committed a criminal offence in connection with the crime that gave rise to the damages.

2.17. Can I get an advance on compensation? If so, under what conditions?

No.

2.18. Where can I get the necessary forms and further information on how to apply? Is there a special help line or website I can use?

The necessary form can be downloaded from the Internet:



<http://www.im.hu/>

The form is also available from the regional bodies of the Justice Office. The contact details for the regional bodies can be obtained by calling this phone number (free of charge): 06-80-244-444.

2.19. Can I get legal assistance for making the application?

The regional Victim Support Services of the Justice Office offer help with completing the application.

2.20. Where do I send the petition?

The application can be submitted to the regional Victim Support Services of the Justice Office.

2.21. Are there any victims' aid organisations that might offer further assistance?

There are a number of civil organisations in the Republic of Hungary that offer help to crime victims. Some assist a particular category of victims (e.g. women), while others help persons who have become victims as a result of specific criminal offences (e.g. relating to the home).

Source:

[http://ec.europa.eu/civiljustice/comp\\_crime\\_victim/comp\\_crime\\_victim\\_hun\\_en.htm](http://ec.europa.eu/civiljustice/comp_crime_victim/comp_crime_victim_hun_en.htm)

**37) Are there studies to evaluate the recovery rate of the compensation awarded by courts to victims?**

☐ Yes

☒ No

If yes, please specify:

**38) Is there a specific role for the public prosecutor with respect to the (protection of the position and assistance of) victims?**

☒ Yes

☐ No

If yes, please specify:

see answer 2008

**39) Do victims of crimes have the right to contest to a decision of the public prosecution to discontinue a case?**

☒ Yes

☐ No

If yes, please specify:

see answer 2008

**2. 2. 2. Confidence of citizens in their justice system**

**40) Is there a system for compensating users in the following circumstances:**

☐ excessive length of proceedings?

☒ non execution of court decisions?

☒ wrongful arrest?

☒ wrongful condemnation?

If yes, please specify (fund, daily tariff):

Pursuant to section 580 and 581 of Act XIX of 1998 on Criminal Procedure compensation shall be given in a civil procedure considering the rules of tort law regulated by the Civil Code (Act IV of 1959).

**41) Does your country have surveys aimed at users or legal professionals (judges, lawyers, officials,**

**etc.) to measure their trust and/or satisfaction (with the services delivered by the judiciary system)?**

- ☒ (Satisfaction) surveys aimed at judges
- ☒ (Satisfaction) surveys aimed at court staff
- ☒ (Satisfaction) surveys aimed at public prosecutors
- ☒ (Satisfaction) surveys aimed at lawyers
- ☒ (Satisfaction) surveys aimed at citizens (visitors of the court)
- ☐ (Satisfaction) surveys aimed at other clients of the courts

If possible, please specify their titles, how to find these surveys, etc:

**42) If possible, please specify:**

	Yes (surveys at a regular interval: for example annual)	Yes (incidental surveys)
Surveys at national level	No	Yes
Surveys at court level	No	Yes

**43) Is there a national or local procedure for making complaints about the functioning (for example the treatment of a case by a judge or the duration of a proceeding) of the judicial system?**

- ☒ Yes
- ☐ No

**44) If yes, please specify:**

**Please give elements of information concerning the efficiency of this complaint procedure:**

	Time limit to respond (Yes)	Time limit for dealing with the complaint (Yes)
Court concerned	Yes	Yes
Higher court	Yes	Yes
Ministry of Justice	Yes	Yes
High Council of the Judiciary	Yes	Yes
Other external organisations (e.g. Ombudsman)	No	No

Comment :

Claims concerning trial delay may be submitted according to section 114/A of Act III of 1952 on Civil Procedure, and section 262/A of Act XIX of 1998 on Criminal Procedure.

Complaints are dealt with according to section 141-143 of Act XXIX of 2004 on Amendments and Repeals of Legal Regulations and other Legislative Changes Related to Hungary's Accession to the European Union, and the regulation of the National Council of Justice Nr. 15/1999 on the complaints procedure.

Every year the National Council of Justice analyses the reasons of trial delays and the administrative provisions against the delays.

### 3. Organisation of the court system

#### 3. 1. Functioning

##### 3. 1. 1. Courts

**45) Number of courts considered as legal entities (administrative structures) and geographic locations (please, complete the table. If no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation.**

	Total number
First instance courts of general jurisdiction	131
Specialised first instance Courts (legal entities)	20
All the Courts (geographic locations) * (this includes Supreme Courts and/or High Courts)	157

**46) Please specify the different areas of specialisation (and, if possible, the number of courts concerned):**

Labour disputes are settled by specialised first instance labour courts, of which there are twenty in the country.

**47) Is there a change in the structure in the courts foreseen (for example a reduction of the number of courts (geographic locations) or a change in the powers of courts)?**

☐ Yes

☒ No

If yes, please specify:

**48) Number of first instance courts competent for a case concerning (if no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation):**

	Number
a debt collection for small claims	111
a dismissal	20
a robbery	131

**Please specify what is meant by small claims in your country (answer only if the definition has been changed since the previous evaluation cycle):**

see previous evaluation round

**Please indicate the sources for answering the questions 45 and 48:**

National Council of Justice

##### 3. 1. 2. Judges, courts staff

**49) Number of professional judges sitting in courts (please give the information in full time equivalent and for permanent posts; if there is no data please indicate this with NA)**

**Please provide comments to explain the answer under question 49:**

Number

.

2903

Comment :

**50) Number of professional judges sitting in courts on an occasional basis and who are paid as such:**

	Number
gross figure	
if possible, in full time equivalent	

**51) Please provide comments to explain the answer under question 50:**

There are no judges in Hungary sitting in courts on an occasional basis.

**52) Is there in the legal system non-professional judges (including lay judges and excluding juries) who are not remunerated but who can possibly receive a simple defrayal of costs? (Please indicate NA if no figures are available).****Please provide comments to explain the answer under question 52:**

	Yes	Number
Do you have non-professional judges?	yes	4382

Comment :

Lay judges in Hungary are citizens who help judges in sentencing with their life-experiences. The National Council of Justice determines their number according to the demands of the courts. They are elected by local governments.

**53) Does your judicial system include trial by jury with the participation of citizens?**

☐ Yes

☒ No

If yes, for which type of case(s)?

There is no jury, but we have associate (lay) judges according to the Code of Criminal Procedure (Act XIX of 1998) and the Code of Civil Procedure (Act III of 1952).

Pursuant to section 14 of the Code of Criminal Procedure:

- (1) The local court shall act
  - a) in a panel comprising one professional judge and two associate judges, if the criminal offence is punishable by eight years or more imprisonment by law,
  - b) without the involvement of associate judges (as single judge) in the cases not falling under item a).
- (2) Unless provided otherwise by this Act, the county court acting as a court of first instance may conduct its procedure in a panel consisting of one professional judge and two associate judges.
- (3) In the case specified in subsection (1) b), the local court may act in a panel consisting of one professional judge and two associate judges, if it establishes a classification of the criminal offence underlying the prosecution differently from that indicated in the indictment.
- (4) In the cases specified in this Act, the county court acting as a court of first instance may conduct its procedure in a panel consisting of two professional judges and three associate judges.
- (5) The court of appeal, the tribunal and – unless provided otherwise by this Act – the Supreme Court shall act in a panel consisting of three professional judges.
- (6) Both the single judge and the presiding judge shall be professional judges; in the course of administering justice, the professional judge and the associate judges have identical rights and obligations.
- (7) In the case of criminal offences enumerated in Section 17 (5) and (6) in the first instance the presiding judge (single judge), and in the second instance one of the members of the panel shall be a judge designated by National Judiciary Council.

Pursuant to section 11 and 12 of the Code of Civil Procedure:

Unless provided otherwise by this Act, on the court of first instance one professional judge conducts procedures.

In special cases regulated by this Act, the court acting as a court of first instance may conduct its procedure in a panel consisting of one professional judge and two associate judges.

The courts of appeal act in a panel consisting of three professional judges.

In the course of administering justice, the professional judge and the associate judges have identical rights and obligations.

**54) If possible, indicate the number of citizens who were involved in such juries for the year of reference?**

NAP

**55) Number of non-judge staff who are working in courts (in full time equivalent and for permanent posts). Please indicate NA if no figures are available.**

**Please provide comments to explain the answer under question 55:**

Number  7913

Comment :

**56) If possible, could you distribute this staff according to the 4 following categories. If no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation).**

- |   |   |      |
|---|---|------|
| - non-judge staff (Rechtspfleger or similar bodies), with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal                                | <input checked="" type="checkbox"/> Yes | 591  |
| - non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, keeping the minutes of the meetings, helping to prepare the decisions) such as registrars | <input checked="" type="checkbox"/> Yes | 3527 |
| - staff in charge of different administrative tasks as well as of the management of the   |   |      |

courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management) ☒ Yes

- technical staff ☒ Yes

Comment :

The number of the last two categories of staff taken together is 3795.

**57) If there are Rechtspfleger (or similar bodies) in your judicial system, please describe briefly their status and functions:**

The status and functions of court secretaries are regulated by the Criminal (Act XIX of 1978) and the Civil Procedure Codes (Act III of 1952).

In the cases specified in the Acts the court secretary vested with independent signatory rights may also act in lieu of the single judge or the presiding judge in cases falling within the competence of the court of first instance. In such cases the actions of the court secretary shall be governed by the provisions set forth in these Acts for court procedures.

In cases specified in relevant legal regulation, the court executive vested with independent signatory rights may also act – under the direction and supervision of the judge – out of trial. In such cases the actions of the court executive shall be governed by the provisions set forth in this Act for court procedures.

### 3. 1. 3. Prosecutors

**58) Number of public prosecutors (in full time equivalent and for permanent posts). If there is no data available please indicate it (NA).**

Number  . 1686

Comment :

**59) Do any other persons have similar duties as public prosecutors?**

☒ Yes

☐ No

If yes, please specify:

Prosecutor trainees after three years of work experience and a successful professional specialised State Exam in Law shall spend at least another year as "prosecutor trainee 2nd stage", with slightly limited rights and duties, before being promoted to prosecutor.

Prosecutor trainees in the first stage of training, investigators of the Prosecution Service and the officials of the Prosecution Service carry out partial duties of the public prosecutor.

**60) Number of staff (non prosecutors) attached to the public prosecution service (in full time equivalent and for permanent posts). If there is no data available please indicate it (NA).**

**Please provide comments to explain the answer under question 60:**

Number  . 2303

Comment :

Prosecutor trainee 2nd stage: 115

Prosecutor trainee 1st stage: 262

Official: 780

Clerk: 716

Manual labourer: 430

### 3. 1. 4. Court budget and new technologies

**61) Who is entrusted with the individual court budget?**

	Preparation of the budget	Arbitration and allocation	Day to day management of the budget	Evaluation and control of the use of the budget
Management Board	Yes	No	No	Yes
Court President	Yes	No	Yes	Yes
Court administrative director	Yes	No	Yes	Yes
Head of the court clerk office	No	No	No	No
Other	Yes	No	Yes	Yes

**62) You can indicate below:**

- any useful comments for interpreting the data mentioned above
- if available an organisation scheme with a description of the competencies of the different authorities responsible for the budget process in the court

**63) For direct assistance to the judge/court clerk, what are the computer facilities used within the courts?**

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Word processing	Yes	No	No	No
Electronic data base of jurisprudence	Yes	No	No	No
Electronic files	Yes	No	No	No
E-mail	Yes	No	No	No
Internet connection	Yes	No	No	No

**64) For administration and management, what are the computer facilities used within the courts?**

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Case registration system	Yes	No	No	No
Court management information system	No	No	Yes	No
Financial information system	No	Yes	No	No

**65) For the communication between the court and the parties, what are the computer facilities used within the courts?**

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Electronic web forms	Yes	No	No	No
Special Website	No	No	Yes	No
Other electronic communication facilities	No	No	Yes	No

**66) Is there a centralised institution which is responsible for collecting statistical data regarding the functioning of the courts and judiciary?**

☒ Yes

☐ No

If yes, please specify the name and the address of this institution:

National Council of Justice

**You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your judicial system and the main reforms that has been implemented over the last two years

### 3. 2. Monitoring and evaluation

#### 3. 2. 1. Monitoring and evaluation

**67) Are the courts required to prepare an annual activity report?**

- ☒ Yes  
☐ No

**68) Do you have a regular monitoring system of court activities concerning the**

- ☒ number of incoming cases?  
☒ number of decisions?  
☒ number of postponed cases?  
☒ length of proceedings (timeframes)?  
☒ other?

Please specify:

number of finished and unfinished cases, value involved in the case, number of the accused

**69) Do you have a regular system to evaluate the performance of each court?**

- ☒ Yes  
☐ No

Please specify:

**70) Concerning court activities, have you defined performance indicators (if no, go to question 72)?**

- ☒ Yes  
☐ No

**71) Please select the 4 main performance and quality indicators that is used for a proper functioning of courts:**

- ☒ incoming cases  
☒ length of proceedings (timeframes)  
☒ closed cases  
☒ pending cases and backlogs  
☐ productivity of judges and court staff  
☐ percentage of cases that are treated by a single sitting judge  
☐ enforcement of penal decisions  
☐ satisfaction of employees of the courts  
☐ satisfaction of clients (regarding the services delivered by the courts)  
☐ judicial quality and organisational quality of the courts  
☐ costs of the judicial procedures  
☐ other:

Please specify:

**72) Are there performance targets defined for individual judges (if no go to question 74) ?**

- ☒ Yes  
☐ No



**73) Please specify who is responsible for setting the targets:**

- ☐ executive power (for example the ministry of Justice)?
- ☐ legislative power
- ☒ judicial power (for example a High Judicial Council or a Higher Court)
- ☐ other

If other, please specify:

**74) Are there performance targets defined at the level of the courts (if no go to question 77)?**

- ☒ Yes
- ☐ No

**75) Please specify who is responsible for setting the targets:**

- ☐ executive power (for example the ministry of Justice)?
- ☐ legislative power
- ☒ judicial power (for example a High Judicial Council or a Higher Court)
- ☒ other

If other, please specify:

Presidents of courts can also set targets and the annual work schedule of the divisions may also contain such targets.

**76) Please specify the main targets applied**

decrease of the length of proceedings  
ordering of especially prompt arrangements

**77) Which authority is responsible for the evaluation of the performances of the courts:**

- ☒ High Council of judiciary
- ☐ Ministry of justice
- ☐ inspection authority
- ☐ Supreme Court
- ☐ external audit body
- ☐ other

If other, Please specify:

**78) Are there quality standards (organisational quality and/or judicial quality policy) formulated for the courts (existence of a quality system for the judiciary)?**

- ☒ Yes
- ☐ No

If yes, please specify:

The evaluation of individual judges' performance is carried out based on Act 67 of 1997 on the Legal Status and Remuneration of Judges. The evaluation includes an inspection of the material, procedural and administrative aspects of the activities of judges. More detailed rules are issued by the National Council of Justice in this regard.

**79) Do you have specialised court staff which is entrusted with quality policy and/or quality systems for the judiciary?**

- ☐ Yes
- ☒ No

**80) Is there a system which measures the backlogs and which detects the cases not processed within a reasonable timeframe for:**

- ☒ civil cases?
- ☒ criminal cases?
- ☒ administrative cases?

**81) Do you have a way of analysing waiting time during court procedures?**

- ☒ Yes
- ☐ No

If yes, please specify:

Waiting time can be analysed with the help of data stored in the computer system.

**82) Is there a system to evaluate the functioning of courts on the basis of an evaluation plan (timetable for visits) agreed a priori?**

- ☒ Yes
- ☐ No

Please specify (including an indication of the frequency of the evaluation):

The evaluation consists mainly of the annual report of the presidents and the annual work schedule of the courts. Primary aspects of evaluation: the number of incoming, closed, pending cases, the length of procedures and events of hearings.

**83) Is there a system for monitoring and evaluating the functioning of the prosecution services?**

- ☒ Yes
- ☐ No

If yes, please specify:

The Prosecutor General submits to the Parliament his report on the activities of the prosecution every year.

**You can indicate below:**

- ☐ any useful comments for interpreting the data mentioned in this chapter
- ☐ the characteristics of your court monitoring and evaluation system

## 4. Fair trial

### 4. 1. Principles

#### 4. 1. 1. General principles

**84) What is the percentage of judgements in first instance criminal cases in which the suspect is not attending in person or not represented by a legal professional (i.e. lawyer) during a court session (in absentia judgements)? If no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation).**

suspect not attending: 18.9%, suspect not represented: 11%

**85) Is there a procedure to effectively challenge a judge if a party considers that the judge is not impartial?**

☒ Yes

☐ No

If possible, number of successful challenges (in a year):

2282

**86) Please give the following data concerning the number of cases regarding Article 6 of the European Convention of Human Rights (on duration and non-execution), for the year of reference. If there is no data available, please indicate it (NA).**

	Cases declared inadmissible by the Court	Friendly settlements	Judgements establishing a violation	Judgements establishing a non violation
Civil proceedings - Article 6§1 (duration)	NA	NA	NA	NA
Civil proceedings - Article 6§1 (non-execution)	NA	NA	NA	NA
Criminal proceedings - Article 6§1 (duration)	NA	NA	NA	NA

### 4. 2. Timeframes of proceedings

#### 4. 2. 1. General information

**87) Are there specific procedures for urgent matters as regards:**

☒ civil cases?

☒ criminal cases?

☒ administrative cases?

Please specify:







Cases concerning, for example, parental control, electoral process, coercive measures.

1. What are the different types of measures?

Act III of 1952 on the Code of Civil Procedure provides for two types of legal measure to ensure that an opposed claim can be satisfied: interim injunction and provisional enforcement, which provide protection before the legally-binding ruling has been made. This is supplemented by the precautionary measure provided by Act LIII of 1994 on Enforcement.

2. What are the conditions under which these measures may be issued?

2.1. Please describe the procedure!

Interim injunction:

Article 156 of the Code of Civil Procedure regulates the interim injunction, the objective of which is to ensure immediate legal protection to prevent the impairment of rights that, due to the lapse of time, cannot be remedied ex post. By ordering an interim injunction the court obliges the adversary of the applicant to comply at a time when it has not yet come to a decision on the substance of the legal dispute between the parties. Contrary to the general rules, the court adjudicates on the application in advance and the ruling ordering the interim injunction may be executed in advance irrespective of the appeals procedure.

As a general rule, an interim injunction may be granted upon application; the court may grant it of its own motion only if there is a special authorisation by law: in an affiliation action - if the trial proceedings were suspended - about the alimony the child is entitled to [Section 153(3) of the Act on the Code of Civil Procedure] and in matrimonial proceedings about the placement and support of the child, expanding or limiting parental supervisory rights and visiting rights (Section 287 of the Act on the Code of Civil Procedure).

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The request may be put forward only in a court action, the earliest date being the time when the application is submitted.

As regards the content of the application, it must be shown that the circumstances presented in it are probable and that they refer to one of the specified situations requiring immediate legal protection (risk of damage, need for legal protection on account of the change of status of the legal dispute, or a legal protection situation requiring special recognition) and the measure applied for must, of course, be such as to prevent the impairment of rights. The applicant under law does not have to prove that the information presented is true beyond doubt, but only that it is probable. There is only a limited possibility for verification while the measure is in operation; it may only be allowed if the application cannot be decided without it. The reason for the restriction is the objective of the interim injunction and the fact that the party only has to show that the situation is possible, without verifying that the conditions for the applications are definitely met.

The trial court, when arriving at a decision, has to consider whether the party has shown that the legal conditions justifying the ordering of an interim injunction are probably met. The court is also free to decide what degree of probability it requires the party to show. If the application meets these conditions, the court must assess the disadvantages caused by the interim injunction and compare them with the advantages that can be achieved. Although the Act uses the expression 'disadvantage caused' it actually means not the disadvantage already caused but the disadvantage that may be caused by the injunction and its implementation. If the assessment reveals that the disadvantages exceed the advantages, the application has to be rejected. The court also decides at the time of the assessment whether it requires a security to be lodged for the interim injunction.

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The court decides by way of order on the application for interim injunction. In exceptional cases the court rescinds the interim injunction in its judgment.

The court may decide on the application either during the actual trial or separately.

The order remains in effect until it is rescinded or, if this does not take place, until final judgment is given in the case or when the judgment of the court of first instance becomes legally binding.

Either of the parties may apply to have the order rescinded.

Provisional enforcement:

Section 231 of the Act on the Code of Civil Procedure regulates the possibilities of provisional enforcement. Under the provisions – in some cases – the legally binding decision can have effects and the decision can be enforced before it actually becomes final. In the cases listed in Article 231 of the Act on the Code of Civil Procedure, if the conditions mentioned there are fulfilled, the court of first instance must declare its judgment provisionally enforceable of its own motion. If the appeal hearing is deferred, the court of second instance may also decide on provisional enforcement on application by the person concerned, having regard to the facts of the case.

The Code of Civil Procedure contains here an exhaustive list, which may not be given a broad interpretation. Provisional enforcement may therefore not be ordered for any other reason.

On the basis of this the following must be declared enforceable, whether or not an appeal is lodged:

- \* a decision ordering payment of maintenance or childcare allowance and the provision of other temporary services having a similar objective.
- \* a decision on ordering the termination of trespass;
- \* a decision ordering satisfaction of a claim recognised by the defendant;
- \* a decision ordering payment of a sum of money on the basis of the obligation assumed in an authentic instrument or a private document representing conclusive evidence (Articles 195 and 196), if all the circumstances serving as a basis for it were certified with such a document;
- \* a decision ordering a non-financial action to be taken, if the claimant would suffer disproportionately severe damage or if it is difficult to establish the damage caused by the deferment of the enforcement, and if the claimant provides adequate security.

If the court of first instance declares the ruling provisionally enforceable despite Articles 231 and 232 of the Act on the Code of Civil Procedure, the president of the chamber acting at second instance may order proceedings to be suspended before the hearing is held, but it will take place at the request of the interested party even if the appeals trial is deferred, together with the examination of all the facts of the case.

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The court may decline to order provisional enforcement if ordering it would put a disproportionately heavier burden on the defendant than declining to do so would put on the claimant. The defendant, however, must present an application to the court in every case; the court may not decide to decline to order provisional enforcement in the listed cases of its own motion.

Enforcement of precautionary measure:

Under Hungarian law, enforcement may be ordered only if the court has issued an enforcement order. The enforcement order may be issued if the final decision contains an obligation (order to do something), it is legally binding or can be provisionally enforced and the deadline for compliance has expired. If these three conditions are not all met simultaneously, the issuing of the enforcement order is not possible and therefore enforcement may not be started. For the protection of the rights of the entitled person there is, however, a possibility to order a precautionary measure.

Therefore if the enforcement order to fulfil the claim cannot yet be issued but the party asking for enforcement has shown that the later fulfilment of the claim is probably threatened, upon the application of the party requesting enforcement, the court orders by way of precautionary measure:

1. security for a pecuniary claim, and
2. the blocking of the specified object.

A precautionary measure may be ordered only in cases that are specified by law. For example, if the claim is based on a ruling under which an enforcement writ could be issued but this cannot be done because the judgment is not yet legally binding or the judgment is legally binding but the deadline for fulfilment has not yet expired; or matrimonial or other proceedings were instituted on a claim in the family courts and the validity of the claim, its amount and its dueeness have all been certified with an authentic instrument or a private document representing conclusive evidence.

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In the first case the court entitled to issue an enforcement writ and in the second case the court where the proceedings were instituted has the right to proceed.



The court must decide on the precautionary measure as a matter of urgency and within no more than eight days and send the order for a precautionary measure without delay to the bailiff.

The appeal against the order for a precautionary measure does not have suspensory effect.

After receiving the order for a precautionary measure, the bailiff without delay summons the party asking for enforcement to pay the advance payment necessary for enforcement within a short time limit, and after the advance payment has arrived he starts the enforcement of the precautionary measure without delay.

2.2. What are the conditions under which such measures may be issued?

The criteria to be applied by courts principally reflect the need to ensure the subsequent enforcement of the claim. In the case of an interim injunction the basic criterion is that enforcement must be necessary for preventing an imminent threat of damage or maintaining the situation that caused the legal dispute or for the protection of the specific rights of the applicant, and that the disadvantage caused by the measure does not exceed the advantages that can be achieved by it. Where provisional enforcement is ordered the court must order enforcement. There is a discretion to be exercised only where there is a request from the defendant that provisional enforcement should not be ordered. Where a precautionary measure is to be ordered, there must be evidence of a threat to the subsequent fulfilment of the claim. Therefore the claim must have been opposed in all three cases and in the case of an interim injunction and a precautionary measure it must be under threat; in the case of provisional enforcement the criterion is the protection of the interests of the eligible person.

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3. Object and nature of such measures?

3.1. What types of assets can be subject to such measures?

In the case of an interim injunction the court orders the fulfilment of what has been laid down in the claim or in the application for an interim injunction upon the request by the court. This may extend to any claim put forward in the application.

Provisional enforcement means the enforcement of what has been ordered in a ruling of the court of first instance that does not yet have legally binding effect; this can also impose several obligations or services.

In a precautionary measure the court may order the blockage of a specified object or demand security for a financial claim. If the court orders security to be given for a financial claim, then the bailiff will hand over the order containing it to the debtor onsite, at the same time ordering him/her to pay the relevant amount without delay to the bailiff's hands. If the debtor does not comply, the bailiff may seize any asset of the debtor. In order to seize real property, the bailiff contacts the land registry office without delay to register enforcement rights to secure the financial claim in the land registry.

When an amount is to be secured, the bailiff summons the financial institution handling the amount the debtor is entitled to with an order that, after receiving the letter of summons, it shall not pay the amount secured and the amount covering the costs of the proceedings either to the debtor or to anybody else and, if the balance of the account does not attain the amount to be secured, it should act identically with regard to future payments.

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A blockage ordered for a specified object may extend to any movable property having a value.

3.2. What are the effects of such measures?

In the case of an interim injunction and provisional enforcement, the debtor has to comply with the court's judgment. Based on the order an enforcement proceeding may be started.

There are two types of precautionary measure with different effects. Where the measure is to secure a claim, the debtor must hand over a specified amount of money to the bailiff. If a financial institution manages the amount of money the debtor is entitled to, then the bailiff summons the financial institution managing the amount the debtor is entitled to with an order that, after receiving the letter of summons, it shall not pay the amount secured and the amount covering the costs of the proceedings either to the debtor or to anybody else and, if the balance of the account does not attain the amount

to be secured it should act identically with regard to future payments. The financial institution informs the bailiff within eight days of receiving the letter of summons what amount it was able to apply the measure for, and after this the debtor's assets may be confiscated only up to the amount of the remaining claim. If the debtor does not have the specified amount of money, another asset will be confiscated.

Where a specified object is to be blocked, the debtor may continue to use it if it does not have to be physically locked but is not free to dispose of it. If the bailiff physically locks the object, it is an offence to open the room storing it, remove the seal indicating the blockage or dispose of or use the blocked object and the offender will be prosecuted (violation of seals).

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### 3.3. What is the validity of such measures?

The court decides by way of order on the application for an interim injunction. The order remains in effect until it is rescinded or, if it is not rescinded, until an order is made closing the case or when it takes legal effect at first instance.

A precautionary measure remains in effect until the order for enforcement of the claim is made or until the court decides to terminate the precautionary measure.

Provisional enforcement means the enforcement of the obligation laid down in the ruling before it acquires legally binding effect, whether or not there is an appeal. This has therefore no limit in time.

### 4. Is there a possibility of appeal against the measure?

There is a possibility for a separate appeal against the order for an interim injunction. The general rules govern the submission of this appeal. The limit is 15 days. The appeal must be lodged at the court that made the ruling. If the appeal is substantiated, the court rescinds its interim injunction. Otherwise, upon an application – or if the claimant abandons the claims – the court may change the order itself.

The court is obliged to order provisional enforcement in the cases listed in the Act. The defendant may, however, ask for provisional enforcement to be waived if it would mean a disproportionately severe burden for him/her. The application must be presented at the court hearing the case.

An appeal may be submitted against the order for a precautionary measure at the court hearing the case. This, however has no suspensory effect on enforcement. The parties may submit an appeal within 15 days of the announcement of the order.

Source:

[http://ec.europa.eu/civiljustice/interim\\_measures/interim\\_measures\\_hun\\_en.htm](http://ec.europa.eu/civiljustice/interim_measures/interim_measures_hun_en.htm)

## 88) Are there simplified procedures for:

- ☒ civil cases (small claims)?
- ☒ criminal cases (petty offences)?
- ☒ administrative cases?

Please specify (for example if you have introduced a new law on simplified procedures):







## Order of payment procedure

## 1. Order of payment procedure

Chapter XIX. of Act III. of 1952 on the Code of Civil Procedure regulates the order of payment procedure. The procedure is a non-contentious procedure, in which the court upon the unilateral claim of the entitled person summons the debtor – without granting him/her a hearing and omitting the procedure of proof – to comply with what has been put forward in the claim or to raise an objection against it.

## 1.1. Scope of procedure

What may be the scope of the procedure?

1. The claim may be submitted only for pecuniary claims or claims on movable assets. In the event of a pecuniary claim, only claims that are overdue and the amount of which is exactly specified may be enforced
2. There is no ceiling regarding the value of the claim that can be enforced via an order of payment.
3. In the event of a pecuniary claim exceeding the value of HUF 200 000, the creditor may initiate a proceeding of an order of payment or a lawsuit. If, however, the pecuniary claim does not exceed HUF 200 000, the application initiating proceedings will be dealt with by the court as an application for an order of payment. In the event of a claim on a movable asset the party is free to decide whether to enforce his/her claim by submitting an application or via an order of payment. If, however, he or she chooses the order of payment, under Article 315(1) of the Act on the Code of Civil Procedure it is obligatory to indicate alternatively the amount which the entitled person claims to receive instead of the movable asset (alternative application). According to the established practice, if beside the claim on the movable asset the value of the pecuniary claim indicated in the alternative does not exceed HUF 200 000, the court considers the application as a claim for an order of payment.
4. The law rules out the issuing of an order of payment if the debtor, being a natural person does not have a domestic permanent address or place of residence, or the debtor, being a legal person (or company not having a legal personality) does not have a domestic seat – that is, if the known permanent address, place of residence or seat of the debtor is abroad, or if the whereabouts of the debtor is unknown.

## 1.2. Competent Court

Which court can be consulted with a claim for issuing an order of payment?

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The court having general jurisdiction is entitled to issue an order of payment, that is the court in whose area of jurisdiction the debtor lives or resides, or the legal person, has its registered office. If his/her permanent address or habitual residence is not known, it is not possible to issue an order of payment.

## 1.3. Formal requirements

What are the formal requirements regarding the claim for issuing an order of payment?

1. The creditor must submit the claim for an order of payment in a written form, by using a special form for this purpose. The form can be obtained at the courts. The form consists of two parts, thus the requesting person has to present both the part concerning the submission of the claim and the part concerning the issuing of the order of payment. A party acting without a legal representative may present the claim before the court orally, as well. In such a case the court does not prepare a formal record but fills in the form in line with the claim. Claims must state:
  - \* data from which the jurisdiction of the court can be determined,
  - \* the name and permanent address of the creditor and the debtor (and their representatives),
  - \* the claim to be enforced, its legal basis, amount and contributions and data and evidence serving as a basis for the claim.
2. In the event of an order of payment procedure, representation by a lawyer is not compulsory.
3. After the court, by issuing the order of payment, summons the debtor to comply, the court asks for the precise and unambiguous stating of the legal grounds, amount and contributions of the claim, and it checks its own motion that the claim fully complies with the legal requirements. If the claim does not comply with the minimum requirements, or some parts of the form were not filled in, the court asks the requesting person to remedy the deficiencies.
4. As in the order of payment procedure the question of evidence does not arise, there is no need to provide written evidence.

#### 1.4. Rejection of application

Under what circumstances may the application for issuing an order of payment be rejected? Does the court examine whether the claim is justified before issuing an order of payment?  
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An application for an order of payment may be rejected on the basis of points a)-g) or j) of Article 130 (1) of the Act on the Code of Civil Procedure. That is, the court may reject the application if:

1. on the basis of a law or international agreement it can be excluded that the Hungarian court has jurisdiction in the case;
2. the claimant's claim is within the jurisdiction of another court or authority or another court has jurisdiction in the case, but Article 129 may not be applied due to the lack of necessary data;
3. proceedings by another authority must precede the trial;
4. there is already an ongoing action between the parties based on the same factual basis, for the same rights – either before the same, or before another court - or a legally binding ruling has already been made;
5. the party has no legal capacity in the case;
6. the claimant's application is premature or – for some reason other than limitation - cannot be enforced by a court;
7. the action is not brought by the person entitled to do so by law, or the action may only be brought against a person defined by law, or the participation of certain persons in the trial is compulsory and the claimant - in spite of a summoning - did not call on this person (these persons) to appear;
8. the claimant did not submit the application received to remedy deficiencies by the deadline set, or it was submitted once again with deficiencies and so the application cannot be judged upon. The application for an order of payment is also rejected if the debtor's registered office or permanent address is unknown.

When administering the application for an order of payment the court also has to examine on its own initiative whether it has jurisdiction to issue the order of payment, and if necessary, it must establish the facts to an extent that enables taking a satisfactory stance on the question whether the case is within the court's jurisdiction.  
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At the same time the law enables the court to transform the order of payment procedure into a trial, that is to set a deadline for a hearing on the case if it believes that the application has no legal basis, its existence seems contestable or the application is made for the purpose of committing a criminal offence.

#### 1.5. Appeal

Can the applicant appeal against the rejection of an application for issuing an order of payment?

After the application for an order of payment has been rejected, the applicant may take the claim to a full trial. In theory, the applicant may appeal against the ruling rejecting the order of payment, but if he or she submits the application again, the effects of litigation remain.

#### 1.6. Statement of opposition

In the case of issuing an order how much time does the defendant have to contest the application? What are the possible requirements of form for the contesting statement?

The debtor may contest the application within 15 days of the serving of the order of payment. If the debtor fails to do this out of no fault of his own, the consequences of the failure can be remedied with evidence.

The statement of opposition is a statement by the debtor saying that he or she denies or opposes the legal basis or the amount of the application for an order of payment and on the basis of this asks for a hearing, that is, to transform the procedure into a full trial. Before the deadline for submitting the statement of opposition the submission presented from the debtor is considered to be a statement of opposition if it is clear from it that the debtor does not accept or does not approve of the order of payment or the part of it that demands compliance being given mandatory force. There are thus no formal

requirements for the statement of opposition. The only requirement concerns the number of copies submitted, as the statement of opposition always has to be submitted in one more copy than the number of parties concerned by the proceedings.  
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#### 1.7. Effect of statement of opposition

What happens if the defendant opposes the claim in time? Is the case included in the normal court proceedings automatically or at request?

The legal consequence of the statement of opposition submitted by the debtor or the person authorised by law is the following: the proceeding out of court, if the additional costs are paid and so the court costs are covered, will automatically become a trial before court. If additional costs are not paid, the court terminates the proceedings. The statement of opposition initiates the procedure. In the event of a statement of opposition the rules governing proceedings started with an application have to be applied, and the creditor is considered to be the claimant while the debtor is considered to be the defendant.

#### 1.8. Effect of lack of statement of opposition

What happens if the defendant does not oppose the claim in time?

1. If the debtor does not comply with the summons in the order of payment and does not oppose it before the deadline and in the prescribed manner, then the order of payment will have the same effect as a legally binding ruling. In this case the order of payment will become effective fifteen days after it was served. The legally binding order of payment means a judgment in the case, and until it is opposed with an application for retrial, no claim can be enforced on the same factual basis, for the same rights, between the same parties.

2. The court provides the creditor with a copy of the order of payment with a clause for making it legally binding on the debtor, so this person does not have to take any further action in connection with the enforcement order.

Source:

[http://ec.europa.eu/civiljustice/simplif\\_accelerat\\_procedures/simplif\\_accelerat\\_procedures\\_hun\\_en\\_order.htm#1x](http://ec.europa.eu/civiljustice/simplif_accelerat_procedures/simplif_accelerat_procedures_hun_en_order.htm#1x)  
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Small claims procedures

#### 1. Existence of a special Small Claims procedure

As a general rule, for enforcing small claims the creditor has the order of payment as an available option, that is he or she will generally speaking have to decide whether to enforce the claim according to the rules of the normal procedure or via an order of payment.

During the normal court proceedings, however, different appeal and second instance procedural rules apply for small claims. Sections 256/B-256/E of the Act on the Code of Civil Procedure contain these special rules.

The provisions limit the right to appeal in small claims cases if the law itself defines the circumstances in which an appeal may be brought, and they simplify the proceeding of second instance.

The application of these rules based on Section 256/B of the Act on the Code of Civil Procedure:

- \* concern rulings of the court of first instance;
- \* against which an appeal has been made and which has been made in a property case;
- \* where the amount of the appeal does not exceed the maximum limit determined by law.

Under the law, if any of these conditions is not met, the normal rules apply for the appeal against the ruling as well as for the appeal against the orders.

#### 1.1. Scope of procedure, threshold

Is there a financial threshold for proceedings concerning small claims and/or is a small claims option available for some types of court proceedings irrespective of the financial threshold?

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Under the current regulations different appeal rules may be applied if the amount of the



appeal – for the calculation of which the general provision of Section 24 of the Act on the Code of Civil Procedure has to be taken into account:

1. does not exceed HUF 200 000,
2. and also if it does not amount to at least 10% of the claim. In this latter case the amount of the appeal may naturally exceed HUF 200 000 Although the law does not mention it separately, these rules are applied also if the appeal is against the provision of the ruling concerning the counterclaim (rejecting or accepting it) and the amount of the appeal does not exceed 10% of the claim enforced by a counterclaim.

If the conditions are met an appeal may be submitted only if a law is infringed, more specifically, if the court of first instance has infringed an important procedural rule that affects the adjudication on the merits of the case or if in a ruling on the merits of the case it applied the substantive rules mistakenly. Under the law, an appeal in such proceedings asking for changing the ruling of first instance for other reasons, should automatically be considered as rejected due to its content.

#### 1.2. Application of Procedure

Is the procedure obligatory or optional? May the courts or the parties transfer the small claims cases in small claims procedures to normal procedures? If yes, under what conditions?

The appeal rules concerning small claims must be applied if the conditions required by law are met. The appeal in all cases has to be adjudicated under the special rules if the conditions are met, and there is no possibility to apply the general rules.  
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#### 1.3. Forms

Are special forms used for procedures concerning small claims? If yes, in which phases of the procedure? Is it obligatory to use these?

The rules concerning the appeals in small claims cases do not specify obligatory forms. An exception from this is the order of payment procedure discussed above where there are forms that must be filled in.

#### 1.4. Assistance

Do the parties to proceedings not represented by a lawyer receive assistance in procedural matters (e.g. from a Clerk of court or a judge)? If yes, to what extent?

When hearing the appeals in small claims cases, the court must act in accordance with the obligation to inform, set by the general rules, which extends to the rights and obligations of the parties during the trial.

#### 1.5. Rules concerning the taking of evidence

Are the rules concerning the taking of evidence less strict than the normal procedural rules? If yes, in what way and what is the extent of the relaxation?

As a result of the different rules of the appeals procedure, in the proceeding of second instance that is conducted in connection with appeals in small claims cases, there is no possibility to present new facts, new evidence. Therefore it is not possible to hear new witnesses, unless they were not heard, contrary to a legal requirement, during the proceeding of first instance.

#### 1.6. Written or oral procedure

Is there a possibility of an exclusively written procedure (instead of an oral hearing)? If yes, under what circumstances?

The court of second instance adjudicates the appeal without a full trial, but at the request of either of the parties it holds a hearing.

#### 1.7. Content of judgement

Are the rules concerning the content of the judgement less strict than the normal procedural rules? If yes, to what extent?

After conducting the appeals in small claims cases according to special rules, the court in its judgement is entitled to take the same decisions as in the procedure conducted according to general rules, that is, it may change the judgement of first instance, it may repeal it, or if the appeal was not well-funded, it may leave it intact.

#### 1.8. Reimbursement of costs

Are there limitations in connection with the reimbursement of costs? If yes, what are these?

There are no such limitations.

#### 1.9. Possibility to appeal

Can an order concerning small claims be appealed against? If so, how?

With regard to the fact that in Hungarian law the different laws concerning small claims exist only for the adjudication of the appeal, and the special rules concern the procedure at second instance, further normal appeals against the judgment of the court at second instance may not be made. The judgment at second instance may be opposed only by a special appeal (judicial review, revision of a judgment).

Source:

[http://ec.europa.eu/civiljustice/simplif\\_accelerat\\_procedures/simplif\\_accelerat\\_procedures\\_hun\\_en\\_claim.htm#2x](http://ec.europa.eu/civiljustice/simplif_accelerat_procedures/simplif_accelerat_procedures_hun_en_claim.htm#2x)

**89) Do courts and lawyers have the possibility to conclude agreements on the modalities for processing cases (presentation of files, decisions on timeframes for lawyers to submit their conclusions and on dates of hearings)?**

☐ Yes

☒ No

If yes, please specify:

#### 4. 2. 2. Penal, civil and administrative law cases

**90) Total number of cases in the first instance courts (litigious and non-litigious): please complete the table. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Dec. '08
Total of civil, commercial and administrative law cases (litigious and non litigious)*	161370	1184162	1165201	180331
1 Civil (and commercial) litigious cases*	90127	189644	191002	88769
2 Civil (and commercial) non-litigious cases*	57225	565136	549952	72409
3 Enforcement cases	826	3177	3110	893
4 Land registry cases**	315	887	899	303
5 Business register cases**	6720	410347	405497	11570
6 Administrative law cases	6157	14971	14741	6387
7 Other	0	0	0	0
Total criminal cases (8+9)	72061	262113	261831	72343
8 Criminal cases (severe criminal offences)	54254	137541	136333	55462
9 Misdemeanour and / or minor offences cases	17807	124572	125498	16881

**91) Comments (including an indication of the cases that are included in the total figures of civil, commercial and administrative law case and types of criminal law cases - definition of misdemeanour cases, minor offences and severe criminal cases):**

Act 4 of 1978 on the Criminal Code regulates criminal offences and Act 69 of 1999 on Offences regulates misdemeanours.

**92) Total number of cases in the second instance (appeal) courts (litigious and non-litigious): please complete the table. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations).**

**\* Please indicate (in the comments below) which types of cases are included in the total figures of civil, commercial and administrative law cases.**

**\*\* if applicable**

**Please check the consistency of data as mentioned under question 91.**

**Comments (including an indication of the cases that are included in the total figures of civil, commercial and administrative law case and types of criminal law cases and possibly the existence of appeal rates for some case categories):**

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Dec. '08
Total of civil, commercial and administrative law cases (litigious and non-litigious)*	10194	46620	45332	11482
1 Civil (and commercial) litigious cases*	7290	28390	27952	7728
2 Civil (and commercial) non-litigious cases*	2161	14938	14138	2961
3 Enforcement cases	109	481	453	137
4 Land registry cases**	0	0	0	0
5 Business register cases**	176	876	803	249
6 Administrative law cases	458	1935	1986	407
7 Other	-	-	-	-
Total criminal cases (8+9)	6263	34915	35080	6098
8 Criminal cases (Severe criminal offences)	6240	34361	34522	6079
9 Misdemeanour and/or minor offences cases	23	554	558	19

Comment :

**93) Total number of cases in the highest instance courts (litigious and non-litigious): please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

**\* Please indicate (in the comments below) which types of cases are included in the total figures of civil, commercial and administrative law cases.**

**\*\* if applicable**

**Please check the consistency of data as mentioned under question 88.**

**Comments (including an indication of the cases that are included in the total figures of civil, commercial and administrative law case and on possible limitations to the appeal to the highest instance court):**

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Dec. '08
Total of civil, commercial and administrative law cases* (litigious and non-litigious)	1658	4249	3829	2078
1 Civil (and commercial) litigious cases*	679	2840	2596	923
2 Civil (and commercial) non-litigious cases*	-	-	-	-
3 Enforcement cases	-	-	-	-
4 Land registry cases**	-	-	-	-
5 Business register cases**	1	22	14	9
6 Administrative law cases	978	1387	1219	1146
7 Other	-	-	-	-
Total criminal cases (8+9)	186	1131	1122	195
8 Criminal cases (severe criminal offences)	186	1131	1122	195
9 Misdemeanour cases (minor offences)	-	-	-	-

Comment :

**94) Number of litigious divorce cases, employment dismissal cases, robbery cases and intentional homicide cases received and treated by first instance courts: please complete the table. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Jan. '08
Litigious divorce cases*	14036	35595	35204	14427
Employment dismissal cases*	3329	4284	4850	2763
Robbery cases	NA	NA	NA	NA
Intentional homicide	NA	NA	NA	NA

**95) Average length of proceeding (from the date of lodging of court proceedings) in days, number of pending cases more than 3 years and percentage of cases subject to appeal: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

**Please provide comments to explain the answers to question 92:**

	% of decisions subject to appeal	% pending cases more than 3 years	1st instance (average length)	2d instance (average length)	Total procedure (average total length)
Litigious divorce cases*	2.9	NA	NA	NA	NA
Employment dismissal cases*	NA	NA	NA	NA	NA
Robbery cases	NA	NA	NA	NA	NA
Intentional homicide	NA	NA	NA	NA	NA

Comment :

**96) Where appropriate, please specify the specific procedure as regards (litigious and non-litigious) divorce:**

Act 3 of 1952 on Civil Procedure regulates divorce.

The judge may attempt to conciliate parties at any stage of the procedure. If the conciliation ends with an agreement, the judge dismisses the proceeding. If there is no agreement on the first hearing the judge postpones the trial and warns the parties that the proceeding will be closed unless one of them moves for the continuation of the case in three month. The judge can set the closing date 30 days after getting the plea. But if the personal hearing of the parties is not obligatory or the married couple have not lived together for 3 years and they do not have a minor child the case can be heard on the merits on the first trial.

In a divorce action judge can decide about property too.

**97) How is the length of proceedings calculated for the four case categories? Please give a description of the calculation method.**

The length of proceedings is calculated from the day when the court gets the case to the case-closing decision. These data are stored in the judicial computer system.

**98) Please describe the role and powers of the prosecutor in the criminal procedure (multiple options are possible):**

- ☒ to conduct or supervise police investigation
- ☒ to conduct investigation
- ☒ when necessary, to demand investigation measures from the judge
- ☒ to charge
- ☒ to present the case in the court
- ☒ to propose a sentence to the judge
- ☒ to appeal
- ☒ to supervise enforcement procedure
- ☒ to end the case by dropping it without the need for a judicial decision
- ☐ to end the case by imposing or negotiating a penalty without a judicial decision
- ☒ other significant powers

Please specify:  
see answer 2008

**99) Does the prosecutor also have a role in civil and/or administrative cases?**

- ☒ Yes  
☐ No

Please specify:  
see answer 2008

**100) Functions of the public prosecutor in relation to criminal cases – please complete this table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

**Please provide comments to explain the answers to question 100 and indicate in particular if the data given include traffic offences:**

	Received by the public prosecutor	Discontinued by the public prosecutor because the offender could not be identified	Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation	Discontinued by the public prosecutor for reason of opportunity	Concluded by a penalty, imposed or negotiated by the public prosecutor	Charged by the public prosecutor before the courts
Total number of 1st instance criminal cases	156565	178396	180383	NA	16447	69470

Comment :

The table includes traffic offences. The third column includes traffic offences discontinued as a criminal case, but continued as a minor offence case by a different state institution.

**You can indicate below:**

- ☐ **any useful comments for interpreting the data mentioned in this chapter**  
☐ **the characteristics of your system concerning timeframes of proceedings and the main reforms that have been implemented over the last two years**

**Please indicate the sources for answering the questions 90 to 95 and 100:**

National Council of Justice, Office of the Prosecutor General

## 5. Career of judges and prosecutors

### 5. 1. Appointment and training

#### 5. 1. 1. Recruitment, nomination and promotion

##### 101) How are judges recruited?

- ☒ Through a competitive exam (for instance after a law degree)?
- ☐ A specific recruitment procedure for legal professionals with long working experience in the legal field (for example lawyers)?
- ☒ A combination of both
- ☐ Other

Other, please specify:

Law graduates wishing to become judges have to pass three years at court as trainee judges (1st stage) and then one year as a court secretary (2nd stage of traineeship). How can one become a trainee judge? In possession of a law degree, one might apply for a competitive exam announced by the Hungarian Academy for Judges for those wishing to become trainee judges. Having passed the exam (both written and oral) successfully, one might apply for a concrete position as a trainee judge. If the application is not successful, the candidate is put on a waiting list and can use his/her exam results for a year in case of new applications.

Candidate judges who have passed both stages of traineeship are invited to submit their application to the president judge of the given court, where they would like to apply. The court president, upon proposal of the National Council of Justice, transmits the application to the President of the Republic, who shall ultimately appoint judges.

##### 102) Are judges initially/at the beginning of their carrier recruited and nominated by:

- ☐ An authority composed of judges only?
- ☐ An authority composed of non-judges only?
- ☒ An authority composed of judges and non-judges?

##### 103) Is the same authority competent for the promotion of judges?

- ☐ Yes
- ☒ No

If no, please specify which authority is competent for the promotion of judges:

Candidates shall submit their application for promotion to the president of the court concerned or the National Council of Justice.

##### 104) Which procedures and criteria are used for promoting judges? Please specify.

Individual tender notices specify the detailed requirements for the position to be filled.

##### 105) How are prosecutors recruited?

- ☒ Through a competitive exam? (for example after a law degree)
- ☐ A specific recruitment procedure for legal professionals with long working experience in the legal field (for example lawyers)?
- ☐ A combination of both
- ☐ Other

Other, please specify:

After the receipt of a law degree prosecutor trainees are recruited through a competitive exam.

As the Prosecution Service of the Republic of Hungary trains its own trainees, the prosecutors are recruited from amongst them. Application to employment as a public prosecutor from outside the Prosecution Service is rare, although possible for anybody with a University Degree in Law, and a successful Second State Exam in Law.

**106) Are prosecutors initially/at the beginning of their carrier recruited and nominated by:**

- ☒ An authority composed of prosecutors only?
- ☐ An authority composed of non-prosecutors only?
- ☐ An authority composed of prosecutors and non-prosecutors?

**107) Is the same authority formally responsible for the promotion of prosecutors?**

- ☒ Yes
- ☐ No

If no, please specify which authority is competent for promoting prosecutors:

**108) Which procedures and criteria are used for promoting prosecutors? Please specify:**

Procedure: Public prosecutors are chosen and promoted by the Prosecutor General of the Republic of Hungary. He/She consults the Council of Prosecutors ahead of the decision.

Criteria for employment: 1) Clean criminal record, 2) Hungarian citizenship 3) University degree in law, Second State Exam in Law 4) At least one year spent as a 'trainee in the 2nd stage of training (titkár)' or in a similar position that requires a Second State Exam in Law 5. Aptitude test(health, mental, physical) 6. Declaration about wealth and assets

+ The applicants are checked by the National Security Office (NBH)

Criteria for promotion: 1)Personal qualities 2) Work experience.

**109) Is the mandate given for an undetermined period for judges?**

- ☒ Yes
- ☐ No

Are there exceptions? Please specify:

As a general rule the first appointment is for three years, appointment for an undetermined period thereafter is conditional upon performance during the three-year long probational period.

**110) Is there a probation period for judges? If yes, how long is this period?**

	Yes	Duration of the probation period (in years)
Probation period for judges	yes	3

**111) Is the mandate given for an undetermined period for prosecutors?**

- ☒ Yes
- ☐ No

Are there exceptions? Please specify:

After the first three years as a prosecutor, the Prosecutor General of the Republic of Hungary appoints the Public Prosecutor for an undetermined period.

**112) Is there a probation period for prosecutors? If yes, how long is this period?**

	Yes	Duration of the probation period (in years)
Probation period for prosecutors	no, see 111.	

**113) If the mandate for judges/prosecutors is not for an undetermined period, what is the length of the**

**mandate? Is it renewable?****Please specify the length**for judges? ☐ Yesfor prosecutors? ☐ Yes**You can indicate below:**☐ **any useful comments for interpreting the data mentioned in this chapter**☐ **the characteristics of the selection and nomination procedure of judges and prosecutors and the main reforms that have been implemented over the last two years**

## 5. 1. 2. Training

**114) Nature of the training of judges. Is it compulsory?**

- ☒ Initial training
- ☒ General in-service training
- ☒ In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)
- ☒ In-service training for management functions of the court (e.g. court president)
- ☒ In-service training for the use of computer facilities in the court)

**115) Frequency of the training of judges**

	Annual	Regular	Occasional
Initial training	No	Yes	No
General in-service training	No	Yes	No
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	No	Yes	No
In-service training for management functions of the court (e.g. court president)	No	Yes	No
In-service training for the use of computer facilities in the court	No	Yes	No

**116) Nature of the training of prosecutors. Is it compulsory?**

- ☒ Initial training
- ☒ General in-service training
- ☒ Specialised in-service training (specialised public prosecutor)
- ☒ In-service training for management functions of the prosecution services (e.g. head prosecutor and/or managers)
- ☒ In-service training for the use of computer facilities in the public prosecution service)

**117) Frequency of the training of prosecutors**

	Annual	Regular	Occasional
Initial training	No	Yes	No
General in-service training	No	Yes	No
Specialised in-service training (specialised public prosecutor)	Yes	No	No
In-service training for management functions of the prosecution services (e.g. head prosecutor and/or managers)	Yes	No	No



In-service training for the use of computer facilities in the public prosecution service)	No	No	Yes
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**You can indicate below:**

- ☐ **any useful comments for interpreting the data mentioned in this chapter**
- ☐ **comments regarding the attention given in the curricula to the European Convention on Human Rights and the case law of the Court**
- ☐ **the characteristics of your training system for judges and prosecutors and the main reforms that has been implemented over the last two years**

## 5. 2. Practice of the profession

### 5. 2. 1. Salaries

**118) Salaries of judges and prosecutors: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

**Please provide comments to explain the answers to question 118:**

	Gross annual salary (€)	Net annual salary (€)
First instance professional judge at the beginning of his/her career	19176	11506
Judge of the Supreme Court or the Highest Appellate Court	37480	18740
Public prosecutor at the beginning of his/her career	19176	11506
Public prosecutor of the Supreme Court or the Highest Appellate Instance	37480	18740

Comment :

**119) Do judges and public prosecutors have additional benefits?**

	Judges	Public prosecutors
Reduced taxation	No	No
Special pension	No	No
Housing	No	No
Other financial benefit	Yes	Yes

**120) If other financial benefit, please specify:**

see answer 2008

**121) Can judges combine their work with any of the following other functions ?**

	Yes with remuneration	Yes without remuneration	No
Teaching	Yes	No	No
Research and publication	Yes	No	No
Arbitrator	No	No	No
Consultant	No	No	No
Cultural function	Yes	No	No
Other function	No	No	No

**122) If other function, please specify:**

**123) Can prosecutors combine their work with any of the following other functions ?**

	Yes with remuneration	Yes without remuneration	No
Teaching	Yes	No	No
Research and publication	Yes	No	No
Arbitrator	No	No	No
Consultant	No	No	No
Cultural function	Yes	No	No
Other function	No	No	No

**124) If other function, please specify:****125) Do judges receive bonus based on the fulfilment of quantitative objectives relating to the delivering of judgments?**

☐ Yes

☒ No

If yes, please specify:

**Please indicate the source for answering the question 118**

Law 1997:LXVII on statute and remuneration of judges

Law 1994:LXXX on prosecutors

**5. 2. 2. Disciplinary procedures****126) Which authority is authorized to initiate disciplinary proceedings against judges and/or prosecutors? Please specify:**

Judges:

- the National Council of Justice if the appointment of the person concerned (mainly members of court administration) fell within the scope of powers of the NCJ,
- the president of the given court

Prosecutors: the chief prosecutor of the given prosecution office.

**127) Which authority has the disciplinary power on judges and prosecutors? Please specify:**

First instance disciplinary tribunals operate at county court and high court level, the Supreme Court has first and second instance disciplinary tribunals as well. Such a tribunal comprises a three-member panel of judges.

**128) Number of disciplinary proceedings initiated against judges and prosecutors: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

**Please provide comments to explain the answers to question 128:**

	Judges	Prosecutors
Total number (1+2+3+4)	25	
1. Breach of professional ethics	19	
2. Professional inadequacy	NA	
3. Criminal offence	5	None
4. Other	1	14

Comment :

The categories provided in the table are not applicable in the case of the Public Prosecution Service of Hungary. In 2008 there were 11 disciplinary proceedings for culpable breach of professional obligations and 3 disciplinary proceedings for inappropriate behaviour, damaging the prestige of the Prosecution Service. There were no criminal offences.

**129) Number of sanctions pronounced against judges and prosecutors: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

**Please provide comments to explain the answers to question 129**

	Judges	Prosecutors
Total number (total 1 to 9)	8	
1. Reprimand	2	3
2. Suspension	NA	
3. Withdrawal of cases	NA	
4. Fine	2	
5. Temporary reduction of salary	NA	1
6. Degradation of post	NA	2
7. Transfer to another geographical (court) location	NA	
8. Dismissal	NA	1
9. Other	4	3

Comment :

According to Act 67 of 1997 on the Legal Status and Remuneration of Judges:

Professional misconduct shall mean when

- a) a judge violates the obligations stemming from his service relation or
- b) the judge's lifestyle and/or behavior are likely to harm or jeopardize the prestige of the legal system.

If a judge commits a lesser offense and the misconduct in question did not result in detrimental consequences or resulted in moderate damage, disciplinary proceedings may not be initiated. In this case the employer shall issue a warning to the judge instead of initiating disciplinary proceedings.

The following disciplinary penalties may be imposed against a judge for professional misconduct:

- a) reprimand;
- b) censure;
- c) demotion by one salary grade;
- d) discharge from executive office;
- e) motion for dismissal from judge's office.

**You can indicate below:**

- ☐ **any useful comments for interpreting the data mentioned in this chapter**
- ☐ **the characteristics of your system concerning disciplinary procedures for judges and prosecutors and the main reforms that have been implemented over the last two years**

## 6. Lawyers

### 6. 1. Statute of the profession

#### 6. 1. 1. Profession

**130) Total number of lawyers practising in your country. If there is no data available, please indicate it (NA).**

9850

**131) Does this figure include legal advisors (solicitors or in-house counsellor) who cannot represent their clients in court? If no go to question 133.**

- ☒ Yes  
☐ No  
☐ Not applicable

**132) Number of legal advisors. If there is no data available, please indicate it (NA)**

NA

**133) Do lawyers have a monopoly of representation in (multiple options are possible):**

- ☒ Civil cases\*?  
☒ Criminal cases - Defendant\*?  
☒ Criminal cases - Victim\*?  
☒ Administrative cases\*?

\* If appropriate, please specify if it concerns first instance and appeal. And in case there is no monopoly, please specify the organisations or persons which may represent a client before a court (for example a NGO, family member, trade union, etc) and for which types of cases:

The regulation on criminal procedures prescribes the presence of a defence attorney in the following cases:

- \* a criminal offence for which the law prescribes five or more years of imprisonment,
- \* the accused is being detained,
- \* the accused is deaf, mute, blind or – regardless of his/her legal capacity – mentally incompetent,
- \* the accused does not know the Hungarian language or the language of the proceedings,
- \* the accused is not able to personally defend himself/herself for other reasons,
- \* it is especially prescribed by law (e.g. in case of an accused minor).

The regulation of civil procedures prescribes legal representation in the following cases:

TopTop

- \* for the parties submitting an appeal against a judgement in proceedings before the Court of Appeal as well as rulings made on the merits of the case or an appeal or petition for review specified by law in proceedings before the Supreme Court,
- \* in other cases defined by law (e.g. company law).

Source: [http://ec.europa.eu/civiljustice/legal\\_prof/legal\\_prof\\_hun\\_en.htm](http://ec.europa.eu/civiljustice/legal_prof/legal_prof_hun_en.htm)

As a general rule, a case of first instance can be brought to court directly, it is not necessary to consult a lawyer. Section 73/A of Act III of 1952 on the Code of Civil Procedure lists the cases where the participation of a lawyer is obligatory. These are typically in connection with appeals procedures to be conducted before higher courts. In these cases the proceedings of the party proceeding without a legal representative are of no effect, therefore - in order to avoid this - the parties are usually represented by a lawyer in the proceedings.

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There is of course the possibility of submitting the application by another authorised representative (a lawyer, for example) appointed by the party or its legal representative. If, however, the law provides otherwise and for example for the law makes personal participation obligatory in the relevant action, it is not possible to proceed via an authorised representative. The rules regarding who may be an authorised representative, who is excluded from the list of possible authorised representatives and the exact rules of authorisation are laid down in the Act on the Code of Civil Procedure, among the rules of representation.

Source: [http://ec.europa.eu/civiljustice/case\\_to\\_court/case\\_to\\_court\\_hun\\_en.htm](http://ec.europa.eu/civiljustice/case_to_court/case_to_court_hun_en.htm)

#### **134) Is the lawyer profession organised through?**

- ☒ a national bar?
- ☒ a regional bar?
- ☐ a local bar?

Please specify:





































































Act XI of 1998  
on Attorneys at Law  
PART ONE

BASIC PROVISIONS

Chapter I

GENERAL REGULATIONS

General Principles

Section 1.

By practicing their profession -with the means and in the manner provided for by law - attorneys help their clients to assert their rights and fulfill their obligations. Attorneys participate in settling the legal disputes of adverse parties by consensus.

Section 2.

Attorneys may proceed before any court or authority of the Republic of Hungary (hereinafter referred to jointly as "authority") and may provide legal representation for their clients in any matter. Outside the territory of the Republic of Hungary, attorneys may practice the law in accordance with the rules of the given state; however, the provisions of this Act shall be applied *mutatis mutandis* - in accordance with the stipulations of the rules and regulations of the Hungarian Bar Association - to their practice.

Section 3.

(1) Attorneys shall act freely and independently in these matters. Attorneys may not undertake any obligation that endangers their professional independence.

(2) Attorneys shall practice their profession to the best of their ability, conscientiously and in compliance with the law; in their actions they must comport themselves in a manner that is worthy and fitting of the legal profession.

(3) Attorneys may not participate in a matter if it is incompatible with their profession and particularly if their participation is requested for a legal transaction that conflicts with legal regulation or is intended for evading legal regulation.

Section 4.

Everybody is entitled to freely choose an attorney.

Legal Practice

Section 5.

(1) An attorney

- a) represents his client,
- b) provides the defense in criminal cases,
- c) provides legal counsel,
- d) prepares contracts, petitions and other documents,
- e) holds valuables deposited with him in connection with the activities stipulated in Paragraphs a)-d).

(2) Unless otherwise stipulated by law, only attorneys are entitled to regularly provide the services listed in Subsection (1) in return for consideration.

(3) Attorneys may provide the following services in addition to those specified in

Subsection (1):

- a) tax consultancy,
- b) social security consultancy,
- c) financial and other business consultancy,
- d) real estate agency,
- e) patent agency,
- f) activities authorized by legal regulation (with the exception of local government bylaw),
- g) mediator activities in mediation proceedings regulated in specific other legislation, and in criminal cases,
- h) converting the instrument of constitution of a company - that he has prepared - and the additional appendices of the company's application for registration (notification of amendments) into electronic format.
- i) arbitration in public procurement procedures as governed in specific other legislation, and counseling services related to public procurement procedures,
- j) lobbying regulated in specific other legislation.
- k) provision of corporate headquarters (headquarters services).

(4) The attorneys carrying out the activities referred to in Paragraph h) of Subsection (3) must have the technical facilities specified by the bar association and must be registered by the bar association.

Conflict of Interests

Section 6.

(1) An attorney

- a) may not be in an employment relation, service relation or any other legal relation entailing employment obligations; nor may an attorney be a public employee, civil servant, public notary or a full-time mayor,
- b) may not engage in any entrepreneurial activity entailing personal participation or unlimited financial liability.

(2) The prohibitions specified in Subsection (1) do not include

- a) scientific, academic, cultural or sports activities,

- b) teaching,
  - c) professional activities of a non-judicial nature,
  - d) acting as an arbitrator,
  - e) serving as a member of the Hungarian or European Parliament or as a local self-government representative,
  - f) membership on boards of directors and supervisory boards that do not entail an employment relation,
  - g) membership on a board of trustees and holding office.
- (3) An attorney must report any cause for conflict of interests to the bar association within 15 days of its occurrence.

#### Section 7.

An attorney may not proceed for two years in any court, public prosecutor's office or investigating authority in which he has been a judge, public prosecutor or investigating authority prior to his membership in the bar association.

#### Confidentiality

#### Section 8.

- (1) Unless otherwise prescribed by law, an attorney is bound by confidentiality with regard to every fact and datum about which he gains knowledge in the course of carrying out his professional duties. This obligation is independent of the existence of the agency relation and continues to obtain after he has ceased to function as an attorney in the given matter.
- (2) Confidentiality pertains to all of the documents prepared by an attorney and all other documents in his possession that contain any fact or datum subject to confidentiality. An attorney may not disclose any document or fact pertaining to his client in the course of an official inquiry conducted at the attorney's office, but he may not obstruct the proceeding of the authority.
- (3) A client, its legal successor or its legal representative may release an attorney from the obligation to maintain confidentiality. An attorney if so released may not be questioned as a witness about any fact or datum about which he gained knowledge as a defense counsel.
- (4) Confidentiality shall apply mutatis mutandis to law firms and their employees as well as legal bodies and their officers and employees.

#### Remuneration

#### Section 9.

- (1) An attorney shall be due a fee and compensation for his expenses in return for his services.
- (2) An attorney's fee shall be freely decided.

#### Financial Liability

#### Section 10.

- (1) Attorneys shall, pursuant to the Civil Code (CC), be liable for making reimbursement for any damage caused within the realm of their practice.
- (2) An attorney must take out a liability insurance policy for compensating damages caused within the realm of his legal practice, and such policy must be active for the duration of the attorney's legal activity.
- (3) Even in the absence of actionability, an attorney bears liability for the money and valuables he has received under the obligation to return or account for them. An attorney is exempt from liability if he proves that the given failure has occurred for a reason beyond his control.

#### Use of Name

#### Section 11.

- (1) When practicing his profession, an attorney shall use his own given name and surname or, in the case of women, maiden name as well as his doctoral title with reference to his capacity as an attorney.
- (2) An attorney may only depart from using his name in the manner stipulated in Subsection (1) in accordance with Paragraph b) of Subsection (1) of Section 112.

#### The Bar Association

#### Section 12.

- (1) The bar association is a public body of attorneys based on the principle of self-government and engaged in performing professional duties and duties in connection with interest representation.
- (2) The bar association performs public duties in connection with the professional guidance of attorneys and the representation of their interests. In the course of doing so,
  - a) it provides for the protection of attorneys' rights, assists them in fulfilling their obligations and organizes continuing education for them,
  - b) expresses an opinion in matters in connection with attorneys and their practice,
  - c) makes decisions concerning the initiation and termination of attorneys' membership in the bar association,
  - d) registers assistant attorneys, assistant European Community jurists [Subsection (1) of Section 89/M], articulated clerks, European Community jurists [Subsection (1) of Section 89/A], foreign legal counsels and law firms, and law firms [Subsection (2) of Section 89/N].

e) it shall set up and operate a national archive (hereinafter referred to as attorney archives) on its own accord or jointly with other professional associations.  
 (3) The bar association shall function as regional associations (hereinafter referred to as "bar association") and as a national association (Hungarian Bar Association).

#### Administrative Proceedings

##### Section 12/A.

(1) The provisions of Act CXL of 2004 on the General Rules of Administrative Proceedings and Services shall be applied - subject to the exceptions set out in this Chapter - for the procedures indicated below:  
 a) admission into the bar association and termination of membership, with the exception if termination takes place due to the attorneys disbarment or death;  
 b) admission into the register of law firms, assistant attorneys, European Community jurists and assistant European Community jurists, foreign legal counsels, and articulated clerks, and removal from these registers;  
 c) authorization for the suspension of legal practice.  
 d) admission into the register of attorneys authorized to conduct electronic company registration proceedings, and removal from this register.  
 (2) Any request for these proceedings must be presented to the competent bar association, and if presented verbally, it must be made in person. Any request submitted by way of fax or other electronic means shall not be treated as a written request.  
 (3) In the case referred to in Paragraph a) of Subsection (1), proceedings for termination of membership in the bar association or for removal from the register under Paragraph b) of Subsection (1) shall be launched ex officio, if the bar association obtains information concerning any grounds for termination or removal. The bar association may compel the client to make formal statements and to supply information in connection with the proceedings.  
 (4) Regulatory actions shall be conducted on the first instance by the board of the competent regional bar association.  
 (5) Regulatory actions may not be conducted by way of electronic means.

#### Use of Electronic Signature in Legal Practice

##### Section 12/B.

(1) Where the attorney is required by law to use an electronic signature in his legal practice, it must be a certified electronic signature that is in conformity with the following requirements:  
 a) the certification-service-provider must indicate in the certificate issued for the electronic signature the signatory's membership in the bar association;  
 b) the certification-service-provider must ensure that its records and registers are updated to indicate the status of revocation of the certificate within three minutes upon receipt of the request of withdrawal, and to provide information to users requesting the verification of the certificate concerning the status of revocation of the certificate.  
 (2) The certification-service-provider may issue a certificate for the electronic signature referred to in Subsection (1) only if membership of the signatory in the bar association has been verified by the competent regional bar association.  
 (3) The certification-service-provider shall notify the regional bar association concerning the issue of a certificate.  
 (4) Upon the disclosure of the information specified in Section 13 of Act XXXV of 2001 on Electronic Signatures, the attorney shall concurrently inform the competent regional bar association as well.  
 (5) The attorney may not use the electronic signature:  
 a) if his membership in the bar association had been terminated;  
 b) if his right to engage in legal practice had been suspended;  
 c) if he suspends his legal practice;  
 d) upon receipt of notice that his signature-creation data was lost or that any unauthorized person is able to create his signature.  
 (6) The regional bar association and the attorney affected shall contact the certification-service-provider for requesting the suspension or revocation of the electronic signature certificate in the cases defined, respectively, under Paragraphs a)-c), and Paragraph d) of Subsection (5).  
 (7) The certification-service-provider shall proceed without delay to suspend or revoke the certificate upon receipt of the request of the regional bar association.

#### PART TWO

#### MEMBERSHIP IN THE BAR ASSOCIATION

##### Chapter II

#### INITIATING MEMBERSHIP IN THE BAR ASSOCIATION

##### Admission to the Bar

##### Section 13.

(1) Any member of the bar association who has taken the attorney's oath may engage in legal practice.  
 (2) The bar association shall register all attorneys admitted as members and shall furnish them with picture identification cards.  
 (3) The bar association must, upon request, admit as an attorney anyone who:  
 a) is a Hungarian citizen,

- b)
- c) has no criminal record,
- d) has a law school degree,
- e) has taken the Hungarian bar examination,
- f) is a member of the Hungarian Attorney's Insurance and Assistance Association or has other liability insurance that is accepted by the bar association,
- g) has office space suitable for conducting a full-time legal practice in an area in which the bar association operates,
- h) is not excluded for any of the reasons specified in Subsection (4).

(4) The following persons may not be admitted to the bar:

- a) any person who has a conflict of interests as specified in Section 6 and has not terminated such conflict,
- b) any person who is subject to the force of an ancillary punishment banning him from public affairs or occupations requiring legal qualifications,
- c) any person whom a court has sentenced to prison for committing a willful crime may not be admitted to the bar for ten years following completion of his sentence or termination of enforceability, nor may any person whose sentence has been suspended for a probationary period for three years following the end of probation,
- d) any person who has been disbarred, for ten years from the time the disbarment decision became final,
- e) any person who is under guardianship or conservatorship or, even without placement under guardianship, is incompetent (Civil Code, Section 17),
- f) any person who, owing to his lifestyle or conduct, is unfit for the public trust necessary for practicing the legal profession.

(5) The condition stipulated in Paragraph f) of Subsection (3) is fulfilled by the liability insurance specified in Paragraph c) of Subsection (2) of Section 68 in the case of persons requesting admission as a member of a law firm.

(6) The bar association shall admit any European Community jurist who satisfies the conditions set out Subsection (1) of Section 89/F.

#### Suspension of the Admission Procedure

##### Section 14.

(1) The bar association shall suspend the admission procedure if proceedings against the applicant have been started owing to the commission of a willful crime that is to be publicly prosecuted.

(2) The suspension shall obtain until the final conclusion of the criminal proceedings, following which the deadline for evaluation of the application for admission shall resume.

(3) There is legal remedy against any decision to suspend admission.

#### Evaluating Applications

##### Section 15.

(1) The relevant body of the bar association [Subsection (2) of Section 106] shall make a decision concerning the application within 60 days of its submission. In warranted cases, the deadline may be extended once by thirty days. Any decision to reject an application must be justified.

(2) The applicant may appeal the decision to the bar association's body of second instance [Subsection (2) of Section 113] within 15 days of receiving the decision.

(3)

#### The Attorney's Oath

##### Section 16.

(1) Attorneys shall take the oath before the president of the bar association within one month of being admitted to the bar.

(2) The text of the oath is as follows:

I, &mlr;, do solemnly swear to conscientiously practice the legal profession in the interest of my clients and in accordance with the Constitution of the Republic of Hungary and its legal regulations and in the course of doing so safeguard all secrets of which I gain knowledge. (According to the belief of the oath-taker) So help me God.

(3) Attorneys may commence their practice once they have taken the oath.

(4) The bar association shall prepare a document concerning the oath-taking, which shall include the text of the oath, the date on which it is taken and the date on which legal practice commences. The oath-taker and the president of the bar association shall sign the document. The bar association shall retain the document concerning the oath.

(5) If there is anything to obstruct the attorney in taking the oath, the deadline specified in Subsection (1) shall be calculated as of the removal of such obstacle. If the attorney has not taken the oath within the deadline, his membership in the bar association shall terminate on the day after the deadline expires.

#### Suspension of Legal Practice

##### Section 17.

(1) An attorney may suspend his practice - with the permission of the bar association.

Suspension is for a minimum of three months. The bar association may refuse to permit suspension if the attorney has not properly provided for handing over or terminating his agencies and - if the person announcing the suspension employs assistant attorneys and articled clerks - he has failed to make the arrangements stipulated in the Labor Code for the employee relations of assistant attorneys and articled clerks.

(2) The bar association shall take a decision on the request for suspension. Section 15 shall be applied in evaluating the request.

#### Section 18.

(1) The bar association's permission is not necessary in order to suspend legal practice owing to a parliamentary or mayoral mandate. In such a case, the period of suspension shall last until the expiration of the mandate. Attorneys must report such suspensions to the bar association.

(2) Any employment relations or legal relations of a public servant or public official that are created during the period of suspension from legal practice shall have no impact on Paragraph a) of Subsection (1) of Section 6.

(3) Attorneys may not exercise the rights that derive from membership in the bar association during suspension; nor shall they be burdened by the obligations arising therefrom.

#### Territorial Scope of Membership in the Bar Association

#### Section 19.

(1) An attorney may be a member of a bar association in Hungary, and he may maintain offices and branch offices in the territory of this bar association.

(2) If an attorney would like to relocate his office in the area of another bar association, he must request re-registration at the other bar association. The attorney shall remain a member of the previous bar association until such registration takes place. Section 15 shall be applied to the evaluation of the request for re-registration.

#### Chapter III

#### TERMINATION OF MEMBERSHIP IN THE BAR ASSOCIATION

#### Section 20.

(1) An attorney's membership in the bar association terminates if he

- a) resigns from membership in the bar association,
- b) does not comply with the conditions stipulated in Subsection (3) of Section 13,
- c) does not fulfill his obligation to pay bar association dues, despite notice to do so,
- d) does not terminate a conflict of interests as specified in Section 6, despite notice to do so,
- e) has come under guardianship or conservatorship or, even without placement under guardianship, is incompetent (Civil Code, Section 17),
- f) has not taken his oath before the deadline,
- g) does not pursue his practice after a suspension of legal practice has expired,
- h) is disbarred,
- i) dies.

(2) In the cases stipulated in Paragraphs c) and d) of Subsection (1), the bar association shall notify an attorney in writing that he should pay dues or that he should terminate the conflict of interests stipulated in Section 6 within thirty days. In the case specified in Paragraph d) of Subsection (1), a position statement must be obtained from the bar association's conflict-of-interest committee.

(3) In the cases stipulated in Paragraphs a)-d) of Subsection (1), the bar association shall make a decision, which must be justified, on the termination of membership in the bar association. The decision shall be made in accordance with the provisions of Section 15.

(4) If an attorney's membership in the bar association is terminated on the basis of the cases specified in Paragraphs a)-c) of Subsection (1), the attorney may be readmitted to the bar association one year after the decision to terminate his membership has become final.

#### Section 21.

(1) At the time membership in the bar association is terminated, the bar association shall remove the attorney from its register and revoke his credentials.

(2) The bar association shall announce the termination of the attorney's membership in the bar association by publishing the attorney's name and the address of his office in a national daily newspaper within 15 days of termination, unless membership in the bar association has terminated by virtue of death.

#### PART THREE

#### LEGAL SERVICES

#### Chapter IV

#### AGENCY RELATIONS

#### Creation of an Agency

#### Section 22.

An attorney usually proceeds as assigned by his client. An attorney may also proceed as delegated by an authority.

#### Section 23.

(1) An agency comes into being within the context of an attorney-client relationship if the parties agree on the content of the agency, the attorney's fee and the foreseeable costs. The parties may also stipulate the use of a flat charge.

(2) The agency - except in the case of consultation - must be put in writing. Failure to put it into writing will not affect the validity of the agency, but in such cases the burden of proof concerning the content of the agency rests with the attorney.

(3) The client may also entrust several attorneys, who will work together on the case,



with handling the matter.

(4) The client may also entrust other attorneys with aspects of the case so that each attorney is assigned a specific task.

(5) The attorney may also engage the cooperation of his assistant attorneys, articulated clerks, foreign legal counsels working with him as well as other attorneys, European Community jurists and assistant European Community jurists in order to carry out the agency, unless the client excludes this in writing at the time the agency is created.

#### Termination of an Agency

##### Section 24.

(1) An attorney is not obliged to accept an agency, and he may cancel an accepted agency at any time, without reason and in writing. The notice period is 15 days from the date on which the client is notified. The attorney must act in the client's interest during the notice period.

(2) The client may limit or cancel the agency with immediate effect in writing at any time.

(3) In the case of a legal relation of continuous agency, the parties may stipulate cancellation in a manner that deviates from the provisions of Subsections (1) and (2).

(4) The attorney must immediately report the termination or limitation of an agency to the authority at which the assigned case is in process; such report must be in writing.

(5) In addition to the provisions of Subsections (1) and (2), an agency may be terminated

a) by discharging the agency,

b) by the death of the attorney or the client,

c) by the dissolution of the client without legal successor,

d) by the termination of the attorney's membership in the bar association.

(6) Regarding the death of a client or the dissolution of a client without legal successor, an attorney must immediately inform those persons and agencies known by him whose rights and obligations have come into being as a result thereof.

(7) If an attorney conducts his practice as a member of a law firm (Sections 67-83), an agency will not terminate; rather, the firm will become the agent. The attorney must immediately notify his client in writing of the expected change at least 15 days beforehand or prior to the beginning of the notice period specified in accordance with Subsection (3); in this notice, he must inform the client of the options stipulated in Subsections (2) and (3).

#### Limits on Accepting an Agency

##### Section 25.

(1) An attorney may not accept an agency from another party that is to be carried out against his client.

(2) An attorney may accept an agency against a previous client if there is no connection between the previous case and the new case; an attorney may accept an agency against a previous employer if employment (service or employee relation) ended at least three years earlier and the attorney had not worked on the case.

(3) Clients, previous clients and employers may grant written exemption from the limitations specified in this Section.

(4) An attorney may not accept an agency in a matter in which he previously acted as a judge, public prosecutor, notary public, acting notary public or as a member of an investigating authority.

#### Provision of Corporate Headquarters

##### Section 25/A.

(1) In connection with drawing up and countersigning the instrument of constitution for a company, the attorney shall also be authorized to provide the company's headquarters. In this case the registered office of the attorney (law firm) shall be registered as the company's registered office, and the attorney (law firm) shall be liable to discharge the obligations set out in specific other legislation for corporate headquarters, such as in particular the sufferance of coercive measures of the authorities relating to company headquarters and company documents.

(2) The attorney (law firm) shall be required to keep the company's documents and any assets of the company separate from the documents and other assets of all other clients.

#### Power of Attorney

##### Section 26.

(1) No power of attorney given to an attorney is valid unless it is in writing. The client and the attorney must sign a power of attorney in their own hands.

(2) A power of attorney signed by the client and the attorney is a private document with full probative force.

(3) If the client cannot read or write or if he is incapacitated, the power of attorney must be expressed in a public document or a private document with full probative force in which two witnesses, by signing it, attest that the client has acknowledged the creation of the agency in their presence.

(4) The power of attorney authorizes the attorney to perform every act that is entailed in properly handling the assigned case and thus even to receiving documents, money and other valuables.

(5) Any limitation on the attorney's power to represent the client vis-à-vis an authority or a third party is effective to the degree that the limitation is evident from the power of attorney.

#### Countersigning Documents

##### Section 27.

(1) By countersigning a document, an attorney confirms that

a) the document conforms to legal regulations and the expressed wishes of the parties and

b) the party indicated in the document signed the document in his presence or in the presence of his assistant or deputy [Subsection (5) of Section 23] and that he has acknowledged that the signature of said party is a holographic signature or by countersigning with a certified electronic signature he confirms that the content of an electronic document on which the issuer's certified electronic signature is affixed is in accord with the electronic document prepared by the attorney.

(2) The countersignature need not conform to the provisions of Paragraph b) of Subsection (1) if the signer signed the document abroad and his signature has been authenticated in accordance with the pertinent legal regulations or his signature has been authenticated by a notary public. The attorney must indicate this exception in his countersignature.

(3) An attorney may only countersign a document that has been created by himself or with the cooperation of his firm.

(4) If the proceedings of a court or other authority in which legal representation is obligatory are necessary for bringing about the legal consequence of a legal statement made in a document countersigned by an attorney, the attorney who countersigned the document is entitled to provide legal representation.

##### Section 27/A.

(1) When converting the instrument of constitution of a company - that he has prepared - and the additional appendices of the company's application for registration (notification of amendments) into electronic format, the attorney shall affix his qualified electronic signature on such document. Where an application is submitted electronically in connection with any other proceeding, the attorney shall affix his qualified electronic signature on the application only if it contains the aforesaid converted documents. Having affixed his qualified electronic signature on the electronic document, the attorney verifies that it is identical to the original printed version. A time stamp shall be affixed only on the entire electronic dossier.

(2) The attorney shall be required to retain the original (or a certified copy) of any document that has been converted into electronic format. Such documents shall be deposited into the attorney archives in the event the attorney's bar membership is terminated.

#### Verification of Identity

##### Section 27/B.

(1) When countersigning a document the attorney may consult the personal data and address records, the register of drivers licenses, and/or the authority maintaining the register of travel documents or the body operating the central immigration register (for the purposes of this Subtitle hereinafter referred to collectively as register):

a) to verify the data provided in proof of the identity and home address;

b) to confirm the validity of the identification document or residence document (hereinafter referred to collectively as identification document) of the party making the legal statement or of the representative making a legal statement on behalf of the party (for the purposes of this Subtitle hereinafter referred to as party).

(2) Data and information for the above-specified control shall be requested by way of electronic means, with the attorney's electronic signature affixed to the request.

(3) The authority to which the request is submitted shall check the validity of the certificate of the electronic signature affixed before complying with the request, and shall refuse to supply the requested information if the certification-service-provider has suspended or revoked the certificate in question.

(4) Before drafting the aforesaid document, the attorney shall inform the party in writing concerning the verification procedure in advance, indicating its purpose, methodology and contents, on the obligation to refuse cooperation, on the obligation of notification referred to in Subsection (2) of Section 27/D, and concerning the processing of the data obtained.

(5) Subject to the party's prior consent for the verification procedure provided in writing, the verification procedure shall cover the following data of the party:

a) personal identification data;

b) nationality, stateless status, if any, immigrant or permanent resident status, or EEA national status;

c) home address;

d) picture;

e) signature;

f) serial number of the personal identification document and the document containing his personal identification data and address, and the following information of record under such number:

- fa) the information specified in Subsection (4) of Section 17 of Act LXVI of 1992 on Records of the Personal Data and Addresses of Citizens;
  - fb) the information specified in Paragraph f) of Section 24 of Act XII of 1998 on Travel Abroad, and the validity period of the document referred to therein;
  - fc) the information specified in Paragraphs i)-j) of Section 8 of Act LXXXIV of 1999 on the Registry of Motor Vehicles;
  - fd) the information specified in Paragraph d) of Section 76, Paragraphs b) and c) of Section 80 of Act I of 2007 on the Admission and Residence of Persons with the Right of Free Movement and Residence, and in Paragraph g) of Subsection (1) of Section 95, Paragraph g) of Subsection (1) of Section 96, and Paragraphs b) and c) of Subsection (1) of Section 100 Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals.
- (6) If the party affected did not grant consent to the verification procedure, it may cover the data of the identification document specified in Paragraph f) of Subsection (5) only.
- (7) Where the party to whom the legal statement pertains is substituted by his authorized representative, the power of attorney shall contain the data referred to in Paragraphs a)-c) and e)-f) of Subsection (5) of the party and of the representative alike.
- (8) The attorney shall clearly indicate and identify the legal matter to which the data request pertains, and shall keep records on such requests and the related legal matters.
- (9) The competent body of the association may request information for the purposes of disciplinary proceedings and preliminary investigation to the extent necessary to ascertain the relevant facts of a case from the relevant data disclosure and data transfer records.

#### Section 27/C.

- (1) The attorney may use the data and information obtained in the course of the verification procedure only in connection with the document to which it pertains and with his countersigning such document, and may transmit such data and information only to the court of law, the public prosecutor, the authority competent in the criminal case in question and to the body of the bar association conducting disciplinary proceedings.
- (2) The attorney may retain the printouts of the data obtained in the verification procedure, and shall keep them separated from other documents and shall destroy them after five years.

#### Section 27/D.

- (1) The attorney shall refuse to provide services if:
- a) the party fails to provide information for the purpose of identification;
  - b) the party is unable to produce a valid identification document; or
  - c) he finds in the verification procedure that the identification document had been reported lost, stolen or destroyed, and there is no indication in the records that it was found or recovered.
- (2) As regards Paragraph c) of Subsection (1), the attorney shall report without delay in writing the findings of the verification process to the police department of jurisdiction by reference to the place where the document is proposed to be used with a view to prevent any illegal use of the identification document, and shall simultaneously make the report by direct means.
- (3) The report shall contain:
- a) the number and type of the document;
  - b) an indication if Paragraph c) of Subsection (1) applies;
  - c) the place and time where and when the identification document was presented;
  - d) the name, signature and seal of the person filing the report.
- (4) The attorneys compliance with the obligation of notification referred to above shall not be treated as a violation of confidentiality requirements.
- (5) Where access to the aforesaid registers is not available due to technical reasons at the time of signature of the document, the legal statement may be fixed in a document nonetheless, and the attorney shall conduct the verification process subsequently - if deemed necessary - when the problem is eliminated, and shall countersign the document in possession of and depending on the results.

Inspection of the Particulars of Real Estate Properties Designated as the Main Office, Establishment or Branch of a Company

#### Section 27/E.

In the process of countersigning the instrument of constitution of a company, and any amendments thereunto, the attorney shall inspect the data on record in the real estate register and the documents relating to ownership and use to ascertain as to whether the property that the party making the legal statement or his representative has indicated in the aforesaid instrument as the companys main office, permanent establishment or branch is owned by the company or whether the company has the right to use such property, and may ascertain whether this property is registered in the companies register as the main office, permanent establishment or branch of another company. If the attorney finds that the property in question may not be lawfully designated as the main office, permanent establishment or branch, he shall refuse to provide services.

#### Compensation

#### Section 28.

- (1) An attorney must immediately inform the client about money or other valuables he

has received for the client.

(2) An attorney may satisfy any outstanding claim he has against a client for fees and expenses by compensating himself from any money he has received. The attorney must inform the client in writing concerning the fact that he is exercising his right to compensation.

(3) The compensation stipulated in Subsection (2) shall not be effected if

- a) the money must not be spent for the client,
- b) the parties have not agreed on the attorney's fee,
- c) compensation is forbidden by any other legal regulation.

#### Receiving and Issuing Documents

##### Section 29.

(1) An attorney must, at the client's request, provide a receipt concerning all documents received from or for the client. The attorney must, at the client's request, issue the documents after discharging or canceling the agency - with the exception specified in Subsection (2).

(2) The attorney is not obliged to release drafts, documents containing client's instructions, letters addressed to him in the matter, receipts for payments made on behalf of the client, other documents necessary for evaluating the propriety of his actions; if the client so requests, the attorney shall provide copies of all such documents with the exception of drafts.

(3) An attorney may not refuse to release documents because he has not been paid the attorney's fee and compensation for expenses that are due to him.

#### Rules for Safe Custody

##### Section 30.

(1) An attorney may accept articles deposited in his safe custody as specified in Paragraph e) of Subsection (1) of Section 5

- a) as performance of the agency,
- b) as cover for the costs of procedural actions in connection with the agency and for payment of such costs,
- c) for safeguarding in connection with the agency.

(2) The attorney must record all cash and valuables received for safe custody in a safe custody contract.

(3) The attorney may only treat the cash and valuables he has received as deposits; the attorney may not use them, nor may he accept an agency that authorizes use of deposited items.

#### Chapter V

#### APPOINTMENT OF AN ATTORNEY

##### Section 31.

(1) If so appointed, an attorney shall proceed as a public defender, advocate, ad hoc guardian or guardian ad litem (hereinafter referred to jointly as "appointed attorney").

(2) An appointed attorney is obligated to proceed in a case, obey the summonses of authorities and establish a relationship with the accused or, if the nature of the case permits it, represented person.

(3) The bar association must provide legal services on holidays and non-working days in order to perform an appointment.

(4) An appointed attorney may require remuneration and compensation for expenses as stipulated in specific other legislation.

(5) An attorney may act in the capacity of a litigation friend under a power of attorney if he also provides legal aid in accordance with specific other legislation.

#### Appointment Decisions

##### Section 32.

The authority's appointment decision shall serve as a power of attorney for an appointed attorney.

#### Replacement of an Appointed Attorney

##### Section 33.

(1) An appointed attorney must provide for his replacement in such a manner that the proceedings are not hindered and the interests of the accused or represented person are not injured.

(2) An appointed attorney may not designate as his replacement an attorney who can request exemption from the appointment on the basis of Section 34.

#### Exemption of an Appointed Attorney

##### Section 34.

(1) An authority shall exempt an appointed attorney from an appointment if the appointed attorney

- a) terminates his membership in the bar association,
- b) suspends his legal practice,
- c) has his legal practice suspended,
- d) no longer appears in the register of appointed attorneys,
- e) is representing an adverse party in another case,
- f) is a relative [CCP, Subsection (2) of Section 13], custodian or guardian of an adverse party,
- g) has interests that conflict with those of the accused or represented person.

(2) An appointed attorney must report to the authority the existence of any of the cases specified in Subsection (1).

(3) An authority may exempt an appointed attorney from an appointment if

- a) he will have to practice outside the bar association's operational area,
- b) circumstances that impede performance of the agency arise,
- c) the accused or represented person shows good reason for requesting the exemption of the appointed defense attorney.

(4) When a request for exemption on the basis of Subsection (3) is evaluated, it shall be necessary to endeavor to retain the same appointed attorney throughout the duration of the case.

#### Register of Appointed Attorneys

##### Section 35.

(1) The bar association shall keep a register of attorneys that can be appointed.

(2) An authority may appoint any attorney whose name appears in the register it receives from the bar association.

##### Section 36.

(1) The bar association must compile a register of appointed attorneys that contains the necessary number of attorneys for fulfilling the duties requiring appointment and for maintaining the operability of the administration of justice.

(2) The bar association must establish the rules for compiling the register of appointed attorneys in such a manner that - in addition to voluntary registration - all attorneys are entered into the register of appointed attorneys on the basis of the principle of equality.

(3) The bar association must inform the authorities of changes in the register of appointed attorneys on a continuous basis within 15 days of any such change.

#### Chapter VI

#### DISCIPLINE

##### Disciplinary Infractions

##### Section 37.

An attorney commits a disciplinary infraction if

- a) he culpably violates his obligations that derive from practice of the law or are stipulated in legal regulation or the code of ethics or
- b) his culpable behavior outside the realm of legal practice is an affront to the prestige of the legal profession.

#### Penalties

##### Section 38.

The following penalties may be imposed on attorneys who commit disciplinary infractions:

- a) censure,
- b) fine,
- c) expulsion from the bar association (hereinafter referred to as "disbarment").

##### Section 39.

(1) Fines may amount to up to twice the amount of the largest fine for a misdemeanor.

(2) The statutes of the Hungarian Bar Association shall govern the use of fines.

#### Suspension of Disbarment

##### Section 40.

(1) Disbarment may be suspended for up to three years.

(2) If any new disciplinary penalties have been definitively imposed on an attorney as a result of a new disciplinary infraction committed during the period of suspension, the suspended penalty must be enforced.

(3) Disbarment may only be suspended once.

#### Term of Limitation

##### Section 41.

(1) Disciplinary proceedings may not be started if the president of the bar association does not initiate them within six months of the time at which learns of the disciplinary infraction or if three years have passed since the given action ended.

(2) A disciplinary infraction that achieves the legal status of a crime shall lapse together with the crime.

(3) The term of limitation shall be held in abeyance for the duration of any investigation conducted by a disciplinary commissioner (hereinafter referred to as "preliminary investigation").

#### Proceeding Bodies

##### Section 42.

(1) A disciplinary tribunal formed in the first instance from the bar association's disciplinary committee and in the second instance from the disciplinary committee of the Hungarian Bar Association shall conduct the disciplinary proceedings against attorneys.

(2) The disciplinary tribunals of the first instance and the second instance shall consist of three members, with the exception specified in Subsection (3).

(3) The disciplinary tribunal of the second instance shall consist of five members if the disciplinary tribunal of the first instance imposed a penalty of disbarment or if the president of the bar association appeals the first decision by calling for disbarment.

(4) A tribunal appointed by the presidency of the Hungarian Bar Association shall proceed in disciplinary cases involving a president, vice president, secretary general,

secretary or disciplinary commissioner of a bar association - including ordering a preliminary investigation.

The Disciplinary Commissioner and the Disciplinary High Commissioner

Section 43.

The disciplinary commissioner and the disciplinary high commissioner shall act on the instructions of the president of the bar association in proceedings of the first instance and on the instructions of the president of the Hungarian Bar Association in proceedings of the second instance.

Grounds for Exclusion

Section 44.

The following may not act as a member of a disciplinary tribunal or as a disciplinary commissioner:

- a) any person against whom disciplinary or criminal proceedings are in process, until the final conclusion of such proceedings,
- b) any person who is a relative [CCP, Subsection (2) of Section 13] of the attorney who is the subject of the proceedings,
- c) any person whose appearance as a witness might become necessary in the proceedings,
- d) the president of the bar association,
- e) in proceedings of the second instance, any person who acted in the proceedings of the first instance,
- f) any person from whom an unbiased evaluation of the case cannot be expected for any other reason.

Section 45.

(1) Members appointed to the disciplinary tribunal and the disciplinary commissioner must immediately report the existence any grounds that might exclude them.

(2) If any circumstance arises that casts doubt on the impartiality of the president or members of the disciplinary tribunal or that of the disciplinary commissioner, the attorney who is the subject of the proceedings may lodge a complaint on the grounds of bias.

(3) The president of the disciplinary committee shall decide on any grounds for exclusion. If the disciplinary tribunal has lost its quorum, the president of the disciplinary committee shall appoint a new disciplinary tribunal.

Preliminary Investigations

Section 46.

(1) The president of the bar association shall immediately notify the attorney under investigation of the order for a preliminary investigation and inform him of the reason for the proceedings.

(2) It is the duty of the disciplinary commissioner to clarify the necessary conditions for establishing the state of affairs. Accordingly, he must inform the attorney who is the subject of the proceedings and he may hear witnesses, engage the cooperation of experts, request relevant documents from the attorney and conduct other investigations. Minutes must be kept of all procedural undertakings.

(3) The investigation of the disciplinary commissioner shall not be impeded if the attorney under investigation is not present at the hearing or does not make a statement. The attorney must be informed of this.

(4) The disciplinary commissioner shall prepare a report of the results of his investigation for the president of the bar association, and the documents must be attached to this report.

(5) The preliminary investigation must be completed within three months. In justified cases, this deadline may be extended once for three months.

Actions Available to the President of the Bar Association

Section 47.

(1) The president of the bar association shall take the following decisions or actions after the preliminary investigation:

- a) terminate the preliminary investigation,
- b) for disciplinary infractions of lesser severity, he shall issue a written admonition in addition to terminating the preliminary investigation,
- c) order disciplinary proceedings.

(2) He shall inform the attorney in question and the person who filed the complaint of the decisions and actions stipulated in Subsection (1).

(3) The person who filed the complaint may appeal the decisions specified in Paragraphs a) and b) of Subsection (1) to the Hungarian Bar Association. The president of the Hungarian Bar Association shall dismiss the appeal or overturn the decision and instruct the president of the bar association to launch new proceedings.

(4) The attorney who is the subject of the proceedings may appeal the decision specified in Paragraph b) of Subsection (1). At such time, the president of the bar association shall take the action stipulated in Paragraph c) of Subsection (1), and the admonition shall be simultaneously nullified.

Initiating Disciplinary Proceedings

Section 48.

(1) The president of the bar association shall order disciplinary proceedings if there is

any suspicion of a disciplinary infraction - except in the case specified in Paragraph b) of Subsection (1) of Section 47.

(2) The order for disciplinary proceedings shall not be affected if the attorney resigns his membership in the bar association.

#### Section 49.

Following an order for disciplinary proceedings, the president of the disciplinary committee shall appoint a disciplinary tribunal of the first instance and its president.

#### Proceedings of a Disciplinary Tribunal of the First Instance

#### Section 50.

Once he has received the documents on the preliminary investigation, the president of the disciplinary tribunal may take the following actions:

- a) order the completion of the investigation and return the documents to the disciplinary commissioner,
- b) initiate an order for disciplinary action without a hearing,
- c) set a date for a hearing.

#### Disciplinary Action

#### Section 51.

(1) In cases that can be simply adjudicated - if the disciplinary infraction is unequivocal - the disciplinary tribunal shall take disciplinary action without a hearing.

(2) Any penalty, with the exception of disbarment, may be imposed in a decision for disciplinary action. At the time it concludes the proceedings, the disciplinary tribunal may issue a written admonition as a disciplinary action.

(3) If the attorney who is the subject of the proceedings requests a hearing within 15 days of receiving the decision for disciplinary action, the disciplinary action shall be rescinded and the president of the disciplinary tribunal of the first instance shall convene a hearing.

#### Hearings

#### Section 52.

(1) The attorney who is the subject of the proceedings and his representative must be summoned to the hearing. The president of the bar association must be notified of the hearing.

(2) If the attorney who is the subject of the proceedings fails to appear at the hearing, despite being properly summoned, the hearing may proceed in his absence. The attorney must be informed of this in the summons.

(3) The attorney who is the subject of the proceedings, his representative, the president of the bar association and the disciplinary commissioner may, at any stage of the proceedings, make statements pertaining to the proceedings and the evidence, examine documents, question witnesses and experts and request additional evidence.

#### Section 53.

Hearings are open to the public. The disciplinary tribunal may bar the public from any stage of the hearing if it is necessary to protect attorney-client confidence or personality rights.

#### Suspension of Legal Practice

#### Section 54.

(1) The disciplinary tribunal of the first instance shall suspend the attorney from legal practice if

- a) the public prosecutor has indicted the attorney for committing a willful crime for which the sentence is more than three years' imprisonment,
- b) the suspension is justified with regard to the gravity of the disciplinary infraction.

(2) In the case specified in Paragraph a) of Subsection (1), the suspension period shall last until the final conclusion of the criminal proceedings unless the attorney is acquitted in the first instance; in the case specified in Paragraph b) of Subsection (1), the suspension period shall be three months, which may be extended once for a maximum of three more months.

(3) The attorney, his representative and the president of the bar association may, within 15 days of receiving the decision, appeal the decision on suspension made by the disciplinary tribunal of the first instance to the disciplinary tribunal of the second instance. Suspension has no suspensory effect, and the disciplinary tribunal of the second instance shall make its decision on suspension forthwith.

(4) If the disciplinary decision of the first instance calls for disbarment and has not suspended execution thereof, the attorney's practice shall be suspended in the decision until the final conclusion of the disciplinary proceedings. A special appeal, which has no suspensory effect, can be made against this provision.

(5) Any employment relations or legal relations of a public servant or public officer that are created during the period of suspension from legal practice shall have no impact on Paragraph a) of Subsection (1) of Section 6.

#### Decisions of a Disciplinary Tribunal of the First Instance

#### Section 55.

(1) Deliberation and voting shall occur in closed session.

(2) The disciplinary tribunal shall pass its decisions by a majority vote. The president of the disciplinary tribunal shall cast the final vote.

(3) In its decision, the disciplinary tribunal shall

- a) conclude the proceedings,
  - b) take disciplinary action,
  - c) state the infraction of the attorney who is the subject of the proceedings and impose a penalty,
  - d) decide who shall bear the costs of the proceedings.
- (4) The president and members of the disciplinary tribunal shall sign the decision.
- (5) The decision and its reasons shall be announced orally and delivered to the attorney who is the subject of the proceedings, his representative and the president of the bar association within thirty days.

#### Minutes

#### Section 56.

- (1) Minutes of the hearing must be kept. The minutes shall be signed by the president of the disciplinary tribunal and the minutes-keeper.
- (2) Section 44 shall apply mutatis mutandis to the exclusion of the minutes-keeper.

#### Appeal

#### Section 57.

- (1) The attorney who is the subject of the proceedings, his representative and the president of the bar association may appeal the decision of the disciplinary tribunal of the first instance to the disciplinary tribunal of the second instance.
- (2) The appeal must be submitted to the disciplinary tribunal of the first instance within 15 days of receipt of the decision of the first instance; the reasons for the appeal must also be presented.
- (3) The appeal shall have a suspensory effect on the execution of the decision.
- (4) Once the deadline for appeal has expired, the disciplinary tribunal of the first instance shall present the appeal and the documents on the case to the disciplinary tribunal of the second instance.

#### Appointment of the Disciplinary Tribunal of the Second Instance

#### Section 58.

The president of the disciplinary committee of the Hungarian Bar Association shall appoint the disciplinary tribunal of the second instance and its president.

#### Proceedings of the Disciplinary Tribunal of the Second Instance

#### Section 59.

- (1) The disciplinary tribunal of the second instance shall dismiss the appeal if it does not originate with a party entitled to do so or if it is submitted after the deadline.
- (2) In addition to the cases specified in Subsection (1), the disciplinary tribunal of the second instance shall adjudicate the appeal at a hearing. The president of the disciplinary tribunal of the second instance shall set a date for the appellate hearing.
- (3) The documents on the proceedings of the first instance and the contents of the appeal shall be made known at the hearing. The attorney who is the subject of the proceedings, his representative, the president of the bar association and the disciplinary high commissioner may speak at the hearing.
- (4) If it proves necessary to supplement the evidence, the disciplinary tribunal of the second instance may do so through the disciplinary tribunal of the first instance.

#### Decisions of the Disciplinary Tribunal of the Second Instance

#### Section 60.

- (1) The disciplinary tribunal of the second instance shall announce its decision and the reasons for it orally, and it shall be delivered to the attorney who is the subject of the proceedings, his representative and the president of the bar association within 15 days.
- (2) If the decision of the first instance is unfounded - the facts of the case are unclear or absent, it contradicts the contents of the documents or it contains conclusions drawn from incorrect facts - the disciplinary tribunal of the second instance shall overturn the decision of the first instance and direct the disciplinary tribunal of the first instance to launch new proceedings.
- (3) In addition to the case specified in Subsection (2), the disciplinary tribunal of the second instance may decide on the merits of the case as presented in the appeal, and its decision is final and executable.
- (4) The rules of the proceedings of the first instance must be applied mutatis mutandis in proceedings of the second instance.
- (5) The attorney who is the subject of the proceedings, his representative and the president of the bar association may seek legal remedy against a decision of the second instance pursuant to the regulations governing administrative lawsuits (CCP, Chapter XX) within thirty days of receipt. The Budapest Metropolitan Court shall be the court of competent jurisdiction for such lawsuits.

#### Section 61.

The final disciplinary decision must be sent to the person who filed the complaint.

#### Suspension of Proceedings

#### Section 62.

- (1) Disciplinary proceedings may be suspended at any time prior to the final conclusion of the proceedings against the attorney who is the subject of the proceedings.
- (2) Authorities proceeding in a criminal case shall inform the bar association of any criminal proceedings launched against an attorney and the conclusion thereof.
- (3) If the conduct of disciplinary proceedings depends on the adjudication of a prior



matter for which the proceedings belong to the jurisdiction of another authority, the disciplinary proceedings may be suspended until the final conclusion of such other proceedings.

#### Initiating New Proceedings

##### Section 63.

(1) After a final decision has been made, the president of the bar association, the attorney or, in the event of the attorney's death, a relative of his [CCP, Subsection (2) of Section 13] may initiate new proceedings if they refer to a fact, evidence or a final official decision that the disciplinary tribunal has not considered, provided that, were it to be considered, it would have a substantial impact on the disciplinary decision. New proceedings may be initiated if in the original case a member of the disciplinary tribunal violated his responsibilities in a manner that comes into conflict with the Criminal Code.

(2) New proceedings may only be initiated against an attorney within the attorney's lifetime and the term of limitation.

(3) The disciplinary tribunal of the first instance shall decide on ordering new proceedings. The person initiating the new proceedings may appeal a negative decision to the disciplinary tribunal of the second instance within 15 days of receipt.

#### Costs

##### Section 64.

(1) The bar association shall advance the costs of disciplinary proceedings.

(2) If an attorney's liability is established in the course of the disciplinary proceedings, he is obligated to pay the costs of the proceedings in part or in full.

#### The Scope of Penalties and Exemption

##### Section 65.

(1) An attorney may not be elected to any bar association office for two years if a fine is imposed, five years in the event of suspended disbarment, ten years in the event of disbarment - all calculated from the time at which the disciplinary decision becomes final - and all existing bar association offices shall terminate.

(2) The disciplinary tribunal of the first instance may, upon request, exempt the attorney who is the subject of the proceedings from the detrimental consequences of a disciplinary penalty after the decision has become final or, in the case of disbarment, after five years from the time the decision becomes final if the attorney proves deserving.

(3) In all other respects, the rules for disciplinary proceedings shall be applied to any adjudication of a request for exemption.

##### Section 66.

(1) The provisions of this Chapter shall also be applied to assistant attorneys, foreign legal counsels and articulated clerks.

(2) The legal consequences of being removed from the register as a disciplinary penalty are the same for assistant attorneys, foreign legal counsels and articulated clerks as the disciplinary penalty of disbarment is for attorneys.

#### PART FOUR

#### SPECIAL ORGANIZATIONAL RULES

##### Chapter VII

##### LAW FIRMS

##### Section 67.

(1) Law firms may be established to practice law (hereinafter referred to as "law firm"). Law firms are legal persons.

(2) One or several attorneys may establish a law firm.

(3) A deed of foundation is required for establishing a law firm. The deed of foundation must specify

- a) the law firm's name, its registered office, the names and addresses of its director and members,
- b) the amount of the law firm's assets, the date on which they will be available and the manner in which they will be available,
- c) voting rights and the procedure to be followed in the event of tie votes,
- d) the rules for representing the law firm and for accepting agencies,
- e) the rules for managing the law firm in the event of several directors,
- f) the rules for the functioning of members' meetings,
- g) the rules for making settlements among the members,
- h) the rules for being expelled from the law firm, extraordinary dismissal and termination of membership,
- i) the rules for terminating the law firm.

(4) The information specified in Paragraphs a), b) and i) of Subsection (3) must be provided for sole law firms.

(5) The members of a law firm are entitled to examine the firm's books and accounts. Any arrangement to the contrary is null and void.

#### Register of Law Firms

##### Section 68.

(1) Law firms that are entered in the bar association's register of law firms may practice the law.

(2) A law firm must, upon its request, be entered into the register of law firms if

- a) the deed of foundation contains the information specified in Subsections (3) and (4) of Section 67,
  - b) the deed of foundation does not violate legal regulation,
  - c) it is a member of the Hungarian Attorney's Insurance and Assistance Association or has other liability insurance that is accepted by the bar association.
- (3) The risk assumption specified in the liability insurance contract taken out by the law firm must exempt the law firm from compensation for damages caused by it in an amount that is at least as much as its individual liability insurance would exempt a number of attorneys equal to the number of members in the law firm.
- (4) Section 15 must be applied to the evaluation of the application.
- (5) A law firm comes into being when it is entered into the register of law firms.
- (6) A law firm or attorney shall report to the bar association any change that occurs in the office's data or personal particulars within thirty days.
- (7) Any members' meeting decision to amend the deed of foundation and, in the event of a law firm's termination without legal successor (Section 77), the deed(s) of foundation of the new firm(s) must be submitted to the bar association within thirty days of the decision of the members' meeting.

#### Liability for the Law Firm's Obligations

##### Section 69.

- (1) A law firm's members shall be liable to the law firm for providing the assets specified in the deed of foundation and any other financial contribution that might be established. The members are not responsible for the law firm's obligations, with the exception specified in Subsection (2).
- (2) The provisions of Subsection (1) of Section 10 shall be applied to a law firm so that if the law firm's assets do not cover the debts, the attorney who causes the damage bears unlimited liability with his own assets. The deed of foundation may stipulate that the attorney who causes the damage must, in whatever instance and amount, compensate the law firm for payments made by the law firm.
- (3) The attorney who causes the damage is - without affecting the underlying liability - actionable along with the law firm.

#### Members' Meeting of a Law Firm

##### Section 70.

- (1) The members' meeting shall consist of the law firm's members and decide in all matters affecting the law firm.
- (2) The founder shall exercise the powers of the members' meeting in a sole law firm.

#### Review of the Members' Meetings' Resolutions

##### Section 71.

- (1) The members of a law firm may request the bar association to make a review of a members' meeting's resolution if it violates a legal regulation or is in contradiction with the deed of foundation.
- (2) The scope of any bar association decision made in the course of a review of a members' meeting's resolution shall include those members who did not request a review of the resolution.

##### Section 72.

- (1) A request for a review of an unlawful resolution - subject to forfeiture - must be submitted to the bar association within 15 days of the announcement of the resolution. Submitting a request has no suspensory effect, but the bar association may suspend execution of the resolution. The bar association shall overturn an unlawful resolution.
- (2) Section 15 shall be applied to the judgment of the request with the understanding that the resolution must, in all cases, be justified.

#### The Law Firm's Use of a Name

##### Section 73.

- (1) The law firm's corporate name may be the following:
- a) the surname of one of the members and the designation "társai" [associates] as well as "ügyvédi iroda" [law firm],
  - b) the surname of a part of the members and the designation "ügyvédi iroda" [law firm].
- (2) The surname of a deceased member or a proprietary member may be used in the law firm's name if the member himself or, after his death, his heirs have approved it.
- (3) A law firm may deviate from the use of a name as stipulated in Subsection (1) only in accordance with a regulation issued on the basis of Paragraph b) of Subsection (1) of Section 112.

#### Agency Relations Created with Law Firms

##### Section 74.

- (1) Agency relations shall be created with the law firm.
- (2) Provisions restricting the stipulations of Section 25 must be applied to law firms.
- (3) The agency - apart from abrogation of the contract - terminates:
- a) by discharging the agency,
  - b) with the death of the client or its dissolution without a legal successor,
  - c) with the termination of the law firm without a legal successor.
- (4) If the membership of a law firm's member terminates in such a manner that he continues to pursue his legal practice, the attorney shall become an agent in an agency contract issued to him in the settlement. The law firm is obligated, pursuant to

Subsection (7) of Section 24, to inform the client of any expected change in the person of the agent.

#### Suspension of a Member's Legal Practice

#### Section 75.

The prior consent of the law firm is required before a member of the law firm can suspend his legal practice.

#### Termination of a Law Firm

#### Section 76.

(1) A law firm shall terminate when it is removed from the register of law firms.

(2) The bar association shall remove a law firm from the register of law firms if the law firm

a) fails to comply with the conditions specified in Subsection (2) of Section 68,

b) terminates without a legal successor,

c) merges (fuses, consolidates) with or separates from another law firm,

d) the bar association membership of any of its members terminates.

(3) In the case stipulated in Paragraph a) of Subsection (2), the bar association shall call upon the law firm to satisfy the conditions specified in Subsection (2) of Section 68 within thirty days.

(4) The bar association's decision on removal from the register must be rationalized. The decision shall be made in accordance with the provisions of Section 15.

(5) The law firm must be removed from the register on the day indicated in the members' meeting's resolution - in the cases specified in Paragraphs b) and c) of Subsection (2) - or on the day on which the bar association membership of the last member terminates - in the case specified in Paragraph d) of Subsection (2).

(6) If a law firm terminates without a legal successor, the assets remaining after the debts have been settled must be distributed among the members in proportion to their contributions, unless an agreement or a provision of the deed of foundation stipulates otherwise.

(7) Each member of a law firm that has terminated without a legal successor is liable for the law firm's debts up to the amount of his part of the law firm's assets.

#### Termination of a Law Firm with a Legal Successor (Transformation)

#### Section 77.

(1) In the case of separation, departure (hereinafter referred to as "demerger"), the law firm's members' meeting makes the decision; in the case of consolidation or fusion (hereinafter referred to as "merger"), the members' meetings of the concerned law firms make the decision.

(2) In a separation, the law firm terminates and the law firm's assets are transferred to the newly created law firms; in a departure, the members departing from the law firm create a new law firm or a departing member founds a sole law firm with a part of the law firm's assets, and the firm affected by the departure shall continue to exist by amending its deed of foundation.

(3) In the case of fusion, the law firm terminates and its assets are transferred to the other law firm that is continuing (receiving) the law firm's practice; in the case of consolidation, the law firms terminate and their assets are transferred to the new law firm that is being created.

(4) Decisions about merger and demerger must contain the data (name, registered office) for the law firms concerned, the manner of merger or demerger, the day on which the new law firm(s) will be established (the day on which the deed of foundation is adopted), the names of the members of the new law firm(s), the distribution of assets and the division of agency contracts.

(5) The assigned law firm must, in accordance with Subsection (7) of Section 24, inform the client that the agency has been transferred to the legal successor law firm.

(6) The provisions of the Companies Act on transformation shall be duly applied to the procedural rules for transformation as well as to the new law firm's obligations to prepare a statement of source and application of funds and to ascertain and value its assets.

(7) The legal successors of a demerging law firm are liable for those of the law firm's obligations incurred prior to demerger in the proportion in which the assets were distributed. If any assets are not provided for during the demerger, the assets or consideration for them are due to the legal successors in the proportion in which the assets were distributed. If an obligation is unknown until after the demerger, the liability of the legal successors is joint and several. The legal successors also have joint and several liability if the obligation is not provided for during the demerger and the law firm that is the obligor failed to pay for it. These provisions may be applied to any possible liability for indemnification (Section 69) only with regard to obligations arising from agency.

(8) Unless otherwise provided by law, the law firms shall not acquire extra tax and duty obligations at the time of transformation made in accordance with this Section.

#### Termination of Membership Relations

#### Section 78.

(1) Membership in a law firm terminates

a) with the termination of the member's membership in the bar association,

- b) by mutual agreement of the members,
- c) by ordinary notice,
- d) by extraordinary notice,
- e) with disbarment,
- f) with the member's death,
- g) with the termination of the firm.

(2) The law firm must settle accounts with the member at the time the membership relation is terminated.

Notice

Section 79.

(1) A member of a law firm may terminate his membership relation with three months notice. If the notice period expires at an inconvenient time, the law firm may extend the notice period by up to three more months.

(2) A law firm may terminate a membership relation with three months notice, and it must simultaneously inform the member of the share of the assets that the law firm shall give him on the day on which membership is terminated. If the member disputes the share of the assets so determined, he must inform the law firm thereof within 15 days of the day on which notice is given. In the absence of agreement, either party may seek legal remedy in the matter of assets.

(3) Any exclusion or limitation of ordinary notice as stipulated in Subsections (1) and (2) shall be null and void.

(4) A member of a law firm may terminate his membership relation with immediate effect if another member of the law firm seriously violates the provisions of the deed of foundation or displays conduct that seriously endangers collaboration with him or the law firm's practice (extraordinary notice).

Removal

Section 80.

(1) The law firm's members' meeting may remove a member for an important reason. An important reason is, for instance, conduct that seriously endangers the law firm's practice.

(2) Sections 71 and 72 must be applied to the decision declaring removal with the difference that submission of a request for review has a suspensory effect, although the bar association may, at the law firm's request, suspend the member's membership rights until a final decision is made. Removal becomes executable with a final decision from the bar association.

Proprietary Membership

Section 81.

(1) The law firm's deed of foundation may stipulate that, if the member so wants, the share of the assets due to the member may stay in the law firm after the membership relation is terminated (proprietary membership).

(2) In the event of proprietary membership, the deed of foundation must stipulate the rights and obligations of proprietary members as well as the manner in which shares of the assets are to be given out and accounts are to be settled.

Section 82.

(1) A proprietary member may not practice law, and his legal credentials must be revoked.

(2) Proprietary membership shall terminate with the death of the proprietary member, and the law firm must settle the proprietary member's account with his heirs.

Section 83.

In all other matters, the regulations on attorneys shall be duly applied to law firms.

Chapter VIII

ASSISTANT ATTORNEYS

Section 84.

(1) Assistant attorney means an attorney who practices law on the basis of an employment relation created with an attorney or law firm. An assistant attorney may not handle the matters specified in Subsections (1) and (3) of Section 5 independently; he may participate in such cases only within the attorneys scope of liability and under the authority or the control of the attorney.

(2) An assistant attorney may only practice law on the basis of an agency provided to his employer, within the framework of an appointment. An assistant attorney may substitute for another attorney with the consent of his employer.

(3) Assistant attorneys who have been entered in the bar association's register of assistant attorneys may practice law.

(4) The bar association shall furnish assistant attorneys with picture identification cards.

Register of Assistant Attorneys

Section 85.

(1) The following shall, upon request, be entered into the register of assistant attorneys  
a) persons who meet the conditions specified in Paragraphs a)-e) and h) of Subsection (3) of Section 13 and

b) have established an employment relation with an attorney or law firm for practicing the law.

(2) Assistant attorneys are not members of the bar association.

(3) Section 14 shall be applied to the suspension of the admission procedure, and Section 15 to the evaluation of applications.

#### Employment Relation of Assistant Attorneys Section 86.

- (1) An assistant attorney may only have an employment relation with an attorney or a law firm.
- (2) The employment relation of an assistant attorney shall terminate - according to the regulations on termination of an employer without legal successor - if the bar association removes the employer from the register or suspends the employer's practice.
- (3) The employer's liability insurance shall also cover the assistant attorney's practice.
- (4) The Labor Code shall govern the employment relations of assistant attorneys in all other matters.

#### Disciplinary Penalties

##### Section 87.

The disciplinary penalties specified in Paragraphs a) and b) of Section 38 may be imposed on assistant attorneys who commit disciplinary infractions, as may removal from the register of assistant attorneys.

#### Removal from the Register of Assistant Attorneys

##### Section 88.

- (1) An assistant attorney shall be removed from the register of assistant attorneys if
  - a) he fails to meet the conditions specified in Paragraphs a)-e) and h) of Subsection (3) of Section 13,
  - b) his employment relation has terminated,
  - c) removal from the register of assistant attorneys has been imposed as a disciplinary penalty,
  - d) he has died.
- (2) The bar association's decision on removal must be rationalized. The decision shall be made in accordance with the provisions of Section 15.
- (3) An assistant attorney who has created an employment relation with an attorney or law firm within the previous three months need not be removed from the register on the basis of Paragraph b) of Subsection (1).
- (4) An assistant attorney's credentials shall be revoked upon removal from the register of assistant attorneys.

##### Section 89.

- (1) The provisions of this Act on attorneys shall also govern assistant attorneys mutatis mutandis.
- (2) If an assistant attorney would like to pursue his practice as an attorney, the bar association may conduct proceedings in accordance with Section 13 with the understanding that the conditions that were necessary for entry into the register of assistant attorneys shall not be not re-examined.

#### Chapter IX

#### LEGAL PRACTICE IN THE TERRITORY OF THE REPUBLIC OF HUNGARY OF PERSONS ENTITLED TO PRACTICE LAW IN A MEMBER STATE OF THE EUROPEAN ECONOMIC AREA Section 89/A.

- (1) The provisions of this Act shall be applied subject to the exceptions set out in this Chapter to the activities conducted in the territory of the Republic of Hungary by Hungarian citizens and those persons with the right of free movement and residence who are authorized to practice law in any Member State of the European Economic Area under any of the professional designations stipulated in specific other legislation (hereinafter referred to as European Community jurist).
- (2) For the purposes of this Member States of the Act European Economic Area shall mean the Member States of the European Union, the states which are parties to the Agreement on the European Economic Area, any other country whose citizens are enjoying the same treatment as nationals of States who are parties to the Agreement on the European Economic Area by virtue of an agreement between the European Community and its Member States and a State that is not a party to the Agreement on the European Economic Area.
- (3) In applying this Chapter, the Member State of the European Economic Area in which a European Community jurist has acquired the entitlement to use one of the professional designations stipulated in specific other legislation is to be considered the European Community jurists home Member State.

#### Register of European Community jurists

##### Section 89/B.

- (1) Whoever would like to permanently practice law as a European Community jurist in the territory of the Republic of Hungary must apply for entry into the register of European Community jurists kept by the bar association (referred to in this Chapter as "register"), and whoever would like to practice law as a temporary service provider may apply for entry into the register.
- (2) The following applicants shall be entered into the register:
  - a) any person who proves that he is entitled to practice law in his own Member State by providing a certified Hungarian translation of a document issued within the previous three months by an organization in his own state that keeps a register of attorneys,

- b) any person who proves he has attorneys liability insurance with a certified Hungarian translation of a document to that effect and gives prior consent in a written statement for the insurance company to issue information concerning the existence of the liability insurance in response to a request from the bar association, and
- c) any person who gives his prior consent in a written statement for the bar association procedure specified in Subsection (3) of Section 89/C.

(3) If a European Community jurist is a member of an attorneys association in his own Member State, he must inform the bar association thereof and report the pertinent data at the same time.

#### Section 89/C.

(1) An application for entry into the register must be submitted to the bar association with jurisdiction over:

- a) the location of the office he has established for his legal practice, if the European Community jurist would like to practice law permanently,
- b) the location of the office of the attorney or law firm with which he has concluded a collaboration contract or, in the absence of such contract, the place where service is provided, if the temporary service provider would like to practice law as a European Community jurist,
- c) the location of the office of the attorney or law firm with which he has concluded a contract aimed at establishing employment, if the applicant would like to practice law as an assistant European Community jurist.

(2) If a European Community jurist proves that, in accordance with the regulations of his own Member State, he has membership in an insurance fund or has attorneys liability insurance that covers his legal practice in the territory of the Republic of Hungary, the certificate concerning such will attest the existence of the attorneys liability insurance. The bar association prescribes insurance to supplement that described in the certificate if the insurance contract fails to comply with the conditions prescribed by Hungarian legal regulation with regard to the amount of insurance.

(3) In order to assert claims against liability insurance, the bar association, at the request of the European Community jurist's client, is obligated to

- a) inform the client of those data contained in the European Community jurist's liability insurance contract that are necessary for asserting claims, and
- b) inform the client regarding the manner in which claims are asserted and the authorities before which the client may initiate such assertion.

(4) There is legal remedy, as specified in Section 15, against reasoned bar association decisions taken with regard to entering applicants in the register.

#### Section 89/D.

(1) European Community jurists must pay a registration fee for being entered into the register; the Hungarian Bar Association shall determine and publish the amount of the fee.

(2) The bar association shall immediately send the Hungarian Bar Association the data for each European Community jurist entered into the register.

#### Section 89/E.

(1) The register shall contain the following information about each European Community jurist:

- a) surname and forename,
- b) citizenship,
- c) date and place of birth, mother's name,
- d) the jurist's address in other Member States and, if one exists, address in Hungary,
- e) number and date of his university diploma and, if the jurist has one, the certificate confirming the examination entitling the jurist to practice law; his academic degrees and his professional legal qualifications,
- f) address of the jurist's office and, if he is employed, his employer and, if there is one, the office of the collaborating attorney; telephone and fax numbers; e-mail address; and, if he has not signed a collaboration contract, his accessibility data,
- g) date of registration and number of the decision,
- h) date on which the jurist's practice begins, is suspended, discontinued and terminated,
- i) nature of the jurist's activities (providing permanent or temporary services or employed),
- j) foreign language in which the jurist, by his own indication, practices the law,
- k) name of the jurist's own Member State,
- l) the jurist's professional designation as used in his own Member State (together with a Hungarian explanation of it, if necessary), and
- m) the professional designation of the jurist's attorneys association as it appears in his own Member State.
- n) the first and last day of the validity period of the certificate obtained for his electronic signature with a view to his legal practice, and the name of the certification-service-provider,
- o) entitlement to participate in electronic company registration proceedings.

(2) Of the data stipulated in Subsection (1), the data specified in Paragraphs c) and n) is not public.

(3) The Hungarian Bar Association shall keep a central register for the data stipulated in

Subsection (1).

(4) The bar association shall notify the organization indicated in Paragraph a) of Subsection (2) of Section 89/B of the registration of European Community jurists.

(5) The bar association shall furnish European Community jurists with picture identification cards.

#### Admission of European Community Jurists to the Bar Association

##### Section 89/F.

(1) The bar association shall, upon the jurist's request, admit a registered European Community jurist to the bar association if

a) he satisfies the conditions specified in Paragraphs c) and f)-h) of Subsection (3) of Section 13,

b) he dependably proves, with documents pertaining to the number and nature of the cases he has handled or in a personal interview at the special invitation of the bar association, that he has continuously conducted his practice in connection with Hungarian law for three years in the territory of the Republic of Hungary (including practice in connection with the application of European Union law in Hungary), and

c) he proves, in a personal interview, that he is sufficiently proficient in the Hungarian language to practice the law.

(2) A registered European Community jurist may, at his request, be admitted to the bar association as an attorney if he has continuously practiced the law in Hungary although his legal practice in connection with Hungarian law (including practice in connection with the application of European Union law in Hungary) is less than three years, and he otherwise satisfies the conditions stipulated in Subsection (1).

(3) Up to three months of the time spent in absence owing to the usual annual holiday, unpaid and extraordinary holidays, suspension of work, maternity leave and illness may be included in the time of legal practice begun after registration.

(4) European Community jurists shall become full-fledged members of the bar association once admitted to the bar. In addition to an appellation, attorneys are entitled to include their professional designation as used in their own Member State in the use of their name.

##### Section 89/G.

(1) Minutes of the personal interview with the bar association must be kept, and these minutes shall be signed by the person(s) representing the bar association, the minutes-keeper and the European Community jurist requesting admission.

(2) There is legal remedy, as stipulated in Section 15, against reasoned bar association decisions taken in proceedings in connection with the admission of a European Community jurist to the bar association or with the suspension of admission.

(3) The bar association shall register European Community jurists in accordance with the provisions of Subsection (2) of Section 13 and send their data to the Hungarian Bar Association forthwith.

#### Removal of European Community Jurists from the Register and Termination of Membership in the Bar

##### Section 89/H.

(1) The bar association shall remove a European Community jurist from the register if

a) he fails to satisfy the conditions specified in Subsection (2) of Section 89/B,

b) a disciplinary penalty, as specified in Subsection (4) of Section 89/L, has been imposed against him,

c) as a European Community jurist, he creates the impression that he is an attorney or if he uses a title, name, addition or description on the basis of which he creates the impression that he is entitled to use the title of attorney,

d) he must be removed from the register of assistant European Community jurists,

e) he becomes a member of the bar association,

f) the European Community jurist so requests, or

g) the European Community jurist dies.

(2) In addition to the cases stipulated in Subsection (1) of Section 20, an attorney's membership in the bar association shall terminate if his entitlement to practice law in his own Member State terminates.

(3) There is legal remedy, as specified in Section 15, against reasoned bar association decisions taken in proceedings in connection with removal from the register and termination of membership in the bar association.

#### Activities of European Community Jurists

##### Section 89/I.

(1) A European Community jurist may pursue any of the legal activities specified in Section 5.

(2) In using the name of a European Community jurist, only the professional designation used in his own Member State may be used, and the appellation of the professional organization of which he is a member must appear in the official language of his own Member State. The professional designation must be furnished with an explanation in Hungarian if the attorney can be confused with the designation.

##### Section 89/J.

(1) If a European Community jurist pursues any of the legal activities specified in Section 5 as an unregistered temporary service provider, he must - at the request of the

bar association, court (authority) or commissioner - produce the documents specified in Paragraph a) of Subsection (2) of Section 89/B to prove that he is entitled to practice law under any of the professional designations stipulated in specific other legislation. If he fails to satisfy this obligation, he may not practice law in the territory of the Republic of Hungary.

(2) If a European Community jurist provides representation before a court or other authority as a temporary service provider, he is obliged to make his activities known to the regional bar association with jurisdiction over the place in which the service is provided, while simultaneously reporting his name, the name of the organization in his own Member State in which he is registered as an attorney, the registration number, his professional designation as used in his own Member State and his accessibility data. Section 89/K.

(1) In those cases in which legal regulation prescribes compulsory legal representation, a European Community jurist may only provide such representation if he has concluded a collaboration contract with an attorney or law firm for this purpose.

(2) In all cases requiring compulsory legal representation in which a European Community jurist proceeds for the first time before a court or other authority in representation of his client, the jurist must produce a collaboration contract and, if it is not in Hungarian, a certified Hungarian translation thereof.

(3) If a collaboration contract terminates, the European Community jurist must report this fact immediately to the court and authority before which he previously verified the establishment of collaboration.

(4) The Hungarian Bar Association shall specify the major content elements of collaboration contracts in the rules and regulations.

Section 89/L.

(1) European Community jurists who permanently practice law in the territory of the Republic of Hungary shall, in the course of their activities, comply with the provisions of this Act and the stipulations of the rules and regulations of the Hungarian Bar Association.

(2) The provisions of this Act shall govern the activities of European Community jurists who provide temporary services with regard to legal representation; the rules of a jurist's own Member State that govern the practice of law in such cases shall be applied, as shall the provisions of this Act and the stipulations of the rules and regulations of the Hungarian Bar Association, provided that they are applicable even when legal practice in the territory of the Republic of Hungary is not permanent.

(3) If a European Community jurist provides temporary services without being registered, the bar association with jurisdiction over the place in which the services are provided shall monitor compliance with the requirements established in this Act with regard to European Community jurists who provide temporary services.

(4) The provisions of Chapter VI shall govern the disciplinary accountability of European Community jurists with the understanding that European Community jurists practicing law permanently may be removed from the register rather than disbarred and European Community jurists practicing law temporarily may be forbidden to practice law in the territory of the Republic of Hungary. At his own request, a registered European Community jurist who is providing temporary services shall be removed from the register concurrently with the disciplinary penalty prohibiting his practice in the territory of the Republic of Hungary.

(5) The regulations pertaining to independent attorneys shall be applied *mutatis mutandis* to independently operating European Community jurists.

Section 89/M.

(1) European Community jurists are authorized to function as assistant attorneys. Paragraphs d) and e) of Subsection (3) of Section 13 may not be applied with regard to the entry of assistant European Community jurists in the register.

(2) Bar associations must send the data pertaining to assistant European Community jurists to the Hungarian Bar Association forthwith.

Forms of Collaborative Activity

Section 89/N.

(1) European Community jurists who have been entered into the bar association register in accordance with Section 89/B are also entitled to found law firms and establish a membership relation in law firms.

(2) If a law firm has only European Community jurists as members or if none of the members surnames appears in the name of the law firm, the expression office rather than law firm must be used in designating the firm. The designation law firm or office may contain the foreign-language designation of the attorneys association registered in a Member State of the European Economic Area of which the European Community jurist is a member.

(3) The rules pertaining to offices and law firms shall be duly applied.

Cooperation between Bar Associations and with the Authority that Keeps the Register of Attorneys in the European Community Jurist's own Member State

Section 89/O.

(1) In any and all matters that arise in connection with the legal practice of a European Community jurist, the Hungarian Bar Association and the bar association shall cooperate



and provide assistance by reporting the data in the register kept pursuant to this Act to one another and the organization that keeps the register of attorneys in the jurist's own Member State.

(2) Within the context of cooperation, the bar association or the Hungarian Bar Association shall

- a) inform the organization that keeps the register of attorneys in the European Community jurist's own Member State of any disciplinary proceedings launched against the jurist before the disciplinary proceedings are initiated, cooperate in the proceedings, send the decision taken in the disciplinary proceedings and afford the representative of the organization that keeps the register of attorneys in the jurist's Member State the opportunity to express his comments on the appeal in the appellate forum,
- b) inform the organization that keeps the register of attorneys in the jurist's Member State of removal as specified in Subsection (1) of Section 89/H as well as
- c) in the case of attorneys who practice law in other Member States of the European Economic Area, inform the organizations that keep the register of attorneys in the Member States concerned of the removal of the said attorney from the register of attorneys.

(3) The organizations concerned shall maintain confidentiality with regard to all of the facts and data of which they become cognizant within the realm of the obligation to cooperate.

(4) In the rules and regulations, the Hungarian Bar Association shall stipulate any additional provisions in connection with fulfilling the obligation to cooperate.

Right of European Community Jurists to be Represented in the Bar Association  
Section 89/P.

(1) The bar association must provide representation in the bar association's public life for registered European Community jurists.

(2) Registered European Community jurists may create a separate committee in the bar association. The bar association must obtain the opinion of this committee in order to take any decision or draft any regulation that establishes rights and responsibilities pertaining to the persons and activities represented by the committee.

Chapter X

FOREIGN LEGAL COUNSELS

Section 90.

(1) A foreign legal counsel is any person who is engaged in the legal activities specified in Subsection (1) of Section 92 on the basis of a collaboration contract concluded with a Hungarian attorney or law firm. A foreign legal counsel may conduct his activities on the basis of an agency provided to an attorney or law firm with which he has concluded a collaboration contract. If the collaboration contract so provides, the foreign legal counsel may accept agencies in his own right within the realm of his activities.

(2) A collaboration contract may also be concluded with the foreign legal counsel's foreign law firm (hereinafter referred to as "foreign law firm").

(3) Any person entered into the bar association's register of foreign legal counsels may pursue the activities of a foreign legal counsel, beginning no earlier than the date of entry. This provision does not affect the regulations pertaining to the employment of foreign nationals in Hungary.

(4) The bar association shall furnish foreign legal counsels with picture identification cards.

Register of Foreign Legal Counsels

Section 91.

(1) The following shall, upon request, be entered into the register of foreign legal counsels:

- a) persons who meet the conditions specified in Paragraphs c), f) and h) of Subsection (3) of Section 13,
  - b) have concluded a collaboration contract as specified in Subsections (1) and (2) of Section 90,
  - c) have proved that they are authorized to practice law abroad,
  - d) have proved that they have a good reputation in the country in which they are a registered attorney and that they are not the subject of criminal or disciplinary proceedings,
  - e) practices law in a Hungarian law firm or in a common firm with a Hungarian attorney.
- (2) Substantiation provided by the competent bar association in the place where the foreign attorney practices or, in the absence of such, the foreign authority competent for such matters may be accepted in regard to Paragraphs c) and d) of Subsection (1).
- (3) No foreign attorney who has established - or whose foreign law firm has established - a commercial representation in Hungary may be entered into the register of foreign legal counsels.

(4) Section 15 shall be applied to the evaluation of the application.

Functioning of Foreign Legal Counsels

Section 92.

(1) A foreign legal counsel may provide legal advice concerning the law in the country in which he is a registered attorney, international law, and legal practice in connection with these.

(2) A foreign legal counsel may not pursue legal activities other than those prescribed in Subsection (1).

(3) A foreign legal counsel is not a member of the bar association. In the course of his activities, he must make it known that he is not a registered member of a Hungarian bar association, and he must not imply that he is authorized to practice Hungarian law.

(4) In the case of collaboration between a Hungarian attorney or law firm and a foreign legal counsel or foreign law firm, the name of the foreign legal counsel or foreign law firm and reference to the collaboration may appear, along with the name of a Hungarian attorney, in the name of a Hungarian law firm. In the course of his activities, a foreign legal counsel may - when referring to his capacity as a foreign legal counsel - use his own personal name and the name of his foreign law firm in the form used in the country in which he is registered.

(5) A Hungarian attorney may join a foreign law firm as a co-owner (partner) without authorization from the bar association.

#### Disciplinary Penalties

##### Section 93.

The disciplinary penalties specified in Paragraphs a) and b) of Section 38 may be imposed on foreign legal counsels who commit disciplinary infractions, as may removal from the register of foreign legal counsels.

#### Removal from the Register of Foreign Legal Counsels

##### Section 94.

(1) A foreign legal counsel shall be removed from the register of foreign legal counsels if

- a) he fails to meet the conditions specified in Subsection (1) of Section 91,
- b) his collaboration agreement with a Hungarian attorney or law firm terminates,
- c) removal from the register of foreign legal counsels has been imposed as a disciplinary penalty,
- d) he dies,

e) he or his foreign law firm establishes a commercial representation in Hungary.

(2) The bar association's decision on removal from the register must be rationalized. The decision shall be made in accordance with the provisions of Section 15.

(3) The bar association shall send the final decision on removal from the register of foreign legal counsels to the competent foreign bar association.

(4) Removal from the register of foreign legal counsels has no impact on any collaboration contract with a foreign law firm.

(5) The bar association shall revoke a foreign legal counsel's credentials when he is removed from the register of foreign legal counsels.

#### Chapter XI

#### ARTICLED CLERKS

##### Section 95.

(1) An articulated clerk is a person who has been engaged in legal practice for the amount of time required to pass the bar examination specified in specific other legislation.

(2) Any person entered in the bar association's register of articulated clerks may pursue the activities of an articulated clerk.

(3) The bar association shall furnish articulated clerks with picture identification cards.

#### Register of Articled Clerks

##### Section 96.

(1) The following shall, upon request, be entered into the register of articulated clerks:

- a) persons who meet the conditions specified in Paragraphs a)-d) and h) of Subsection (3) of Section 13,
- b) have created an employment relation with an attorney or law firm.

(2) An articulated clerk is not a member of the bar association.

(3) Section 14 shall be applied to the suspension of the admission procedure, and Section 15 to the evaluation of applications.

#### Functioning of Articled Clerks

##### Section 97.

(1) An articulated clerk must be given work in the course of which he may acquire the practical knowledge required for practicing law and passing the bar examination.

(2) An articulated clerk shall proceed before authorities in accordance with the directions of his employer, and he may substitute for another attorney with his employer's consent.

(3) The bar association shall oversee the legal practice of articulated clerks. The bar association shall provide for the training of articulated clerks.

#### Disciplinary Penalties

##### Section 98.

(1) The disciplinary penalties specified in Paragraphs a) and b) of Section 38 may be imposed on articulated clerks who commit disciplinary infractions, as may removal from the register of articulated clerks.

(2) The disciplinary tribunal of the first instance may, upon request, exempt an articulated clerk from the detrimental consequences of a disciplinary penalty after the decision has become final or, in the case of removal from the register of articulated clerks, after three years from the time the decision becomes final if the articulated clerk proves deserving.

#### Removal from the Register of Articled Clerks

##### Section 99.

- (1) An articulated clerk shall be removed from the register of articulated clerks if
- a) he fails to meet the conditions specified in Paragraphs a)-d) and h) of Subsection (3) of Section 13,
  - b) his employment relation terminates,
  - c) removal from the register of articulated clerks has been imposed as a disciplinary penalty,
  - d) he passed the bar examination, no more than three months after he had passed the examination,
  - e) he has died.

(2) The bar association shall pass a decision on removal from the register - with the exception of Paragraph e) of Subsection (1) - and such decision shall be rationalized. The decision shall be made in accordance with the provisions of Section 15.

(3) An articulated clerk need not be removed from the register of articulated clerks on the basis of Paragraph b) of Subsection (1) if he establishes an employment relation with another attorney or law firm within three months.

(4) The articulated clerk's employment relation shall terminate in the cases specified in Subsection (2) of Section 86 - in addition to the cases specified in the Labor Code.

(5) The bar association shall revoke the articulated clerk's credentials when he is removed from the register of articulated clerks.

#### Miscellaneous Provisions

##### Section 100.

(1) An employer's liability insurance shall also cover the activities of articulated clerks.

(2) The Labor Code shall govern the employment relations of articulated clerks in all other matters.

##### Section 101.

The provisions of this Act pertaining to attorneys shall govern articulated clerks mutatis mutandis.

#### PART FIVE

#### THE BAR ASSOCIATION

##### Chapter XII

#### REGIONAL BAR ASSOCIATIONS

##### Section 102.

(1) The regional bar association (referred to in Chapters XI and XII as "regional bar association") is a public body, which has a representative and administrative apparatus and an independent budget; within its operational area, it fulfills the duties assigned to its jurisdiction in Section 12 as well as in the law and in its statutes and rules and regulations.

(2) The operational areas of the regional bar associations shall be the same as the jurisdictions of the Budapest Metropolitan Court and the county courts.

(3) The jurisdiction of a regional bar association shall appear in its name.

#### Bodies of Regional Bar Associations

##### Section 103.

(1) The bodies of a regional bar association are the

- a) general meeting,
- b) presidency of the regional bar association (hereinafter referred to as "regional presidency"),
- c) disciplinary tribunal,
- d) conflict-of-interest committee,
- e) supervisory board.

(2) Assistant attorneys and articulated clerks may create committees of assistant attorneys and articulated clerks who are consulted with regard to decisions pertaining to them and the rules and regulations.

(3) In addition to the bodies stipulated in Subsection (1), committees specified in the bar association's statutes may also be elected.

#### General Meeting

##### Section 104.

(1) The general meeting shall consist of the members of the regional bar association.

(2) The general meeting

- a) elects and holds accountable the president of the regional bar association, the regional presidency, the regional committees and the officers and members of the regional committees,
  - b) elects the members delegated to the Hungarian Bar Association,
  - c) adopts the budget and the budgetary report,
  - d) makes recommendations to the Hungarian Bar Association in matters affecting attorneys,
  - e) adopts the statutes of the regional bar association,
  - f) may provide regional rules and regulations pertaining to the regional bar association's operational area and regional directives,
  - g) may recall and remove the persons specified in Paragraphs a) and b),
  - h) fulfills the other duties specified in the statutes of the regional bar association.
- (3) The statutes of the regional bar association, the regional rules and regulations and regional directives shall be sent to the Hungarian Bar Association. The statutes of the

regional bar association are binding on members of the regional bar association, and the regional regulations are binding on members of the regional bar association and assistant attorneys and articulated clerks who are registered with the regional bar association.

(4) A member of a regional bar association may seek remedy at the competent county court (Municipal Court of Budapest) against a general meeting resolution - by referring to a violation of legal regulation, the statutes or the rules and regulations - within thirty days of the day on which the resolution is announced. The court shall proceed in accordance with the general provisions of Act III of 1952 on the Code of Civil Procedure (CPC).

#### Section 105.

(1) The regional presidency shall convene the general meeting whenever necessary, but no less than once a year. The general meeting shall be convened when so requested by at least one-third of the bar association's members. The members of the general meeting shall be informed of the provisions of Subsections (2) and (3) in the invitation.

(2) The general meeting shall have a quorum if more than half of the bar association's members are present.

(3) If the general meeting fails to reach a quorum, a general meeting convened at least eight days later with the same agenda shall be quorate, regardless of the number of members present.

(4) A majority vote of the members present (simple majority) is necessary in order to validate the general meeting's resolutions, while a two-thirds vote of the members present (qualified majority) is required to adopt or amend the regional bar association's statutes and rules and regulations.

#### Regional Presidency

#### Section 106.

(1) The regional presidency shall consist of the president, one or more vice presidents, the secretary (secretary general) of the regional bar association as well as the disciplinary commissioner (disciplinary high commissioner) and the members. It shall have 15 members if the general meeting does not determine otherwise.

(2) The regional presidency

a) convenes the regional bar association's general meeting, makes recommendations for its agenda, prepares the activities of the general meeting, and organizes the execution of the general meeting's resolutions,

b) submits the regional bar association's budget and the budget report and reports on the regional bar association's activities to the general meeting,

c) decides in the first instance on the admission of attorneys to the bar association, the termination of membership in the bar association and the suspension of the admission procedure,

d) decides in the first instance on the entry of assistant attorneys, assistant European Community jurists, law firms, European Community jurists, offices, foreign legal counsels and articulated clerks into their respective registers and their removal therefrom and on the suspension of the procedure for entering assistant attorneys, assistant European Community jurists and articulated clerks into their respective registers,

e) decides in the first instance on the matter of reviewing the resolutions of the members' meetings of law firms,

f) decides in the first instance on the termination of legal practices, the re-registration of attorneys' offices and on all cases for which this Act orders the application of Section 15,

g) adjudicates any appeal against a decision of the president of the regional bar association,

h) oversees admission to the bar association as well as continuous adherence to the conditions for entering assistant attorneys, assistant European Community jurists, articulated clerks, European Community jurists, offices, foreign legal counsels and law firms into their respective registers,

i) may initiate conflict-of-interest proceedings,

j) determine the amount of the bar association membership fee,

k) decides on remuneration for the regional bar association's officers,

l) performs other duties stipulated by the general meeting and the statutes,

m) appoints substitutes for attorneys who are temporarily prevented from practicing their profession and have not provided for a substitute,

n) appoints caretakers for attorneys' offices if an attorney's bar association membership terminates and he has made no provision for handling his pending cases.

o) shall order an investigation for the detection and prevention of money laundering or terrorist financing, and shall adopt a decision in the first instance upon the conclusion of the investigation.

(3) Members of regional bar associations may appeal decisions of the regional presidency - by referring to a violation of legal regulation, the statutes or the rules and regulations - to the presidency of the Hungarian Bar Association; appeals must be made within 15 days of the date on which the decision is announced. This right does not impinge on the potential for legal remedy specified separately in this Act for individual cases.

President of the Regional Bar Association

## Section 107.

(1) The president of the regional bar association

- a) represents the regional bar association,
- b) directs the activities of the regional presidency and the committees and provides for the execution of the general meeting resolutions,
- c) reports on his activities to the presidency of the regional bar association and the general meeting,
- d) may initiate disciplinary proceedings,
- e) may initiate conflict-of-interest proceedings,
- f) may issue warning that do not qualify as penalties,
- g) directs the operations of the regional bar association's administrative apparatus and exercises employer's rights over the employees,
- h) performs other duties stipulated by the general meeting and the statutes.

(2) Any member of the regional bar association who is affected by a decision of the regional bar association's president may appeal the decision to the regional presidency within 15 days of the day on which the decision is announced.

## Section 108.

The statutes of the regional bar association shall stipulate the duties, powers, activities and procedural order of the regional bar association's bodies and its other committees and officers.

## Chapter XIII

## HUNGARIAN BAR ASSOCIATION

## Section 109.

(1) The Hungarian Bar Association is a public body and the national organization of attorneys, which has an independent administrative apparatus and budget.

(2) The Hungarian Bar Association is competent to perform the duties specified in Section 12 as well as in the law, its statutes and its rules and regulations.

(3) The regional bar associations are the members of the Hungarian Bar Association.

(4) The headquarters of the Hungarian Bar Association are in Budapest.

(5) The Hungarian Bar Association is authorized to use the coat of arms of the Republic of Hungary.

## Section 110.

(1) The bodies of the Hungarian Bar Association are

- a) the plenary meeting,
- b) the presidency,
- c) the disciplinary committee,
- d) the conflict-of-interest committee,
- e) the election committee,
- f) the oversight committee.

(2) In addition to the bodies stipulated in Subsection (1), committees specified in the Statutes of the Hungarian Bar Association (hereinafter referred to as "Statutes") may also be elected.

## The Plenary Meeting

## Section 111.

(1) The plenary meeting, which consists of 100 members, is the supreme decision-making body of the Hungarian Bar Association. Its members are

- a) the presidents of the regional bar associations,
- b) one member designated by each of the regional bar associations,
- c) members who are proportionately elected by the general meetings of the regional bar associations in a manner in which the number of members from each regional bar association is compared to the total number of attorneys.

(2) The plenary meeting

- a) elects and holds accountable the president, the presidency, the committees and its members,
- b) adopts the budget and the budgetary report,
- c) expresses its opinion and makes suggestions in legislative and judicatory matters that affect attorneys,
- d) adopts the Statutes,
- e) may issue regulations and directives,
- f) may recall and remove the persons specified in Paragraph a),
- g) performs the duties assigned to its jurisdiction by the Statutes.

(3) The presidency of the Hungarian Bar Association shall convene the plenary meeting whenever necessary, but no less than once a year. The plenary meeting shall be convened when so requested by at least one-third of the bar association's members. The members of the plenary meeting shall be informed of the provisions of Subsections (4) and (5) in the invitation.

(4) The plenary meeting shall have a quorum if more than half of the members are present.

(5) If the plenary meeting fails to reach a quorum, a plenary meeting convened at least eight days later with the same agenda shall be quorate, regardless of the number of members present.

(6) A majority vote of the members present (simple majority) is necessary in order to

validate the plenary meeting's resolutions, while a two-thirds vote of the members present (qualified majority) is required to adopt or amend the Statutes and rules and regulations.

(7) Subsection (4) of Section 104 shall be applied to any legal remedy against a plenary meeting resolution with the understanding that members of the plenary meeting may submit the petition.

Section 112.

(1) The plenary meeting shall, pursuant to Paragraph e) of Subsection (2) of Section 111, issue regulations regarding

- a) the rules of conduct for the legal profession (ethical rules),
- b) the use of attorneys' names,
- c) procedural rules for admission to the bar,
- d) the rights and procedures of caretakers,
- e) the lowest amount of liability insurance,
- f) detailed rules for disciplinary proceedings,
- g) the rules for the assistant attorneys and articulated clerks committees,
- h) the election and removal of bar association officers,
- i) the handling of a deceased attorney's papers,
- j) the rules for managing deposits and money,
- k) the technical requirements for the activities referred to in Paragraph h) of Subsection (3) of Section 5, the register of attorneys and law firms engaged in such activities, the detailed rules on the safekeeping of paper originals - including the procedure for the event when the activities of an attorney are suspended, the operation of the attorney archives and on the depositing and handling of documents in the attorney archives and their presentation to the court of registry when requested,
- l) the detailed regulations relating to the use of electronic signatures obtained for use in legal practice and the related duties of the bar association,
- m) the detailed rules for the oversight of the activities of attorneys by the bar association in connection with the detection and prevention of money laundering or terrorist financing,
- n) all matters for which the Statutes provide authorization.

(2) The plenary meeting may issue directives pertaining to the legal practice.

(3) The Statutes are binding on regional bar associations, while the rules and regulations are binding on regional bar associations, attorneys, assistant attorneys, foreign legal counsels and articulated clerks.

The Presidency

Section 113.

(1) The presidency shall consist of the president, vice presidents, secretary general (secretary), disciplinary high commissioner (disciplinary commissioner) as well as the members elected by the plenary meeting. It shall have 25 members unless the plenary meeting determines otherwise.

(2) The presidency

- a) convenes the plenary meeting, makes recommendations for the session's agenda, prepare the activities of the plenary meeting and organize the execution of the plenary meeting's resolutions,
- b) presents the budget of the Hungarian Bar Association and the budgetary report as well as reports on the activities of the Hungarian Bar Association to the plenary meeting,
- c) decides in the second instance on the admission of attorneys to bar associations, termination of bar association memberships and suspension of the bar association admission procedure,
- d) decides in the second instance on the entry of assistant attorneys, assistant European Community jurists, law firms, European Community jurists, offices, foreign legal counsels and articulated clerks into their respective registers and their removal therefrom as well as on the suspension of the procedure for entering assistant attorneys, European Community jurists and articulated clerks into their respective registers,
- e) decide in the second instance on the matter of reviewing the resolutions of the members' meetings of law firms,
- f) decides in the second instance on the termination of a legal practice, re-registration of an attorney's office and on all matters for which this Act orders the application of Section 15,
- g) determines the financial contributions of regional bar associations,
- h) decides on the remuneration of officers,
- i) may initiate conflict-of-interest proceedings,
- j) overturns decisions of regional bar association presidencies that are in violation of legal regulation, the statutes or the rules and regulations,
- k) adjudicates appeals, as specified in Subsection (3) of Section 47, against the decision of the president of the Hungarian Bar Association,
- l) expresses an opinion and make recommendations in legislative and judicatory matters that affect attorneys,
- m) bestows honorary titles and awards decorations,
- n) determines the dates of bar association elections,
- o) decides in the second instance on the conclusion of the investigation for the detection

and prevention of money laundering or terrorist financing,

p) performs other duties stipulated by the plenary meeting and the Statutes.

(3) Subsection (4) of Section 104 shall be applied to any legal remedy against a decision of the presidency with the understanding that a regional bar association may submit the petition. This right does not impinge on the potential for legal remedy specified separately in this Act for individual cases.

President of the Hungarian Bar Association

Section 114.

(1) The president of the Hungarian Bar Association

a) represents the Hungarian Bar Association,

b) directs the operations of the presidency and the committees and reports to the presidency on his activities,

c) may initiate conflict-of-interest proceedings,

d) directs the administrative apparatus of the Hungarian Bar Association and exercises employer's rights over the employees,

e) performs the duties that the law and the Statutes assign to his jurisdiction.

(2) Any regional bar association affected by a decision of the president of the Hungarian Bar Association may appeal the decision to the presidency within 15 days of the day on which the decision is announced.

Section 115.

The Statutes shall specify the duties, powers, activities and procedural orders of the other committees, bodies and officers of the Hungarian Bar Association.

Chapter XIV

DATA RECORDED BY THE BAR ASSOCIATION AND DISCLOSURE OF THE SESSIONS OF BODIES

Section 116.

(1) The bar association shall disclose the following data pertaining to attorneys, assistant attorneys, foreign legal counsels and articulated clerks:

a) given name and surname,

b) citizenship, date and place of birth, mother's name, identity card number,

c) address,

d) university diplomas, number and date of bar examination, academic degrees, legal qualifications,

e) their law firm's address and telephone and fax numbers,

f) name and address of the employers of assistant attorneys and articulated clerks,

g) date on which they took the oath and were entered into the register, decision number,

h) dates on which legal practice began and was suspended, discontinued and terminated; restrictions on activities as specified in Section 7; and proprietary membership,

i) disciplinary penalties, dates of exemption,

j) language proficiency,

k) honors,

l) bar association offices and functions.

m) the first and last day of the validity period of the certificate obtained for the electronic signature of members of the bar association with a view to their legal practice, and the name of the certification-service-provider,

n) entitlement to participate in electronic company registration proceedings.

(2) In the case of foreign legal counsels, the date stipulated in Paragraph d) of Subsection (1) shall not be disclosed, but the data pertaining to Hungarian attorneys who collaborate with the foreign legal counsel, the name and address of the foreign law firm and data pertaining to foreign registration must appear in the records of foreign legal counsels.

(3) In the case of law firms, the law firm's name, address and telephone and fax numbers as well as the names and addresses of the firm's members shall be recorded.

(4) Of the data stipulated in Subsections (1)-(3), those specified in Paragraphs a), e), h) and n) are public and disclosable and may be given to anyone.

(5) In the course of the proceedings conducted by it, the bar association may handle all data that have been lawfully obtained in the interest of the effectiveness of the proceedings and to whose handling the participant has consented.

(6)

(7) The Hungarian Bar Association shall keep a central register containing the data specified in Subsections (1)-(3).

Section 117.

In addition to members, persons invited by the president of the given bar association body and those specified in the statutes may attend and participate in the sessions of the bodies of the bar associations and the Hungarian Bar Association.

Section 118.

The Statutes and the rules and regulations of the Hungarian Bar Association shall be published in the Judicial Gazette [Igazságügyi Közlöny], while the statutes and rules and regulations of bar associations shall be made accessible, in a manner specified in the statutes, to members and all persons whose rights are affected. The decisions of bar

associations shall be open to members.

#### Chapter XV

#### ELECTION OF BAR ASSOCIATION OFFICERS AND TERMINATION OF THEIR MANDATES Section 119.

(1) Unless otherwise stipulated in this Act, any member of the bar association may be elected as a bar association officer or a member of a bar association committee. Elections are every four years.

(2) Officers and committee members shall be directly elected by secret ballot.

(3) A nomination process may precede an election, and several people may be nominated for one office or one person may be nominated for several offices. Any person who is elected to several offices may hold only one office, which shall be of his choice, in any one bar association.

(4) The mandates of officers shall terminate on the day on which the new officers are elected. If, for other reasons, the mandate of the president of the bar association, the secretary general or the disciplinary commissioner terminates beforehand, the body authorized to fill the position shall elect a new officer within three months of the termination of the mandate.

#### Section 120.

(1) An officer's mandate shall terminate with the officer's death, resignation or removal; the termination of his bar association membership; or the expiration of the mandate.

(2) One-third of the members of the electing body may initiate the recall and removal of an officer.

#### Chapter XVI

#### OVERSIGHT OF ACTIVITIES IN CONNECTION WITH THE DETECTION AND PREVENTION OF MONEY LAUNDERING AND TERRORIST FINANCING

#### Section 120/A.

(1) In accordance with this Section the regional bar association (in this Section hereinafter referred to as bar association) shall monitor the compliance of attorneys with the requirements set out:

a) in the Act on the Prevention and Combating of Money Laundering and Terrorist Financing, and

b) in the rules and regulations of the law firm or the Hungarian Bar Association adopted with a view to the implementation of the provisions of the aforesaid Act, (for the purposes of this Section hereinafter referred to as oversight).

(2) The presidency of the competent bar association shall open oversight proceedings ex officio and shall appoint a disciplinary commissioner to conduct the investigation (hereinafter referred to as investigating officer).

(3) The investigating officer shall have powers:

a) to request information from the attorney affected concerning his compliance with the obligations set out in the Act on the Prevention and Combating of Money Laundering and Terrorist Financing and in the regulations implementing it, and may compel the attorney to produce certain documents and records,

b) to enter the attorneys main or branch office, inspect his documents and records, and make copies of them (on-site inspection).

(4) The presidency of the competent bar association shall adopt a resolution in conclusion of such investigations.

(5) If, according to the investigation, the attorney is found in compliance with the obligations conferred upon him in the Act on the Prevention and Combating of Money Laundering and Terrorist Financing and in the regulations implementing it, the presidency of the bar association shall terminate the investigation by way of a resolution.

(6) If, according to the findings of the investigation, the attorney has infringed upon the obligations conferred upon him in the Act on the Prevention and Combating of Money Laundering and Terrorist Financing and in the regulations implementing it, the presidency of the bar association shall adopt a resolution:

a) to advise the attorney affected to abide by the provisions of the relevant laws and regulations, and to take any measure that has been omitted,

b) to recommend to the president of the bar association to order preliminary investigation if there is any suspicion of a disciplinary infraction.

(7) The resolutions adopted by the presidency of the bar association under Subsection (5) and Paragraph b) of Subsection (6) may not be appealed; whereas the attorney affected may appeal the resolution referred to in Paragraph a) of Subsection (6) - on the grounds of violation of legal regulation, the statutes or the rules and regulations - to the presidency of the Hungarian Bar Association within fifteen days from the day of communication of the resolution.

(8) The bar association shall have the right to monitor compliance with the resolution in accordance with the provisions set out in this Section.

(9) If the infringement described under Subsection (6) constitutes the attorneys failure to comply with the obligation to report any information, fact or circumstance that may suggest money laundering or terrorist financing, the presidency of the competent bar association shall file the report in the stead of the attorney in question.

(10) The attorney affected shall cooperate in the investigation, carry out the instructions



and abide by the provisions of the bar associations related notices and resolutions, and provide for the conduct of the inspection.

(11) The bar association, the investigating officer and the Hungarian Bar Association shall have authority to access confidential data and information to the extent necessary for the purposes of the investigation. Members and employees of the bar association, if participating in an investigation, shall be subject to the confidentiality requirements applicable to attorneys.

#### Chapter XVII

#### OVERSIGHT

##### Section 121.

(1) The minister in charge of the judicial system shall oversee the operations of the regional bar associations and the Hungarian Bar Association (in this Chapter referred to jointly as "bar association").

(2) The minister in charge of the judicial system shall, within the scope of his oversight authority, oversee the statutes, rules and regulations, directives and decisions of the bar associations; he shall also oversee their operations as to whether they are in compliance with legal regulation, the statutes and the rules and regulations.

(3) Oversight does not include those cases in which there may be judicial proceedings.

##### Section 122.

(1) If the minister in charge of the judicial system determines that the statutes, rules and regulations, directives, decisions or the operations of bar association violate a legal regulation, the statutes or the rules and regulations; he shall call upon the bar association concerned to terminate the violation.

(2) The minister in charge of the judicial system shall call upon a bar association to amend the register of appointed attorneys if it is not in compliance with the provisions of Subsection (1) of Section 36.

(3) The bar association concerned must terminate the violation - within the deadline given in the notice of the minister in charge of the judicial system - or inform the minister in charge of the judicial system that it disagrees on the matter.

##### Section 123.

(1) If the bar association concerned does not terminate the violation, the minister in charge of the judicial system may seek remedy at the competent county court (Municipal Court of Budapest) within thirty days of the expiration of the deadline given in the notice of the minister in charge of the judicial system. The court shall proceed in accordance with the general provisions of the CPC.

(2) If as a consequence of the proceedings initiated on the basis of Subsection (1), the court establishes the violation,

a) it shall overturn the unlawful statutes, rules and regulations, directive or provision and order new proceedings,

b) it may order that the bar association body authorized to elect the unlawfully operating bar association body (officer) be convened in order to restore the legality of the operation,

c) it may suspend the operation of the unlawful bar association body (officer) or appoint an oversight commissioner - from among the bar association's members - to supervise it on the condition that the legality of the bar association's operation cannot otherwise be ensured.

##### Section 124.

(1) The oversight commissioner must immediately convene the bar association's general meeting (plenary meeting) in order to restore the legality of the operation. If the general meeting (plenary meeting) restores the legality of operations, the operations of the bar association's other bodies and officers may no longer be suspended.

(2) Only persons entitled to hold office in the bar association may be appointed an oversight commissioner.

(3) The oversight commissioner shall inform the court as well as the person exercising oversight regarding his activities and the results thereof.

(4) The court shall determine the remuneration of the oversight commissioner and the compensation for his costs.

##### Section 125.

(1) The bar associations are obligated to send the minister in charge of the judicial system their statutes, rules and regulations and directives within 15 days of adopting them.

(2) The Statutes, the regional statutes, the rules and regulations, the regional rules and regulations, the directives and the regional directives may not violate legal regulation, and any of their provisions that are in violation shall be null and void.

#### Chapter XVIII

#### CLOSING PROVISIONS

##### Section 126.

(1) This Act shall enter into force on 1 July 1998, and its provisions shall also apply to pending cases.

(2)

(3) Where a legal regulation refers to the National Bar Association, it shall be understood as the Hungarian Bar Association.

(4) The expressions "independent attorney" shall be amended to "attorney" in legal regulations, and "collective law firm" shall be amended to "law firm".

Section 127.  
Section 128.

(1) Law firms functioning at the time this Act enters into force shall submit their deeds of foundation to the bar association within six months of the date on which this Act enters into force. If a law firm fails to comply with this within the deadline, the law firm may no longer function as a law firm.

(2) Law firms functioning at the time this Act enters into force shall have liability insurance in compliance with Subsection (3) of Section 68 no later than 1 January 1999. Law firm members shall have individual liability insurance by the time such insurance contract becomes valid.

(3) The lawfully used names of law firms may only be used after this Act enters into force.

(4) Six months after this Act enters into force, foreign attorneys and foreign law firms may engage in activities pursuant to this Act or may establish and maintain commercial representations pursuant to Act CXXXII of 1997 on the Hungarian Branches and Commercial Representations of Foreign-registered Companies, and these representations may pursue the activities specified in the above-mentioned act with regard to consultancy pertaining to the national law of the foreign attorneys or law firms.

Section 129.

(1) Subsection (2) of Section 5 shall not affect activities performed pursuant to legal regulation enacted before this Act enters into force.

(2) This Act shall not affect the terms of office of bar association officers and members of bar association committees who were elected before this Act enters into force.

(3) The bar association offices and committee memberships of attorneys whose bar association memberships will be terminated because of their parliamentary or mayoral mandates may be retained until the expiration of the given mandate if the attorneys were elected to such before this Act enters into force.

Section 130.

(1)

(2) If a decision in the first instance has not been made in disciplinary proceedings pending at the time this Act enters into force, the provisions of this Act shall apply to the proceedings.

(3) The provisions of the legal regulations in force when a disciplinary penalty was imposed shall apply to the detrimental legal consequences in connection with any disciplinary penalty that became final before this Act enters into force.

Section 131.

(1) The minister in charge of the judicial system is hereby authorized to decree regulations:

- a) pertaining to the legal costs that may be established in court proceedings;
- b) pertaining to the fee of attorneys acting as a litigation friends and the fees for performing assignments;
- c) pertaining to the legal practice of articulated clerks.

(2) The hourly fees of appointed attorneys shall be established by Parliament in the Central Budget Act in such a manner that the amount will be the same or higher than the fee established for the previous year.

Section 132.

Section 133.

The minister in charge of the judicial system shall hereby be authorized to decree the professional designations of European Community jurists under which the professional activities of attorneys may be pursued in accordance with Directive 77/249/EEC of the Council of the European Communities and Directive 98/5/EC of the European Parliament and Council.

Section 133/A.

The minister in charge of the judicial system is hereby authorized to decree:

- a) the regulations for keeping records on the cases which are subjected to the verification procedures specified under Section 27/B;
- b) the detailed regulations for positive identification of the parties in connection with countersigning documents;
- c) the detailed regulations concerning the credentials of attorneys, assistant attorneys, articulated clerks, foreign legal counsels and European Community jurists;
- d) the detailed regulations concerning headquarters services.

Section 134.

This Act - together with its implementing decree - contains regulations that may be approximated with the following legislation of the Communities:

- a) Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained;
- b) Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services;

c) Article 24 of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC.

**Please indicate the source for answering the questions 130 and 132:**

Hungarian Bar Association

#### 6. 1. 2. Training

**135) Is there a specific initial training and/or examination to enter the profession of lawyer?**

☒ Yes

☐ No

**136) Is there a mandatory general system for lawyers requiring continuing professional training?**

☐ Yes

☒ No

**137) Is the specialisation in some legal fields tied with a specific level of training/ qualification/ specific diploma or specific authorisations?**

☒ Yes

☐ No

If yes, please specify:  
see answer 2008

#### 6. 1. 3. Fees

**138) Can users establish easily what the lawyers' fees will be?**

☒ Yes

☐ No

Please provide comments to explain the answer under question 138

**139) Are lawyers fees**

☐ regulated by law?

☐ regulated by Bar association?

☒ freely negotiated?

Please provide comments to explain the answer under question 139:  
According to the general rule, attorneys' compensation is subject to the free agreement of attorneys and the assigning client. Attorneys' fees are only regulated if they act as public defenders in a court procedure.

### 6. 2. Evaluation

#### 6. 2. 1. Complaints and sanctions

**140) Have quality standards been formulated for lawyers?**

☐ Yes

☒ No

**141) If yes, who is responsible for formulating these quality standards:**

☐ the bar association?

☐ the legislature?

☐ other?

Please specify (including a description of the quality criteria used):

**142) Is it possible to complain about**

☐ the performance of lawyers?

☐ the amount of fees?

Please specify:

**143) Which authority is responsible for disciplinary procedures**

☐ the judge?

☐ the Ministry of justice?

☒ a professional authority or other?

Please specify:

Proceeding Bodies

Section 42.

(1) A disciplinary tribunal formed in the first instance from the bar association's disciplinary committee and in the second instance from the disciplinary committee of the Hungarian Bar Association shall conduct the disciplinary proceedings against attorneys.

(2) The disciplinary tribunals of the first instance and the second instance shall consist of three members, with the exception specified in Subsection (3).

(3) The disciplinary tribunal of the second instance shall consist of five members if the disciplinary tribunal of the first instance imposed a penalty of disbarment or if the president of the bar association appeals the first decision by calling for disbarment.

(4) A tribunal appointed by the presidency of the Hungarian Bar Association shall proceed in disciplinary cases involving a president, vice president, secretary general, secretary or disciplinary commissioner of a bar association - including ordering a preliminary investigation.

The Disciplinary Commissioner and the Disciplinary High Commissioner

Section 43.

The disciplinary commissioner and the disciplinary high commissioner shall act on the instructions of the president of the bar association in proceedings of the first instance and on the instructions of the president of the Hungarian Bar Association in proceedings of the second instance.

Source: Act XI of 1998 on Attorneys at Law

**144) Disciplinary proceedings initiated against lawyers: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

**Please provide comments to explain the answers to question 141:**

	Breach of professional ethics	Professional inadequacy	Criminal offence	Other
Annual number	NA	NA	NA	NA

Comment :

**145) Sanctions pronounced against lawyers : please complete the table. If the data is not available (NA)**

or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 145:

	Reprimand	Suspension	Removal	Fine	Other
Annual number	NA	NA	NA	NA	NA

Comment :

**You can indicate below:**

- ☐ any useful comments for interpreting the data mentioned in this chapter  
☐ the characteristics of your system concerning the organisation of the Bar and the main reforms that have been implemented over the last two years

Attorneys at law, solicitors

a) Attorneys at law

By practicing their profession, attorneys at law facilitate the assertion of their client's rights and the performance of their obligations. Attorneys can perform their client's legal representation in all cases and before all authorities. In their professional work, attorneys are independent, which means that they may not be directed and undertake such liabilities that endanger this independence (e.g. they may not become employees).

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Activities subject to fees that may be performed only by attorneys:

- \* representation and defence in criminal cases,
- \* legal consulting,
- \* preparing and editing legal documents,
- \* handling money and valuables as deposit in relation with the activities above.

Although these do not fall exclusively within attorneys' activities, due to the requirements of today's economic life, attorneys may also perform tasks like tax consulting, real estate agency operations and out-of-court mediation.

Besides attorneys working as employees, attorneys' activities can be conducted by any person who is admitted to the bar and has taken the lawyer's oath. Criteria of admission to the bar: citizenship in a member state of the European Economic Area, no criminal record, university degree and Hungarian professional examination in law, having liability insurance and a suitable office space.

Attorneys from the member states of the European Union may conduct attorney's activities in three basic forms in Hungary: as providers of ad hoc services, on a regular basis and as a member admitted to the bar. Providers of ad hoc services are obliged to register themselves in the bar association competent according to the place of service, while those who would like to perform regular attorney's services must request admission to the bar at the bar association competent according to office location. European Community lawyers entered in the register can request their admission to the bar if they fulfil the requirements prescribed by law [e.g. the practice period prescribed by law has passed, but they prove their competence in Hungarian law (as well as European Union law), their sufficient command of the Hungarian language as necessary for their activities, etc.]. A European Community lawyer who has been admitted to the bar is entitled to use the professional title of attorney and is subject to the same rules as Hungarian attorneys.

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Attorneys may not be employees, establish service relations or other legal relations accompanied by an obligation to work, nor may they engage in entrepreneurial activities entailing personal involvement or unlimited financial liability. Beyond performing their professional activities, attorneys may only engage in activities in the areas of science, art, sports, education and so on. Attorneys, however, can become members of parliament and local government representatives.

Attorneys have a confidentiality obligation in regard to all facts and data that they are informed of in the course of performing their profession.

It is a disciplinary offence for attorneys to grossly violate their obligations defined by the laws on practicing attorneys' professional activities and the bar association's code of ethics or damage the reputation of attorneys with their culpable behaviour falling outside their professional activities.

According to the general rule, attorneys' compensation is subject to the free agreement of attorneys and the assigning client. Attorneys' fees are only regulated if they act as public defenders in a court procedure.

The regulation on criminal procedures prescribes the presence of a defence attorney in the following cases:

- \* a criminal offence for which the law prescribes five or more years of imprisonment,
- \* the accused is being detained,
- \* the accused is deaf, mute, blind or – regardless of his/her legal capacity – mentally incompetent,
- \* the accused does not know the Hungarian language or the language of the proceedings,
- \* the accused is not able to personally defend himself/herself for other reasons,
- \* it is especially prescribed by law (e.g. in case of an accused minor).

The regulation of civil procedures prescribes legal representation in the following cases:

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- \* for the parties submitting an appeal against a judgement in proceedings before the Court of Appeal as well as rulings made on the merits of the case or an appeal or petition for review specified by law in proceedings before the Supreme Court,
- \* in other cases defined by law (e.g. company law).

Attorneys can also conduct their activities as employees. Attorneys working as employees are the persons who conduct their professional activities as the employees of an attorney or a law firm. Employed attorneys do not have a right to countersign.

#### b) Solicitors

The fundamental task of solicitors is to facilitate the operation of the organization at which they are employed. Solicitors conduct legal representation at the organisation employing them, provide legal advice and information; prepare applications, contracts and other documents; and participate in organizing legal work. According to the general rule, solicitors – in contrast to attorneys – discharge their duties, which are not as extensive as those of attorneys, as employees. Solicitors' compensation is based on the regulations concerning employment.

Any person who is entered in the register maintained by the county court – in Budapest that is the Metropolitan Court of Budapest – can become a solicitor. People with citizenship in one of the member states participating in the Agreement on the European Economic Area, no criminal record, a university degree and the Hungarian professional examination in law must be entered in the register. In certain cases the Minister of Justice can grant an exemption from the citizenship condition.

Source: [http://ec.europa.eu/civiljustice/legal\\_prof/legal\\_prof\\_hun\\_en.htm](http://ec.europa.eu/civiljustice/legal_prof/legal_prof_hun_en.htm)

## 7. Alternative Dispute Resolution

### 7. 1. Mediation and other forms of ADR

#### 7. 1. 1. Mediation

**146) Does the legal system provide for mediation procedures? If no go to question 151**

☒ Yes

☐ No

**147) If applicable, please specify, by type of cases, the organisation of mediation**

	Possibility for private mediation proposed by the judge or court annexed mediation	Private mediator	Public authority (other than the court)	Judge	Prosecutor
Civil and commercial cases	Yes	Yes	Yes	No	No
Family law cases (ex. Divorce)	Yes	Yes	Yes	No	No
Administrative cases	No	No	No	No	No
Employment dismissals	Yes	Yes	Yes	No	No
Criminal cases	Yes	Yes	Yes	No	No

**148) Is there a possibility to receive legal aid for mediation procedures?**

☒ Yes

☐ No

If yes, please specify:

Same conditions as in judiciary procedures.

**149) Number of accredited mediators. If there is no data available, please indicate it (NA)**

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**150) Please Indicate the total number of judicial mediation procedures per case category. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

civil cases?	NA
family cases?	NA
administrative cases?	NA
employment dismissals?	NA
criminal cases?	NA

**Please indicate the source for answering the question 150:**

Source for Q 147: Act LV of 2002 on Mediation

(1) The objective of this Act is to offer an alternative for natural and other persons to settle their disputes arising in connection with personal and property rights where the parties are not bound by statutory provision.

(2) This Act shall not apply to other mediation and conciliation proceedings governed under specific other legislation, nor to mediation within an arbitration proceeding.

(3) Mediation under this Act shall not be applied in cases governed under Chapters XVI-XVIII, XX, XXI, XXIV and XXV of Act III of 1952 on the Code of Civil Procedure (hereinafter referred to as 'CPC'). The cases governed under Chapter XV of the CPC can only be resolved by court decision in terms of the validity, the existence or non-existence of a marriage as well as the annulment or dissolution of a marriage.

#### 7. 1. 2. Other forms of alternative dispute resolution

**151) Can you give information concerning other forms of alternative dispute resolution (e.g. arbitration,**

**conciliation)? Please specify:**

Hungary's legal system provides for the better known types of alternative dispute resolution (ADR), so parties can try to settle disputes via arbitration or mediation instead of going to court.

Is the use of a form of alternative dispute resolution (ADR) laid down by statute or mandatorily required on the basis of a court decision?

The law as it stands does not make it compulsory for parties to use alternative dispute resolution mechanisms to settle disputes.

Are there statutory regulations in this respect?

In the Hungarian legal system, legal regulations at different levels - mainly Parliamentary Acts - govern alternative dispute resolution. They are set out below.

#### 1. Arbitration procedure

Under Act LXXI of 1994 on Arbitration, the arbitration procedure can be used instead of court proceedings if (a) at least one of the parties is a person professionally engaged in economic activities to which the legal dispute relates (if this is not the case, ad hoc or permanent arbitration may also be decided on if allowed by the law); (b) if the parties can freely decide on the subject of the procedure; and (c) if arbitration proceedings were provided for by the parties in a written arbitration contract. The law may exclude the resolution of legal disputes by means of arbitration, and in certain types of civil actions arbitration cannot be used.

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Arbitrators must be independent and impartial; they may not be representatives of the parties. Arbitrators may not accept orders in the course of the proceedings and must maintain complete confidentiality in respect of the facts that come to their knowledge, even after the proceedings have ended. In the case of the permanent court of arbitration, the arbitrators must declare all this in writing on being elected/appointed.

Unless otherwise provided by the law, the permanent court of arbitration attached to the Hungarian Chamber of Commerce and Industry (based at 1055 Budapest, Kossuth tér 6-8) acts as the permanent court of arbitration in international cases.

#### 2. Act I of 2004 on Sport establishing the Permanent Court of Arbitration for Sport

In certain sports-related cases and if the parties so request, the Permanent Court of Arbitration for Sport endeavours to bring about agreement. The cases concerned are primarily legal disputes between sport associations and their members, disputes between sport association members regarding their sports association-related activities, and disputes between sport associations/organisations or sportspeople and sports experts. The Permanent Court of Arbitration for Sport operates under the authority of the National Sports Association. The Presidium elects its President and at least 15 members for a term of four years from among lawyers with special legal qualifications and at least five years' legal practice in the field of sports. The Presidium elects two members of the Permanent Court of Arbitration for Sports upon the recommendation of the Hungarian Olympic Committee.

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With the exceptions provided for by the law, the provisions of Act LXXI of 1994 on Arbitration apply to the procedure followed by the Permanent Court of Arbitration for Sports.

#### 3. Mediation

Under Act LV of 2002 on Mediation, the parties (natural persons, legal persons, business entities without legal personality, other organisations) to a civil dispute connected with their personal and pecuniary rights may, if they so agree and if the law does not limit their right of disposition, use a mediation procedure to seek resolution. They may initiate such a procedure by calling on the services of a mediator. The Act specifies the range of civil legal actions in which mediation is not possible and where its provisions cannot apply to mediation and conciliation proceedings governed by other acts or to mediation in arbitration proceedings. The Ministry of Justice publishes the register of mediators on its website: [www.im.hu](http://www.im.hu).

#### 4. Mediation in healthcare

Under Act CXVI of 2000 on Mediation in Healthcare, a mediation procedure may be used to achieve the out-of-court resolution of legal disputes concerning service provision by healthcare providers to patients and to ensure fast and effective enforcement of the parties' rights. The parties must submit their mediation request to the regional chamber of judicial experts located nearest to the patient's home or to the place where the healthcare services concerned are provided. The healthcare provider must make the register of regional chambers of judicial experts public in an accessible manner. The register of healthcare mediators is kept by the Hungarian Chamber of Judicial Experts (1027 Budapest, Bem rakpart 33-34., I. 122.).

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#### 5. Mediation in matters of child protection

Under the 2003 amendment to Decree No. 149/1997 (IX. 10.) Korm. on child welfare agencies, child protection and child welfare administration, mediation in child protection matters was introduced from 1 January 2005 in cases where the parents or other persons authorised to maintain relations cannot agree on the manner or time of contact. Mediation in child protection matters can be initiated on the basis of a joint application by the parties to a



child protection mediator. The register of child protection mediators is kept by the National Institute of Family and Social Policy. The register can be inspected in the official premises of the Court of Guardians and of the child welfare services.

#### 6. Conciliatory corporate proceedings

1. The Labour Mediation and Arbitration Service established under Act XXII of 1992 on the Labour Code serves primarily to resolve collective labour-related disputes. This body carries out three activities: conciliation, mediation and arbitration. The body's mediation services can also be used to resolve private labour disputes, but the law does not make this compulsory for the parties concerned.

2. To enforce consumer rights, Act CLV of 1997 on Consumer Protection established conciliation bodies attached to the regional economic chambers. The conciliation bodies deal primarily with the out-of-court settlement of consumer disputes relating to the application of rules on the quality and safety of goods and services and product liability, and to the conclusion and implementation of contracts. The aim of the Conciliation Body procedure is to settle disputes between consumers and undertakings by agreement, and failing this to reach a ruling in the interests of enforcing consumers' rights quickly, effectively and simply. The bodies have no jurisdiction in disputes for which a rule establishes the competence of some other authority. Conciliation proceedings are initiated at the request of the consumer or, in the case of more than one consumer and with the authorisation of those concerned, of the civil organisation representing consumer interests.

What kinds of disputes are suitable for resolution by means of ADR?

ADR may be employed in civil and commercial disputes where its use is not restricted by any legal regulation.

TopTop

There are contractual terms relating to the performance of a contract which first require the use of ADR proceedings once disputes have arisen. The dispute can only be brought before a court of law once these proceedings have run their course. Are such terms binding on the parties?

In civil and commercial cases, the contracts between the parties may stipulate that arbitration is to be used instead of court proceedings to settle disputes relating to contractual terms and conditions. If such a clause is contained in the contract, it is binding on the parties.

If ADR procedures are used, how can guarantees comparable to those of the courts be secured? In particular, how can confidentiality of negotiations be guaranteed?

The ADR proceedings described are regulated by high-level legal instruments, parliamentary acts and government decrees which contain rigorous provisions concerning the system of procedures and the requirement of confidentiality. These provisions provide adequate guarantees that ADR proceedings are as reliable as court proceedings.

Is it necessary to obtain legal advice? What role do lawyers play in ADR proceedings?

It is not compulsory to obtain legal representation or legal advice when using ADR. Parties are free to decide whether to request legal representatives (with full powers), to obtain legal advice or information by calling in a lawyer or notary public, or to seek legal advice under the system of legal aid institutions for the socially disadvantaged provided for by Act LXXX of 2003 on legal assistance.

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Is it possible to carry out alternative dispute resolution by means of "distance" proceedings? (In particular, is it possible to employ electronic media?)

No.

Are there fees for ADR procedures? If so, how are costs distributed? Is there provision for legal aid?

The rules governing the different types of proceedings set out clearly the system of payment of the costs to be borne by the parties. In certain cases the parties are free to agree on the fees and costs incurred in the proceedings, while in other cases the amounts are specified in legal regulations. In arbitration proceedings the court judgment sets the amount of costs and who is to bear them. In mediation proceedings the parties and the mediator are free to agree on the amounts of the fees and costs and who is to pay what; if the parties cannot agree on the latter, they pay them in equal proportions. In healthcare mediation proceedings the fees and costs involved are laid down by the law, but the parties are free to agree on how they are to be borne.

Since the entry into force on 1 April 2004 of Act LXXXX of 2003 on legal assistance, persons eligible for legal assistance under the Act can receive information from the legal assistance provider on the possibilities of settling a legal dispute out of court, or a document is drawn up that could help resolve the dispute. The legal adviser's fee is paid or advanced by the state according to the assisted person's income and property.

In healthcare mediation proceedings the parties are free to agree on who bears the costs. Where the parties cannot agree, the law specifies who should bear the costs in particular cases. As a general rule it provides that the general costs of the proceedings are to be split equally between the parties. A separate regulation sets out the amount of general and ancillary costs of the proceedings.

TopTop

If the out-of-court attempt to resolve a dispute has failed, is it still possible to bring the case before a court of law? Does this affect statutory limitations in court proceedings?

A judgment made by a court of arbitration cannot be appealed. In certain cases provided for by the law, either party or any person concerning whom a provision is contained in the judgment may, within 60 days of delivery of the judgment, ask the court to annul it (e.g. if the party that concluded the arbitration agreement did not have legal capacity or competence; if the arbitration contract is invalid under the rules of the legal system governing it or, in the absence of a provision specifying the legal system, under Hungarian law; if the parties were not duly notified of the appointment of the arbitrator or of the arbitration proceedings, or it was otherwise impossible for them to present their case; if the judgment concerned a dispute to which the arbitration clause did not apply or which is not covered by the provisions of the arbitration contract, etc.).

The possibility of annulment is excluded if the 60-day deadline referred to above is not met.

If during the proceedings the parties come to an agreement on the dispute, the court of arbitration issues an order closing the proceedings. At the request of the parties, the court of arbitration will incorporate the agreement (with the terms and conditions set forth in it) into a judgment, provided that it deems the agreement to comply with the legal regulations. The force of an agreement incorporated into a judgment of the court of arbitration is equivalent to that of a judgment passed by it.

Under the Mediation Act, on termination of the mediation proceedings the parties may bring their dispute to court, since agreements made in mediation proceedings are not officially enforceable.

The case may be taken to court within the general limitation period. The initiation of mediation proceedings interrupts the limitation period.

If there is mutual agreement between the parties as a result of ADR proceedings, how is this put into effect? What happens if the solution reached is not immediately put into practice? Can the usual enforcement proceedings be applied? Is it still possible to bring the case before a court?

The effect of an arbitration ruling is the same as that of a valid court judgment and the legal rules on judicial enforcement are applicable.

If the necessary conditions are met, the competent local court appends an enforcement order to a binding decision of the consumer protection conciliation body or of the healthcare mediation council and to an agreement concluded before the healthcare mediation council.

A contact agreement reached in child protection mediation proceedings must be presented to the court of guardians within 8 days. The court of guardians approves the agreement at the parties' request. If no agreement is reached in mediation, proceedings will be initiated by the court of guardians.

Source: [http://ec.europa.eu/civiljustice/adr/adr\\_hun\\_en.htm](http://ec.europa.eu/civiljustice/adr/adr_hun_en.htm)

**You can indicate below:**

- ☐ **any useful comments for interpreting the data mentioned in this chapter**
- ☐ **the characteristics of your system concerning ADR and the main reforms that have been implemented over the last two years**

## 8. Enforcement of court decisions

### 8. 1. Execution of decisions in civil matters

#### 8. 1. 1. Functioning

**152) Do you have in your system enforcement agents (judicial officers)? If no go to question 154**

☒ Yes

☐ No

**153) Number of enforcement agents. If there is no data available, please indicate it (NA).**

197

**154) Are enforcement agents (multiple options are possible):**

☐ judges?

☒ bailiff practising as private profession ruled by public authorities?

☐ bailiff working in a public institution?

☐ other enforcement agents?

Please specify their status and powers:

**155) Is there a specific initial training or examination to enter the profession of enforcement agent?**

☒ Yes

☐ No

☐ Not applicable

**156) Is the profession of enforcement agent organised by?**

☒ a national body?

☐ a regional body?

☐ a local body?

☐ not applicable

**157) Can users establish easily what the fees of the enforcement agents will be?**

☒ Yes

☐ No

☐ Not applicable

**158) Are enforcement fees:**

☒ regulated by law?

☐ freely negotiated?

☐ not applicable

**Please indicate the source for answering the question 153:**

National Chamber of Enforcement Agents

#### 8. 1. 2. Supervision

**159) Is there a body entrusted with the supervision and the control of the enforcement agents?**

- ☒ Yes  
☐ No  
☐ Not applicable

**160) Which authority is responsible for the supervision and the control of enforcement agents:**

- ☒ a professional body?  
☒ the judge?  
☒ the Ministry of justice?  
☐ the prosecutor?  
☐ other?

Please specify:

The National Chamber of Enforcement Agents is in charge of supervising the activities of enforcement agents. The supervising authority of the Chamber is the Ministry of Justice. Certain legal remedies are provided by the courts.

**161) Have quality standards been formulated for enforcement agents?**

- ☐ Yes  
☐ No  
☒ Not applicable

If yes, who is responsible for formulating these quality standards and what are the quality criteria used?

There is no Code of Conduct for enforcement agents, all rules and quality standards are specified in Act LIII of 1994 on Judicial Enforcement, as well as in relevant ministerial decrees.

**162) Is there a specific mechanism for executing court decisions rendered against public authorities, including the follow up to this execution?**

- ☐ Yes  
☒ No

if yes, please specify

**163) Is there a system for monitoring the execution?**

- ☒ Yes  
☐ No

If yes, please specify

The National Chamber of Enforcement Agents gathers quarterly statistics on enforcement procedures, including the number of enforcement cases, auctions of movables and immovables, the sum of monetary claims, as well as the duration of enforcement procedures.

### 8. 1. 3. Complaints and sanctions

**164) What are the main complaints of users concerning the enforcement procedure?  
Please indicate a maximum of 3.**

- ☒ no execution at all?  
☐ non execution of court decisions against public authorities?  
☐ lack of information?

- ☒ excessive length?
- ☐ unlawful practices?
- ☐ insufficient supervision?
- ☒ excessive cost?
- ☐ other?

Please specify:

**165) Has your country prepared or has established concrete measures to change the situation concerning the enforcement of court decisions – in particular as regards decisions against public authorities?**

- ☒ Yes
- ☐ No

If yes, please specify:

There have been considerable changes regarding the enforcement of court decisions, but these are unrelated to decisions against public authorities. For the list of these reforms, please go to comments below.

**166) Is there a system measuring the timeframes of the enforcement of decisions :**

- ☒ for civil cases?
- ☐ for administrative cases?

**167) As regards a decision on debts collection, can you estimate the average timeframe to notify the decision to the parties which live in the city where the court sits:**

- ☐ between 1 and 5 days
- ☒ between 6 and 10 days
- ☐ between 11 and 30 days
- ☐ more

If more, please specify

**168) Number of disciplinary proceedings initiated against enforcement agents. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

Total number of disciplinary proceedings	<input checked="" type="checkbox"/> number:	3
for breach of professional ethics	<input checked="" type="checkbox"/> number:	3
for professional inadequacy	<input type="checkbox"/> yes, number:	
for criminal offence	<input type="checkbox"/> number:	
Other	<input type="checkbox"/> number:	

**169) Number of sanctions pronounced against enforcement agents. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**

Total number of sanctions	<input checked="" type="checkbox"/> number:	3
Reprimand	<input type="checkbox"/> number:	1
Suspension	<input type="checkbox"/> number:	
Dismissal	<input checked="" type="checkbox"/> number:	1
Fine	<input checked="" type="checkbox"/> number:	1
Other	<input type="checkbox"/> number:	

**You can indicate below:**

- ☐ **any useful comments for interpreting the data mentioned in this chapter**
- ☐ **the characteristics of your enforcement system of decisions in civil matters and the main reforms that has been implemented over the last two years**

The main reforms of the Hungarian enforcement system include:

- launch of an electronic auctioning system
- in special circumstances, local governments have a right of first refusal at auctions in order to offer help for debtors
- sale of pledged goods by simplified enforcement procedure
- payment orders are issued by notaries

**Please indicate the source for answering the questions 167, 168 and 169:**

National Chamber of Enforcement Agents

## 8. 2. Execution of decisions in criminal matters

### 8. 2. 1. Functioning

**170) Is there a judge who is in charge of the enforcement of judgments?**

- ☒ Yes  
☐ No

If yes, please specify his/her functions and activities (e.g. Initiative or control functions). If no, please specify which authority is entrusted with the enforcement of judgements (e.g. prosecutor):

The judge in charge of enforcement of decisions in criminal matters has both initiative and control functions.

**171) As regards fines decided by a criminal court, are there studies to evaluate the effective recovery rate?**

- ☐ Yes  
☒ No

If yes, please specify:

**You can indicate below:**

- ☐ **any useful comments for interpreting the data mentioned in this chapter**
- ☐ **the characteristics of your enforcement system of decisions in criminal matters and the main reforms that have been implemented over the last two years**

## 9. Notaries

### 9. 1. Statute

#### 9. 1. 1. Functioning

**172) Do you have notaries in your country? If no go to question 177**

☒ Yes

☐ No

**173) Is the status of notaries (if the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations):**

a private one (without control from public authorities)?	<input type="checkbox"/> number	
a status of private worker ruled by the public authorities?	<input checked="" type="checkbox"/> number	314
a public one?	<input type="checkbox"/> number	
other?	<input type="checkbox"/> number	

Comment :

**174) Do notaries have duties:**

☒ within the framework of civil procedure?

☒ in the field of legal advice?

☒ to authenticate legal deeds?

☐ other?

Please specify:

1. duties within the framework of civil procedure:

notaries conduct probate action and other out-of-court proceedings assigned to their powers

2. duties in the field of legal advice:

notaries help the parties with the exercise of their rights and the fulfilment of their obligations by counselling, while assuring equal opportunities for all parties. it should be noted, that this advice is more like the information given by the court and does not extend to the advice given by a attorney.

3. duties to authenticate legal deeds:

- the notarial deeds made by notaries observing the formalities prescribed in law, the official copies thereof and notarial attestation are public documents.

- notaries issue attestation:

- a) to the effect that the copy is identical with the document presented to him,
- b) about the correctness of translation,
- c) about the genuineness of signature and initials,
- d) about the date of presentation of a document,
- e) about the communication of statement or notification,
- f) about consultation and resolution,
- g) about other facts of legal significance,
- h) about protest against non-payment of promissory notes, checks and other securities,
- i) about the contents of public authenticity records.

if an attestation is issued, the general provisions of the law on notarial deeds is applicable appropriately, providing that the notary is liable for observing the formalities of the attestation as a public document and the genuineness of the contents thereof

**Please indicate the source for answering the question 173**

National Chamber of Civil Law Notaries

## 9. 1. 2. Supervision

**175) Is there an authority entrusted with the supervision and the control of the notaries?**☒ Yes☐ No**176) Which authority is responsible for the supervision and the control of the notaries:**☐ a professional body?☒ the judge?☐ the Ministry of justice?☐ the prosecutor?☐ other?☐ not applicable

Please specify:

According to § 69(2) of Act XLI of 1991 on notaries public, the president of the competent Budapest or county court for the seat of the notary shall exercise legal supervision over the actions of the notary public.

**You can indicate below:**☐ **any useful comments for interpreting the data mentioned in this chapter**☐ **the characteristics of your system of notaries and the main reforms that have been implemented over the last two years**

\*\*\*\*\*

Notaries

The aim of notaries' activities is to prevent the development of legal disputes. Notaries are only entitled to conduct their activities if they are admitted to the notaries association. On the basis of law, notaries are appointed by the Minister of Justice to work at given headquarters and for an indeterminate time. Any person with no criminal record, Hungarian citizenship, a university degree and the Hungarian professional examination in law who can prove at least three years of professional experience as a deputy solicitor and has made a financial disclosure statement can be appointed a notary. Moreover, notaries are also obliged to obtain liability insurance and maintain it during the time in which they are conducting their professional activities.

Notaries' exclusive range of activities includes registering legal transactions, legal statements and facts in public instruments. One of notaries' traditional tasks is to conduct probate and other non-litigious proceedings. Another important task performed by notaries is keeping records of chattel mortgages as well as handling deposits, in the framework of which they receive money, valuables and securities on the basis of the authorization received from the parties involved with the purpose of delivering them to the party entitled.

It is a disciplinary offence for notaries to grossly violate or fail to perform their obligations defined by law. Notaries whose culpable behaviour conflicts with the bar association's guidelines or can damage the reputation of notaries also make a disciplinary offence.

For activities average in terms of length, legal judgement and responsibility conducted in their offices, notaries are entitled to the amount of fee defined by law. In exceptional cases (e.g. concerning cases of especially difficult judgement) the fee can differ from the usual amount. If the value represented by the subject of the notary's activity can be stated, the notary's fee is defined on the basis of this. If the value represented by the subject of the notary's activity cannot be stated, the notary's fee must be determined on the basis of the time devoted to the professional activity. The price of authenticating copies of documents by notaries is set.

As Hungarian citizenship is a fundamental requirement for judges, prosecutors, court clerks, bailiffs and notaries, foreign citizens may not be appointed to hold these offices in Hungary.

Source: [http://ec.europa.eu/civiljustice/legal\\_prof/legal\\_prof\\_hun\\_en.htm#7](http://ec.europa.eu/civiljustice/legal_prof/legal_prof_hun_en.htm#7).



## 10. Court interpreters

### 10. 1. function

#### 10. 1. 1. Statute

**177) Is the title of court interpreter protected?**

☒ Yes

☐ No

**178) Is the function of court interpreter regulated?**

☐ Yes

☒ No

**179) Number of certified court interpreters. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations**

NA

**180) Are there binding provisions regarding the quality of court interpreting in judicial proceedings?**

☐ Yes

☒ No

If yes, please specify:

**181) Are the courts responsible for the selection of court interpreters?**

☐ Yes

☒ No

Please provide comments to explain the answers to question 178 (in particular, if no, which authority selects court interpreters?) :

## 11. Functioning of justice

### 11. 1. Foreseen reforms

#### 11. 1. 1. Reforms

**182) Can you provide information on the current debate in your country regarding the functioning of justice? Are there foreseen reforms? For example changes in legislation, changes in the structure of the judiciary, innovation programmes, etc. Please specify:**

January 2011 will entry into force a new Civil Code