Consolidated text of the Law on Administrative Procedure includes the following regulations:
1. Law on Administrative Procedure (Official Gazette of Montenegro 056/14 of 24 December 2014),
2. Law on Amendments to the Law on Administrative Procedure (Official Gazette of Montenegro 020/15 of 24 April 2015),
3. Law on Amendments to the Law on Administrative Procedure (Official Gazette of Montenegro 040/16 of 30 June 2016),
4. Law on Amendments to the Law on Administrative Procedure (Official Gazette of Montenegro 037/17 of 14 June 2017), which indicate the date of their entry into force.

# LAW
# ON ADMINISTRATIVE PROCEDURE
**(Official Gazette of Montenegro 056/14 of 24 December 2014, 020/15 of 24 April 2015, 040/16 of 30 June 2016, 037/17 of 14 June 2017)**

## I. BASIC PROVISIONS

### Subject-matter

### Article 1

This Law shall regulate the rules that have to be observed, with a view to achieving protection of the rights and legal interests of natural persons, legal entities or other parties, as well as to protection of the public interest, by the state authorities, state administration bodies, local self-government bodies, local government bodies, institutions and other entities exercising public powers (hereinafter: public authority) when they, while directly applying the regulations, decide and perform other administrative activities in administrative matters.

### Administrative matter

### Article 2

An administrative matter shall mean any specific situation in which a public authority renders an administrative act to decide or in which it performs another administrative activity to determine or otherwise influence the rights, obligations or legal interests of a natural person, legal entity or other party, within the meaning of this Law, as well as any other legal a situation that is legally defined as an administrative matter.

### Administrative activities

### Article 3

Administrative activities shall imply the adoption of administrative acts, the conclusion of administrative contracts, the protection of users of services of general interest, and the taking of other administrative activities in administrative matters, in accordance with the law.

### Application of the Law

### Article 4

This Law shall apply in all administrative matters.

The provisions of separate laws that, due to the specific nature of administrative matters in certain administrative areas, prescribe necessary deviations from the rules of administrative procedure, cannot be contrary to the principles and the purpose of this Law, nor can they reduce the level of protection of the rights and legal interests of the parties prescribed by this Law.

## Principle of legality and justified expectations of the parties

## Article 5

A public authority shall decide and act in an administrative matter on the basis of the laws, other regulations and general acts.

When deciding on an administrative matter, a public authority shall consider the previous decisions it rendered in essentially identical administrative matters.

When a public authority determines that there are special circumstances that indicate the need to change a previously taken legal position on a particular issue in an administrative matter, it shall provide rationale for that.

When a public authority is authorised by law to decide on an administrative matter at its own discretion, the administrative act must be rendered within the limits of that power, in accordance with the purpose for which the power has been granted and in accordance with previous decisions rendered by the public authority in essentially identical administrative matters.

## Proportionality principle

## Article 6

The administrative activity of a public authority may limit a party's right only if it is necessary to achieve the statutory purpose, if it is proportionate to the goal to be achieved and if it does not violate human rights and freedoms.

When obligations are imposed on foreigners and other participants in a procedure, the public authority shall, in relation to the party and other participant in the procedure, apply the prescribed measures that are more favourable for them, if these measures achieve the goal of the law.

## Party's right to legal protection

## Article 7

The party shall be entitled to legal protection in an administrative matter.

## Principle of active assistance to a party

## Article 8

A public authority shall enable the parties and other participants in the administrative procedure to exercise and protect their rights and legal interests as easily and efficiently as possible, taking care that the exercise of their rights and legal interests is not at the expense of the rights and legal interests of other persons and that it is not contrary to a public interest.

When an authorised person acting in official capacity who conducts an administrative procedure and renders an administrative act (hereinafter: authorised official), in the light of the existing factual situation, finds out or estimates that a party or another participant in the administrative procedure have grounds for exercising a right or legal interest, he / she shall warn the party or other participant of the legal consequences of their actions or omissions.

The ignorance or lack of awareness of the party or other participant in the administrative procedure cannot be at the expense of the protection of their rights and legal interests.

## Use of language and script in procedure

## Article 9

A public authority shall conduct the administrative procedure in the Montenegrin language.

If a party or other participant in the administrative procedure does not understand the Montenegrin language, the public authority shall, in the administrative procedure, provide for translation of the course of procedure into their language or language they understand, as well as for the delivery of summons and other notices in their language and script.

## Principle of cost-efficiency and effectiveness of procedure

## Article 10

The administrative procedure must be conducted without delay and with as little cost as possible, but in such a manner that all the facts and circumstances relevant to the successful and complete exercise and protection of the rights and legal interests of the parties or other participants in the procedure are properly and fully established.

## Principle of establishing the truth

## Article 11

All the facts and circumstances relevant to the lawful and proper decision-making on the administrative matter must be properly and fully established in the administrative procedure.

## Principle of independence and discretionary assessment of evidence

## Article 12

The authorised official shall establish the facts and circumstances in the administrative procedure independently and shall decide on the administrative matter on the basis of established facts and circumstances.

The authorised official shall use his / her discretion to establish the facts and circumstances to be considered as proven, based on a conscientious and careful assessment of each piece of evidence and, in particular, of all the evidence together, as well as on the basis of the results of the entire administrative procedure.

### Principle of obtaining data ex officio

### Article 13

When deciding in the administrative procedure, the public authority shall, while acting ex officio, inspect, obtain and process data from official records and registers kept by that public authority or other competent authority, unless access to such data is limited in accordance with the law.

### Party's right to declare

### Article 14

The party shall be entitled to participate in the administrative procedure with the aim of establishing the facts and circumstances relevant for rendering an administrative act.

Before an administrative act is rendered, the party shall be entitled to declare on the results of the examination procedure. An administrative act can be rendered without the party's declaration only in the cases prescribed by law.

### Prohibition of abuse of rights

### Article 15

The public authority shall prevent any abuse of the party's rights in the administrative procedure.

### Right to inspect the files

### Article 16

The public authority shall enable parties or other participants in the administrative procedure to inspect the files and be notified about the course of the procedure, in accordance with the law.

### Use of gender-sensitive language

### Article 17

The expressions used in this Law for masculine natural persons shall imply the same expressions in feminine gender as well.

## II. ADMINISTRATIVE ACTIVITIES

### 1. Administrative act

### Administrative act notion

## Article 18

The public authority shall decide on the right, obligation or legal interest of a party in an administrative matter by a decision. A decision on administrative matter may also be given a different name, in accordance with a separate law.

## Partial, supplementary and provisional decision

## Article 19

When several issues are resolved in an administrative matter, and the conditions have been met to resolve only some of them, a decision can be rendered on these issues only (partial decision).

When it has not resolved all issues that are the subject of an administrative procedure, a public authority may, on a party's proposal or ex officio, render a decision on issues that have not been resolved (supplementary decision).

A decision shall be rendered on the rejection of a party's proposal referred to in paragraph 2 of this Article.

If, according to the circumstances of the case, a decision needs to be rendered that temporarily resolves the disputable issues or relations before the end of the procedure, the decision shall be rendered on the basis of the facts known at the time of its making (provisional decision). Such a decision shall be designated as provisional and shall be cancelled by a decision on the main administrative matter.

Partial, supplementary and provisional decisions shall be considered independent decisions in terms of legal protection and execution.

## Guarantee act

## Article 20

A public authority may, at the request of a party, render a decision by which a party is guaranteed the acquisition of a certain right, under the condition prescribed by a separate law (guarantee act).

A guarantee act must be made in writing.

A public authority shall render a decision on the acquisition of a right that is guaranteed to a party by the guarantee act if the conditions from the guarantee act are fulfilled, unless the legal basis for the acquisition of that right has ceased to exist or the legal basis or the factual situation have substantially changed from the moment of rendering the guarantee act to the fulfilment of the conditions for the acquisition of the right referred to in paragraph 1 of this Article.

## Decision form

## Article 21

Decisions shall be rendered in writing.

Exceptionally, in cases prescribed by law, a decision may be rendered orally.

## Written decision content

## Article 22

A written decision shall contain an introduction, enacting terms, rationale, an instruction on legal protection, a signature of an authorised official and a seal of a public authority.

Introduction to a decision shall contain the name of the public authority rendering it, a provision of a law or other regulation that prescribes the jurisdiction of that authority, the name and the surname, or the name of the party and its legal representative or proxy, if any, and a short indication of the subject of administrative procedure.

The enacting terms of a decision must contain a decision on the administrative matter and shall be concise and clear.

The enacting terms of a decision may specify:

1) The condition that needs to be met in order for the legal effect of the decision to begin or end;

2) The deadline from which the legal effects of the decision or the duration of the legal effect of the decision begin to run or end;

3) The order requiring a party to execute, suspend or undergo an action.

When it is stipulated that the appeal does not delay execution of the decision, this must be stated in the enacting terms of the decision.

The enacting terms of the decision may also decide on the costs of the procedure.

The rationale of the decision should be understandable and should contain a summary of the party's request, the factual situation on the basis of which the decision was rendered, the regulations on the basis of which the decision was rendered, the reasons which, in terms of the established factual situation, refer to the decision in the enacting terms of the decision, the reasons for which a party's request or proposal was not upheld, i.e. reasons for which the party's declaration on the results of the examination procedure was not taken into account, and, when deciding on the basis of discretion, the main reasons for the decision rendered. If the appeal does not delay execution of the decision, the rationale shall also contain a reference to the regulation that prescribes this, i.e. detailed reasons for which the appeal does not delay execution of the decision.

The instruction on legal protection informs the party on whether it is possible to file an appeal against the decision or initiate an administrative dispute or other procedure before a court. The instruction shall specify the public authority to which the legal remedy may be submitted, or the court before which judicial protection can be exercised. When a wrong instruction on legal protection is given, the party cannot suffer harmful consequences, and may act in accordance with the applicable regulations on its own. When the decision fails to provide the instruction on legal protection or where this instruction is incomplete, the party may act in accordance with the applicable regulations, and may, within 60 days from the date of receipt of the decision, request the public authority that issued the decision to supplement it.

The decision shall be signed by an authorised official. If the decision is issued in electronic form, it must be signed with an advanced electronic signature.

Exceptionally, when a decision is rendered in the prescribed form, facsimile may be used instead of signature.

## Decision with summary rationale

## Article 23

A written decision may have a summary rationale:

1) When this is, with a view to protect the public interest, prescribed by a separate law;

2) In simple administrative matters in which the party's request is fully upheld, and where such a decision is not at the expense of the rights and legal interests of the opposing party or third party, nor is it contrary to the public interest.

The summary rationale referred to in paragraph 1 of this Article shall imply that the decision rationale contains a summary of the party's request, the factual situation and the regulations on the basis of which the decision was rendered.

## Decision as a note in the file

## Article 24

In administrative matters of smaller importance in which a party's request is upheld and where there is no impact on the law or legal interest of the opposing party and third parties or the public interest, the decision may consist only of enacting terms in the form of a note in the file, if the reasons for such a decision are apparent and if it is not prescribed otherwise.

At the party's request, the public authority that rendered the decision referred to in paragraph 1 of this Article shall issue the decision in writing.

## Oral decision

## Article 25

In the case of undertaking extremely urgent measures to ensure public order and peace and security or to eliminate the imminent danger to the life and health of people or property, a public authority may render a decision orally.

At the party's request, the public authority that issued the decision orally shall issue that decision to the party in writing, no later than within eight days from the day of request submission.

The request referred to in paragraph 2 of this Article may be submitted within two months from the day of rendering the oral decision.

## Rectification of apparent errors in decision

## Article 26

A public authority may, at any time, rectify the errors in names or numbers, writing or calculating, and other apparent errors in the decision it rendered or in certified copies of that decision.

A separate decision shall be rendered on the rectification of errors referred to in paragraph 1 of this Article. The rectification of the error shall produce legal effect from the date on which the legal effect is produced by the decision rectified.

## 2. Administrative contract

## Administrative contract between public authority and party

## Article 27

In order to establish, change or terminate a specific legal relationship in an administrative matter within the jurisdiction of a public authority, an administrative contract may be concluded between the public authority and the party when this is prescribed by a separate law, when the conclusion of such a contract is in the public interest and when that contract does not jeopardise the rights of third parties.

The administrative contract referred to in paragraph 1 of this Article must be made in writing.

## Annulment of administrative contract

## Article 28

The administrative contract concluded between the public authority and the party shall be annulled:

1) If the conditions for its conclusion referred to in Article 27 of this Law are not met;

2) In cases in which, in accordance with this Law, the decision is mandatorily annulled.

The annulment of the administrative contract upon the petition of a party, or a public authority, shall be decided upon in an administrative dispute.

## Changing and terminating administrative contract due to changed circumstances

## Article 29

The administrative contract may, due to the circumstances arising after its conclusion which could not have been foreseen at the time of conclusion of the contract and which significantly impede the fulfilment of obligations arising from the contract or for other reasons, be changed or terminated in accordance with a separate law.

## Unilateral termination of administrative contract

## Article 30

If a party fails to meet the obligations arising from the administrative contract, the public authority shall unilaterally terminate the administrative contract.

The public authority shall also unilaterally terminate the administrative contract when that is necessary to eliminate the imminent danger to the life and health of people or property or if this danger could not be eliminated in any other way.

In the cases referred to in para. 1 and 2 of this Article, the administrative contract shall be terminated by a decision stating and explaining the reasons for the termination of the administrative contract.

A party may initiate an administrative dispute against the decision referred to in paragraph 3 of this Article.

## 3. Services of general interest

## Protection of the rights of users of services of general interest

## Article 31

When a user of services of general interest believes that the provision of those services violates his / her rights or legal interests, he / she may file an objection to protect his / her rights or legal interests to a public authority that supervises the work of a company, another legal entity or entrepreneur providing services of general interest (hereinafter: service provider), within eight days, unless otherwise provided by a separate law.

A service of general interest shall mean a service provided by the service provider to users in the performance of activities of public interest.

The public authority referred to in paragraph 1 of this Article shall examine the allegations of the user of services, take measures within the framework of its jurisdiction in performing supervision, and render, without delay and within 15 days at the latest, a decision on the objection, unless otherwise provided by a separate law.

An administrative dispute may be initiated against the decision referred to in paragraph 3 of this Article.

## 4. Other forms of administrative activities

## Other administrative activities

## Article 32

Other administrative activity shall imply the issuance of certificates on facts that are kept in official records, facts that are not kept in official records, as well as any other administrative activity prescribed by a separate law (keeping records, undertaking factual actions, etc.).

## Issuance of certificates and other documents on facts that are kept in official records

## Article 33

The public authority shall issue a certificate or other document on facts that are kept in official records, in accordance with the law.

The certificate and other documents on facts that are kept in official records shall be issued on the basis of the data from the official records and shall have the relevance of a public document.

The certificate and other documents on facts that are kept in official records shall be issued to a party upon its oral request, as a rule, on the same day when the party requested the issuance of the certificate or other document, and no later than within eight days from the day of submission of the request, provided that it is not otherwise prescribed by the regulation establishing the official records.

If a public authority rejects a request for issuing a certificate or other document on facts that are kept in official records, it shall render a decision thereof. The party may lodge an appeal against this decision.

If, within eight days from the day of submission of the request, the public authority does not render a certificate or other document on facts that are kept in official records, and if it does not render a decision rejecting the request and if it does not inform the party thereof, the party may lodge an appeal as if its request was rejected.

If the party, on the basis of the evidence at its disposal, believes that the certificate or other document on facts that are kept in official records was not rendered in accordance with the data contained in such records, it may request its amendment or issuance of a new certificate or other document.

The public authority shall render a decision on rejecting the party's request to amend or issue a new certificate or other document. If the public authority does not act upon the request within eight days from the day of submission of the request for amendment or issuance of a new certificate or other document, the party may lodge an appeal as if its request was rejected.

### Issuance of certificates and other documents on facts that are not kept in official records

## Article 34

If this is prescribed by law or other regulation, the public authority shall issue a certificate or other document on facts that are not kept in official records as well, establishing the facts on the basis of which it issues the certificate in the evidentiary procedure.

A certificate or other document issued in the manner referred to in paragraph 1 of this Article shall not be binding on the public authority to which it is submitted as evidence in the procedure of deciding on the administrative matter. This public authority may re-establish the facts specified in the certificate or other document.

A certificate or other document on facts that are not kept in official records of the public authority, i.e. a decision on the rejection of the request, shall be issued to the party within 15 days from the day of submission of the request. The party may lodge an appeal against this decision.

If, within the deadline referred to in paragraph 3 of this Article, the public authority does not issue a certificate or other document on facts that are not kept in official records of the public authority, or if it

does not issue a decision on rejecting the request and does not inform the party thereof, the party may lodge an appeal as if its request was rejected.

### Petition in relation to other administrative activities

### Article 35

If the public authority violates the rights and interests of a party by undertaking other administrative activities prescribed by a separate law, the party may, within eight days, lodge a petition to the head of that authority, who shall render a decision within 15 days at the latest, unless otherwise provided by a separate law.

A party may initiate an administrative dispute against the decision referred to in paragraph 1 of this Article.

## III. JURISDICTION

### 1. Subject-matter and territorial jurisdiction

### Subject-matter jurisdiction

### Article 36

The subject-matter jurisdiction of the public authority shall be determined in accordance with the law governing a certain administrative area, or in accordance with the law or other regulation prescribing the jurisdiction of certain authorities.

### Territorial jurisdiction

### Article 37

The territorial jurisdiction of the public authority shall be determined:

1) In administrative matters relating to immovable property – according to the place where immovable property is located;

2) In administrative matters relating to the business or other activity of a party – according to the seat of the party, or the place where the work or activities are performed or should be performed;

3) In other administrative matters – according to the permanent place of residence of the party, and if the party does not have a permanent place of residence in Montenegro – according to its temporary place of residence, and if the party does not have a temporary place of residence – according to its last permanent place of residence or temporary place of residence in Montenegro;

4) In administrative matters relating to a ship or aircraft, or administrative matters in which the cause for conducting administrative procedure has arisen on a ship or aircraft – according to the ship’s home port or the aircraft’s home airport;

5) In administrative matters in which territorial jurisdiction cannot be determined in accordance with the provisions of item 1 to 3 of this paragraph – according to the place where the cause for conducting administrative procedure has arisen.

If two or more public authorities have territorial jurisdiction in the same administrative matter at the same time, jurisdiction shall belong to the public authority that was the first to initiate the administrative procedure. The authorities having territorial jurisdiction may agree on which one of them would conduct the procedure. Each authority having territorial jurisdiction shall execute in its territory those administrative procedure acts that cannot be delayed.

## Mandatory nature of rules on jurisdiction

## Article 38

Subject-matter and territorial jurisdiction cannot be changed by mutual agreement between public authorities, public authorities and parties or parties themselves.

The public authority shall, in the course of the entire administrative procedure, pay attention to its subject-matter and territorial jurisdiction ex officio. If, during the administrative procedure, the circumstances of influence on jurisdiction arise, the public authority that had the jurisdiction until then shall continue to conduct the administrative procedure if, in this way, the administrative procedure is significantly facilitated and if the party's protection is ensured.

## Jurisdiction in urgent administrative matters

## Article 39

When there is a risk of delay, and the public authority having territorial jurisdiction cannot take the necessary urgent action, another public authority having subject-matter jurisdiction may take an action outside its area of territorial jurisdiction. The public authority that undertook the action shall immediately inform the public authority having territorial jurisdiction thereof.

## Conflict of jurisdiction

## Article 40

The procedure of decision-making on the conflict of jurisdiction which is, in accordance with the law governing the state administration, or the law governing local self-government, decided upon by the Government of Montenegro (hereinafter: the Government), or the competent authority in a municipality, the Capital City or the Old Royal Capital, shall be initiated at the proposal of the public authority that last declared its jurisdiction or lack of jurisdiction, or at the request of the party.

The authority competent for resolving the conflict of jurisdiction referred to in paragraph 1 of this Article shall resolve the conflict of jurisdiction without delay, and at the latest within 15 days from the day of submission of the request for resolving the conflict of jurisdiction, or the moment of becoming aware of the existence of conflict of jurisdiction.

The authority competent for resolving the conflict of jurisdiction referred to in paragraph 1 of this Article shall use the decision it rendered to decide on the conflict of jurisdiction to annul the decision rendered in

an administrative matter by an authority that had no jurisdiction, or a decision through which the competent public authority declared its lack of jurisdiction, and shall submit the case files to the competent authority.

The party cannot lodge an appeal or conduct an administrative dispute against a decision deciding on the conflict of jurisdiction.

### Decision-making upon consent, confirmation, approval, or opinion

### Article 41

When a law or other regulation stipulates that a decision shall be rendered by a public authority upon prior consent, confirmation or approval, or upon a previously obtained opinion of another public authority, the decision shall be rendered when another public authority provides the consent, confirmation or approval, or opinion, with introduction to the decision indicating the name of the public authority, as well as the number and date of the act by which that authority had provided its consent, confirmation, approval or opinion. Non-acceptance of the opinion shall not affect the legality of the decision, but must be reasoned.

The public authority shall provide the consent, confirmation, approval, or opinion referred to in paragraph 1 of this Article within 20 days from the day when the consent, confirmation, approval or opinion was requested, unless otherwise prescribed by law or other regulation.

If the public authority does not act in accordance with paragraph 2 of this Article, it shall be considered that the consent, confirmation or approval has been given, i.e. that the public authority rendering the decision can render the decision without the obtained opinion, unless otherwise prescribed by law or other regulation.

### Joint decision

### Article 42

When a law or other regulation stipulates that two or more public authorities shall decide on a single administrative matter, each of these authorities shall decide on matters within its jurisdiction, agreeing on which one of them would render a joint decision, which must indicate the acts of other public authorities as well.

In the event that the public authorities referred to in paragraph 1 of this Article cannot agree on which one of them would render a joint decision, the decision shall be rendered by the public authority that first received the request of the party.

## 2. Cooperation and assistance

### Implementation of administrative activities in one place

### Article 43

If, in accordance with a separate law or other regulation, it is necessary to carry out several administrative activities in order to exercise the rights or legal interests of a party, the public authorities shall enable the party to submit requests and other submissions and to receive notices, information, advice and prescribed forms in connection with the exercise of its rights or legal interests within the jurisdiction of those public authorities in one place.

The public authority that received the request and other submission in the place referred to in paragraph 1 of this Article shall submit it, without delay, ex officio, to the public authorities competent for decision-making, or acting on a request or other submission.

The deadline for decision-making, or acting on a request or other submission filed in the place referred to in paragraph 1 of this Article, shall count from the date of submission of the request or other submission.

The implementation of administrative activities in one place referred to in paragraph 1 of this Article shall not affect the subject-matter and territorial jurisdiction of public authorities or the right of the party to directly address the competent public authority.

## Legal assistance

### Article 44

Public authorities shall provide legal assistance to each other in the administrative procedure, within the limits of their jurisdiction.

A public authority may seek legal assistance when it needs information about facts, data or other evidence available to another public authority or where it is necessary to take an action outside the area of the competent public authority.

The public authority from which legal assistance is sought shall provide this assistance without delay, and at the latest within 15 days from the day when the assistance was sought.

If the public authority referred to in paragraph 3 of this Article does not provide legal assistance within the prescribed deadline, the public authority that sought legal assistance may address the public authority that supervises the authority from which it sought assistance.

Legal assistance for the execution of certain actions in the administrative procedure may be sought from the court, in accordance with separate regulations. Exceptionally, the competent public authority may ask the court to provide it with the files necessary for conducting administrative procedure. The court shall act on this request if this does not interfere with the judicial procedure. The court may determine the deadline by which the public authority must return the files.

## International legal assistance

### Article 45

Legal assistance in relation to foreign authorities shall be provided in accordance with a valid international treaty, and if there is no such treaty, the principle of reciprocity shall apply. In case of doubt about the existence of reciprocity, the opinion shall be rendered by the state administration body responsible for foreign affairs.

Public authorities shall provide legal assistance to foreign authorities in the manner prescribed by law. The action which is the subject of the request of foreign authorities for provision of legal assistance may also be carried out in a manner required by the foreign authority, if this is not contrary to the public order.

If international treaties do not provide for the possibility of direct communication with foreign authorities, public authorities shall communicate with foreign authorities through state administration bodies in charge of foreign affairs.

## 3. Authorised official

### Designating authorised officials and their powers

### Article 46

The administrative procedure shall be conducted and the decision shall be rendered, in accordance with this Law, by an authorised official, designated by the act on internal organisation and jobs description of the public authority.

If an authorised official is not designated in a public authority, the decision in the administrative procedure shall be made by the head of that authority.

In the case referred to in paragraph 2 of this Article, the administrative procedure shall be conducted by a person authorised by the head of the public authority.

### Decision-making by collegial authority

### Article 47

The collegial authority shall decide on administrative matters by majority vote of all members, unless otherwise prescribed by law.

The collegial authority may authorise one of its members or one of the officials of that authority in writing to conduct the procedure as an authorised official and to propose a decision to be rendered by the collegial authority.

### Exemption of authorised official

### Article 48

An authorised official shall be exempted if:

1) He / she is a party, witness, expert witness, proxy or legal representative of a party in the case in which the administrative procedure is conducted;

2) His/her relationship to the party, party's representative or proxy is the one of lineal kinship, or collateral kinship up to the fourth degree inclusive, or the one of spouse or partner, or affinal kinship up to the second degree inclusive, even if the marriage or informal marriage has ceased;

3) His/her relationship to the party, party's representative or proxy is the one of guardian, adoptive parent, adoptee or foster parent;

4) He / she has already taken part in the first instance administrative procedure;

5) He / she is part of interest, contract or other relationship with the party on the basis of which he / she receives remuneration or other income, or a member of the management board, supervisory board or other working or professional body of the party;

6) He / she may have positive or negative consequences from the outcome of the administrative procedure;

7) There are other circumstances that bring his / her impartiality into question.

If an authorised official or a member of the collegial authority becomes aware of the presence of any of the circumstances referred to in paragraph 1 of this Article in the course of the administrative procedure, he / she shall stop further work on the case and inform the head of the public authority or collegial authority thereof without delay.

A party who believes that any of the circumstances referred to in paragraph 1 of this Article for exemption of an authorised official is present shall inform the head of the public authority thereof without delay. In case the decision is rendered by the head of the public authority, the party shall notify the authority that supervises the work of the public authority on the circumstances for exemption.

## Decision on exemption of authorised official

## Article 49

The exemption of the authorised official shall be decided upon by the head of the public authority.

The exemption of the head of the public authority law shall be decided upon by the authority determined by law.

The decision on the exemption of a person referred to in para. 1 and 2 of this Article shall be rendered within five days from the date when the public authority was notified of the reasons for exemption or from the date on which it received the request for exemption.

The decision on the exemption of a person referred to in para. 1 and 2 of this Article shall designate the official to conduct the administrative procedure and render a decision.

When the decision is rendered on the exemption of a member of the collegial authority, that authority shall decide without the participation of the member who was exempted by the decision.

No separate appeal is allowed against the decision on the exemption.

## Exemption of recording secretary

## Article 50

The provisions of Art. 48 and 49 of this Law shall accordingly apply to the exemption of recording secretary.

The decision on the exemption of recording secretary shall be rendered by an authorised official.

## IV. PARTY AND ITS REPRESENTATION

### Party to administrative procedure

### Article 51

A party to an administrative procedure is a natural person or legal entity at whose request the administrative procedure was initiated, whose rights, obligations or legal interests are subject of an administrative procedure conducted ex officio, or who is entitled to take part in the procedure in order to protect its rights or legal interests.

Despite not having the status of a legal entity, a state or other authority, a settlement, group of persons, etc. may be a party to administrative procedure as well, provided that they can be holders of rights and obligations or legal interests that are decided upon, or in connection with which other administrative activities are undertaken in administrative matters.

During the entire administrative procedure, the public authority shall, ex officio, pay attention to whether the person appearing as a party may be a party to the procedure and whether the party is represented by its legal representative, or authorised agent.

### Natural person death or legal entity termination

### Article 52

If during the administrative procedure the death of a natural person or the termination of the existence of a legal entity that is a party to procedure occurs, the procedure may be suspended or continued, depending on the nature of the administrative matter that is the subject of the administrative procedure.

If, based on the nature of the administrative matter, the administrative procedure cannot be continued, the public authority shall render a decision suspending the procedure.

### Procedural capacity and representative

### Article 53

A party with full legal capacity may perform actions in the administrative procedure (procedural capacity) itself, or with the assistance of a representative, or proxy, in accordance with this Law.

### Legal representative

### Article 54

On behalf of a legally incapacitated party, actions in the procedure shall be undertaken by its legal representative, determined on the basis of the law or act of the competent public authority.

The legal entity shall undertake actions in the administrative procedure through an authorised agent, determined on the basis of the general act of that legal entity.

A state or other authority shall undertake actions in the administrative procedure through an authorised agent, and the settlement, group of persons and other parties that do not have the status of a legal entity through the person they authorise, unless otherwise prescribed by a separate regulation.

When an authorised official establishes that the legal representative of a person under guardianship does not show the necessary attention in representation, he / she shall inform the guardianship authority thereof.

## Provisional representative

## Article 55

A public authority shall appoint a provisional representative to a party, if this is required by the urgency in deciding on a particular administrative matter, when:

1) A procedurally incapacitated party has no legal representative;

2) A party is absent, and its place of permanent or temporary residence is not known;

3) A party has no permanent or temporary residence in Montenegro, and has not acted upon the request of the public authority to appoint a representative within by the specified deadline;

4) A legal representative is in conflict of interest with the party he / she represents;

5) A legal entity, or settlement, group of persons, etc. who do not have an agent, have not acted upon the request of the public authority to appoint a representative within by the specified deadline;

6) The interest of the party or the protection of life and health or property of higher value requires urgent action, and the participation of a party or its representative in the implementation of this activity is not possible or would cause disproportionate costs.

If a public authority appoints a provisional representative to a procedurally incapacitated party, it shall inform the guardianship authority thereof without delay.

If a public authority appoints a provisional representative to a party for reasons referred to in paragraph 1, item 2 and 3 of this Article, it shall publish the notice on the appointment of a provisional representative on its bulletin board and website, as well as in the Official Gazette of Montenegro.

The person who is appointed as a provisional representative shall accept representation, and representation can be refused only for reasons prescribed by a separate law or other regulation. A provisional representative shall only take part in the administrative procedure in which he / she is appointed and until a legal representative or an authorised agent, or the party itself or its proxy, appears.

## Proxy

## Article 56

The party, or its legal representative, may designate a lawyer or other person with legal capacity to represent the party in the procedure as its proxy, except in the actions in which the party itself is required to make statements.

The power of attorney by which the party authorises the proxy in the sense of paragraph 1 of this Article may be made in writing or given orally on the record. If the power of attorney is made in writing, and the public authority doubts its authenticity, it shall request submission of a certified power of attorney.

The relevance for the scope of the power of attorney shall lie with the content of the power of attorney. The power of attorney may be given for the entire administrative procedure or only for certain actions in the procedure, and may be time-limited. The power of attorney shall not terminate with the death of a party, loss of its procedural capacity or the change of its legal representative, but the legal successor of the party, or its new legal representative, may recall the previously given power of attorney.

The party present when its proxy gives an oral statement may, immediately after the statement, alter or revoke the statement of its proxy. If in written or oral statements concerning the facts there is a discrepancy between the statements of the party and its proxy, the authorised official shall consider both statements.

Issues related to power of attorney that are not regulated by this Law shall accordingly be subject to the provisions of the law regulating civil proceedings.

### Joint agent, or joint proxy

### Article 57

Unless otherwise prescribed by law, two or more parties may appear in the same case together, and shall, in doing so, determine which of them shall act as joint agent, or shall designate a joint proxy.

A joint agent or a joint proxy shall be designated in writing with the signature of all parties, or orally on the record before the public authority.

In case of the designation of a joint agent or a joint proxy, each party shall reserve the right to act independently in an administrative procedure.

### Expert assistant

### Article 58

In an administrative procedure requiring expert knowledge of the issues related to the subject matter of the procedure, a party may bring an expert person to assist it with explanations and advice (hereinafter: expert assistant). An expert assistant shall not represent the party.

An authorised official may, by rendering a decision, prohibit a person from acting as an expert assistant, if the person is legally incapacitated or engaged in unlicensed legal practice.

No separate appeal is allowed against the decision referred to in paragraph 2 of this Article.

## V. COMMUNICATION OF AUTHORITIES AND PARTIES

### 1. Submissions

### Notion, content and manner of filing submissions

## Article 59

A submission in the administrative procedure shall imply a request, a proposal, a report, an application, an appeal, a complaint, an objection and another submission by which the party is addressing the public authority with regard to a particular administrative matter.

A submission shall be sufficiently comprehensible and, in order to be actionable, it must contain: the name of the public authority to which it is addressed; the subject matter to which the submission is related; name and surname, place of permanent or temporary residence and address, or name and seat of the party, name and surname of the representative, proxy or agent, as well as the manner in which the party wants the public authority to respond to the submission.

A party may file a submission to the public authority directly, by post, fax or electronically, in accordance with the regulations on electronic administration. Unless otherwise prescribed by law, short and urgent statements can also be sent by telephone or sent by telegram, if this is possible in the nature of the matter, about which the authorised official shall make a written note, attaching it to the case files.

## Incompliant submission

## Article 60

When a submission contains a formal defect that makes it unactionable or if the submission is incomprehensible or incomplete, the authorised official shall immediately and no later than within three days from the date of receipt of the submission request the party to remedy the defects, designating a deadline by which it is obliged to do so.

If the party remedies the defects by the designated deadline, the submission shall be deemed to have been compliant ever since its filing.

If the party fails to remedy the defects by the designated deadline, the authorised official shall, within seven days from the expiration of the deadline referred to in paragraph 2 of this Article, reject the submission by a decision.

## Filing a submission

## Article 61

A submission shall be filed to the public authority responsible for receiving the submission.

In the case of oral submissions that are not subject to deadlines and do not require urgent action, it is possible to determine the days or hours during working hours when they can be made. The time for making oral submissions shall be published by the public authority on its website and in a visible place in its premises.

A party who has a temporary place of residence in another country may file a submission to the diplomatic or consular mission of Montenegro, which shall, without delay, forward it to the competent public authority to whom it is addressed.

A person deprived of liberty may file a submission through the authority or institution in which they are placed.

## Action by incompetent public authority upon submission

### Article 62

When a public authority receives a submission for which it is not competent, it shall submit that submission without delay to the competent public authority or court, informing the party thereof. In the case of an oral submission, an authorised official shall orally inform the party that made the submission about its lack of jurisdiction, referring it to the competent public authority or court.

When a public authority receives a submission for which it is not competent and cannot determine which public authority or court is competent to act upon the submission, it shall render a decision rejecting the submission for lack of jurisdiction without delay and submit it to the party.

## Electronic submission

### Article 63

A submission may be filed to the public authority in electronic form, in accordance with the regulations on electronic administration.

In the case of filing a submission in electronic form, the public authority shall, without delay, electronically submit a notice on receipt of the submission to the party.

If a submission filed to the public authority in electronic form cannot be read for technical reasons, the public authority shall inform the party thereof without delay, requesting it to file that submission in another appropriate form and determining a deadline for that. If the party fails to act upon the request of a public authority within the time period allowed, it shall be considered that the submission has not been filed. If the party files a submission in another appropriate form, the submission shall be deemed filed on the day of delivery in electronic form.

## Recording and certifying the received submissions

### Article 64

The public authority that received the submission shall record it according to the order of receipt.

If the public authority receives several submissions by the same postal delivery, or electronically, it shall be considered that they have been filed simultaneously.

At the request of a party, the public authority shall issue a certificate stating that the submission has been received, as well as the date and time of receipt, the subject of the submission and, if any, a list of the acts accompanying the submission. No fees shall be collected for issuing a certificate.

## 2. Record

## Making a record and its content

### Article 65

A record shall be made of the oral hearing or other important action in the administrative procedure, as well as on the important oral statements of the parties or third parties in the administrative procedure.

The record referred to in paragraph 1 of this Article shall include the name of the public authority, place, day and time, the administrative matter for which the administrative procedure is conducted, the name and surname of the authorised official, the parties present and their representatives, proxies or agents, third parties, a short and accurate description of the course of the oral hearing, the content of the conducted actions and the statements made in the administrative procedure, as well as the data on the documents used in the administrative procedure.

Before the record is concluded, it shall be read to the parties, other persons who made statements and other persons participating in the administrative procedure. At the end of the record, it shall be stated that the record has been read and that no objections have been made or, if the objections were made, their content shall be summarised. The record shall be signed by an authorised official and a recording secretary, if any. The persons who made statements shall sign the record directly below their statement, as well as at the end of each page on which their statement is included. In the signed and concluded record, nothing shall be added or altered. A supplement to the already concluded record shall be entered as an addendum to the record signed by the authorised official and the person on whose proposal the supplement is entered.

If any of the participants in the administrative procedure refuse to sign the record or leave the venue for an oral hearing or undertaking another action before the record is concluded, this shall be entered in the record, along with the reasons for which the record has not been signed.

### Relevance of a public document

### Article 66

The record referred to in Article 65 of this Law shall have the relevance of a public document.

The record shall be proof of the course and content of the oral hearing or other actions in the administrative procedure and the statements made, except for those parts of the record to which an objection was made claiming that they have not been properly drafted.

The truthfulness of the record can be challenged.

### Collegial authority record

### Article 67

When a collegial authority decides in the administrative procedure, a separate record shall be drawn up on the deliberation and voting. When a unanimous decision was rendered in the appeal procedure, the record of deliberation and voting shall not be mandatory, but can be made as a note on the file.

In addition to the data on the composition of the collegial authority, the record referred to in paragraph 1 of this Article shall include the subject matter and a short summary of what has been decided, as well as the dissenting opinions, if any. The record shall be signed by the chairperson and the recording secretary.

## 3. Inspection of the files and notification about the course of administrative procedure

## Right to inspect the files

### Article 68

The party shall be entitled to inspect the case files, make the necessary notes and, at its own cost, receive copies of the files. Inspection of the files shall be free of charge and shall be carried out under the supervision of an authorised official.

The request for inspection of the case files and the receipt of copies of these files may be submitted in writing, orally on the record or electronically, in accordance with the regulations on electronic administration.

The public authority shall provide the conditions for inspection of the case files and receipt of copies of these files, at the premises of the public authority, within five days from the date of submission of the request referred to in paragraph 2 of this Article. In special cases where this suits the applicant, the files may also be inspected at the premises of another public authority, diplomatic or consular mission of Montenegro.

When the case files are stored in electronic form, the public authority shall provide the technical means for their inspection, as well as for their collection in electronic or print form.

## Right to notification about the course of procedure

### Article 69

A party and another person who proves as probable its legal interest in the case shall have the right to be informed about the course of the administrative procedure, as well as on matters concerning that procedure.

# VI. SUMMONING, DELIVERY AND NOTIFYING

## Summoning and delivery

### Article 70

Summoning of the party and other participants in the administrative procedure and delivering a summons, decision or other official file (hereinafter: brief) shall be done in writing, orally or electronically.

Unless otherwise prescribed by law or other regulation, the authorised official shall independently decide on the manner of summoning the party, the respective other participant in the administrative procedure and the manner of delivery of the brief, while taking into account the legal protection of the party, the rational spending of the funds and the simplification of the administrative procedure.

## Manner of summoning and delivering

### Article 71

When the party is present, the public authority shall do the summoning orally, and shall deliver the brief directly, with authorised official making an official note thereof, which is attached to the case file.

Short and urgent notices can be sent to a party by phone or in another convenient way, with an official note made thereof, which is attached to the case file.

Briefs can be delivered to a party via postal operator, by electronic means, by personal or indirect delivery, or by other appropriate means.

## Place of delivery

## Article 72

Delivery of briefs shall, as a rule, be performed in the apartment, business premises or at the workplace of the person to whom the delivery is made, and to a lawyer in his law office.

Delivery of briefs may also be performed outside the premises referred to in paragraph 1 of this Article, if the person to whom the delivery is made agrees to that.

## Time of delivery

## Article 73

Delivery of briefs shall be done on weekdays, from 8:00 to 20:00.

The public authority may, for particularly important reasons, order that the delivery also be made on Sunday or on the national holiday, and after 20:00 hours only if this is unavoidable.

## Personal delivery

## Article 74

Parties and other participants in the administrative procedure shall be delivered briefs in person, except when the party has a legal representative, proxy or proxy for the receipt of the briefs, to whom delivery is made.

Delivery of a brief to a legal representative, proxy or proxy for the receipt of the briefs shall be deemed delivery to the party.

## Proxy for receipt of briefs

## Article 75

When the party informs the public authority about the proxy for the receipt of the briefs, the public authority shall deliver all the briefs to that proxy.

The proxy for the receipt of the briefs shall deliver every brief referred to in paragraph 1 of this Article to the party without delay.

## Joint proxy for receipt of briefs

## Article 76

When more than ten parties participating in an administrative procedure with identical requests do not have a joint proxy, at the request of a public authority, they shall designate a joint proxy for the receipt of the briefs within the time limit determined by that authority.

In case the parties do not designate a joint proxy by the deadline referred to in paragraph 1 of this Article, a public authority may appoint a joint proxy to them.

The brief delivered to the joint proxy for the receipt of the briefs shall indicate all parties for which the delivery is made.

## Delivery to legal representative or proxy

## Article 77

Delivery of a brief to a legal representative or proxy shall be made in the manner referred to in Art. 71, 72 and 73 of this Law.

## International delivery

## Article 78

Delivery of briefs to foreigners, members of international organisations, as well as to persons enjoying diplomatic immunity, shall be done through the state administration body responsible for foreign affairs, unless otherwise provided by an international treaty.

## Delivery in special cases

## Article 79

Delivery of briefs to persons deprived of liberty shall be done through the administration of the authority or institution in which they are placed.

## Change of permanent place of residence, temporary place of residence or seat

## Article 80

When a party or its legal representative changes their permanent or temporary place of residence, or seat, during the administrative procedure, they shall immediately inform the public authority that conducts the administrative procedure thereof. If the party or its legal representative fails to do so, and the authorised official or other official in a public authority cannot contact them, the delivery of briefs to the party or its legal representative shall be made through public notifications, in accordance with Article 87 of this Law.

When a proxy, or a proxy for the receipt of the briefs, changes their permanent or temporary place of residence during the administrative procedure and fails to inform the public authority that conducts the administrative procedure thereof, the delivery of briefs shall be done as if there is no proxy, or a proxy for the receipt of the briefs.

## Errors in delivery

## Article 81

If an error is made when delivering a brief, it shall be deemed that the delivery was made on the day for which it is determined that the person to whom it was sent actually received the brief.

## Delivery via postal operator

## Article 82

Delivery of a brief via a postal operator shall be done by regular or registered mail.

It shall be deemed that the person to whom the brief was addressed via regular mail received the brief on the seventh day after the day it was handed over to the postal operator, if it was sent to an address in Montenegro, or on the tenth day if it was sent outside Montenegro, unless that person proves that it was received with delay.

It shall be deemed that the brief sent via registered mail has been received on the date indicated in the confirmation of receipt of that mail.

## Delivery via electronic means

## Article 83

The public authority shall, if the party requests so and indicates the e-mail address in the request submission, deliver a brief to the party electronically, provided that the public authority has technical possibilities for such a manner of delivery.

The briefs shall be electronically submitted to the e-mail address indicated by the party in its submission.

It shall be deemed that the brief sent electronically has been received on the day and time specified in the confirmation of receipt of the electronic document, in accordance with the law governing the electronic document.

If the brief referred to in paragraph 3 of this Article cannot be read for technical reasons, the party may request that this brief be delivered by the public authority in another appropriate form.

## Obligation and manner of personal delivery

## Article 84

The delivery of a brief shall be made personally to a person for whom it is intended when it comes to a brief whose delivery starts the time limit that cannot be extended, or if this is prescribed by law or other regulation, or if so designated by an authorised official.

The delivery shall be performed by an employee designated by a public authority or a person employed by a postal operator or another courier service (hereinafter: courier).

The delivery shall be confirmed by the confirmation of delivery (hereinafter: delivery note), which shall, in addition to the signature of the recipient and the courier, contain information on the brief delivered (name of the public authority, number and date of the brief), as well as the date of delivery.

If the recipient is not found at the address where the delivery was to take place, the courier shall retry the delivery within 24 to 72 hours after the first attempt. If the recipient is not found in the second attempt or refuses to receive a brief, the courier shall make a written note about it.

In the case referred to in paragraph 4 of this Article, at the place where the delivery should have been made, the courier shall leave a notice indicating the name and surname of the recipient, information on the brief to be delivered and on the premises of the public authority in which the recipient can receive that brief, as well as the date when notice was left.

Upon expiration of a period of seven days from the date of leaving the notice referred to in paragraph 5 of this Article, it shall be deemed that the delivery was completed.

## Indirect delivery

## Article 85

In cases where personal delivery is not mandatory, and the person to whom the delivery needs to be made is not found in his / her apartment, the delivery shall be done by handing over a brief to one of the adult members of his / her household.

If the delivery is done in the business premises, or at the workplace of the person to whom the delivery of a brief is to be made, and that person is not found there, the delivery can be made to a person employed in the same place, if he / she agrees to receive the brief. Delivery to a lawyer can also be made by handing over a brief to a person employed at the law office.

The delivery referred to in para. 1 and 2 of this Article cannot be made to a person who participates in the same procedure with the opposite interest.

The person who receives the brief should sign a delivery note, assuming the obligation to deliver the brief to the recipient. The courier should include in the delivery note the relation of that person to the person to whom the delivery was to be made, the date of delivery and the information on the brief delivered. In the event that a third party does not accept to receive the brief, the brief shall be left in the mailbox of the recipient.

The delivery shall be deemed executed after the expiration of seven days from the date of delivery through a third party or from the date when the brief was left in a mailbox, which shall be indicated on the envelope and the delivery note as a warning.

## Delivery note

## Article 86

The delivery note shall be signed by the recipient and the courier.

The recipient shall mark, by signing, the date of receipt on the delivery note.

When the recipient is illiterate or cannot sign his / her name, the courier shall indicate his / her name and surname and the day of delivery on the delivery note, providing a note as to why the recipient did not sign the delivery note.

When the recipient refuses to sign the delivery note, the courier shall indicate this on the delivery note, writing the date of delivery in letters, and in this case, it is considered that the delivery was duly executed.

### Public notification

### Article 87

If the delivery could not be performed in the manner referred to in Art. 84 and 85 of this Law, or there is a number of persons not known to the public authority, and the delivery was otherwise not possible or appropriate, as well as in other statutory cases, the delivery shall be made by public notification.

Delivery by public notification shall be done by publishing the brief on the website of the public authority, the web portal of electronic administration, the bulletin board of the authority, and can also be done by publishing the brief in the daily newspapers.

Delivery by public notification shall be deemed to be executed after the expiration of a period of 10 days from the date of publication of the brief, with the public authority being allowed to extend the deadline for justified reasons.

The publication date and deadline expiration date shall be indicated in the brief.

When a decision is delivered by public notification, the rationale of the decision can be omitted, but the public authority shall publish data on the place, the premises and the manner in which the rationale may be inspected.

## VII. DEADLINES

### Determining and extending deadlines

### Article 88

Deadlines may be determined for undertaking certain actions in the administrative procedure.

When the deadlines are not prescribed by law or other regulation, they shall, given the circumstances of the case and the principles of proportionality, cost-efficiency and effectiveness, be determined by the official person.

The deadline determined by the authorised official, as well as the deadline prescribed by law and other regulation for which the possibility of extension is envisaged, may be extended at the request of a party or other person participating in the administrative procedure, if the request is submitted before the expiration of the deadline and if there are justified reasons for extension.

### The manner of counting time for deadlines

## Article 89

The time for deadlines shall be counted in days, months and years, and can be counted in hours.

When the deadline is determined in days, the day on which the delivery is made, or the day of the event from which the time for deadline should be counted, shall not be counted as part of the deadline; instead, the first subsequent business day shall be taken as the beginning of the deadline.

The deadline determined in months or years shall end with the expiration of that day of the month or year which corresponds, in its number, with the day when the delivery was made, or the day of the event from which the time for deadline is counted. If there is no such day in the month, the deadline ends on the last day of that month.

The deadline end can also be determined on a specific calendar day. The beginning and the course of deadlines shall not stop on Sunday and the days of national holidays.

If the last day of the deadline is on Sunday or on the day of a national holiday or on another day when the public authority before which the action is to be taken does not work, the deadline shall expire at the end of the first following business day.

### The manner of counting time for deadlines for submission of briefs

## Article 90

It shall be deemed that the submission is filed within the deadline if, before the deadline expires, it is filed to the competent public authority.

If the submission subject to a deadline is filed to the competent public authority before the expiry of the deadline, and the competent public authority receives it after the deadline expiration, it shall be deemed that the submission was filed within the deadline.

When a submission is sent by registered mail or telegraph, the day of delivery to the postal operator shall be deemed to be the date of filing to the public authority to whom it is addressed.

If the submission is sent electronically, it shall be deemed to be filed on the date and time indicated in the notice on receipt of the submission by electronic means referred to in Article 63, paragraph 2 of this Law.

In the event of filing a submission to organisational units outside the seat of a public authority, diplomatic or consular missions, the day of filing a submission to these units or missions shall be deemed to be the date of filing a submission to the public authority.

If the party is a person deprived of liberty, the day of filing of submission to a public authority shall be deemed to be the day when that person filed a submission to the authority or institution in which he / she is placed.

# VIII. RESTORATION TO ORIGINAL CONDITION

### Motion for restoration to original condition

## Article 91

A party who, for justified reasons, failed to perform an action within the set deadline in the administrative procedure, losing the right to perform such an action because of that omission, shall be allowed restoration to original condition at its motion.

In the motion for restoration to original condition, the party shall state the circumstances that led to the omission referred to in paragraph 1 of this Article, proving those circumstances as probable.

If the facts on which the motion for restoration to original condition is based are generally known, the public authority may decide on that motion without the declaration of the opposing party.

A motion for restoration to original condition cannot be based on circumstances that had previously already been assessed by the public authority as insufficient for extending the deadline or postponing the hearing.

If the restoration to original condition is requested because the deadline for filing a submission has been missed, the motion should be accompanied by that submission.

The motion for restoration to original condition shall not stop the course of the administrative procedure, but the public authority responsible for deciding on the motion may temporarily suspend the procedure.

### Deadline for submitting the motion for restoration to original condition

## Article 92

A motion for restoration to original condition shall be filed within eight days from the day when the reason for which the party failed to perform an action within the set deadline in the administrative procedure has ceased to exist, and if the party has found out about the omission later on, from the day when it found out about it.

A motion for restoration to original condition cannot be submitted after the expiration of the deadline of 30 days from the day of omission. Restoration to original condition shall be allowed even after the expiration of the deadline referred to in paragraph 2 of this Article, in case of force majeure.

### Decision on restoration to original condition and its consequences

## Article 93

A motion for restoration to original condition shall be submitted to the public authority before which the omitted action was supposed to be performed.

The motion referred to in paragraph 1 of this Article shall be decided upon by a decision rendered by the public authority, within ten days from the date of submission of the motion.

When the restoration to original condition is allowed, the administrative procedure shall be returned to the condition in which it was before the omission, and the legal consequences arising from the omission shall be annulled.

The party shall be entitled to appeal against a decision rejecting the motion for restoration to original condition, unless the decision was rendered by a second instance authority.

An administrative dispute may be initiated against the decision rendered by the second instance authority.

## IX. COSTS OF ADMINISTRATIVE PROCEDURE

### Costs to public authority and the parties

### Article 94

When an administrative procedure is initiated at the request of a party and when two or more parties with opposite interests are involved in the procedure, the costs of the administrative procedure shall be borne by the party whose request gave rise to the procedure or the party subjected to a procedure that was completed unfavourably for it, unless otherwise provided. The party who gave up on the request shall bear all the costs incurred until the suspension of the administrative procedure, unless otherwise provided by separate regulations.

When an administrative procedure is initiated at the request of a party, and it can be foreseen with certainty that the procedure would cause costs in relation to preliminary investigation, expert examination, arrival of witnesses, etc., a decision may order the party to deposit the necessary amount of money to cover such costs in advance. If the party fails to deposit this amount within a specified time limit, the public authority may refrain from presenting such evidence or suspend the procedure, unless the public interest requires the procedure to continue.

If the administrative procedure initiated ex officio is completed favourably for the party, the costs of the procedure shall be borne by the public authority that initiated the procedure, unless otherwise provided.

The costs of the procedure shall be decided upon by a decision on an administrative matter.

When the administrative procedure is completed by settlement, each party shall bear its own costs of the procedure, unless otherwise provided by the settlement.

### Reimbursement of expenses and remuneration to other participants in administrative procedure

### Article 95

Witnesses, expert witnesses, court interpreters and officials shall be entitled to a prescribed reimbursement of travel expenses and expenses incurred during their stay outside their place of permanent or temporary residence. If they are also entitled to remuneration during that time, they shall also be entitled to the prescribed reimbursement for lost earnings. In addition to the prescribed fees, expert witnesses and court interpreters shall be entitled to the prescribed separate remuneration for the performed expertise, or interpretation.

Witnesses, expert witnesses and court interpreters shall file a request for reimbursement of expenses, i.e. the remuneration referred to in paragraph 1 of this Article, during the hearing, or opinion-giving of an expert witness or an interpreter. If they fail to do so, they shall lose the right to reimbursement, or remuneration.

An authorised official shall warn the witnesses, expert witnesses and court interpreters about this, which shall be entered in the record.

The amount of the reimbursement of expenses or remuneration referred to in paragraph 1 of this Article shall be determined by the decision of the public authority before which the administrative procedure is being conducted. The same authority shall determine who is obliged to pay them and within what period. A separate appeal shall be allowed against this decision. This decision shall constitute a writ of execution.

### Exemption from payment of costs

### Article 96

A party may be exempted from paying the costs in the administrative procedure entirely or in part, if he / she cannot bear those costs without damage to his / her necessary maintenance, or, the necessary maintenance of his / her family.

A foreigner may be exempted from paying the costs when this is provided for in an international treaty, and if there is no such treaty, under the condition of reciprocity.

The party's request for exemption from payment of costs shall be decided upon by a decision, against which the party has the right to appeal.

### By-law

### Article 97

The amount of reimbursement of costs and remuneration in the administrative procedure and the manner of their payment shall be determined by the government.

## X. INITIATING, CONDUCTING AND COMPLETING ADMINISTRATIVE PROCEDURE

### 1. Initiating administrative procedure

### Methods of initiating the procedure

### Article 98

The administrative procedure shall be initiated at the request of a party or ex officio.

When an administrative procedure is initiated at the request of a party, the procedure shall be deemed to have been initiated on the day when the party files its request to the public authority.

When an administrative procedure is initiated ex officio, the procedure shall be deemed to have been initiated when any action is taken in the public authority to conduct the procedure.

### Rejecting the party's request for procedural reasons

## Article 99

The competent public authority shall reject the party's request to initiate the administrative procedure by a decision if:

1) The subject of administrative procedure is not an administrative matter;

2) The applicant is not the holder of rights or legal interests, or if in accordance with this Law he / she cannot be a party in the administrative procedure;

3) The request subject to a deadline has not been filed within the deadline;

4) Another administrative procedure or judicial proceeding had already been initiated in the same administrative matter, or if a final decision had already been rendered in that administrative matter, acknowledging a party's right or imposing a certain obligation on it; and

5) In the same administrative matter, a decision rejecting the party's request had been rendered and served to the party, after which the legal and factual situation did not change.

A final decision shall be a decision that can no longer be challenged in an administrative dispute or another judicial proceeding.

A public authority may refuse a party's request to initiate administrative procedure over the course of entire procedure if it determines the existence of the reasons referred to in paragraph 1 of this Article.

### Initiating the procedure ex officio

## Article 100

The public authority shall initiate an administrative procedure ex officio when this is prescribed by law or other regulation and when it establishes or becomes aware that, in view of the existing factual situation, the procedure should be initiated in order to protect the public interest.

When initiating the administrative procedure ex officio, the public authority shall take into account potential applications by citizens and other entities, as well as the warnings and recommendations of other public authorities.

### 2. Change and waiver of request

### Right to change and waiver of request

## Article 101

A party may change the submitted request for initiating an administrative procedure until the upholding of the first instance decision, provided that this change is based on the same factual situation.

A party may waive its request during the entire administrative procedure.

## Suspension of procedure

### Article 102

When an administrative procedure is initiated at the request of a party, and the party waives that request, the public authority shall render a decision by which the administrative procedure is suspended, notifying the opposing party thereof, if any.

The decision to suspend the administrative procedure shall also be rendered ex officio when the party's actions or other circumstances may reasonably lead to a conclusion that the party has waived the request for the initiation of an administrative procedure.

In the case referred to in para. 1 and 2 of this Article, if the conduct of administrative procedure is necessary for the public interest or if the opposing party so requests, the public authority shall continue the administrative procedure.

If a public authority suspends an administrative procedure initiated ex officio, and this procedure could have been initiated at the request of a party, the procedure shall be continued if the party requests so.

## 3. Settlement

## Settlement conclusion

### Article 103

If two or more parties with opposing requests are involved in an administrative procedure, an authorised official shall endeavour, during the entire procedure, to facilitate the conclusion of a settlement between the parties, in full or in some disputed matters.

The settlement in an administrative procedure shall always be clear and determined and must not be at the expense of the public interest or legal interest of third parties, to which an authorised official must pay attention ex officio. If it is established that the settlement would be at the expense of the public interest or legal interest of third parties, the authorised official shall not accept the proposed settlement, and shall render a decision thereof.

A record shall be made of the settlement concluded in the administrative procedure. The settlement shall be concluded when the parties, after reading the record on the settlement, sign the record. A certified copy of the record on the settlement shall be submitted to the parties upon their request.

When the concluded settlement fully resolves the administrative matter, the authorised official shall suspend the administrative procedure by decision.

If the concluded settlement in the administrative procedure relates only to certain disputed matters, the authorised official shall indicate the matters on which the settlement was concluded in the enacting terms of the decision resolving the administrative matter.

Settlement in an administrative procedure shall have the force of an executive decision (writ of execution).

## 4. Preliminary matters

## Resolving preliminary matters

## Article 104

If the resolution of administrative matters depends on the preliminary resolution of a legal matter, which is the jurisdiction of a court or other authority (hereinafter: preliminary matters), the authorised official may, under the conditions prescribed by this Law, resolve this issue himself / herself or interrupt the administrative procedure until the competent authority resolves this issue.

An authorised official shall interrupt the administrative procedure when the preliminary matters relate to the existence of a criminal offence, the existence of a marriage, the establishment of paternity, or in other cases prescribed by law. The procedure shall also be interrupted if the preliminary matters are already the subject of a procedure before a competent court or other authority.

When the preliminary matters relate to a criminal offence prosecuted ex officio, and there is no possibility of criminal prosecution, an authorised official shall address this issue as well.

If the authorised official has addressed the preliminary matters himself / herself, the resolution of that matter shall have a legal effect only in the administrative matter in which the issue has been resolved.

A decision shall be rendered on the interruption of the administrative procedure for the purpose of resolving preliminary matters.

If the administrative procedure is interrupted and the procedure for resolving preliminary matters that is conducted ex officio has not yet been initiated before the competent court or other authority, the public authority that conducts the procedure shall require the competent authority to initiate the procedure for resolving preliminary matters.

In the administrative matter in which the procedure for resolving preliminary matters is initiated at the request of a party, the authorised official may, via a decision on the interruption of administrative procedure for the purpose of resolving preliminary matters, order one of the parties to, with a view to resolving the preliminary matters, request the competent court or other authority to initiate the procedure, as well as to determine a deadline within which the party is obliged to submit a request and to submit evidence thereof to the authorised official. In this case, the authorised official shall warn the party of the consequences of omission.

If the party on whose request the administrative procedure has been initiated does not submit, within the specified deadline, proof that it has requested the competent court or other authority to initiate a procedure for resolving the preliminary matters within the meaning of paragraph 7 of this Article, the party shall be deemed to have waived the request for initiation of an administrative procedure, and the authorised official shall suspend the administrative procedure by a decision. If the opposing party has not acted within the meaning of paragraph 7 of this Article, the authorised official shall continue the procedure and address that issue as well.

# 5. Examination procedure

## Establishing factual situation

## Article 105

An authorised official shall establish all the facts and circumstances relevant to the resolution of the administrative matter.

An authorised official shall, ex officio, obtain data on the facts about which the official records are kept, regardless of the form in which they are kept (written, electronic, etc.).

The party shall present the exact, true and specific factual situation on which its request is based, proposing evidence for its allegations and, if possible, submitting it, except if the case is about statutory provisions and generally known facts, or if official records are kept about the data that present evidence.

If the party fails to act in the manner referred to in paragraph 3 of this Article, the authorised official shall order the party to do so within an appropriate deadline.

If the party on whose request the administrative procedure is initiated does not propose or submit evidence in accordance with paragraph 3 of this Article within the deadline referred to in paragraph 4 of this Article, the authorised official shall reject that request by decision.

In cases when an administrative procedure was initiated ex officio or at the request of the opposing party, and the party fails to provide the requested evidence within the set deadline, the authorised official shall continue the procedure and resolve the administrative matter.

## Summary procedure

## Article 106

A public authority may resolve the administrative matter in a summary administrative procedure:

1) If the factual situation can be determined on the basis of data from official records;

2) If the party's request indicates the facts or provides evidence on the basis of which the state of affairs can be determined or if this state of affairs can be determined on the basis of generally known facts or facts known to the public authority.

## Evidence

## Article 107

In the administrative procedure, all means suitable for determining the factual situation, which correspond to a particular case, such as documents, testimonies of witnesses, statements of the parties, findings and opinions of expert witnesses, court interpreters and preliminary investigation, may be used as evidence.

Generally known facts, facts that are known to the public authority and statutory provisions need not be proven.

The rules on evidence in civil proceedings shall accordingly apply to the issues relating to evidence that are not regulated by this Law.

## Presentation of evidence before another public authority

## Article 108

If the presentation of evidence before a public authority conducting administrative procedure is unfeasible, associated with disproportionate costs or a great loss of time, a public authority may, on its own initiative or at the request of a party, decide that the presentation of evidence or some piece of evidence be carried out before another public authority.

In the case referred to in paragraph 1 of this Article, the provisions of Art. 44 and 45 of this Law shall apply.

### Securing evidence

## Article 109

If it is likely that a piece of evidence would not be possible to present in the examination procedure or that its presentation in the examination procedure would be difficult or unfeasible, that piece of evidence may, for the purpose of securing evidence, be presented at any stage of the administrative procedure, even before the procedure is initiated.

The securing of evidence shall be carried out ex officio or at the proposal of a party, or a person having a legal interest.

The competence for securing evidence during the administrative procedure shall lie with the public authority that conducts the administrative procedure, while the competence for securing evidence before the initiation of the procedure shall lie with the public authority in whose territory the items to be examined or the persons to be heard are located.

A decision shall be rendered on the securing of evidence, which does not interrupt the course of the administrative procedure.

### Maintaining order

## Article 110

An authorised official shall take care of maintaining the order during the administrative procedure and may warn or order the removal of the person who disturbs the work from the public authority.

## 6. Declaration of a party on results of examination procedure

### The right of a party to declare

## Article 111

Before rendering a decision, the public authority shall, except in the cases referred to in Article 113 of this Law, notify the party about the results of the examination procedure.

The party shall have the right to declare on the results of the examination procedure.

The public authority shall notify the party about the results of the examination procedure orally or through written notification.

The notification referred to in paragraph 3 of this Article shall contain:

1) Name and surname, or name of the party participating in the administrative procedure and the date of initiation of the procedure, in case the administrative procedure was initiated at the request of a party;

2) Data on the evidence presented and the results of the examination procedure;

3) Notification on the right of the party to inspect the case file, as well as on the place where the inspection can take place;

4) Notification on the right of the party to declare on the results of the examination procedure and the manner of exercising that right.

### Manner of party's declaration

### Article 112

The party may declare on the results of the examination procedure in writing or orally on the record of the public authority, within the deadline established by the public authority.

The deadline referred to in paragraph 1 of this Article may not be shorter than three or longer than eight days.

If the party does not declare on the results of the examination procedure, the public authority shall render a decision without the party's declaration.

### Exceptions to the right of a party to declare

### Article 113

A decision may be rendered without the party's declaration on the results of the examination procedure:

1) In case of urgency for the purpose of protecting public interest;

2) When it is apparent that the decision would be rendered in favour of the party; and

3) When so prescribed by the law.

## 7. Procedure completion

### Deadline for rendering a decision

### Article 114

The deadline for rendering and delivering the decision in the administrative procedure shall be 30 days from the date of initiation of the procedure, unless otherwise prescribed by a separate law.

### Justified deadline extension

### Article 115

If the administrative procedure cannot be completed within the prescribed deadline due to the complexity of the administrative matter, the deadline may be extended for the time required to render a decision, but this time period cannot be longer than half the time period referred to in Article 114 of this Law. The deadline that has been extended once cannot be re-extended.

In the case referred to in paragraph 1 of this Article, the party must be notified about the extension of the deadline, the date of its expiration, and the reasons for its extension, before the expiration of the deadline referred to in Article 114 of this Law.

### Deciding on the party's request

### Article 116

When an administrative procedure has been initiated at the request of a party, a public authority may uphold the request in whole or in part, or reject it.

### Procedure completion in case of silence of administration

### Article 117

When an administrative procedure has been initiated at the request of a party and a public authority does not render and deliver a decision to the party within the prescribed or extended deadline, it shall be considered that the request was upheld, if so prescribed by a separate law.

In the case referred to in paragraph 1 of this Article, the party shall have the right to request from the first instance or second instance public authority a certificate that its request was upheld. The certificate must contain all the elements of a decision upholding the party's request.

If the public authority does not issue the certificate referred to in paragraph 2 of this Article within seven days from the day of submission of the request for the certificate, or if it, within that period, does not render a decision by which it subsequently decided on the party's request, the party may initiate an administrative dispute.

The provisions of Art. 139 and 140 of this Law shall apply to the issues of annulment and cancellation of the certificate referred to in paragraph 2 of this Article.

## XI. LEGAL REMEDIES

### 1. Party's right to legal remedy

### Types of legal remedies

## Article 118

A party who believes that its rights and / or legal interests were violated by administrative activity in the administrative matter of a public authority shall be entitled to a legal remedy, as follows:

1) Appeal;

2) Repeating the procedure; and

3) Objection.

## 2. Appeal

### Right to appeal

### Article 119

The party shall be entitled to appeal against the decision rendered in the first instance or when the decision was not rendered within the statutory deadline, except if the appeal is not allowed by law.

An appeal against the first instance decision of the ministry may be lodged only when so prescribed by law, as well as in the case of an administrative matter in which the administrative dispute is excluded.

An appeal cannot be lodged against the decision of the Government.

### Subject-matter of appeal procedure

### Article 120

In the appeal procedure, the legality of the decision being challenged shall be examined.

When a decision is rendered at discretion, the appropriateness of the decision shall also be examined in the appeal procedure.

### Appeal content and deadline for lodging an appeal

### Article 121

The appeal must state the decision challenged, the name of the public authority that rendered the decision, the number and the date of the decision, as well as the reasons for which the party is challenging the decision.

Any submission challenging a decision, even if it is not addressed as an appeal, shall be deemed to be an appeal if its content clearly indicates the intention of the party to appeal against the decision.

In the appeal, new facts and new evidence can be presented, whereby the applicant shall explain why he / she could not present them in the first instance procedure.

An appeal shall be lodged within 15 days from the date of delivery of the decision, unless the law prescribes another deadline.

## Waiving the right to appeal and withdrawing from an appeal

## Article 122

A party may waive the right to appeal in writing or orally on the record of the public authority from the date of receipt of the first instance decision until the expiration of the deadline for lodging an appeal.

In administrative matters involving two or more parties, the waiver of the right to appeal shall have legal effect only if all parties waive the right to appeal.

A party may withdraw from an appeal until delivery of a decision on appeal.

When a party withdraws from an appeal, the appeal procedure shall be terminated by a decision, which shall also determine the costs of the appeal procedure.

Withdrawal from an appeal cannot be revoked.

## Lodging an appeal

## Article 123

An appeal shall be lodged to the public authority that rendered the first instance decision.

If the appeal is lodged to an authority competent for decision-making in the second instance (hereinafter: second instance authority), that authority shall forward it to the first instance public authority without delay.

In the case referred to in paragraph 2 of this Article, the appeal shall be deemed to have been lodged to the first instance authority on the date it was submitted to the second instance authority.

## Suspended effect of appeal

## Article 124

The decision cannot be executed during the appeal period.

Exceptionally, a decision can be executed during the appeal period even after the appeal was lodged, if it is so prescribed by law and if the protection of the public interest or the taking of urgent measures is involved, or if, due to the postponement of execution, an irreparable damage would be caused to the opposing party or person having legal interest (urgent execution).

## Action-taking and powers of first instance authority on appeal

## Article 125

The first instance public authority shall examine whether the appeal is timely, permitted or lodged by an authorised person. If the appeal is not timely, permitted or lodged by an authorised person, the first instance authority shall reject the appeal by a decision.

If it does not reject the appeal for the reasons referred to in paragraph 1 of this Article, the first instance public authority shall examine the legality of the decision, i.e. it shall also evaluate the appropriateness of the decision when the decision was rendered at discretion.

When two or more parties with opposing interests participate in the administrative procedure, the first instance public authority shall deliver or notify all parties of the appeal and shall set an appropriate deadline for responding to the appeal.

If the first instance public authority establishes that the appeal is well-founded, it shall uphold the appeal in whole and render a new decision replacing the decision that is being appealed against, no later than 15 days from the date of receipt of the appeal. An appeal against this decision can be lodged to a second instance authority.

If the first instance public authority does not replace the decision being appealed against with a new one, it shall, without delay, submit the appeal to the second instance authority, along with the case files.

If the appeal is lodged due to the silence of the administration, and the first instance public authority does not render a decision within seven days from the date of receipt of the appeal, it shall, without delay, submit the appeal along with the case files and a written explanation of the reasons for which the decision was not rendered within the prescribed deadline to the second instance authority.

## Action-taking and powers of second instance authority on appeal

## Article 126

If the appeal is unpermitted, untimely, or lodged by an unauthorised person, and the first instance public authority has failed to reject it on that ground, the appeal shall be rejected by a second instance authority.

If it does not reject the appeal for the reasons referred to in paragraph 1 of this Article, the second instance authority shall examine the legality, and if the decision was rendered at discretion, it shall also evaluate the appropriateness of the decision, within the limits of the request indicated in the appeal, not being bound by the appeal grounds.

After examining the legality, or the appropriateness of the first instance decision within the meaning of paragraph 2 of this Article, the second instance authority may reject the appeal, annul the decision in whole or in part, or amend it.

The second instance authority shall reject the appeal when it determines that the first instance procedure has been properly conducted and that the decision is appropriate and based on law, and that the appeal is unfounded.

The second instance authority shall also reject the appeal when it determines that the first instance decision is based on the law, but for other reasons, and not for the reasons given in the rationale of that decision. In this case, the second instance authority must state its reasons in the decision.

If the second instance authority finds that the facts in the first instance procedure have not been fully determined or that they have been wrongly determined, or that the applicant has not been given the opportunity to declare on the results of the examination procedure, it can supplement the procedure and remedy the deficiencies itself. If the second instance authority finds that on the basis of determined facts the administrative matter must be resolved differently than it has been resolved by the first instance decision, it shall annul the first instance decision and resolve the administrative matter itself through the second instance decision.

If the second instance authority finds that the deficiencies of the first instance procedure would be remedied faster and more economically by the first instance public authority, it shall render a decision annulling the first instance decision and return the case to the first instance authority for a repeated procedure.

When the second instance authority annuls the first instance decision, it shall indicate to the first instance public authority the aspect in which the procedure should be supplemented, and the first instance public authority shall act fully in accordance with the second instance decision and to, without delay, and at the latest within 20 days from the day of receipt of the case, render a new decision. The party shall have the right to appeal against that decision.

When the second instance authority has already annulled the first instance decision on the appeal once, and the party lodges an appeal against the new decision of the first instance public authority, the second instance authority shall annul the first instance decision and resolve the administrative matter itself.

## Amending decision

## Article 127

The second instance authority may, on appeal, amend the first instance decision in favour of the party that lodged the appeal, even beyond the request made in the appeal, but within the request made in the first instance procedure, if that does not violate the right of third parties.

## Second instance decision

## Article 128

The second instance authority shall decide on appeal by a decision.

The provisions of this Law that relate to the form and constituent parts of the first instance decision shall accordingly apply to the decision rendered on appeal.

## Appeal in case of silence of administration

## Article 129

When the second instance authority determines that the first instance public authority has not rendered a decision within the statutory deadline for justified reasons, it shall render a decision instructing the first instance public authority to render a decision within 30 days at the latest.

When the second instance authority determines that the reasons for which the first instance public authority has not rendered a decision within the statutory deadline are not justified, it shall decide on the request of

the party itself, within 45 days from the receipt of the appeal, or shall render a decision instructing the first instance public authority to resolve the party's request within 15 days from the date of receipt of the decision.

### Deadline for rendering a decision on appeal

### Article 130

The decision on appeal must be rendered and delivered to the party as soon as possible, and at the latest within 45 days from the day of receipt of the appeal, unless there is a shorter deadline prescribed by a separate law.

### Delivery of second instance decision

### Article 131

Upon receipt of the second instance decision, the first instance public authority shall deliver that decision to the parties without delay.

## 3. Repeating the procedure

### Reasons and deadline for repeating the procedure

### Article 132

The administrative procedure in which a decision was rendered against which an appeal cannot be lodged can be repeated at the request of a party if:

1) New facts come to light or the possibilities arise for using new evidence that could, alone or in conjunction with the already presented and used evidence, lead to a different decision had these facts or evidence been presented or used in the original procedure;

2) The decision of the public authority that conducted the administrative procedure is based on preliminary matters, and the competent public authority subsequently resolved this matter in a substantively different manner;

3) An authorised official took part in the decision-making who had to be exempted by law, or if a decision was rendered by a person who was not authorised for its rendering;

4) The collegial authority that rendered the decision did not decide in the prescribed composition or if the prescribed majority did not vote for the decision;

5) A person who was entitled to participate in the administrative procedure in the capacity of a party was not given the opportunity to participate in the procedure;

6) A party was not represented by a legal representative, and was supposed to be represented by a legal representative in accordance with the law;

7) The Constitutional Court of Montenegro, in a procedure under a constitutional appeal, found a violation of human or minority rights and freedoms guaranteed by the Constitution;

8) The decision is essentially different from the previous decisions rendered by the public authority in essentially identical administrative matters;

9) A position of a decision of the European Court of Human Rights in the identical matter, rendered by the finality of the decision, may have an impact on the legality of the decision.

The party may file a request for repeating the procedure within 30 days from the moment of becoming aware of the reasons for the repetition or from the moment when it has gained the possibility to use new evidence, or within six months from the date of becoming aware of the decision of the European Court of Human Rights.

After the expiration of a period of three years from the date of delivery of the decision referred to in paragraph 1 of this Article to the party, the procedure cannot be repeated.

## Request for repeating the procedure

## Article 133

The party shall submit the request for repeating the administrative procedure to the public authority that rendered the decision, in the manner prescribed by this Law for filing of submissions.

In the request for repeating the procedure, the party shall prove as probable the reasons for which it requests a repeated procedure.

The request for repeating the procedure shall, as a rule, not delay execution of the decision to which the request for repeating the procedure relates.

Exceptionally, if the execution of the decision referred to in paragraph 3 of this Article would cause damage difficult to repair to the party and the delay is not contrary to the public interest, nor would the delay cause greater or irreparable damage the opposing party, or person having a legal interest, the public authority competent for decision-making on a request for repeating the procedure may render a decision delaying the execution of the decision.

## Competent authority

## Article 134

The request for repeating the administrative procedure shall be decided upon by the public authority that rendered a decision against which an appeal cannot be lodged.

## Decision on repeating the procedure

## Article 135

The public authority referred to in Article 134 of this Law shall examine whether the request for repeating the procedure is timely, admissible, and filed by an authorised person, as well as whether the reasons for which the repeating is requested have been proven as probable.

In the event that the conditions referred to in paragraph 1 of this Article are not met, the public authority shall reject the request by a decision.

If the conditions for repeating the procedure are met, the public authority shall examine whether the circumstances or evidence presented as a reason for repeating the procedure can lead to a different decision. If it finds that they cannot, the public authority shall reject the request by a decision.

If the public authority determines that the circumstances or evidence for repeating the procedure can lead to a different decision, it shall render a decision allowing the procedure to be repeated. The decision allowing the procedure to be repeated shall delay the execution of the decision to which the request for repeating the procedure relates.

When this is possible in the circumstances of the case and when it is in the interest of speeding up the administrative procedure, and if the public authority determines that there are conditions for repeating the procedure, it shall take those procedural actions that need to be repeated, while not rendering a separate decision allowing the procedure to be repeated.

### Decision in a repeated procedure

### Article 136

In a repeated procedure, the public authority shall render a decision based on the established facts and evidence obtained in the original and repeated administrative procedure.

By a decision referred to in paragraph 1 of this Article, a public authority may leave the decision to which the request for repeating the procedure relates in force, or may replace it with a new decision. In case of replacement of the decision, in the light of all the facts and circumstances, the public authority shall annul or cancel the previous decision.

An appeal against a decision on the request for repeating the procedure and against the decision rendered in the repeated procedure may be lodged only when the decision was rendered by a first instance public authority. When the decision was rendered by a second instance authority, an administrative dispute may be initiated against that decision.

## 4. Objection

### Action upon objection

### Article 137

In the cases referred to in Art. 31 and 35 of this Law, the public authority competent for deciding upon an objection shall examine the legality of administrative activities.

### Application of provisions on appeal

## Article 138

The provisions of this Law relating to the form, content and filing of an appeal shall accordingly apply to an objection, unless otherwise provided by a separate law.

# XII. DECISION ANNULMENT AND CANCELLATION

## Mandatory decision annulment

## Article 139

A decision shall mandatorily be annulled if:

1) It was rendered in the administrative procedure but decided about a matter from judicial jurisdiction;

2) It was rendered to decide about a matter that cannot be resolved in an administrative procedure;

3) Its execution is not legally or actually possible;

4) Its execution constitutes a criminal offence;

5) It was rendered as a consequence of coercion, extortion, blackmail, pressure or other unauthorised actions;

6) The decision was rendered by a public authority without prior request of the party that was necessary in that administrative matter, whereby the party subsequently did not expressly or tacitly agree to that decision;

7) The decision was rendered by an incompetent public authority or by one public authority without the consent, confirmation or approval of another public authority;

8) A final decision has already been rendered in the same administrative matter, by which this administrative matter has been resolved differently;

9) The decision is based on a judgment rendered in a judicial proceeding which has been finally terminated;

10) It contains a defect which is legally prescribed as a reason for mandatory decision annulment.

In the case referred to in paragraph 1 of this Article, the decision shall be annulled, within ten years from the date when the decision became executive, ex officio or at the request of the party.

The decision shall be annulled by the public authority that rendered the decision, or by the second instance authority or the supervising authority, in accordance with the law.

When the decision referred to in paragraph 3 of this Article was rendered by the first instance public authority, an appeal may be lodged against that decision, and when the decision was rendered by the second instance authority or the authority supervising the administrative procedure, an administrative dispute may be initiated against that decision.

## Illegitimate decision annulment and cancellation

## Article 140

The decision shall be annulled or cancelled, in whole or in part, within three years from the date when the decision became executive, if:

1) It was rendered on the basis of a false document or false testimony of witnesses or expert witnesses or if it was rendered as a consequence of a criminal offence;

2) The decision in favour of a party was rendered on the basis of false allegations of the party that misled the authorised official;

3) A position of a decision of the European Court of Human Rights in the identical matter, rendered by the finality of the decision, may have an impact on the legality of the decision.

In the event of an apparent violation of a substantive regulation, a decision by which a party has acquired a certain right may be annulled or cancelled, depending on the nature of the administrative matter and the consequences that would result from the annulment or cancellation of the decision, within one year from the day when the decision became executive.

In administrative matters involving two or more parties with opposing interests, a decision may be cancelled only upon the consent of the parties having a legal interest.

The decision referred to in paragraph 1 of this Article may be annulled or cancelled by the public authority that rendered it, and in case the decision was rendered by a first instance public authority, it may be annulled or cancelled by a second instance authority as well. If there is no second instance authority, the decision may be annulled or cancelled by a public authority that supervises the work of the authority that rendered the decision. This decision shall be rendered by a public authority ex officio, upon a proposal of a party or other public authority. If a proposal for annulment or cancellation of an illegitimate decision was filed by a party or other public authority, and the authority does not accept the proposal, it shall inform the applicant thereof.

## Legitimate decision cancellation

## Article 141

A legitimate decision by which a party has acquired a certain right may be terminated in whole or in part if:

1) This is necessary to eliminate serious and imminent danger to human life and health, as well as public safety, where this danger could not be eliminated in any other way;

2) The decision is conditional upon an obligation that the party did not fulfil within the deadline.

The decision referred to in paragraph 1 of this Article shall be cancelled, ex officio or at the proposal of another authority, by the public authority that rendered the decision.

## Legal consequences of annulment and cancellation

## Article 142

By annulling the decision, the legal consequences that this decision has produced shall also be annulled.

By cancelling the decision, the legal consequences that this decision has produced shall not be annulled, but further production of legal consequences of the cancelled decision shall not be possible.

A party who suffers real damage as a result of the cancellation of the decision for reasons referred to in Article 141, paragraph 1, item 1 of this Law shall be entitled to compensation for the damage suffered, except for the compensation for lost profits. The decision on the claim for compensation of the damage suffered shall be rendered by the competent court in a civil procedure.

### Changing and annulling a decision related to administrative dispute

## Article 143

A public authority whose decision gave rise to a timely administrative dispute can, until the dispute completion, if it acknowledges all the requests of the petition, annul or change its decision for reasons for which the court could annul such a decision, provided that this does not violate the right of the opposing party in the administrative procedure, or the right of a third party.

# XIII. EXECUTION

### Decision executability

## Article 144

The decision rendered in the administrative procedure shall be executed once it becomes executive. The first instance decision shall become executive:

1) With expiration of the deadline for appeals, if the appeal has not been lodged;

2) With delivery of the decision to the party, if the appeal is not allowed;

3) With delivery of the decision to the party, if the appeal does not delay the execution;

4) With delivery of the decision rejecting the appeal to the party; and

5) On the day when the party waives the right to appeal.

The second instance decision amending the first instance decision shall become executive with the delivery of that decision to the party.

If the decision determines the deadline in which the action that is the subject of the execution can be executed, the decision shall become executable with the expiration of that deadline. If the decision does not determine a deadline for the execution of an action, the decision shall become executable after the expiration of a period of 15 days from the date of delivery of the decision to the party. The deadline for executing the

decision determined by the decision, i.e. the prescribed deadline of 15 days, shall start to run from the day when the decision, within the meaning of paragraph 2 and 3 of this Article, becomes executive.

Execution can be carried out on the basis of a settlement as well, but only against the person who has concluded the settlement.

## Subject of execution

## Article 145

Execution of the decision for the fulfilment of monetary and non-monetary obligations of a person shall be carried out in accordance with this Law (hereinafter: administrative execution).

If execution of the decision for the fulfilment of monetary obligations is carried out on real estate, shares and shares of members in a company, this execution shall be carried out in accordance with the law governing the procedure for enforcing collection of claims.

## Subject of execution and execution petitioner

## Article 146

Administrative execution shall be carried out against a person obliged to fulfil an obligation (hereinafter: subject of execution).

Administrative execution shall be carried out ex officio or at the request of a party.

Administrative execution shall be carried out ex officio when it is required by the public interest, and execution that is in the interest of the party shall be carried out upon the request of the party (hereinafter: execution petitioner).

## Time of execution

## Article 147

Administrative execution shall be carried out on business days from 8:00 to 20:00.

On Sundays, national holidays and after 20:00 hours, the execution actions may be carried out only if there is a danger of delay and if the public authority carrying out the execution has issued a written order to that end.

## Competence for carrying out administrative execution

## Article 148

Apart from the execution of monetary obligations, the administrative execution shall be carried out by the public authority that rendered the decision in the first instance, unless otherwise stipulated by a separate regulation.

If it is prescribed that administrative execution cannot be carried out by the public authority that rendered the decision in the first instance, and no other authority is authorised by a separate regulation, the execution shall be carried out by the competent public authority in whose territory the permanent or temporary residence, or seat of the subject of execution is located, unless otherwise prescribed by law.

The administration body responsible for police affairs shall provide the public authority responsible for carrying out the execution with assistance in carrying out the execution, at its request.

If it is not competent to carry out the execution, the first instance public authority shall, ex officio or upon the request of the execution petitioner, include in a decision being executed a certificate that it has become executive (a certificate of executability) and forward it immediately to the authority responsible for carrying out the execution.

## Decision on execution

## Article 149

The public authority responsible for carrying out the execution shall, ex officio or upon the request of the execution petitioner, render a decision on execution in which it is stated when the decision being executed has become executive, as well as the time, place and manner of execution.

A decision on execution decision may determine an additional deadline for the execution of the obligation or determine that the obligation be executed immediately.

The decision on execution shall be delivered to the subject of execution and the execution petitioner, if rendered upon its request, by personal or indirect delivery.

## Appeal

## Article 150

An appeal against a decision on execution shall be allowed but may relate only to the time, place and manner of execution and cannot challenge the integrity of the decision being executed.

The appeal shall be lodged to the competent second instance authority and shall not delay the execution.

## Execution through other persons

## Article 151

If the obligation of the subject of execution consists in the execution of an act that may be executed by another person as well, and the subject of execution does not execute it at all or does not execute it in whole, this action shall be executed through another person, at the expense of the subject of execution. The subject of execution must be warned in this respect first.

In the case referred to in paragraph 1 of this Article, the public authority carrying out the execution may render a decision ordering the subject of execution to deposit the estimated funds needed to settle the execution costs in advance, and that the calculation of the actual costs is done subsequently. This decision is executive.

## Execution through fines

## Article 152

The public authority carrying out the execution shall first warn the subject of execution that fines would apply if the obligation is not executed within the set deadline. If the subject of execution takes an action in the course of that deadline against the obligation, or if it does not fulfil its obligation within that period, the public authority carrying out the execution shall force the subject of execution to fulfil its obligations by imposing a fine.

A fine shall be imposed by a decision.

A fine imposed on the legal entity for the first time cannot amount to less than 500 euros or more than 5,000 euros, whereas in the case of a natural person it cannot amount to less than 50 euros or more than 500 euros.

An appeal against the decision on a fine shall not delay the execution of the decision.

Fines imposed in accordance with this Law shall be executed by the administration authority competent for public revenue activities, and funds collected from fines shall be paid to the budget of Montenegro.

## Execution through direct coercion

## Article 153

If the execution of a non-monetary obligation cannot be carried out at all or timely in the manner referred to in Art. 151 and 152 of this Law, the execution may also, according to the nature of the obligation, be carried out through direct coercion, unless otherwise prescribed.

## Execution of oral decision

## Article 154

If an oral decision has been rendered, the public authority may order that the execution be carried out without rendering a decision on execution.

## Execution termination and postponement

## Article 155

Administrative execution shall be terminated ex officio if it is determined that the obligation has been executed in whole, that the execution was not allowed at all, that it was carried out against a person who is not obligated, if the execution petitioner waives his / her request, or if the executive document is annulled or cancelled. In case of termination of the execution, the actions carried out shall be annulled, unless the executive document is cancelled.

At the request of the party, and in order to avoid irreparable damage, the public authority that issued the decision may postpone the execution and, if this is necessary, extend the postponement in the execution of

the decision until a final decision is rendered on the administrative matter, unless otherwise provided by law and unless in contradiction with the public interest.

The administrative execution shall be postponed if it is determined that the postponement in the execution of the obligation is allowed, or if, in place of a provisional decision that is executed, a new decision on the main issue was rendered that differs from the provisional decision. The postponement of execution shall be approved by the public authority that issued the decision on execution.

## Counter-execution

## Article 156

When the execution is carried out on the basis of a decision, and it is subsequently annulled, cancelled or changed, the subject of execution shall have the right to request the restitution of what was taken from it, or that the matter be returned to the situation arising from the new decision.

A decision on the request of the subject of execution shall be rendered by the public authority that rendered the decision on execution.

## Securing execution

## Article 157

For the purpose of securing the execution, upon a proposal of the party, or ex officio, certain acts of execution may be carried out even before the decision becomes executable if the subsequent execution could be prevented or significantly impeded.

In the event of execution of obligations that can be executed through coercion only upon a proposal of a party, the execution petitioner must prove as probable the danger of preventing or impeding execution, and the public authority may make the taking of acts of execution conditional upon depositing of a certain amount of money for the damage that could arise for the opposing party in case the request of the execution petitioner is not upheld by an executive decision on the administrative matter.

Execution for security may also be allowed when the obligation of the subject of execution is determined or proven as probable by the execution petitioner, if there is a danger that the subject of execution would prevent or significantly impede the execution of the obligation by disposing of the property or through arrangement with third parties or in another manner.

A provisional decision shall be rendered on execution for security referred to in paragraph 1, 2 and 3 of this Article.

When an executive decision on administrative matter determines that there is no obligation of the party that was determined by a provisional decision or when it is otherwise determined that the request for rendering a provisional decision was unfounded, the execution petitioner in favour of which the provisional decision was rendered shall compensate the opposing party for the damage caused to it through the execution of a provisional decision.

The compensation shall be decided upon by the public authority that rendered the provisional decision. If it is apparent that the provisional decision was rendered based on the abuse of rights by the execution

petitioner, the execution petitioner shall be fined in the amount of average annual gross salary in Montenegro in the previous year, according to the data of the administration body responsible for statistical affairs.

An appeal against the decision on a fine shall not delay execution of the decision.

## XIV. RECORDS

### Keeping records

### Article 158

The public authorities shall keep records of action-taking in administrative matters.

The records referred to in paragraph 1 of this Article shall in particular contain information on: the number of initiated administrative procedures, at the request of the party and ex officio, the manner and the deadlines for resolving administrative matters in the first and second instance procedures, the number of upheld and rejected requests, the number of annulled or cancelled or changed decisions, the number of terminated procedures, the number of concluded administrative contracts, the number of decisions on objections, the number and type of issued certificates and other documents on the facts that are kept / not kept in the official records, the number of annulled or cancelled illegitimate decisions, as well as on the number of cancelled legitimate decisions referred to in Article 141 of this Law.

The public authorities shall keep the data referred to in paragraph 2 of this Article and report on them by the administrative areas.

### Report on action-taking in administrative matters

### Article 159

The public authorities shall submit the annual reports on action-taking in administrative matters to the state administration body or local self-government body responsible for a certain administrative area, no later than by the end of January of the current year for the previous year.

The state administration body or local self-government body responsible for a certain administrative area shall submit the report referred to in paragraph 1 of this Article to the state administration body responsible for administration affairs for the purpose of integration, no later than by the end of February of the current year for the previous year.

The content of the report referred to in paragraph 1 of this Article as well as the detailed content and manner of keeping records referred to in Article 158 of this Law shall be prescribed by the state administration body responsible for administration affairs.

## XV. SUPERVISION

### Supervision over implementation of the Law

### Article 160

Supervision over the implementation of this law shall be carried out by the state administration body responsible for administration affairs. Inspection over the implementation of this Law shall be carried out by administrative inspectorate.

## XVI. TRANSITIONAL AND FINAL PROVISIONS

### Completion of initiated procedures

### Article 161

Procedures that have not been finally completed by the date of beginning of implementation of this Law shall be completed according to the provisions of the Law on General Administrative Procedure (Official Gazette of Montenegro 60/3 and 32/11).

### Adoption of by-laws

### Article 162

The regulations for implementation of this Law shall be adopted by 1 January 2016.

### Termination

### Article 163

On the day of beginning of implementation of this Law, the Law on General Administrative Procedure (Official Gazette of the Republic of Montenegro 60/3 and Official Gazette of Montenegro 32/11) shall cease to apply.

### Entry into force and beginning of implementation

### Article 164

This Law shall enter into force on the day of its publication in the Official Gazette of Montenegro, and shall begin to apply from 1 July 2017.