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Code of Administrative Procedure

Part I

General provisions

Chapter 1

Scope

Article 1.

The Code of Administrative Procedure shall govern proceedings:

- 1) before public administration bodies in cases that are within the jurisdiction of such bodies and individually decided by way of administrative decision,
- 2) before other State bodies and other entities, where they are designated to deal with the cases referred to in paragraph 1 by operation of law or on the basis of agreements,
- 3) in disputes regarding jurisdiction between local government bodies and national government bodies and between the bodies and entities referred to in paragraph 2,
- 4) in the matter of the issue of statements.

Article 2.

The Code of Administrative Procedure shall also govern procedure in the matter of complaints and proposals (Part VIII) before State bodies, local government bodies and social organisation bodies.

Article 3.

§ 1. The provisions of the Code of Administrative Procedure shall not apply to:

- 1) proceedings in revenue cases of a criminal nature,
- 2) cases regulated by the Tax Ordinance Act of 29 August 1997 (JoL No 137, item 926), with the exception of the provisions of Parts IV, V and VIII.

§ 2. In addition, the provisions of the Code of Administrative Procedure shall not apply to proceedings in cases:

- 1)-3) (deleted),
- 4) relating to the jurisdiction of Polish diplomatic representations and consular offices, unless specific provisions state otherwise.

§ 3. The provisions of the Code of Administrative Procedure shall also not apply to cases arising from:

- 1) organisational hierarchy in relations between State bodies and other State organisational units,
 - 2) the professional subordination of employees of the bodies and organisational units referred to in paragraph 1,
- unless specific provisions state otherwise.

§ 4. The provisions of Part VIII shall however apply to the cases specified in § 1, 2 and 3, paragraph 2.

§ 5. The Council of Ministers may, by way of a regulation, extend the provisions of the Code of Administrative Procedure to fully or partially cover proceedings in the cases specified in § 2.

Article 4.

The Code of Administrative Procedure shall not affect individual entitlements deriving from diplomatic or consular immunity or from international agreements or customs.

Article 5.

§ 1. If a provision of law refers to the provisions of administrative procedure in general then it shall be interpreted as being a reference to the provisions of the Code of Administrative Procedure.

§ 2. The following definitions apply to the provisions of the Code of Administrative Procedure:

1) the Code – shall mean the Code of Administrative Procedure,

2) (deleted),

3) public administration bodies – shall mean ministers, central bodies of the government administration, regional governors (*wojewoda*), other local bodies of the government administration acting on their behalf or on their own behalf, local government bodies and the bodies and entities referred to in Article 1, paragraph 2,

4) ministers – shall mean the Chairman or Vice-Chairman of the Council of Ministers fulfilling the duties of a minister responsible for the administration of a given branch of government, chairpersons of committees that are part of the Council of Ministers, directors of central offices of the government administration that are subordinate to or supervised by the Chairman of the Council of Ministers or the relevant minister, and directors of other equivalent State offices that deal with the cases referred to in Article 1, paragraphs 1 and 4,

5) social organisations – shall mean professional organisations, local government organisations, co-operatives and other social organisations,

6) local government bodies – shall mean the bodies of a municipality (*gmina*), district (*powiat*) or region (*województwo*), associations of municipalities or districts, the head of a municipal authority, a mayor, the head of a district authority, the head of a regional authority, heads of services, inspectorates and enforcement agencies acting on behalf of the head of municipal authority, a mayor, the head of a district authority, the head of regional authority, and the local government appeals board.

Chapter 2

General principles

Article 6.

Public administration bodies shall act in accordance with the law.

Article 7.

Public administration bodies shall uphold the rule of law during proceedings and shall take all necessary steps to clarify the facts of a case and to resolve it, having regard to the public interest and the legitimate interests of members of the public.

Article 8.

Public administration bodies are required to conduct proceedings in such a way as to increase the trust of citizens in the State bodies and public awareness and appreciation of the law.

Article 9.

Public administration bodies are required to provide full and proper information to the parties regarding the factual and legal circumstances which may affect the establishment of their rights and the obligations that are the subject of the administrative proceedings. The bodies shall take care to ensure that parties and other persons involved in proceedings do not suffer any loss owing to ignorance of the law and shall therefore provide the necessary clarifications and advice.

Article 10.

§ 1. Public administration bodies are required to ensure that parties are actively involved in each stage of proceedings and they shall allow the parties to express an opinion on the evidence and materials collected and the claims filed, before any decision is issued.

§ 2. Public administration bodies may only derogate from the rule set out in § 1 in cases where resolution of the case requires urgent attention because of threats to human life or health or the threat of irretrievable material damage.

§ 3. A public administration body shall record in the case file, by way of annotation, the reasons for derogating from the rule contained in § 1.

Article 11.

Public administration bodies should explain to the parties the basis for the rules used to decide a case, so that a decision may be implemented by the parties without the need for coercive measures.

Article 12.

§ 1. Public administration bodies should deal with cases thoroughly and quickly, using the simplest available methods to resolve them.

§ 2. Cases that do not require the collection of evidence, information or clarification should be dealt with without delay.

Article 13.

§ 1. Cases which involve parties with conflicting interests may be settled by means of a settlement drawn up before the public administration body (administrative settlement).

§ 2. In such cases, the public administration body before which such proceedings have been brought should take steps to induce the parties to agree a settlement.

Article 14.

§ 1. Cases should be dealt with in writing.

§ 2. A case may be dealt with orally if this is in the interests of the party concerned and there is no term of law to prevent it. The content and relevant motives for such choice should be noted in the file by way of minutes or a memorandum signed by the parties.

Article 15.

Administrative proceedings shall be two-tier, with provision for appeal.

Article 16.

§ 1. Decisions in respect of which there is no right of appeal at administrative level shall be final. Any revocation, amendment or invalidation of such decisions, or a recommencement of proceedings, can only occur in the situations set out in the Code or in specific acts.

§ 2. An administrative decision can be contested in an administrative court if it does not conform to the law, using the rules and methods defined in separate acts.

Chapter 3

Higher bodies and supreme bodies

Article 17.

For the purposes of this Code, higher bodies are:

1) in relation to local government bodies - the local government appeals board, unless provided otherwise by law;

- 2) in relation to regional governors - the relevant minister,
- 3) - in relation to public administration bodies other than those specified in paragraphs. 1 and 2 - the relevant superior body or relevant minister, and in their absence, the State bodies which supervise their actions;
- 4) in relation to social organisations - the relevant higher body and in its absence, the State body which supervises the actions of such organisations.

Article 18.

For the purposes of this Code, supreme bodies are:

- 1) in relation to national government administration bodies, local government bodies, excluding the local government appeals board and bodies of State and local government organisational units – the Chairman of the Council of Ministers or the relevant ministers,
- 2) in relation to State bodies other than those specified in paragraph. 1 – the relevant bodies whose scope of activity is nationwide;
- 3) in relation to social organisation bodies – the supreme bodies for such organisations, and if no such body exists - the Chairman of the Council of Ministers or the relevant ministers who supervise the activities of such organisations.

Chapter 4

Jurisdiction of public administration bodies

Article 19.

Public administration bodies shall respect their substantive and territorial jurisdiction *ex officio*.

Article 20.

The substantive jurisdiction of a public administration body shall be defined by the regulations in the area of its activity.

Article 21.

§ 1. The territorial jurisdiction of a public administration body shall be determined as follows:

1) in cases relating to land and property – on the basis of location; if the property is located within the jurisdiction of two or more bodies, the body on whose territory the largest share of the property is located shall issue the decision;

2) in cases relating to the operation of business establishments – on the basis of the location where the establishment was, is or will be operated;

3) in other cases – on the basis of the place of domicile (registered office), and where there is no place of domicile in Poland – the current place of residence of the parties or one of the parties. If none of the parties is domiciled in Poland (or has a registered office in Poland), then the basis shall be their last place of domicile (registered office) or place of residence in Poland.

§ 2. If territorial jurisdiction cannot be determined in the manner provided for in § 1, the matter shall be dealt with by the body having jurisdiction in the location where the event which gave rise to the proceedings occurred, and if this location cannot be identified, by the body having jurisdiction for the Warszawa- Śródmieście district.

Article 22.

§ 1. Jurisdictional disputes shall be dealt with as follows:

1) between local government bodies, with the exception of the cases specified in paragraphs. 2-4 – by a common higher body and by an administrative court if no such body exists;

2) between the managers of services, inspectorates or enforcement agencies of a collective administration in the same district, acting in their own right or on behalf of the head of the district authority – by the head of the district authority,

3) between collective administration bodies in the same region not referred to in paragraph 2 – by the regional governor,

4) where the dispute is between public administration bodies in different regions in cases relating to duties in the area of government administration – by the minister responsible for public administration;

5) (deleted),

6) between regional governors and collective administration bodies in different regions – by the minister responsible for public administration;

7) between a regional governor and individual administration bodies - the minister responsible for public administration in accord with the body responsible for supervision of the body in dispute with the regional governor,

8) between public administration bodies other than those referred to in paragraphs 1-4, 6 and 7 - by the common higher body and where no such body exists – by the minister responsible for public administration,

9) between public administration bodies, where one of them is a minister – by the Chairman of the Council of Ministers.

§ 2. Jurisdictional disputes between local government bodies and national government bodies shall be settled by an administrative court.

§ 3. The following can apply to an administrative court for a review of a case:

- 1) a party to proceedings,
- 2) the local government body or other public administration body involved in the dispute,
- 3) the minister responsible for public administration,
- 4) the minister responsible for judicial affairs, the Chief Prosecutor,
- 5) the Ombudsman.

Article 23.

Until such time as a jurisdictional dispute is resolved, the public administration body on whose territory the matter arose shall only carry out measures requiring urgent action, having regard to the public interest and the legitimate interests of members of the public and shall inform the body responsible for settling the dispute accordingly.

Chapter 5

Exclusion of an employee or an authority

Article 24.

§ 1. An employee of a public administration body shall be excluded from proceedings if:

- 1) he is himself a party to proceedings or is connected to one of the parties in such manner that the result of the case may have an effect on his rights or responsibilities,
- 2) the case involves his/her spouse or relations to the second degree,

3) the case involves persons with whom he has a connection by way of adoption, guardianship or receivership (mental incapacity),

4) he has appeared as a witness or expert or has been or is a representative of one of the parties, or the representative of one of the parties is one of the persons referred to in paragraphs 2 and 3,

5) he took part at lower instance in the issue of a contested decision,

6) internal investigations, disciplinary proceedings or criminal proceedings have been begun against him as a result of the case,

7) one of the parties in the case is his professional superior,

§ 2. The grounds for exclusion of an employee from proceedings continue after termination of the marriage (§ 1, paragraph 2), adoption, guardianship or receivership (mental capacity) (§ 1, paragraph 3).

§ 3. The employee's immediate superior shall be required at his own initiative or that of one of the parties to exclude the employee from the proceedings, if it appears likely that there are circumstances other than those listed in § 1 that cast doubt on the impartiality of the employee.

§ 4. The excluded employee should only carry out measures requiring urgent action, having regard to the public interest or the legitimate interests of the party.

Article 25.

§ 1. A public administration body shall be excluded from dealing with a case that relates to the property interests of:

1) its chief officer or any of his/her relatives as defined in Article 24, § 1, paragraphs 2 and 3,

2) persons acting in an executive capacity in the higher body at the next level or any of their relatives, as defined in Article 24, § 1, paragraphs 2 and 3.

§ 2. The provisions of Article 24, § 4 shall apply accordingly.

Article 26.

§ 1. If an employee is excluded (Article 24), his immediate superior shall appoint another employee to deal with the case.

§ 2. If a body is excluded, the case shall be dealt with as follows:

1) if the circumstances in Article 25 § 1, paragraph 1 apply – by the higher body of the body dealing with the case,

2) if the circumstances in Article 25 § 1, paragraph 2 apply - by the higher body of a body in which a person referred to in that provision acts in an executive capacity.

A higher body can appoint a subordinate body to deal with the case. If the person referred to in Article 25, § 1, paragraph 2, is a minister or the chairman of the local government appeals board, the body having jurisdiction to deal with the case shall be the Chairman of the Council of Ministers.

§ 3. If a public administration body has become incapable of dealing with the case as a result of the exclusion of its employee, then § 2 shall apply as appropriate.

Article 27.

§ 1. A member of a collegial body shall be excluded in the situations outlined in Article 24 § 1. The chairman of the collegial body or the higher body shall make a ruling on the exclusion of a member in the situations outlined in Article 24 § 3, at the instigation of one of the parties, another member of the collegial body, or *ex officio*.

§ 2. The provisions of Article 26 § 2 will apply as appropriate if the collegial body, as a result of the exclusion of one of its members, becomes incapable of reaching a decision through the absence of a quorum.

§ 3. If the local government appeals board is unable to deal with the case as the result of the exclusion of one of its members then the minister for public administrative affairs shall refer the case to a different local government appeals board.

Article 27a. (deleted).

Chapter 6

Party to proceedings

Article 28.

A party to proceedings (“a party”) is any person whose legal interests or responsibilities are the object of the proceedings or who requires the intervention of a body in respect of their legal interests or responsibilities.

Article 29.

Both natural persons and corporate bodies can be parties and where national and local government organisational units and social organisations are involved, they can also be entities that do not have legal personality.

Article 30.

§ 1. Unless the regulations state otherwise, legal capacity shall be determined in accordance with civil law.

§ 2. Natural persons without legal capacity shall be represented by their statutory representatives.

§ 3. Parties that are not natural persons must be represented by their statutory representatives.

§ 4. In cases involving alienable rights or inheritable rights, the loss of such rights or the death of the party during proceedings will result in the immediate substitution of their successors-in-title.

§ 5. In cases involving unclaimed estates, the person acting as receiver of the estate shall act as party, and where no such person exists – the court shall appoint a public trustee on application by the public administration body.

Article 31.

§ 1. A social organisation can intervene in a matter involving another person with a request to:

1) commence proceedings,

2) participate in proceedings, if such participation is justified by its statutes and where there would be a public benefit in allowing it.

§ 2. The public administration body, in allowing the request of the social organisation, shall make an *ex officio* decision on commencement of proceedings or on admission of the organisation to proceedings. A decision refusing commencement of proceedings or admission to proceedings can be the made the subject of an interlocutory objection by the social organisation.

§ 3. Social organisations shall participate in proceedings with the rights of a party.

§ 4. In commencing proceedings in a matter involving a third party, the public administration body shall inform the social organisation if it believes that the organisation would be interested in participating in proceedings as a result of its statutory objects and there would be a public benefit in allowing it to do so.

§ 5. A social organisation which is not involved in proceedings with the rights of a party may, with the consent of the public administration body, submit its opinion on the case to the body by way of a resolution or declaration of its statutory representatives.

§ 6. (deleted).

Article 32.

A party may be represented by an attorney, unless the nature of the cases requires it to enter a personal appearance.

Article 33.

§ 1. Any natural person having legal capacity may act as attorney.

§ 2. A power of attorney must be given in writing or recorded in the minutes.

§ 3. The attorney shall provide the original power of attorney or a certified copy for the file. An advocate, counsellor-at-law or patent agent can certify a copy of the power of attorney granted to him.

§ 4. In less contentious cases, the public administration body may dispense with the power of attorney if the attorney is a close relative or cohabitant with the party and where there is no doubt as to the existence and scope of their authority to act on behalf of the party.

Article 34.

§ 1. A public administration body shall apply to court for a representative to be appointed on behalf of any person who is absent or legally incapable, if no representative has been previously appointed.

§ 2. If matters require urgent attention, the public administration body can appoint a representative on behalf of an absentee to appear in proceedings for the duration of the period of appointment set by the court.

Chapter 7

Dealing with cases

Article 35.

§ 1. Public administration bodies shall deal with cases without unnecessary delay.

§ 2. Cases should be dealt with promptly where they can be examined on the basis of the evidence provided by a party, together with a demand that proceedings be commenced; or on the basis of universally-accepted facts and evidence known to the body that is conducting proceedings, or which can be established on the basis of data which is at the disposal of that body.

§ 3. Any case requiring an evidentiary process should be dealt with within a month from the commencement of proceedings and more complicated cases within two months from the commencement of proceedings. Appeals cases should be dealt with within a month of the appeal being received.

§ 4. Higher bodies may define types of cases that are to be dealt with within a deadline shorter than those set out in § 3.

§ 5. Deadlines set down by law for particular acts, periods during which proceedings are suspended, delays caused by one of the parties or factors that are beyond the control of the body shall not be counted in calculating the deadlines in the preceding provisions.

Article 36.

§ 1. The public administration body shall inform the parties of any failure to deal with a case within the deadline laid down by Article 35, setting out the reasons for the delay and setting a new deadline for dealing with the case.

§ 2. The same obligation shall also apply to the public administration body in the event of a delay caused by factors that are beyond the control of the body.

Article 37.

§ 1. In the event of a failure to deal with a case within the deadline laid down by Article 35 or within the meaning of Article 36, the parties shall have the right to make an interlocutory objection to the higher public administration body.

§ 2. If the body referred to in § 1 accepts the validity of the complaint, it shall set an additional deadline for dealing with the case, clarify the reasons for the delay and the identity of the parties responsible for the failure to deal with the case within the deadline. Where necessary, the body shall take steps to ensure that future deadlines for dealing with the case are respected.

Article 38.

Any employee who, without just cause, fails to deal with a case within the deadline or carry out the responsibilities arising from Article 36 or deal with a case within the additional deadline set

under Article 37 § 2, may be subjected to disciplinary proceedings or other proceedings stipulated by law.

Chapter 8

Service

Article 39.

The public administration body shall serve documents by recorded postal delivery, by its employees or by other authorised persons or bodies.

<Article 39.

(the new Article 39 comes into force on 21.11.2005 (Journal of Laws 2005, No 64, item 565))

§ 1. Service may be effected by any electronic means of communication within the meaning of the regulations on supply of services by electronic means, if the party:

- 1) requested the public administration body for service or**
- 2) consented to service of documents by such means.**

§ 2. The Minister for Information Technology shall make regulations for the structure and form of electronic documents within the meaning of the act of 17 February 2005 on computerisation of the activities of bodies carrying out public responsibilities (J. of L. no. 64, item 565), the technical conditions applicable to service, including official certification of receipt of documents by the recipient and the method applicable to the provision of copies, taking into account the need for security in applying documents in electronic form and the efficiency of proceedings.>

Article 40.

§ 1. Documents shall be served on the party to proceedings, and if the party is acting by a representative – on that representative.

§ 2. If a party to proceedings has appointed an attorney then documents shall be served on the attorney.

§ 3. If a case has been commenced at the instigation of two or more parties the documents shall be served on all parties, unless the application indicates that one of them is authorised to receive service.

Article 41.

§ 1. The parties, their representatives or attorneys shall notify the public administration body of any change of address during proceedings.

§ 2. If the obligation imposed by § 1 is not met then service of documents at the previous address shall be legally effective.

Article 42.

§ 1. Documents shall be served on natural persons at their address or place of work.

§ 2. Documents may also be served at the premises of the public administration body, unless otherwise stated by particular regulations.

§ 3. If there is a pressing need and it is not possible to serve documents in the manner prescribed by § 1 and 2, documents may be served at any place where the recipient is found.

Article 43.

If the recipient of the document is absent, the document may be served by receipt on any adult living at the address, neighbour, or building caretaker, if such person has undertaken to hand the document to the recipient. The recipient shall be advised that the document has been served on the neighbour or caretaker by means of a notice inserted in the post box, or placed on the door of the place of residence, if this is not possible.

Article 44.

§ 1. If it is not possible to serve the document in accordance with Article 42 and 43:

1) the postal authorities shall retain the document for 14 days at the local post office if the document has been served by post,

2) the local (district, municipal) authority shall retain the notice for a period of 14 days at its offices if its employees or representatives were responsible for service of the documents.

§ 2. A notice shall be left in the post box, or if this is not possible, on the door of the recipient's place of residence, his office or other premises where professional activity is carried on or in a visible place at the entrance to the recipient's place of residence, informing the recipient that the document has been deposited together with information on the method by which the document may be collected within a 7-day period, beginning from the date on which the notice was left in the place referred to in § 1.

§ 3. Where the document remains uncollected within the deadline set down in § 2, a second notice shall be left informing that the document may be collected at the latest within 14 days of the date of the first notice.

§ 4. Service shall be deemed to have been effected once the last day of the period referred to in § 1 has passed, and the document shall remain on the file of the case.

Article 45.

Documents shall be served on social organisations and their departments at their premises or registered offices by any persons authorised to accept service of documents. Article 44 shall apply accordingly.

Article 46.

§ 1. A person accepting service shall acknowledge receipt of the document served by subscribing their signature and the date of receipt.

§ 2. If the person receiving the document refuses to confirm receipt or is unable to do so, the person serving the document shall personally confirm the date of service and indicate the person receiving the document and the reason for the lack of signature.

(§ 3 inserted into Article 46 comes into force on 21.11.2005 r. (J. of L. 2005, no. 64, item 565))

<§ 3. Where the document is served via an electronic means of communication the service shall be effective if the public administration body receives confirmation of receipt within 7 days of sending the document. If no such confirmation is received the authority shall serve the document in the manner described in this chapter for documents in a form other than electronic form.>

Article 47.

§ 1. If the recipient refuses to accept a document sent by the postal authority or another body or in any other form, the document shall be returned to the sender with an annotation that the document was refused and the date of such refusal. The document with its annotation shall be placed on the file of the case.

§ 2. Service shall be deemed to have been effected in the situations described in § 1 on the date on which the recipient refused to accept the document.

Article 48.

§ 1. Documents addressed to persons whose place of residence is unknown and for whom a court has not appointed a representative, shall be served on the statutory representative referred to in Article 34.

§ 2. Documents addressed to persons with special entitlements derived from diplomatic or consular immunity shall be served in the manner provided for by other regulations in international agreements and by international custom.

Article 49.

Parties can be informed of decisions and other acts of the public administration body by an announcement or other means of publication customarily used in a given place, if a particular regulation so allows. In such cases the notification or service shall be deemed to have been effected 14 days after the date of publication.

Chapter 9

Summons

Article 50.

§ 1. A public administration body can summon a person to participate in actions undertaken and to give explanations or evidence either personally, by an attorney or in writing, if this is essential for the case to be dealt with and for official actions to be effected.

§ 2. The body shall endeavour to ensure that the summons is not burdensome on the person receiving it.

§ 3. If a person summoned is unable to appear for reasons of illness, disability or other insurmountable difficulty, a body may carry out the action or accept an explanation or hear a summoned person at their place of residence if the circumstances of that person will allow this to happen.

Article 51.

§ 1. A summoned person is only required to make a personal appearance within the district or town in which they are permanently or temporarily resident.

§ 2. The requirement to attend personally also concerns a summoned person who is permanently or temporarily resident in the neighbouring district or town.

Article 52.

During proceedings, the public administration body shall request the relevant local body of the government administration or local government body to summon a person residing in a given district or town to give an explanation or evidence or to carry out other acts relating to the proceedings. The body conducting proceedings shall at the same time indicate the circumstances that are the object of the explanation or evidence or other acts that are required to be carried out.

Article 53.

Articles 51 and 52 do not apply in cases where the nature of the case or act requires that the acts be carried out before the public administration body that is conducting the proceedings.

Article 54.

§ 1. The summons must contain:

- 1) the name and address of the body issuing the summons,
- 2) the name of the person summoned,
- 3) the name of the case and the reason for which the person has been summoned,
- 4) details of whether the summoned person is required to attend personally or by attorney, and of whether the explanation or evidence may be given in writing,
- 5) the deadline by which the requirement must be met, or the date, time and place at which the summoned person or his attorney is required to appear,
- 6) the legal consequences of failing to comply with the summons.

§ 2. The summons should bear the signature of an employee of the issuing body, with an indication of the name and job title of the signatory.

Article 55.

§ 1. In cases requiring urgent action a summons can be issued by telegraph or telephone or using other means of communication, supplying the information referred to in Article 54.

§ 2. A summons issued in the manner provided for in § 1 will only have legal effect once there is no doubt that the relevant content has been received by the addressee within the required deadline.

Article 56.

§ 1. Any person appearing as a result of a summons shall be awarded travel costs and other expenses in accordance with the regulations on remuneration of witnesses and experts in court proceedings. This also applies to the costs of personal appearance by the parties if proceedings were commenced *ex officio* or where a party, through no fault of its own, has erroneously been summoned to appear.

§ 2. A demand for payment of such costs must be made to the public administration body that is conducting proceedings and before the decision is issued, on penalty of disqualification of the demand.

Chapter 10

Deadlines

Article 57.

§ 1. If a deadline measured in days commences with an event that is certain, the calculation of the deadline shall not include the date on which the event occurred. The deadline shall be deemed to have expired at the end of the last of the number of days calculated.

§ 2. Deadlines that are set in weeks shall expire at the end of the day in the last week, this being the day which bears the same name as the first day of the period.

§ 3. Deadlines which are set in months shall expire at the end of the day in the last month which corresponds to the first day of the period, and if there is no such day in the last month – on the last day of that month.

§ 4. If the deadline falls on a public holiday, the deadline shall be deemed to be the next business day.

(the new wording of § 5 in Article 57 comes into force on 21.11.2005 (J. of L. no. 64, item 565.)

[§ 5. The deadline shall be deemed to have been met if before its expiry a document has been handed in at a Polish postal office or filed at a Polish diplomatic mission. The deadline shall also

be deemed to have been met if before its expiry a soldier or crew member of a marine vessel has submitted it to the headquarters of his unit or to the captain of the ship, and in the case of a prisoner, to the prison administration.]

<§ 5. The deadline shall be deemed to have been met, if before its expiry the document has been:

- 1) sent to the public administration body in electronic form within the meaning of the act of 17 February 2005 on computerisation of the activities of bodies carrying out public responsibilities, with confirmation of receipt,**
- 2) handed in a Polish postal office,**
- 3) filed at a Polish diplomatic mission,**
- 4) handed in at the headquarters of the military unit, in the case of a soldier,**
- 5) handed to the captain of the ship, in the case of a crew member of a marine vessel,**
- 6) handed in to the prison administration, in the case of a prisoner.>**

Article 58.

§ 1. If the deadline is infringed it may be rescheduled at the request of an interested party if it appears probable that the infringement was not caused by that party.

§ 2. A request to reschedule the deadline should be made within 7 days of the reason for the deadline's infringement coming to an end. However, the actions for which the deadline was set must be carried out simultaneously with the request being made.

§ 3. It is not possible to reschedule the deadline for making the request referred to in § 2.

Article 59.

§ 1. The relevant public administration body in the case shall make a decision on whether to reschedule the deadline. An interlocutory objection may be filed in relation to a refusal to restore the deadline.

§ 2. The body having jurisdiction for hearing an appeal or an interlocutory objection shall make a ruling on whether to reschedule the deadline for making such an appeal or interlocutory objection.

Article 60.

Before reviewing a request to reschedule a deadline for making an appeal or an interlocutory objection the public administration body may refrain from implementing a decision or ruling, at the instigation of a party to proceedings.

Part II

Proceedings

Chapter 1

Commencement of proceedings

Article 61.

§ 1. Administrative proceedings shall be commenced *ex officio* or at the instigation of the parties to proceedings.

§ 2. If the interests of the party are particularly important, the public administration body may also commence proceedings *ex officio* if the case requires an application to be made by that party. The body must obtain the consent of that party during the proceedings and suspend the proceedings if it fails to do so.

§ 3. The date on which proceedings are commenced at the instigation of a party is the date on which the demand is served on the public administration body.

(the addition of § 3a to Article 61 comes into force on 21.11.2005 (J. of. L. 2005, no. 64, item 565))

<§ 3a. The date on which proceedings are commenced at the instigation of a party made by electronic means is the date on which the demand is entered on the computer system of the public administration body.>

§ 4. Where proceedings are commenced *ex officio* or at the instigation of one of the parties, all persons being party to the case must be notified.

Article 62.

In cases where the rights and responsibilities of parties arise from the same set of facts and the same legal basis and the same public administration body has jurisdiction in the case; proceedings relating to more than one party may be commenced and conducted.

Article 63.

[§ 1. Applications (demands, explanations, appeals, objections) can be made in writing, by telegraphic means, by telex, fax or e-mail or orally recorded in the minutes.]

(the new wording of § 1 and the addition of § 3a come into force on 21.11.2005 (J. of L. 2005, no. 64, item 565))

<§ 1. Applications (demands, explanations, appeals, objections) can be made in writing, by telegraphic means, by telex, fax or e-mail, by means of a form located on the website of the relevant public administration body that enables data to be entered on the computer system of that authority, or orally recorded in the minutes.>

§ 2. Applications must indicate at minimum the identity of the person making it, their address, the nature of the demand and must fulfil the requirements contained in other legal regulations.

§ 3. Any application made in writing or oral application recorded in the minutes should be signed by the person making it. The recording official should also sign the minutes. If an application is made by a person who is unable to sign, the application or minutes should be signed by a person authorised by that person, with a note made thereof adjacent to the signature.

<§ 3a. Applications made in the form of an electronic document should:

1) bear a secure electronic signature authenticated by a valid qualified certificate, observing the rules set out in the legislation on electronic signatures, and

2) contain data in the agreed format contained in a specimen application provided by separate legislation, if such regulations require applications to be made in the stipulated form.>

§ 4. The public administration body is required to acknowledge receipt of the application if the applicant so requires.

Article 64.

§ 1. The application will not be examined if the applicant's address is not included in the application and it cannot be identified from the data available.

§ 2. If the application does not fulfil the requirements of law, the applicant shall be summoned to correct the defects within 7 days, with a notice advising that failure to comply will result in the application not being examined.

Article 65.

§ 1. If the application has been made to a public administration body that does not have jurisdiction then that body shall forward it to the proper body. The case shall be forwarded by means of a ruling, against which an interlocutory objection can be made.

§ 2. An application made within the legal deadline to a body that does not have jurisdiction shall be deemed to have been filed within the deadline.

Article 66.

§ 1. If the application relates to several cases that are being dealt with by different bodies, the public administration body to which the application has been made shall only deal with those matters that are within its jurisdiction. It shall inform the applicant that in other cases it will need to make a separate application to the proper body, and shall advise him of the content of § 2. The notice shall be made by means of a ruling, against which an interlocutory objection can be made.

§ 2. A separate application made in accordance with the notice referred to in § 1, within 14 days of the ruling being served, shall be treated as having been made on the date of the first application.

§ 3. If the application has been sent to the incorrect body and the proper body cannot be established on the basis of the contents of the application, or it is apparent from the application that the proper body is a court of law, the body to which the application is made shall return it to the applicant. The application shall be returned by means of a ruling, against which an interlocutory objection can be made.

§ 4. The body cannot return the application arguing that a court of law is the proper body for the case, if that court has already ruled that it is not the proper body.

Chapter 2

Minutes and memoranda

Article 67.

§ 1. The public administration body shall make concise minutes of each act in the proceedings that is of relevance for a decision in the case, unless such act has been recorded in writing by some other means.

§ 2. In particular, minutes shall be prepared if :

- 1) a submission is made orally,
- 2) a party, witness or expert is heard,

3) inspections and expert reports are carried out or prepared with the participation of a representative of the public administration body,

4) a hearing is conducted,

5) a decision or ruling is announced orally.

Article 68.

§ 1. Minutes shall be drawn up so that it is evident :

- what acts were carried out,
- by whom they were carried out,
- when and where they were carried out,
- who was present at that time and in what capacity,
- what was established as a result of those acts and by what method,
- what were the observations of those present.

§ 2. The minutes shall be read over to all those present taking part in the official act and they should then sign the minutes. A refusal to sign or lack of signature of any person should be noted in the minutes.

Article 69.

§ 1. Minutes of any hearing should be read out and submitted for signature to the person giving evidence as soon as the evidence has been given.

§ 2. In minutes of hearings where the person giving evidence has done so in a foreign language, the Polish-language translation shall be recorded together with the name and address of the translator involved and the translator should sign the minutes of the hearing.

Article 70.

The public administration body may allow written evidence to be added to the minutes if it has been signed by the person giving it, or any other documents which are of relevance to the case.

Article 71.

Deletions and corrections should be made in the minutes so that the deleted or corrected text remains legible. Deletions and corrections should be verified in the minutes before signature.

Article 72.

Any acts of the public administration body that have not been recorded in the minutes and which are of relevance to the case shall be recorded in the file by means of a memorandum signed by the employee who carried out such acts.

Chapter 3

Access to files

Article 73.

§ 1. At each stage of the proceedings a public administration body shall allow parties to view the file and to make notes or copies thereof.

§ 2. A party may demand that any notes or copies made of the case file be authenticated, if doing so is justified by the interests of the party.

Article 74.

§ 1. Article 73 shall not apply to case files that are subject to State secrecy and other files which the public administration body excludes for reasons of being against the public interest.

§ 2. A ruling shall be made for a refusal to allow parties to view a file or make notes and copies thereof or to authenticate such notes or copies or issue such copies and an interlocutory objection can be made against such a ruling.

Chapter 4

Evidence

Article 75.

§ 1. Anything which is not contrary to law and which is of assistance in clarifying a case shall be admissible as evidence. Evidence includes : documents, the evidence of witnesses, the opinions of experts and inspections.

§ 2. If a provision of law does not require official confirmation of established facts or a point of law by means of a statement from the relevant administrative body, the public administration body shall accept, on application by the party, a declaration made by that party on penalty of criminal liability for perjury. Article 83 § 3 shall apply accordingly.

Article 76.

§ 1. Official documents drawn up in the prescribed form by the State bodies appointed for such purpose shall constitute evidence of the matters that have been officially confirmed in such manner.

§ 2. The provisions of § 1 shall also apply to official documents drawn up by bodies of organisational units or entities in areas entrusted to them by law or settlements of the cases referred to in Article 1, paragraphs 1 and 4.

§ 3. The provisions of § 1 and 2 do not exclude the possibility of bringing evidence against the content of the documents referred to in these provisions.

Article 77.

§ 1. The public administration body is required to comprehensively collect and examine all evidential material.

§ 2. At each stage of proceedings a body can amend, supplement or withdraw rulings made regarding the examination of evidence.

§ 3. An body conducting proceedings as a result of having been required to do so by the body having jurisdiction to settle the case (Article 52) may, on an *ex officio* basis or on application by one of the parties, hear new witnesses or experts on circumstances that form the objects of such proceedings.

§ 4. Universally accepted facts and facts known to the body *ex officio* do not require proof. Parties to proceedings should be informed of facts that are known to the body.

Article 78.

§ 1. A demand made by a party relating to the evidentiary process should be taken into consideration if the subject of such evidence is of significance to the case.

§ 2. The public administration body need not take into consideration demands (§ 1) that have not been made during the evidentiary process or the hearing if the demand relates to circumstances that have been proven by other evidence, unless they are of significance for the case.

Article 79.

§ 1. The parties should be given at least 7 days notice of the location and date for the conduct of the evidentiary process involving witnesses, experts and examinations.

§ 2. Parties have the right to participate in the evidentiary process, to ask questions of witnesses, experts and parties and to file explanations.

Article 80.

The public administration body shall assess whether a given circumstance has been proven on the basis of the entirety of the evidential material.

Article 81.

A factual circumstance shall be deemed to have been proven if one of the parties had the opportunity to challenge the evidence, unless the circumstances referred to in Article 10 § 2 apply.

Article 82.

The following are unable to be witnesses:

- 1) persons who are unable to identify or communicate their observations,
- 2) persons bound by rules of State secrecy or professional privilege, unless they have been exempted under the applicable rules or regulations,
- 3) ordained persons who are bound by the secrets of the confessional.

Article 83.

§ 1. No person may refuse to give evidence as a witness unless they are the party's spouse, parents, issue, siblings or blood relatives to the first degree, or have a connection with the party by way of adoption, guardianship or receivership (mental incapacity).

§ 2. A witness may refuse to answer a question if such answer could expose him or those persons referred to in § 1 to criminal liability, disgrace, direct damage to property or result in a breach of the obligation to maintain professional confidentiality.

§ 3. Before taking evidence the public administration body shall inform the witness of the right to refuse to give evidence or answer questions and the criminal liability arising from perjury.

Article 84.

§ 1. If a case requires specialist information, a public administration body may consult an expert or experts for an opinion.

§ 2. An expert shall be excluded from proceedings on the basis of the rules set out in Article 24. The provisions regarding the hearing of witnesses shall also apply to experts.

Article 85.

§ 1. Where necessary, a public administration body can carry out inspections.

§ 2. If the object of the inspection is to be found with a third party then such parties shall be obliged to produce the object of the inspection on being summoned to do so by the body.

Article 86.

If all means of evidence have been exhausted or there is a lack of such evidence and material facts in the case have not been clarified, the public administration body may hear evidence from the parties. The provisions applicable to hearing witnesses shall also apply to parties, with the exception of the provisions on compulsion.

Article 87.

A collegial body, having the power to issue a decision in the case, can instruct one of its members or employees to carry out all or part of the evidentiary process, if individual provisions do not prohibit it.

Article 88.

§ 1. Any person being obliged to appear in person (Article 51) and being lawfully summoned, who fails to appear as a witness or expert or refuses to give evidence, provide an opinion or

produce an object for inspection or assist in any other official act without just cause, can be punished by the body conducting the evidentiary process by a fine of up to 50 zł, and in the case of a subsequent failure to comply with a summons – a fine of up to 200 zł. An interlocutory objection can be made against a ruling imposing a fine.

§ 2. If the person on whom the fine was imposed makes an application within 7 days of the notification, the body that imposed the fine may acknowledge that the absence or refusal referred to in § 1 was justified and waive the fine. An interlocutory objection can be made against a refusal to waive the fine.

§ 3. The imposition of a fine does not exclude the possibility of coercive measures against a stubborn witness, as described in other regulations.

Article 88a.

If a soldier on military service refuses to perform the obligations referred to in Article 88 § 1, the body conducting the evidentiary process shall, instead of imposing a fine, apply to the head of the unit in which the soldier is serving for disciplinary proceedings to be brought.

Chapter 5

Hearing

Article 89.

§ 1. The public administration body shall hold a hearing as part of proceedings in each case where this will speed up or simplify proceedings or produce some educational benefit or where the law requires it.

§ 2. The public administration body shall hold a hearing if there is a need to agree the interests of the parties or where it is necessary to clarify the case with the involvement of witnesses or experts or by means of inspections.

Article 90.

§ 1. The public administration body should take all necessary steps for the conduct of the hearing prior to its commencement.

§ 2. In particular, the body shall summon:

1) the parties to submit clarifications, documents and other evidence prior to the hearing and to appear at the hearing either in person or by a representative or attorney.

2) witnesses and experts to appear at the hearing.

§ 3. The body shall also inform national and local government departments, social organisations and other persons if their participation in the hearing would be justified by the purpose of the hearing. In this case, the body shall summon them to participate in the hearing or to submit supporting declarations and evidence prior to the hearing.

Article 91.

§ 1. The summons shall contain details of the date, venue and purpose of the hearing.

§ 2. The summons shall be served in writing on the parties, witnesses, experts, national and local government departments, organisations and other persons summoned to participate in the hearing (Article 90 § 3).

§ 3. If it appears likely that in addition to the parties summoned and participating in proceedings, there may be other parties in the case unknown to the public administration body, the date, venue and purpose of the hearing shall be published by means of an announcement or by means of the method which is customarily used in a given location.

Article 92.

The date of the hearing should be set so that service of the summons or any announcement regarding the hearing takes place at least 7 days before the hearing.

Article 93.

The hearing shall be conducted by the employee designated by the public administration body responsible for the conduct of proceedings. If proceedings are taking place before a collegial body, the hearing shall be conducted by the chairman or a designated member of the collegial body.

Article 94.

§ 1. The absence from the hearing of a party that has been duly summoned shall not prevent the hearing from being conducted.

§ 2. The person conducting the hearing shall postpone it if he is aware of serious discrepancies in the summons served on the parties, if the absence of the party was caused by circumstances that were difficult to overcome and for any other serious reason.

Article 95.

§ 1. At the hearing the parties may present clarifications, demands, proposals and accusations and submit supporting evidence. The parties may also comment on the results of the evidentiary process.

§ 2. The person conducting the hearing may withdraw questions submitted to witnesses, experts or parties if they are not of significance to the case. However, if a party so requests, the essence of the withdrawn question shall be recorded in the minutes.

Article 96.

The person conducting the hearing may, after due warning, eject any party, witness, expert or other person for improper behaviour during the hearing and impose a fine of up to 100 zł. An interlocutory objection can be made against any ruling imposing a fine.

Chapter 6

Suspension of proceedings

Article 97.

§ 1. The public administration body shall suspend proceedings:

1) on the death of one of the parties, if it is not possible to summon the beneficiaries of the deceased party to participate in proceedings and the circumstances referred to in Article 30 § 5 are absent, and proceedings are not required to be cancelled as being redundant (Article 105),

2) on the death of a statutory representative of a party,

3) where a party or its statutory representative loses legal capacity,

4) where the review of the case and issue of a decision is dependant on a prior decision of another body or court on preliminary issues.

§ 2. Where the reasons for suspending proceedings have arisen, the public administration body shall take action *ex officio* or at the instigation of one of the parties.

Article 98.

§ 1. The public administration body may suspend proceedings if a request is made from the party at whose instigation the proceedings were commenced, and the request is not contested by any other party and is not contrary to the public interest.

§ 2. If within 3 years of the suspension of proceedings no party has asked that proceedings be resumed, the demand that proceedings be commenced shall be deemed to have been withdrawn.

Article 99.

The public administration body which suspends proceedings commenced *ex officio* for the reasons set out in Article 97 § 1, paragraph 1-3, shall at the same time take the necessary steps to remove the obstacles to the further conduct of proceedings. The body shall act in the same way in the event of suspending proceedings commenced at the instigation of a party, if it would be in the public interest that the case be dealt with.

Article 100.

§ 1. Any public administration body which suspends proceedings for the reason set out in Article 97 § 1, paragraph 4 shall immediately request that the relevant body or court settles the preliminary issues or shall require the parties to do so within a given timescale, unless that party can demonstrate that it has already approached the body or court in that matter.

§ 2. If a suspension of proceedings for the reason set out in Article 97 § 1, paragraph 4 could endanger human life or health or be detrimental to the public interest, the public administration body shall deal with the case, ruling on the preliminary issue in its own area.

§ 3. The terms of § 2 shall also apply if a party despite having been summoned (§ 1) has not attempted to resolve the preliminary issue or if the suspension of proceedings could cause irretrievable damage for a party. In the latter case, the body can make its settlement of the case dependant on the party being required to provide the appropriate guarantee.

Article 101.

§ 1. The public administration body shall inform the parties of any ruling suspending proceedings.

§ 2. If proceedings are suspended at the instigation of one of the parties (Article 98 § 1) the body shall inform that party of the contents of Article 98 § 2.

§ 3. A party can make an interlocutory objection against a ruling suspending proceedings.

Article 102.

If proceedings are suspended, the public administration body may take all necessary steps to prevent danger to human life or health or serious damage to the public interest.

Article 103.

Suspension of proceedings suspends the time limits applicable in the Code.

Chapter 7

Decisions

Article 104.

§ 1. Unless the provisions of the Code provide otherwise, a public administration body shall settle a case by the issue of a decision,.

§ 2. Decisions shall settle a case in its essential aspect either totally or partially or close the case at that instance by some other means.

Article 105.

§ 1. Where proceedings have become redundant for whatever reason the public administration body shall issue a decision cancelling the proceedings.

§ 2. The public administration body may cancel proceedings if requested to do so by the party at whose demand the proceedings were commenced, and such request is not contested by any other party and is not contrary to the public interest.

Article 106.

§ 1. If a provision of law makes the issue of a decision dependant on a position being taken by another body (i.e. expressing an opinion or consent or expressing a position in some other form) then the decision shall be issued once the position has been taken by that body.

§ 2. Any body conducting proceedings that asks another body to adopt a position shall inform the party that this has taken place.

§ 3. A body that has been asked to adopt a position shall do so without delay and no later than two weeks of a demand being served, unless the terms of law provide otherwise.

§ 4. A body that has been asked to adopt a position may carry out an evidentiary process where necessary.

§ 5. A body shall make its position known by means of a ruling and an interlocutory objection can be made against that ruling.

§ 6. If a position is not taken within the deadline referred to in § 3 then arts. 36-38 shall apply accordingly.

Article 107.

§ 1. A decision should contain: the name of the public administration body, the date of issue, the name(s) of the party or parties, the legal authority referred to, a ruling, a factual and legal justification, an advisory notice as to whether and how an appeal may be brought and the signature, name and position of the person authorised to issue the decision. Any decision which may be challenged by a petition to the civil court or a complaint to the administrative court should contain an advisory notice that such a petition or complaint may be brought.

§ 2. Other regulations may contain other elements which a decision should contain.

§ 3. The factual justification of the decision should contain the facts that the body regards as proven, the evidence relied upon and the reasons for which other evidence has been treated as not authentic and without probative force. The legal justification should contain the legal authority for the decision with reference to the relevant law.

§ 4. If the decision fully reflects the demands of the party then there is no need to provide a justification for the decision, but this does not apply to decisions in contentious cases and decisions given on appeal.

§ 5. A body can also dispense with a justification of a decision in such cases if under current statutory regulations there is a possibility of dispensing with or limiting the justification because of the interests of State security or public order.

Article 108.

§ 1. A decision against which an appeal may be brought can nevertheless be given immediate executory force if this is essential for the protection of human life or health or for the protection of the national economy from major losses or for reasons of public interest or the exceptionally

vital interests of a party to proceedings. In the latter case the public administration body shall make a ruling requiring the party to provide the appropriate guarantee.

§ 2. Immediate executory force can also be given to a decision after its issue. In this case the body shall make a ruling, against which the party is entitled to make an interlocutory objection.

Article 109.

§ 1. A decision shall be served on the parties in writing.

§ 2. A decision may be communicated to the parties orally in the circumstances described in Article 14 § 2.

Article 110.

The public administration body issuing the decision shall be bound by it from the time of its service or publication, unless the Code provides otherwise.

Article 111.

§ 1. Within 14 days of service or publication of a decision a party can: require it to be completed in relation to the adjudicative element or the right of appeal, file a petition in the civil court or a complaint in the administrative court, or clarify the advisory notices set out in the decision on these issues.

§ 2. In the cases referred to in § 1 the deadline for a party to bring an appeal, petition or complaint runs from the date on which the reply is served on the party.

Article 112.

An erroneous advisory notice in a decision regarding the right of appeal or petition to the civil court or complaint to the administrative court shall not be prejudicial to the party that has complied with it.

Article 113.

§ 1. The public administration body can make a ruling *ex officio* or at the instigation of a party in order to correct typographical or mathematical errors or other evident mistakes in decisions issued by that body.

§ 2. The body issuing the decision shall, at the request of the body or party seeking to enforce it, make a ruling clarifying any ambiguity of content in the decision.

§ 3. An interlocutory objection can be made against a ruling in the matter of correction and clarification.

Chapter 8

Agreement

Article 114.

In any case being dealt with by proceedings before a public administration body, the parties may reach an agreement – if the nature of the case supports it, if it would simplify or quicken proceedings and if it is not contrary to law.

Article 115.

An agreement may be reached before the public administration body during proceedings at first instance or during appeal proceedings up until the time when a decision is issued by the body in the case.

Article 116.

§ 1. The public administration body shall postpone the issue of a decision and shall set the parties a deadline for reaching an agreement if the parties make similar declaration of intent regarding such an agreement.

§ 2. The public administration body shall deal with the case by means of a decision if one of the parties indicates that it no longer intends to reach an agreement or will not respect the deadline referred to in § 1 for reaching an agreement.

Article 117.

§ 1. An agreement shall be drawn up in writing. It should contain: the name of the public administration body before whom it was prepared, the date of execution, the name(s) of the party or parties, the subject and content of the agreement, a statement indicating that it has been read over and signed, the signatures of the parties and the signature of the employee authorised to draw up the agreement on behalf of the public administration body.

§ 2. The public administration body shall record on the file of the case the fact that an agreement has been reached, in the form of minutes signed by the employee authorised to draw up the agreement.

Article 118.

§ 1. A settlement must be confirmed by the public administration body before which it was reached.

§ 2. If the agreement relates to an issue on which a separate body is required to adopt a position then Article 106 shall apply accordingly.

§ 3. The public administration body shall refuse to confirm any agreement: that breaches the law, that does not take into account the position of a body referred to in § 2, or which is against the public interest or the proper interests of the parties.

Article 119.

§ 1. A ruling (which may be subject to an interlocutory objection) shall be made to confirm or to refuse to confirm any agreement. Such a ruling should be issued within seven days of date of the agreement.

§ 2. If the agreement has been reached during the appeal procedure, the decision of the body at first instance referred to in the ruling shall cease to have effect from the date at which the ruling confirming the agreement becomes final.

§ 3. Parties shall be served with a certified copy of the agreement together with the ruling confirming the agreement.

Article 120.

§ 1. The agreement shall be enforceable from the date on which the ruling confirming it becomes final.

§ 2. The public administration body before which the agreement was reached shall confirm on a copy of the agreement that it is enforceable.

Article 121.

A confirmed agreement shall have the same effect as a decision issued during administrative proceedings.

Article 122.

The regulations relating to decisions shall apply to all matters not covered in this chapter relating to administrative rulings in the matter of approval of agreements or the refusal to approve.

Chapter 9

Rulings

Article 123.

§ 1. A public administration body may make a ruling during proceedings.

§ 2. Rulings relate to particular issues arising during a case but they do not determine the essence of the case, unless the provisions of this Code provide otherwise.

Article 124.

§ 1. A ruling should contain: the name of the public administration body, the date of issue, the name(s) of the party or parties or other persons participating in proceedings, the legal authority referred to, the ruling itself, an advisory note as to whether and how an interlocutory objection or complaint to the administrative court may be brought, and the signature, name and position of the person authorised to issue the ruling.

§ 2. A ruling should contain a factual and legal justification if an interlocutory objection or complaint to the administrative court may be brought or if it was issued as a result of an interlocutory objection brought against a ruling.

Article 125.

§ 1. Any ruling against which the parties may make an interlocutory objection or a complaint to the administrative court shall be served in writing.

§ 2. A ruling may be communicated to the parties orally in the circumstances described in Article 14 § 2.

§ 3. A ruling which can be challenged in the administrative court shall be served on the party together with an advisory notice informing that such a possibility exists and a factual and legal justification.

Article 126.

Arts. 107 § 2-5 and arts. 109-113 shall also apply to rulings, and arts. 145-152 and arts. 156-159 to rulings which can be challenged by interlocutory objection – save that rulings shall be issued instead of the decisions referred to in arts. 149 § 3, 151 § 1, 157 § 1 and 158.

Chapter 10

Appeals

Article 127.

§ 1. A party may bring an appeal against a decision given at first instance only at one further instance.

§ 2. The proper body for dealing with an appeal is the public administration body at higher level, save where a different appeal body is provided for by law.

§ 3. No appeal may be brought against a decision given at first instance by a minister or the local government appeals board, however a dissatisfied party may ask the body to review the case again and the regulations regarding appeals against decisions shall apply in such a case.

§ 4. (deleted).

Article 128.

It is not necessary to provide a detailed justification with an appeal. It is sufficient if it is evident from the appeal that the party is dissatisfied with the decision issued. Other regulations may set other requirements for the contents of an appeal.

Article 129.

§ 1. An appeal shall be brought to the proper appeal body via the body which issued the decision.

§ 2. An appeal shall be brought within 14 days of the party being served with the decision, and if the decision was communicated to the party orally, within 14 days of that date.

§ 3. Other regulations may set down different deadlines for bringing an appeal.

Article 130.

§ 1. A decision is not enforceable until the deadline for bringing an appeal has expired.

§ 2. Enforcement of a decision shall be halted if an appeal is brought within the deadline.

§ 3. The terms of § 1 and 2 shall not apply if:

1) the decision is enforceable immediately (Article 108),

2) the decision is enforceable immediately by law.

§ 4. A decision shall also be enforceable before expiry of the deadline for bringing an appeal if this is the request of all parties concerned.

Article 131.

The public administration body that issued the decision shall inform the parties that an appeal has been brought.

Article 132.

§ 1. If an appeal has been brought by all the parties involved and the public administration body that issued the decision believes that the appeal should be allowed in its totality, it may issue a new decision which revokes or amends the decision challenged.

§ 2. The provisions of § 1 also apply if the appeal has been brought by one of the parties and the other parties consent to the revocation or amendment of the decision in accordance with the terms of the appeal.

§ 3. The parties may appeal against the new decision.

Article 133.

The public administration body that issued the decision is required to forward the appeal together with the case file to the appeal body within 7 days of the date on which the appeal was received, if during that period it does not issue a new decision within the meaning of Article 132.

Article 134.

The appeal body shall make a ruling on the inadmissibility of an appeal and the breach of the deadline for bringing an appeal. A ruling in this matter shall be final.

Article 135.

The appeal body may halt the immediate enforcement of a decision if the circumstances justify it.

Article 136.

The appeal body may conduct additional proceedings at the instigation of a party or *ex officio*, for the purpose of supplementing the evidence in the case or it may instruct the body which issued the decision to carry out such action.

Article 137.

A party may withdraw an appeal before a decision is issued by the appeal body. The appeal body shall disregard such action if it would lead to a decision being upheld that breaches the law or is against the public interest.

Article 138.

§ 1. The appeal body shall issue a decision which:

- 1) upholds the challenged decision or
- 2) revokes the challenged decision either totally or partially and rules on the essence of the case in this case, or in revoking the decision – cancels the proceedings at first instance or
- 3) cancels the appeal procedure.

§ 2. If a decision in the case requires prior evidentiary process throughout or in a significant part of the case, an appeal body can revoke the challenged decision entirely and return the case for re-examination by the body at first instance. In returning the case the body can indicate which circumstances should be taken into account in the re-examination of the case.

§ 3. (deleted).

Article 139.

An appeal body may not issue a decision which would be disadvantageous for the party bringing the appeal, unless the challenged decision flagrantly breaches the law or is flagrantly against the public interest.

Article 140.

The regulations governing proceedings at first instance shall apply appropriately to all matters in proceedings before the appeal body that are not covered by arts. 136-139.

Chapter 11

Interlocutory objections

Article 141.

§ 1. A party may make an interlocutory objection against a ruling given in proceedings where the Code so allows.

§ 2. An interlocutory objection should be made within 7 days of the ruling being served on the party and if the ruling was communicated orally – within 7 days of the date of communication.

Article 142.

A ruling that is not open to interlocutory objection can only be challenged in an appeal against the decision.

Article 143.

Making an interlocutory objection does not prevent the ruling from being enforced, but the public administration body which issued the ruling may suspend its enforceability if it thinks this is justified.

Article 144.

The regulations regarding appeals shall apply to all matters not covered by the chapter on interlocutory objections.

Chapter 12

Recommencement of proceedings

Article 145.

§ 1. Proceedings shall be recommenced in cases of final decisions if :

- 1) evidence by which the essential factual circumstances of the case were established is discovered to be false,
- 2) the decision was issued as a result of a criminal act,
- 3) the decision was issued by an employee or a public administration body affected by the exclusion rules contained in arts. 24, 25 and 27,
- 4) a party did not participate in proceedings through no fault of its own,
- 5) evidence or new factual circumstances are discovered that were in existence on the date the decision was issued and that were unknown to the body that issued the decision,
- 6) the decision was issued before another body had adopted the position it was required to take by law,
- 7) a preliminary issue was settled by the body having jurisdiction or the court in a different manner than the interpretation taken of it during the issue of the decision (Article 100 § 2),
- 8) the decision was issued on the basis of another decision or court judgment that has since been revoked or amended.

§ 2. Proceedings may also be recommenced by order of court or some other body for the reasons given in § 1, paragraphs 1 and 2 before the falsehood of any evidence or criminality is confirmed, if the falseness of the evidence or criminality is evident and the recommencement of proceedings is essential for the avoidance of danger to human life or health or serious damage to the public interest.

§ 3. Proceedings may also be recommenced for the reasons given in § 1, paragraphs 1 and 2 if proceedings before a court of law or other body cannot be commenced for reasons of limitation of time or other reasons set out by law.

Article 145a.

§ 1. A demand may be made for proceedings to be recommenced if the Constitutional Tribunal rules that the regulations are contrary to the Constitution, an international agreement or a law on the basis of which the decision was issued.

§ 2. If the situation described in § 1 arises, a petition for the recommencement of proceedings should be brought within one month of the judgment of the Constitutional Tribunal entering into force.

Article 146.

§ 1. A decision may not be revoked for the reasons given in Article 145 § 1, paragraphs 1 and 2 if 10 years have elapsed since the date of service or the date of publication; or in the case of the reasons given in if Article 145 § 1, paragraphs 3-8 and Article 145a, if 5 years have elapsed since the date of service or the date of publication.

§ 2. A decision shall not be revoked if as a result of proceedings being recommenced a decision would be issued that in its essence is identical to the current decision.

Article 147.

Recommencement of proceedings occurs *ex officio* or at the instigation of one of the parties. Recommencement of proceedings for the reason given in Article 145 § 1, paragraph 4 and Article 145a can only occur at the instigation of the party.

Article 148.

§ 1. An application to recommence proceedings is made to the public administration body that issued the decision at first instance within one month of the date on which the party to proceedings became aware of the circumstances that give rise to grounds for recommencing proceedings.

§ 2. The deadline for applying for proceedings to be recommenced on the grounds given in Article 145 § 1, paragraph 4 runs from the date on which the party became aware of the decision.

Article 149.

§ 1. Proceedings are recommenced by way of a ruling.

§ 2. The ruling is the basis on which the body having jurisdiction may conduct proceedings regarding the grounds for recommencement and deciding the essence of the case.

§ 3. A refusal to recommence proceedings shall be given by way of a decision.

Article 150.

§ 1. The proper public administration body for the cases referred to in Article 149 is the body which issued the decision at last instance.

§ 2. If the grounds for recommencing proceedings are the actions of the body referred to in § 1, an body at higher instance shall decide whether to recommence proceedings and shall also indicate the proper body for the cases referred to in Article 149 § 2.

§ 3. The provisions of § 2 do not apply in cases where the decision at last instance was issued by a minister, and in cases relating to the duties of a local government department – the local government appeals board.

Article 151.

§ 1. Once it has conducted the proceedings referred to in Article 149 § 2 the public administration body referred to in Article 150 shall issue a decision in which:

- 1) it will refuse to revoke the current decision if it decides that there is no basis to revoke it under Article 145 § 1 or Article 145a, or
- 2) it revokes the current decision if it decides that the basis exists to revoke it under Article 145 § 1 or Article 145a, and issues a new decision on the essence of the case.

§ 2. If as a result of proceedings being recommenced it becomes impossible to revoke the decision as a consequence of the circumstances described in Article 146, the public administration body shall confine itself to confirming that the challenged decision is in breach of the law and indicate the reasons for which the decision was not revoked.

Article 152.

§ 1. The public administration body having jurisdiction in the matter of recommencing proceedings shall refrain from enforcing the decision, either on an *ex officio* basis or at the instigation of one of the parties, if the circumstances of the case indicate that there is a likelihood of the decision being revoked in the event of proceedings being recommenced.

§ 2. A party may bring an interlocutory objection against a ruling in the matter of suspending enforcement of a decision, unless the ruling has been made by a minister or the local government appeals board.

Article 153. (repealed).

Chapter 13

Revocation, amendment or invalidation of decisions

Article 154.

§ 1. A final decision by which no party has acquired any right may be revoked or amended at any time by the public administration body which issued it or by the higher body, if this in public interest or the proper interests of the party.

§ 2. In the situation referred to in § 1 the proper body shall issue a decision in the matter of revocation or amendment of the current decision.

§ 3. In cases pertaining to the duties of local government, local government bodies shall have jurisdiction to amend or revoke the decision referred to in § 1 and Article 155.

Article 155.

A final decision by which a party has acquired rights can at any time with the consent of the party be revoked or amended by the public administration body which issued it, or the higher body, if other regulations do not forbid such revocation or amendment and if this is in the public interest or the proper interests of the party; and Article 154 § 2 shall apply accordingly.

Article 156.

§ 1. A public administration body shall invalidate any decision which:

- 1) was issued in breach of the regulations on jurisdiction,
- 2) was issued without legal authority or in blatant breach of the law,
- 3) concerns a case that has already been dealt with by a separate final decision,
- 4) has been addressed to a person who is not party to the case,
- 5) was not enforceable at the date of issue and such non-enforceability is of a permanent nature,
- 6) would result in a criminal act if enforced,
- 7) contains a defect which renders it invalid by law.

§ 2. A decision may not be invalidated for the reasons given in § 1, paragraphs 1, 3, 4 and 7, if 10 years have elapsed from the date of service or publication, and also if the decision would have irrevocable legal consequences.

Article 157.

§ 1. The higher body shall have jurisdiction in invalidating decisions in the cases referred to in Article 156, and if the decision was issued by a minister or the local government appeals board – those bodies shall have jurisdiction.

§ 2. Proceedings for the invalidation of a decision can be commenced at the instigation of the party or *ex officio*.

§ 3. A refusal to commence invalidation proceedings shall be made by way of a decision.

Article 158.

§ 1. The invalidation of a decision shall be made by way of a decision.

§ 2. If a decision cannot be invalidated because of the circumstances referred to in Article 156 § 2, the public administration body shall confine itself to confirming that the challenged decision is in breach of the law and indicate the circumstances for which it has been unable to confirm the invalidity of the document.

Article 159.

§ 1. The public administration body having jurisdiction in invalidating a decision shall suspend the enforcement of the decision *ex officio* or at the instigation of the party, if there is a likelihood that it contains one of the defects referred to in Article 156 § 1.

§ 2. A party has a right to make an interlocutory objection against a ruling suspending the enforcement of a decision.

Article 160. (repealed).

Article 161.

§ 1. A minister can revoke or amend as necessary any final decision, if it is not possible by any other means to avert a state of affairs that endangers human life or health or in order to avoid serious damage to the national economy or the interests of the State.

§ 2. The entitlement referred to in § 1 is also available to the regional governor regarding decisions issued by the local government body in cases relating to the duties of government administration.

§ 3. Any party which has suffered loss as a result of a decision being revoked or amended may claim damages for actual loss from the body which revoked or amended the decision and this body shall issue a decision in the matter of damages.

§ 4. No claim for damages may be made once 3 years have elapsed from the date on which the decision revoking or amending an earlier decision became final.

§ 5. (repealed).

Article 162.

§ 1. The public administration body which issued the decision at first instance shall confirm that it has expired if such a decision:

- 1) has become without purpose, and confirmation of the expiry of the decision is required by law or would be in the public interest or in the interests of the parties,
- 2) was issued subject to one of the parties fulfilling a certain condition and the party in question has not met that condition.

§ 2. The public administration body referred to in § 1 shall revoke the decision if it was issued subject to certain acts being carried out by one of the parties and that party has not carried out such acts within the given deadline.

§ 3. The body shall confirm that the decision has expired or revoke the decision on the basis of the provisions of § 1 and 2 by means of a decision.

Article 163.

The public administration body can amend or revoke a decision as a result of which a party acquired rights, in other cases and under rules other than those contained in this chapter, if other regulations make provision for this.

Part III

Miscellaneous provisions in cases relating to social security

Arts. 164-179. (deleted).

Article 180.

§ 1. The provisions of this Code shall apply in cases relating to social security, unless regulations regarding social security provide for other means of proceeding in such cases.

§ 2. Cases relating to social security are cases arising from the regulations relating to social security, retirement and incapacity provisions, the alimony fund and matters arising from the regulations on other benefits payable from funds intended to provide social security.

Article 181.

There shall be separate regulations in the matter of the proper appeal bodies in cases relating to social security and Article 180 § 1 shall apply accordingly to proceedings before such bodies.

Part IV

The role of the public prosecutor

Article 182.

The public prosecutor shall have the right to require the proper public administration body to begin proceedings for the purpose of correcting a state of affairs that is not in accordance with the law.

Article 183.

§ 1. The public prosecutor has the right to participate in each stage of proceedings in order to ensure that the proceedings and settlement of the case are in accordance with the law.

§ 2. The public administration body shall inform the public prosecutor that proceedings have commenced and of existing proceedings, in each case where it believes that the involvement of the public prosecutor in the case is necessary.

Article 184.

§ 1. The public prosecutor has the right to object to a final decision if the provisions of the Code or separate regulations provide for a recommencement of proceedings or for the invalidation, revocation, amendment of a decision.

§ 2. The public prosecutor shall submit his objection to the body having jurisdiction for the recommencement of proceedings or the invalidation, revocation, amendment of a decision.

§ 3. An objection to a decision made by a minister shall be made by the Chief Prosecutor.

§ 4. The consent of a party to proceedings is required if the objection is based on a breach of the terms of Article 145 § 1, paragraph 4.

Article 185.

§ 1. The public prosecutor's objection should be reviewed and dealt with within 30 days of its submission.

§ 2. If the objection is not dealt with within the deadline set out in § 1 the provisions of arts. 36-38 shall apply accordingly.

Article 186.

If the objection is submitted by the public prosecutor to the proper public administration body, proceedings shall be commenced *ex officio* and the party shall be informed.

Article 187.

If an objection is submitted by the public prosecutor, the public administration body to which the objection has been submitted shall promptly consider whether there is a need to suspend enforcement of a decision until the objection has been dealt with.

Article 188.

The public prosecutor shall have the rights of a party when participating in proceedings in the situations described in arts. 182-184.

Article 189.

If the public prosecutor files a complaint with the administrative court against the decision of a public administration body, he cannot then submit an objection based on the same grounds.

Part V (Articles 190-195) (deleted)

Part VI (Articles 196-216b) (deleted)

Part VII

Issue of statements

Article 217.

§ 1. The public administration body shall issue statements at the instigation of the party applying for such a statement.

§ 2. A statement shall be issued if:

- 1) the law requires official confirmation of established facts or legal status,
- 2) the party applies for the statement because of its legal interest in having an official confirmation of established facts or legal status.

§ 3. A statement should be issued without unnecessary delay and no later than 7 days.

Article 218.

§ 1. In cases covered by Article 217 § 2, paragraph 2, the public administration body shall be required to issue the statement if it relates to confirmation of facts or legal status that are evident from the records or register maintained by the body or other data being in its possession.

§ 2. Before issuing the statement the public administration body may carry out an evidentiary process to the extent necessary.

Article 219.

A refusal to issue a statement or statement along the lines of that requested by the party shall be made in the form of a ruling which may be the subject of an interlocutory objection.

Article 220.

§ 1. The public administration body shall not require any statement to be provided as confirmation of facts or legal status, if such information is known to the body or is ascertainable on the basis of records or registers or other data or other documentation provided by the interested party (identity card, vehicle registration card or other).

§ 2. Any public administration body that requires a party to provide a statement of confirmation of facts or legal status shall be required to indicate the term of law that requires official confirmation of such facts or legal status by way of a statement.

Part VIII

Complaints and proposals

Chapter 1

General provisions

Article 221.

§ 1. The right guaranteed to all under the Constitution of the Republic of Poland to bring a petition, complaint or proposal to the state bodies, the local government bodies and social organisations and institutions shall be exercised on the basis of the rules set out in this chapter.

§ 2. Petitions, complaints or proposals can be made to social institutions and organisations in connection with the duties entrusted to them in the area of public administration and carried out by them.

§ 3. Petitions, complaints or proposals can be made in the public interest, in a personal interest or on behalf of a third party with their consent.

Article 222.

The contents of a document, rather than its external form, determine whether it is a complaint or proposal.

Article 223.

§ 1. State bodies, local government bodies and social organisations shall review and deal with complaints and proposals in their area of competence.

§ 2. Any employee attached to a State body, local government body or social organisation who fails to deal with a complaint or proposal properly or within the deadline may be subjected to disciplinary proceedings or other proceedings set down by law.

Article 224.

Any reference in these provisions to State bodies shall also include the bodies of State enterprises and other organisational units at State level.

Article 225.

§ 1. No person shall be exposed to loss or accusation as a result of having filed a complaint or proposal or as a result of having provided material for publication that has the characteristics of a complaint or proposal, if he was acting within the law.

§ 2. State bodies, local government bodies and social organisation bodies are required to act against restrictions on criticism and other actions that limit the right to submit complaints or proposals or provide information for publication that has the characteristics of a complaint or proposal.

Article 226.

The Council of Ministers shall make regulations regarding the receipt and handling of complaints and proposals.

Chapter 2

Complaints

Article 227.

Complaints may be directed against the negligent or inappropriate performance of duty by the proper body or its employees, breaches of the rule of law or the interests of the complainant, or the lengthy or bureaucratic processing of cases.

Article 228.

Complaints should be made to the body that has jurisdiction to deal with them.

Article 229.

If specific provisions do not indicate other bodies as having jurisdiction in dealing with complaints, the proper body for dealing with complaints shall be:

- 1) the regional governor – regarding the duties or activities of a municipal council, district council or regional assembly – and the regional audit chamber in financial matters,
- 2) the regional governor - regarding the duties or activities of the executive branches of local government organisational units in matters relating to government administration,
- 3) the municipal council - regarding the duties or activities of the head of the municipal authority (mayor) and the managers of organisational units within the municipality, with the exception of the matters referred to in paragraph 2,
- 4) the district council - regarding the duties or activities of the district executive authority and the head of the district authority and the managers of services, inspectorates and enforcement agencies and other organisational units at district level, with the exception of the matters referred to in paragraph 2,
- 5) the regional assembly - regarding the duties or activities of the regional executive board and the head of the regional authority, with the exception of the matters referred to in paragraph 2,
- 6) the relevant minister, or Chairman of the Council of Ministers - regarding the duties or activities of a regional governor in matters falling within their competence according to the Code,
- 7) the higher body or the body performing direct supervision - regarding the duties or activities of another government administrative body, State enterprise body or other State organisational unit,
- 8) the Chairman of the Council of Ministers – in relation to the duties or activities of a minister,
- 9) the body to which it is accountable – in relation to the duties or activities of a central body and its chief officer.

Article 230.

Complaints relating to the duties and activities of a social organisation should be dealt with directly by the higher body within that organisation and if the supreme body of the organisation is involved – by the Chairman of the Council of Ministers or by the relevant ministers responsible for supervision of the activities of such organisations.

Article 231.

If the body receiving the complaint does not have jurisdiction to deal with it, it shall immediately and in no case later than 7 days forward it to the proper body and inform the complainant that this has occurred, or refer him to the relevant body.

Article 232.

§ 1. The body having jurisdiction to hear the complaint may forward it to be dealt with by a subordinate body, provided that the complaint does not contain any accusations against that body.

§ 2. A complaint made against an employee may be forwarded for it to be dealt with by a superior, provided that the body having jurisdiction to deal with the complaint is informed of the method by which it is being dealt with.

§ 3. The complainant shall be notified at the same time that the complaint has been forwarded.

Article 233.

A complaint on an individual case which has not been and is not the subject of administrative proceedings shall result in a commencement of proceedings, if the complaint was made by a party. If the complaint originates from another person, proceedings may be commenced *ex officio*, unless the regulations require that proceedings be commenced at the instigation of a party.

Article 234.

In cases in which administrative proceedings are under way:

- 1) a complaint made by a party shall be heard as part of the proceedings, in accordance with the provisions of the Code,
- 2) a complaint made by another person shall constitute evidence which should be examined *ex officio* by the body conducting the proceedings.

Article 235.

§ 1. A complaint in a case in which a final decision has been issued during the course of administrative proceedings shall be interpreted in accordance with its content as a demand to recommence proceedings, or to invalidate, revoke or amend a decision *ex officio*.

§ 2. In the situations referred to in § 1 the demand shall be taken into consideration if the conditions required by the Code for the recommencement of proceedings or the invalidation, revocation or amendment of a decision are present.

Article 236.

The proper body for reviewing a complaint in the situations referred to in arts. 233 and 234 is the body being entitled to commence proceedings or the body before which proceedings are being conducted, and in the case of Article 235 – the proper body for commencing proceedings, or for invalidating, revoking or amending a decision

Article 237.

§ 1. The proper body for dealing with the complaint should do so without undue delay and within one month at the latest.

§ 2. Any member of the *Sejm*, senator or councillor who has made complaint in his own name or has forwarded a complaint made by some other person should be informed within 14 days, as to how the complaint will be dealt with, and the current status of the complaint, if there is a need to gather evidence, information or explanations.

§ 3. The complainant shall be informed as to how the complaint will be dealt with.

§ 4. Arts. 36-38 shall apply in the event of the complaint not being dealt with within the deadline set out in § 1.

Article 238.

§ 1. The notification as to how the complaint will be dealt with should contain: a description of the issuing body, a description of how the complaint was dealt with, the signature, name and position of the employee having body to deal with the complaint. A notification of refusal to allow a complaint should also contain the factual and legal justification.

§ 2. If the notification referred to in § 1 relates to organisational units in the area of national defence the name of the employee having body to deal with the complaint may be omitted.

Article 239.

§ 1. If after review the complaint is held to be groundless and this fact is indicated in the response to the complaint, and the complainant renews the complaint without providing new circumstances – the body being competent to deal with the complaint may uphold its previous position in response to the complaint.

§ 2. The body dealing with the complaint shall inform its body of higher standing as to the method of dealing with the repeated complaint referred to in § 1. This does not apply to complaints dealt with by supreme bodies.

Article 240.

Where the complaint relates to a case which does not require review in accordance with the provisions of the Code (Article 3 § 1 and 2) or which is not within the jurisdiction of the public administration bodies, the terms of arts. 233-239 shall apply accordingly, with the reservation that the appropriate rules of procedure for a given case shall apply instead of the provisions of the Code.

Chapter 3

Proposals

Article 241.

Proposals can be made to improve organisation, to strengthen the rule of law, to streamline work and prevent abuses, to protect property and to meet the needs of the public better.

Article 242.

§ 1. A proposal should be submitted to the appropriate body having regard to the purpose of the proposal.

§ 2. Proposals in cases relating to the duties of social organisations should be submitted to the bodies in such organisations.

Article 243.

If the body receiving the proposal does not have jurisdiction, it should forward the proposal within 7 days to the appropriate body. The person submitting the proposal should be informed that this has taken place.

Article 244.

§ 1. Article 237 § 1 shall apply in the matter of deadlines for dealing with proposals.

§ 2. The person submitting the proposal shall be informed of the method by which the proposal will be dealt with.

Article 245.

If the proposal cannot be dealt with within the deadline set out in Article 244, the body having jurisdiction must inform the person submitting the proposal as to what steps have been taken to ensure that the proposal is considered and the projected deadline for completing the process.

Article 246.

§ 1. If the person submitting the proposal is dissatisfied with the method in which the proposal is being dealt with, he shall have the right to make a complaint in the manner set out in chapter 2 of this Part of the Code.

§ 2. The person submitting the proposal has the right to make a complaint if the proposal is not dealt with within the deadline set by Article 244 or indicated in the communication referred to in Article 245.

Article 247.

The provisions of arts. 230, 237 § 2 and Article 238 shall apply to proposals as appropriate.

Chapter 4

Participation by the media and social organisations

Article 248.

§ 1. Complaints and proposals submitted by press, radio and television media to the appropriate bodies within the meaning of arts. 228-230 and 242 should be reviewed and dealt with in the manner described in Chapters 2 and 3 of this Part of the Code.

§ 2. The relevant body shall inform the media editor (if requested) within the required deadline as to the method of dealing with the complaint or proposal, or whether it is to be forwarded to another body.

Article 249.

Article 248 shall also apply as appropriate to complaints and applications forwarded by social organisations to the appropriate bodies within the meaning of arts. 228-230 and Article 242.

Article 250. (deleted)

Article 251.

The provisions of Article 237 § 4 and arts. 245 and 246 shall apply as appropriate to the press editor that published and sent to the appropriate public administration body any article, memorandum or information in the manner prescribed in this chapter.

Article 252. (deleted)

Chapter 5

Receiving complaints and proposals

Article 253.

§ 1. State bodies, local government bodies and social organisation bodies are required to receive members of the public in the matter of complaints and proposals on such days and times as they shall decide.

§ 2. The managers or chief officials of the bodies referred to in § 1 or their alternates are required to receive members of the public in the matter of complaints and proposals at least once a week.

§ 3. The dates and times of appointments should be suitable for public needs, and appointments should be available at least once a week on a given day outside working hours.

§ 4. Information relating to the dates and times of appointments should be publicly displayed at the offices of a given department or other subordinate office.

§ 5. The Chairman of the Council of Ministers or relevant minister or supreme body within the social organisation may establish for subordinate bodies and departments, the method, date and time for receiving members of the public in the matter of complaints and proposals.

Article 254.

Complaints and proposals submitted to the State bodies, local government bodies, and social organisation bodies, together with related documents, shall be registered and stored in such manner as to allow inspection of the status of and deadlines applicable to individual complaints and proposals.

Article 255. (deleted)

Article 256.

Any employee who receives a complaint regarding his work must forward it immediately to his superior.

Chapter 6

Supervision and inspection

Article 257.

The National Courts Council shall be responsible for overall supervision of the receipt and processing of complaints and proposals submitted to the courts, and the Chairman of the Council of Ministers shall be responsible in the case of other bodies and organisational units.

Article 258.

§ 1. Supervision and inspection of the receipt and processing of complaints and proposals shall be carried out by the following:

1) ministers – in the case of complaints dealt with by the ministry and other organisational units under the control of that minister,

2) the relevant ministers in co-operation with the minister responsible for public administration – in the case of complaints dealt with by bodies of the government administration,

3) local bodies of the government administration – for complaints dealt with by the organisational units under supervision by those bodies,

4) higher bodies and the relevant supreme bodies – for complaints dealt with by other State bodies and State organisational units,

5) the Chairman of the Council of Ministers and the regional governors – for cases dealt with by local government organisational units.

§ 2. The supervision and inspection of the receipt and processing of complaints and proposals by social organisation bodies shall be effected by the supreme bodies of such organisations as defined by their statutes together with higher bodies. In the case of the supreme body of such organisations, the government administrative body responsible for supervision of the activities of such organisations shall be responsible.

Article 259.

§ 1. The bodies referred to in Article 258 shall carry out periodic assessments of the receipt and processing of complaints and proposals dealt with by the bodies and organisational units under their supervision.

§ 2. The regional governors shall carry out periodic assessments of the methods for receiving and processing complaints and proposals used by all public administration bodies, organisational units and social organisations active within their geographical area.

§ 3. As a result of the inspections and assessments carried out, the bodies referred to in § 1 and 2 are required to take steps to ensure that the reasons for complaints are removed and to make full use of proposals for the operational improvement of individual bodies and other State organisational units and social organisations.

Article 260. (deleted)

Part IX

Fees and costs in proceedings

Article 261.

§ 1. The public administration body conducting the proceedings shall set a deadline for payment if a party has not paid amounts due as a result of fees and costs in proceedings and which are required to be paid in advance under the regulations. The deadline cannot be shorter than 7 days and longer than 14 days.

§ 2. If the amount due is not paid within the deadline, the application shall be rejected or the action connected with the fee shall be suspended.

§ 3. An interlocutory objection may be made against a ruling rejecting an application.

§ 4. However a body shall process an application even if there is an amount outstanding if:

- 1) it would be in the public interest or particular interest of the party that the matter be dealt with without delay,
- 2) the submission of the application is an act for which a preclusive deadline exists,
- 3) if the application has been made by a person resident abroad.

Article 262.

§ 1. The party shall be liable for any costs of proceedings that:

- 1) were caused by its own fault,
- 2) were conducted in the interest of or at the instigation of the party, and which are unrelated to any statutory duty of the body conducting the proceedings.

§ 2. The public administration body may require a party to provide a deposit of a designated amount to cover the costs of proceedings, if this is justified by the circumstances.

Article 263.

§ 1. Travel costs and other expenses incurred by witnesses, experts and the parties may be added to the costs of the proceedings in the situations described in Article 56, together with the costs of carrying out site inspections and service of official documents.

§ 2. The public administration body may also add to the costs of proceedings any other costs that are directly linked with the settlement of a case.

Article 264.

§ 1. When issuing a decision the public administration body shall issue a ruling setting the total cost of proceedings, the persons required to pay such costs and the deadline and payment method applicable to such amounts.

§ 2. A party may make an interlocutory objection against a ruling setting the cost of proceedings.

Article 265.

Any unpaid fees and costs in proceedings and other amounts due as a result of such proceedings may be recovered under the regulations for administrative enforcement of debts.

Article 266.

Any employee of a public administration body who is guilty of erroneously summoning a party (Article 56 § 1) shall be required to repay the costs arising. Any ruling and recovery of amounts from such an employee shall be made by the administrative procedure.

Article 267.

If the party is clearly unable to pay the fees, costs and amounts due in connection with the proceedings the public administration body can waive the fees, costs and amounts due, entirely or partially. Any waiver of treasury duty shall be made in accordance with the regulations relating to that duty.

Article 268. (deleted)

Part X

Concluding provisions

Article 268a.

A public administration body can authorise in writing any employees of a subordinate organisational unit to deal with cases on its behalf in a given area, and in particular, to issue administrative decisions, rulings and statements.

Article 269.

Decisions that are legally binding under other regulations shall be deemed to be final, unless it is evident from such regulations that they relate to a decision which was upheld as a result of court proceedings or which has not been challenged during such proceedings as a result of the expiry of the deadline for bringing a complaint.