

HUNGARY

**Act XXIII of 1992 on the
Legal status of public officials**

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The pre-condition of democratic public administration generally esteemed by society is that public affairs be conducted by impartial public officials neutral to party politics, operating legitimately and possessing up-to-date special knowledge. In order to achieve this, the Parliament shall frame the following act with consideration given to international obligations of the Republic of Hungary, as well:

Chapter I

INTRODUCTORY PROVISIONS

Article 1

- (1) The scope of this act covers the public service legal relationship of public officials, administrators and blue-collar workers of the Prime Minister's Office, the ministries and agencies of nation-wide authority (henceforth jointly: central public administration agencies), regional and local agencies, public administration offices of the counties and the capital, office of the representative body and official administrative associations of local governments, notarial districts (henceforth jointly: office of representative body).
- (2) In the lack of differing provision of any act, the provisions of this act shall govern the public service legal relationship of public officials, administrators and blue-collar workers of the Office of the President of the Republic, the Office of the Parliament, the Office of the Constitutional Court, the Office of the Commissioner of the Parliament, the State Audit Office, the Council of Public Procurement, the Office of the National Radio and Television Board and the Office of Economic Competition.
- (3) Remunerations and benefits received by the Head of the Office of the President of the Republic and of the Office of the Constitutional Court, and the Heads of the Office of the Parliament shall equal that of under-secretaries of state, by the Head of the Office of the Commissioner of the Parliament and by the deputies of heads of offices and executives in the rank of deputies of heads of offices shall equal that of deputy under-secretaries of state.
- (4) The scope of Paragraphs (5) and (6) of Article 17/A covers employers and employees being in their employment if the employment is established in accord with Paragraph (3) of Article 17/A
- (5) With regard to the application of this act, public officials are senior officials and executives acting in the scope of responsibilities and authorities of agencies listed under Paragraphs (1) and (2) (henceforth jointly: public administration agency) and performing decisive or specific functions; administrators are those performing administrative functions at public administration agencies; all other employees are regarded as blue-collar workers.

Article 2

The scope of this act does not cover

- a) with the exception of the system of remuneration and the exceptions set forth in the act governing their legal status, the Prime Minister, the ministers and the parliamentary under-secretaries of state;

- b) in the lack of differing provision of any act, the agencies of the Hungarian Army, the Customs Guard, the Police, the National Security Services, the Guardian Regiment of the Republic, the Fire-Department, the Customs and Finance Guard, the Law Enforcement, the Civil Defence and the Armed Security Guard;
- c) in the lack of differing provision of any statutory law, those employed for performing public services subject to the scope of responsibilities of local governments - in the Mayor's Office;
- d) those employed within the framework of assignments in the interest of the public and of communal works.

Article 3

- (1) Provisions of this act - with the exception of Article 20/A, Articles 23 through 30/A and Articles 32 through 36 - are to be applied for
 - a) the public administration under-secretary, deputy under-secretary - if not stipulated otherwise in the act on their legal status, and
 - b) public officials appointed to the positions of political chief consultants and political consultants (Article 11/A).
- (2) Provisions of this act are to be applied accordingly for judges appointed to the Ministry of Justice, if not stipulated otherwise in any act.

Article 4

The representative-body of self-governments may in a decree conclude more advantageous rules regarding the performance of work, the work and recess hours and other benefits compared to the specifications of this act for public officials of the office of the representative-body.

Chapter II

COMMENCEMENT AND TERMINATION OF PUBLIC SERVICE LEGAL RELATIONSHIP

Subjects of public service legal relationship

Article 5

The public service legal relationship is a legal relationship established between the state and the self-government and a public official, an administrator or a blue-collar worker employed on their behalf for the purpose of performing work, in which both parties bear unique obligations and are entitled to unique rights.

Article 6

- (1) If not stipulated otherwise in any act of government decree, then employer's rights are exercised by the head of the official organisation of the public administration agency (henceforth: official organisation) or the body. In the lack of differing provisions of any

act, the authority of employer may be delegated to a public official of the official organisation in a senior position.

- (2) If the appointment of a public official is subject to the scope of authority of the body, then the body may not delegate the appointment, the dismissal and the conclusion of incompatibility, and the initiation of disciplinary action and the infliction of disciplinary punishment - with the exception of Paragraph (2) of Article 51.

BH1997 464. I. The act on local governments does not preclude the authorisation of the mayor to delegate the exercising of employer's authorities specified with regard to head of self-governmental institutions to the authority of the notary [Sections a) and e) of Paragraph (2) of Article 35 of Act LXV of 1990, Paragraph (1) of Article 6 of Act XXIII of 1992].

Establishment of public service legal relationship

Article 7

- (1) Public service legal relationship may be established with Hungarian nationals having a clean record and an unlimited capacity of action and at least a secondary school qualification - with the exception of Paragraph (3) of Article 70. Public service legal relationship for important and confidential positions set forth in legislation may only be established with those meeting the security criteria prescribed for the position and required in order for the state life and the national economy to operate legitimately. If the person concerned states the intention of not willing to be subjected to the obligations associated with important and confidential positions, then this person must be regarded as not meeting the security criteria.
- (2) Statutory laws - or the person exercising employer's authority in instances set forth in statutory laws - may in addition to the specifications under Paragraph (1) prescribe certain educational certificates, qualifications or apprenticeships as conditions for the establishment of public service legal relationship.
- (3) Employment criteria set forth in this act may not be waived with the exceptions specified under Paragraph (4) and under Paragraph (2) of Article 8.
- (4) In the lack of prohibiting provisions of any statutory law, the representative-body of municipal self-governments may waive qualification criteria in particularly reasonable events. The duration of such waiver may not exceed the period required for obtaining the particular qualification. The public service legal relationship of the public official shall be terminated upon unsuccessful expiration of the duration of such waiver.
- (5) Central public administration agencies may not employ public officials with secondary qualifications within the framework of its basic activities. Basic activities of public administration agencies with respect to qualification requirements are qualified as what is subjected to the scope of responsibilities of an agency in statutory laws and what is set forth by a minister or the head of an agency with nation-wide authority in this scope as basic activities.

Article 8

- (1) A person may be appointed as notary, district-notary, head or deputy notary of district office of a town of county rank (henceforth jointly: notary) if
 - a) possessing a PhD decree in administration management or state and legal sciences, and
 - b) obtaining a public administration practice of at least two years.
- (2) With the exception of district-notaries and notaries of municipalities with a population of over 5,000 capita, the representative-body of municipal self-governments
 - a) may waive a person the qualification criteria specified under section a) of Paragraph (1) who has commenced studies aimed at obtaining the prescribed qualification; the duration of such waiver may not exceed the period required for obtaining the particular qualification. The public service legal relationship of the public official shall be terminated upon unsuccessful expiration of the duration of such waiver.
 - b) may reduce or release the practice prescribed specified under section b) of Paragraph (1).
- (3) A person may be appointed as chief notary - and as deputy notary substituting the chief notary - if
 - a) possessing a PhD decree in state and legal sciences or an MBA decree, and
 - b) obtaining a public administration practice of at least two years at a public administration agency.

Article 9

- (1) Public service legal relationship may not be established if a public official would enter into a controlling (monitoring), supervising or accounting relation with any relatives.
- (2) The representative-body of municipal self-governments and the minister supervising the foreign service network may waive the prohibition specified under Paragraph (1) in particularly reasonable instances if not stipulated otherwise in any statutory law.
- (3) Public service legal relationship may not be established if the office of a public official listed under Paragraph (1) of Article 21/A would be incompatible with the position to be filled and with the obligations arising from such position.

Disclosure and tender

Article 10

- (1) The entity exercising employer's authority shall notify the Ministry of Internal Affairs on any vacancy in the positions of the heads and public officials of public administration agencies - with the exception of the position of public administration under-secretary and deputy under-secretary - within 15 days in the order set forth by the Minister of Internal Affairs, provided that the vacant position is not filled within this deadline. The Ministry of Internal Affairs shall regularly disclose any vacant position in its official journal.
- (2) If the entity exercising employer's authority invites a tender or the invitation of a tender is prescribed by a statutory provision for filling a public official's position, then the tender invitation must include all required criteria in order to win the tender and the deadline for the evaluation of the tender.

- (3) The tender invitation must be disclosed in the official journal of the Ministry of Internal Affairs. The tender invitation must include all required criteria in order to win the tender. The deadline for submitting a tender application may not be less than 15 days reckoned from the publication of the tender invitation.
- (4) A preparatory panel of at least three members (henceforth: panel) may be established upon decision of the entity exercising employer's authority for the preliminary evaluation of tender applications. If a panel is established, then a representative of the body representing the interests of employees operating at the public administration agency may also be involved.
- (5) The entity exercising employer's authority shall decide the tender applications with consideration given to the ranking set by the preparatory panel - in the event set forth under Paragraph (4), otherwise without consideration given to that - within 30 days reckoned from the deadline specified for the submission - if this entity is a body then at its subsequent session. Only a public official participating in the tender procedure and meeting the tender criteria may be appointed.
- (6) Applicants must be notified on the result of the tender in writing immediately, but within 8 days at the latest. Applicants failing to win the tender must receive their full tender application material along with such notification. Contents of any application submitted may only be disclosed to a third party - other than those participating in the evaluation of the tender and those authorised in Paragraph (1) of Article 63 to access them - upon consent of applicant.

Appointment

Article 11

- (1) Public service legal relationship is established for an indefinite term upon appointment and its acknowledgement - with the exceptions specified under Paragraph (2) and under Articles 11/A and 11/B. Appointment and its acknowledgement - and all other important legal statements concerning the public service legal relationship - must be in writing
- (2) Public service legal relationship may also be established for a definite term for the purpose of substitution or performance of a specific task with a person meeting the criteria set forth under Article 7. The period of public service legal relationship for a definite term must be defined by the calendar or in any other suitable manner.
- (3) Public officials appointed in accord with Paragraph (2) must be classified in accord with Article 23 and their remuneration must be determined in accord with Articles 43 and 44. If the term of the appointment does not exceed one year, the provisions of this act shall not be applicable to the career advancement of the public official.
- (4) The information and facts required for the establishment of public service legal relationship and for the classification of a public official must be evidenced by the public official. Public officials are obliged to deliver the certificates issued upon the termination of their previous employment legal relationships to the public administration agency on the first day of their employment at the latest.
- (5) The document of appointment must include the classification class, classification and payment category serving as the basis for the classification of the public official, the remuneration, the position and the scope of responsibilities set forth in separate

legislation, the place of work, and the obligations prescribed for career advancement. The document of appointment may also regulate other issues concerning the public service legal relationship. The job description of the public official must be attached to the document of appointment.

Article 11/A

- (1) The public administration under-secretary of the Prime Minister's Office may reclassify the positions of chief government advisors and government advisors to the positions of chief political advisors and political advisors in the Prime Minister's Office for the performance of functions directly related to the preparation of the Government's decisions and to the activities of the Prime Minister.
 - (2) The minister may reclassify the positions of chief ministerial advisors and ministerial advisors to the positions of chief political advisors and political advisors in the ministerial cabinet or - in the lack of this - at the ministerial secretariat for the performance of functions directly related to the activities of the minister.
 - (3) The representative-body - with the exception of municipal self-governments - may establish the positions of chief self-governmental advisors and self-governmental advisors (henceforth: chief political advisors, political advisors) in the office of the representative-body for the performance of functions directly related to the preparation of the decisions of the representative-body and its committees or to the activities of the mayor, the chief mayor, the chairman of the county assembly (henceforth: mayors).
 - (4) The number of positions set forth in Paragraphs (1) and (2) are determined by the Government for each public administration agency. The positions defined in accord with Paragraphs (1) through (3) are to be listed in the appendix of the organisational and operational regulations (rules of procedure).
 - (5) Persons with higher education qualifications and meeting other criteria prescribed under Paragraph (1) of Article 7 may be appointed to the positions of chief political advisors and political advisors. Appointments are valid for the period of the assignment of the Government, the minister, the representative-body and its committee, or the mayor. Employer's rights over chief political advisors and political advisors are exercised by
 - a) the Chief of Staff of the Prime Minister in case of Paragraph (1),
 - b) the minister in case of Paragraph (2),
 - c) the mayor in case of Paragraph (3).
 - (6) Chief political advisors and political advisors - regardless of the period serviced in public service legal relationship - are classified as
 - a) special chief counsellors or chief counsellors in instances set forth under Paragraphs (1) and (2),
 - b) chief counsellors or counsellors in instances set forth under Paragraph (3).
- Chief political advisors and political advisors - regardless of their classification - are entitled to personal remuneration the amount of which shall be determined by the entity exercising employer's authority set forth under sections a) through c) of Paragraph (5). These positions may not be included in the restriction of 20 % set forth in section b) of Paragraph (5) of Article 42.

- (7) If the public service legal relationship of chief political advisors and political advisors are terminated due to the termination of the assignment of the Government, the Prime Minister, the minister, the mayor, the representative-body or its committee, then they are entitled to two months of their remuneration by virtue of severance pay, provided that the legal relationship of the chief political advisor or the political advisor has been continuously maintained for at least two years.

Article 11/B

- (1) Probation period may also be specified in the appointment upon the establishment of the public service legal relationship.
- (2) The probation period may not exceed six months. Prolongation of the probation period is prohibited. The probation period must be included in the apprenticeship in case of job entrants.
- (3) The public service legal relationship may be terminated by either party with immediate effect during the probation period.
- (4) No probation period may be specified if selection is done through a tender prescribed in statutory law or if there is a senior official appointment or assignment upon establishment of the public service legal relationship.

Article 12

- (1) Public officials must take the oath of office upon appointment.
- (2) The wording of the oath is the following:

"I pledge allegiance to my country, the Republic of Hungary; I shall abide by the Constitution and the constitutional statutory laws; I shall keep state and service secrets, I shall perform my official duties impartially, conscientiously, solely in line with statutory laws, accurately, according to the best of my knowledge in servicing the interests of the nation (and the self-government of)!"

Article 13

If the invalidity of appointment is concluded prior to the commencement of employment, then the public official may not commence employment without redressing it. If the entity exercising the authority of appointment becomes aware of a reason for invalidity following the commencement of employment, then the public official must be prohibited from performance of work until the invalidity is redressed.

Article 14

- (1) Scope of the appointment may only be modified upon mutual consent of the public administration body and the public official. Consent of public official is not required for
 - a) promotion in salary categories,
 - b) measures specified in accord with Paragraphs (2) and (7) of Article 31,

- c) re-organisation within the public administration agency - if the public service legal relationship, the scope of responsibilities and the remuneration are left unchanged, and for
 - d) modification of amendment justified by a change in the entity of the public administration agency due to legal succession - if the public service legal relationship, the scope of responsibilities, the remuneration and the place of work are left unchanged.
- (2) The public administration agency, the public official and another public administration agency may agree on transferring the public official to another public administration agency for fixed term or finally. Upon expiration of the fixed term the public official must be transferred back to the original public administration agency with consideration given to the rules of career advancement. In case of final transfer, the transferring public administration agency may not refuse to grant its consent, provided that the time elapsed between the receipt of such request and the requested date of the transfer exceeds two months.
- (3) In case of final transfer, the procedure to be followed with respect to the public service certificate and to the issuing of the remuneration and other emoluments of the public official with the exception of vacation is the same as if the public service legal relationship had been terminated.

Termination of public service legal relationship

Article 15

- (1) Public service legal relationship is terminated:
- a) upon expiration of the fixed term specified in the appointment;
 - b) upon decease of the public official;
 - c) in instances set forth in this act by power of this act;
 - d) upon deprivation of office with disciplinary punishment.
- (2) The public service legal relationship may be terminated:
- a) upon mutual agreement of the parties;
 - b) upon transfer to agencies subject to statutory laws regulating civil servant or official service legal relationships;
 - c) upon resignation;
 - d) upon dismissal;
 - e) during the probation period with immediate effect.

Article 16

- (1) Public officials may at any time resign from the public service legal relationship.
- (2) The term of notice is two months in case of public officials. parties may agree on a period shorter than this. The term of notice in case of fixed term public service legal relationships may not extend beyond the period specified in the appointment.

Article 17

- (1) The public service legal relationship may - with the limitation set forth in Paragraphs (3) and (4) - be terminated upon dismissal if
 - a) the public administration agency is terminated without legal successor;
 - b) work-force cut has to be implemented within the official organisation of the public administration agency upon the decision of the Parliament, the Government or the representative-body of a self-government, and if further employment of the public official is not possible for this reason;
 - c) the activity of the public administration agency within the scope of which the public official was employed is terminated;
 - d) the position has become unnecessary due to re-organisation;
 - e) the public official proves to be incapable of fulfilling the responsibilities;
 - f) the public official is eligible for old-age pension or is receiving disability pension.
- (2) Employer must give a reasoning of the dismissal. The reason for dismissal must be displayed clearly in the reasoning and employer must prove that the reason for dismissal is real and reasonable.
- (3) Public officials may be dismissed in accord with sections b) through d) of Paragraph (1) if there are no other vacant positions complying with their qualification and classification in the official organisation or at a public administration agency under its control, or if they do not give their consent to their transfer to such positions.
- (4) If the incapability referred to under section e) of Paragraph (1) is a consequence of some medical reason, then the public official may be dismissed if there is no vacant position complying with the qualification, classification and physical condition of the public official in the official organisation or at a public administration agency under its control, or if the public official does not give consent to the transfer to such position. A vacant position complying with the qualification and physical condition of the public official must be offered to the public official even if the position does not comply with the classification of the public official. In this case if no consent is given to such transfer, then the public official will be entitled to the full amount of the severance pay.
- (5) If the incapability referred to under section e) of Paragraph (1) is not a consequence of some medical reason, then the public official may only be dismissed if employer has classified the public official in a qualification procedure as incapable of fulfilling the responsibilities.
- (6) The public administration agency is obliged to dismiss a public official eligible for old-age pension or receiving disability pension in accord with section f) of Paragraph (1) if the public official initiates dismissal under this title.
- (7) if the public administration agency is terminated without legal successor, then employer's measures related to the termination of public service legal relationships and to the functions set forth in Paragraphs (2) and (5) of Article 20/A shall be adopted by the supervisory agency of the public administration agency, if not stipulated otherwise in a statutory law.

Article 17/A

- (1) The public service legal relationship is terminated in accord with section a) of Paragraph (1) of Article 17 if the scope of this act will not cover the legal successor employer anymore due to a change in the organisation or the legal status of the employer.
- (2) Employer shall notify the public official on the change in the organisational legal status at least 60 days prior to the change. The public official at the same time has to be notified in writing whether the new employer will agree to employ the public official further or not.
- (3) If the new employer agrees to employ the public official further, then the person in public service legal relationship will give a written statement within 30 days reckoned from the notification whether granting consent to such further employment or not. In case of consent, the public official will be transferred to a budgetary agency, or will conclude a contract of employment in case of other employers.
- (4) If the public official does not grant consent to such further employment or does not give a statement within the deadline set forth in Paragraph (3), then the public service legal relationship must be terminated in accord with section a) of Paragraph (1) of Article 17.
- (5) If the public official concludes a contract of employment, then the public service legal relationship preceding such conclusion has to be regarded as if it had been serviced at the new employer. In case of public service legal relationship for indefinite term, employment for indefinite term has to be established.
- (6) Unlike the specifications of Paragraph (5), the period of employment serviced at the new employer is to be calculated from the date specified under Paragraph (1) with regard to the term of notice and the severance pay. The term of dismissal and the amount of severance pay calculated in accord with the rules of this act prevailing at the date set forth in Paragraph (1) and on the basis of the period of the preceding public service legal relationship have to be added to the term of notice and the amount of severance pay.
- (7) Rules of Paragraphs (1) through (6) have to be applied accordingly if part (organisational unit) of the employer is terminated and no agency subject to the scope of this act is established at the same time for the fulfilment of the particular responsibilities.

Article 17/B

- (1) It is a mass work-force cut if the number of public officials scheduled to be dismissed from the public administration agency - within thirty days - in accord with sections b) through d) of Paragraph (1) of Article 17 is
 - a) at least 5 employees if less than 20 public officials are employed.
 - b) at least 10 employees if more than 20 but less than 100 public officials are employed,
 - c) at least 10 % of public officials if 100 or more than 100 but less than 300 public officials are employed,
 - d) at least 30 employees if 300 or more than 300 public officials are employed.
- (2) Prior to the decision ordering the work-force cut at agencies specified under section b) of Paragraph (1) of Article 17, the Minister of Internal Affairs will convene the Public Officials' Interest-Conciliation Forum (henceforth: KÉF), the representative-body will in the mayor's office and in the office of the county self-government convene the parties participating in the conciliation of interests of public officials at their place of work

(henceforth: conciliation of public service interests) - provided that there exist such - and will initiate negotiations with those participating in the conciliation of interests. The negotiations must cover the possible methods and means of avoiding mass work-force cuts or the reduction of the number of public officials concerned, and the solutions aiming at the easing of consequences.

Prior to the negotiations, the negotiating parties must be informed on the following:

- a) the reasons for the scheduled mass work-force cut;
 - b) the number of public officials concerned in the work-force cut;
 - c) the number of employees of public administration agencies involved in the work-force cuts with respect to the period preceding the decision;
 - d) the proposed time-schedule for the execution of the work-force cut;
 - e) the criteria for the selection of public officials involved in the work-force cut.
- (3) The conciliation of public service interests has to be initiated at a date prior to the decision regarding the mass work-force cut when there is at least 30 days for preparations for the consultation.
 - (4) The public administration agency throughout the execution of the mass work-force cut is obliged to invite the opinion of the agency representing the interests of employees and operating at the public administration agency.
 - (5) The public administration agency shall inform the public official concerned, and the labour centre competent according to the seat of the public administration agency in writing on the decision regarding the mass work-force cut at least thirty days prior to the announcement of dismissal. The public administration agency is obliged to report the names, last positions, special qualifications and average salaries of public officials concerned in the work-force cut to the labour centre.
 - (6) The public administration agency is obliged upon a decision in accord with Paragraph (5) to directly forward the information of the public officials concerned in accord with Appendix 5 of the act - at least 30 days prior to the announcement of dismissal - to the central public service register - in the order set forth by the Government - in order to facilitate the re-employment of the public officials within the public administration.
 - (7) In case of mass work-force cuts, the presence of dismissal prohibitions will be governed by the date of notification specified under Paragraph (5).
 - (8) The consultation obligation set forth in Paragraph (2) and the notification obligation set forth in Paragraphs (5) and (6) are to be fulfilled by the supervisory agency of a public administration agency being terminated without legal successor, if not stipulated otherwise in a statutory law.
 - (9) Dismissals announced in breach of the specifications of Paragraphs (2) and (5) are invalid.

Article 18

- (1) The term of dismissal is six months.

- (2) In case of terminating fixed term public service legal relationships the term of dismissal may not extend beyond the date when the public service legal relationship would have ended according to the appointment without dismissal, anyway.
- (3) Public officials must be released from the obligation to perform work for at least half of the term of dismissal, they are entitled to remuneration for this period.

Severance pay

Article 19

- (1) Public officials are entitled to severance pay in case of dismissal - with the exception specified under Paragraph (8).
- (2) The amount of severance pay if the period serviced by the public official in public service legal relationship
 - a) does not exceed five years, is two months,
 - b) does not exceed eight years, is three months,
 - c) does not exceed twelve years, is six months,
 - d) does not exceed twenty years, is nine months,
 - e) exceeds twenty years, is twelve monthsof remuneration due upon commencement of dismissal. The amount of severance payment must be indicated on the public service certificate.
- (3) Only the public service legal relationship serviced at public administration agencies may be taken into account when determining the amount of severance pay.
- (4) Upon termination of public service legal relationship established repeatedly, only the period services in public service legal relationship following the previous severance pay due in accord with Act XLVIII of 1995 on amendment of certain acts designed for economic stabilisation may be taken into account as the basis for the severance pay. In case of terminating fixed term public service legal relationship through dismissal in accord with Paragraph (2) of Article 11, the period between the appointment and the dismissal must be taken into account.
- (5) With respect to the application of Paragraphs (3) and (4) the following is to be regarded as period serviced in public service legal relationship:
 - a) period serviced at legal predecessor employer.
 - b) period serviced in public service, civil servant legal relationship, or official service relationship and in employment until July 1, 1992 in case of transfers,
 - c) period serviced in official service relationship in case of re-rating.
- (6) Public officials are entitled to fifty percent of the amount of severance pay if they are dismissed due to the lack of consent to transfers in accord with Paragraphs (3) and (4) of Article 17. with the exception of refusal of consent for well-established reasons. in particular if
 - a) the amount of remuneration offered is less than 80 % of previous remuneration.

- b) a position associated with longer or shorter weekly mandatory work hours than the previous weekly mandatory work hours is offered,
- c) fixed term employment is offered instead of the previous employment for indefinite term,
- d) if the time spent with travelling to and from the new place of work and the place of residence - with means of mass transportation - exceeds two hours per day or one and a half hour per day in case of public officials raising children under the age of 10.

The remuneration according to the classification of the public official has to be taken into consideration with respect to the application of section a) even if personal remuneration, title, chief consultant or consultant assignment has been granted.

- (7) The remuneration for the term of dismissal has to be disbursed on the last work day associated with the obligation to perform work, the severance pay has to be disbursed on the last day of the term of dismissal. The head of the official agency may however decide - upon request of the public official to disburse the amount of severance pay on the last day spent in work.
- (8) Public officials are not entitled to severance pay if
 - a) dismissal has taken place during their apprenticeship;
 - b) they are entitled to old-age pension, granted service or dispensation pension, or receiving disability pension on the date of the termination of public service legal relationship at the latest;
 - c) they are dismissed for incapacity other than for medical reasons;
 - d) their public service legal relationship has been terminated in accord with Paragraph (1) of Article 17/A and if they are establishing legal relationships aiming at employment in accord with Paragraph (3) of Article 17/A with the new employer.

BH1997 557. With respect to the amount of severance pay upon termination of public service legal relationship through dismissal, the periods specified by law also have to be taken into consideration as period serviced in public service legal relationship (Paragraphs (4) and (5) of Article 19 of Act XXIII of 1992), in addition to the period of legal relationship maintained with the employer.

BH1996 67. Public officials are entitled to compensation corresponding to their average salary for their prescribed term of dismissal - similarly to civil servants and those in employment - and this is not precluded by the fact that the regulation of the Civil Servants Act on severance pay refers to the amount of compensation due to public officials in connection with the regulation of severance pay by not the artificial term "average salary" but by the term "remuneration" (Paragraph (1) of Article 19 and Paragraph (2) of Article 71 of Act XXIII of 1992, section g) of Paragraph (2) of Article 151 of Act XXII of 1992).

Article 19/A

With respect to the application of section f) of Paragraph (1) of Article 17 and of section b) of Paragraph (8) of Article 19, public officials are entitled to old-age pension if attaining the old-age pension age-limit and possessing the period of service required for old-age pension - with consideration given to the exemption by age provided for in certain positions by the social insurance statutory laws.

Article 20

Public officials are also entitled to severance pay in instances specified under Paragraph (4) of Article 60.

Reserves

Article 20/A

- (1) If a public official employed by a public administration agency is dismissed from public service legal relationship for reasons set forth in sections a) through d) of Paragraph (1) of Article 17, then the public official has to be enlisted in the reserves for the period of the term of dismissal at the most - provided that the offering of a position in accord with Paragraph (3) of Article 17 is not successful - in order to have a public official post complying with the qualification and the classification of the public official, or in case of appointed senior officials a senior official post offered at another public administration agency. If the public official does not grant consent to being enlisted in the reserves or is deleted from the reserves upon request, then the public official is entitled to half the prevailing severance pay. Enlistment in the reserves shall be terminated upon the termination of public service legal relationship.
- (2) The head of the official organisation of the public administration agency will provide for the enlistment in the reserves. The central public service register of the Ministry of Internal Affairs shall be notified on such measure without delay and in accord with the order set forth by the Government (Article 62).
- (3) During the course of enlistment in the reserves, the central public service register will be responsible for seeking another public official position that may be offered to the public official, by using the professional and positional information of the public official and the agencies set forth under Paragraph (1), in accord with the manner set forth by the Government. The heads of public administration agencies having vacant public official positions will be informed on the enlistment in the reserves and on the information of the public official set forth in this decree following the notification sent on the enlistment in the reserves.
- (4) The head of the public administration agency receiving the request will on the basis of information made available decide within the authority of judgement on the employment of the public official enlisted in the reserves. The central public service shall be notified on such decision in accord with the order set forth by the Government. In case of the consent of the public official, the transfer has to be provided for upon employment of the public official. In this event, the employer's action aiming at dismissal shall be withdrawn in accord with the date of the transfer; this however does not concern the legal grounds for remuneration already disbursed during the term of dismissal until the withdrawal of dismissal. If the public official does not grant consent to the transfer, then the procedure specified under Paragraph (6) of Article 19 has to be followed.
- (5) During the enlistment in the reserves the regulations regarding the dismissal and the disbursement of severance pay have to be applied with the following deviations:
 - a) public officials are entitled to the remuneration due for the term of dismissal in equal monthly instalments,
 - b) the severance pay may only be disbursed on the last day of the term of dismissal.

- (6) In case of withdrawal of the senior official assignment of a public official employed at the public administration agency - depending on the consent of the public official -, the public official may be enlisted in the reserves for six months at the most in order to have another senior official post complying with the qualification of the public official offered at another public administration agency.
- (7) Public officials have to be re-classified following the withdrawal of senior official assignments. The head of the official organisation of the public administration agency will decide the enlistment in the reserves - upon consent of the public official. The central public service register of the Ministry of Internal Affairs shall be notified on such decision without delay and in accord with the order set forth by the Government (Article 62).
- (8) The enlistment in the reserves is without prejudice to the rights and duties arising from the public service legal relationship of the public official.
- (9) Enlistment in the reserves has to be cancelled if within six months the public official
 - a) is transferred to a new position;
 - b) is granted a senior official assignment, appointment;
 - c) requests deletion from the reserves.
- (10) During the course of enlistment in the reserves, the central public service register will be responsible for seeking another senior official position or possible appointment that may be offered to the public official, by using the professional and positional information of the public official and the agencies set forth under Paragraph (1), in accord with the manner set forth by the Government. The heads of public administration agencies having vacant senior official positions will be informed on the enlistment in the reserves and on the information of the public official set forth in this decree following the notification sent on the enlistment in the reserves.
- (11) The head of the public administration agency receiving the request will on the basis of information made available decide within the authority of judgement on the employment of the public official enlisted in the reserves as a senior official. The central public service shall be notified on such decision in accord with the order set forth by the Government. In case of the consent of the public official, the transfer has to be provided for upon employment of the public official.

Incompatibility

Article 21

- (1) Public officials - in addition to other assignments set forth by law - may not be a representative of a local government at the self-government operating in the jurisdiction of the public administration agency employing the particular public official.
- (2) Public officials may only establish other and further legal relationships - with the exception of scientific, educational, artistic, literary advisory, editorial activities and intellectual activities subject to legal protection - with the consent of the entity exercising employer's authority.
- (3) Public officials with senior official assignment may not establish other and further legal relationships associated with performance of work - with the exception of scientific,

educational, artistic, literary advisory, editorial activities and intellectual activities subject to legal protection.

- (4) Notaries may establish further public service legal relationships in order to substitute other notaries - upon agreement of the representative-bodies.

(5) Public officials

- a) may not conduct activities being unworthy of the office of the public official or threatening the impartial and unbiased activities of the public official;
- b) may not hold a post in any part, may not appear in public on behalf or in the interest of any party - with the exception of participation in the parliamentary or self-governmental elections as candidates.

BH1993 204. Public officials may not hold a post in any part, may not appear in public on behalf or in the interest of any party. Should a public official fail to terminate incompatibility within 30 days reckoned from the notification, the public service legal relationship of the public official will be terminated (Section b) of Paragraph (4) of Article 21, Paragraph (1) of Article 22, Paragraph (1) of Article 49, Paragraph (5) of Article 73 and Paragraph (7) of Article 75 of Act XXIII of 1992).

Article 21/A

- (1) Public officials are to report to the entity exercising employer's authority in writing in advance any invitation to be a senior officer or a member of the board of supervisors at a business venture and without any delay the termination of such posts.
- (2) Public officials are to report to the entity exercising employer's authority any change in the activities of the business venture without any delay.
- (3) The entity exercising employer's authority shall within 8 days reckoned from the reporting of the public official - within its authority of judgement - decide whether the post set forth in Paragraph (1) is incompatible with the post and the arising obligations of the public official or not, with consideration given to section a) of Paragraph (5) of Article 21. The public official shall be notified in writing accordingly.

Article 22

- (1) Public officials are obliged to report it in writing if any reason for incompatibility set forth by law arises in connection with them or if encountering a incompatible situation during the term of their public service legal relationship. The entity exercising employer's authority is obliged to demand public officials to eliminate such incompatibility. In case a public official fails to terminate incompatibility within 30 days reckoned from the receipt of such notification, the public service legal relationship of the public official will be terminated.
- (2) If the incompatibility according to Paragraph (9) arises during the term of the public service legal relationship, than in the lack of an agreement between those concerned, the entity exercising employer's authority shall decide the public service legal relationship of which public official is terminated.

BH1993 204. Public officials may not hold a post in any part, may not appear in public on behalf or in the interest of any party. Should a public official fail to terminate incompatibility within 30 days reckoned from the notification, the public service legal relationship of the public official will be terminated (Section b) of Paragraph (4) of Article 21, Paragraph (1) of Article 22, Paragraph (1) of Article 49, Paragraph (5) of Article 73 and Paragraph (7) of Article 75 of Act XXIII of 1992).

Chapter III
SCOPE OF PUBLIC SERVICE LEGAL RELATIONSHIP

Career development of public officials

Article 23

Public officials have to be classified in accord with their educational qualifications and their periods serviced in public service legal relationship if meeting the criteria set forth in this act, with the exceptions specified under Article 32.

Article 24

- (1) Job entrants shall receive a classification of trainee.
- (2) Public officials with higher educational qualifications may receive a classification of
 - a) junior clerk II after a period of one year spent in the classification of trainee;
 - b) junior clerk I after a period of five years spent in public service legal relationship;
 - c) secretary II after a period of nine years spent in public service legal relationship;
 - d) secretary I after a period of thirteen years spent in public service legal relationship;
 - e) counsellor II after a period of seventeen years spent in public service legal relationship;
 - f) counsellor I after a period of twenty- one years spent in public service legal relationship;
 - g) chief counsellor after a period of twenty-five years spent in public service legal relationship.
 - h) special chief counsellor after a period of thirty-three years spent in public service legal relationship.
- (3) Public officials with secondary educational qualifications may receive a classification of
 - a) clerk II after a period of two years spent in the classification of trainee;
 - b) clerk I after a period of six years spent in public service legal relationship;
 - c) chief clerk III after a period of twelve years spent in public service legal relationship;
 - d) chief clerk II after a period of twenty-one years spent in public service legal relationship;
 - e) chief clerk I after a period of twenty-seven years spent in public service legal relationship;
 - f) senior associate after a period of thirty-one years spent in public service legal relationship.
- (4) Statutory law may define position descriptions referring to the nature of the activities of public officials - without effecting the classification category.

Article 25

- (1) Public officials have to be promoted to a higher classification category - following the obtaining of period serviced in public service legal relationship and set forth under Paragraph (24) -, if
 - a) receives a rating of at least "capable" of fulfilling the responsibilities - with the exception of Paragraph (1) of Article 34, and

- b) meets the criteria prescribed by statutory law for the next classification category or
 - c) the criteria set forth by the public administration agency in writing.
- (2) Periods exceeding 6 months without any interruption and free from any obligation to perform work have to be discarded in the calculation of the period serviced in public service legal relationship in accord with Paragraph (24) - with the exception of the term of regular and reserve military and civil service, the entire period of vacation taken without pay in order to nurse, attend children under the age of 10 or taken by spouses of employees on permanent foreign service.
 - (3) Public officials have to take a public administration primary examination within one year for the classification of junior clerk II and within two years for the classification of clerk II. Public administration primary examination may also be taken by those not in public service legal relationship, if prescribed by statutory law.
 - (4) Vacation without pay exceeding 30 days, the term of regular and reserve military and civil service and of disability, and the term of official commission exceeding 30 days may not be included in the deadline prescribed for taking the public administration primary examination.
 - (5) If a trainee fails to take the public administration primary examination within six months following the deadline prescribed in Paragraph (3), then the public service legal relationship of the trainee shall be terminated.
 - (6) Those obtaining PhD degrees in state and legal sciences, administration management, MBA degrees or diploma at the College of Police Officers do not have to take the public administration primary examination.
 - (7) Public administration special examination may be taken by public officials in the classification category of junior clerk I or higher who have taken or are waived from taking public administration primary examination, and have at least four years of practice at a public administration agency with the exception of Article 8.
 - (8) Those having special examination in law do not have to take public administration special examination. Public officials with academic degrees are also waived from taking the public administration special examination whose academic degrees have been qualified by the Presidium of the National Public Administration Examination Board as of public administration type.
 - (9) Public officials are entitled to public administration special examination bonus who have take special examination in public administration or law, or have obtained academic degrees qualified as of public administration type if having no senior official assignment, appointment or professional consultant, chief consultant and chief consultant, consultant assignment. The amount of bonus is 50 % of the basis for remuneration.
 - (10) Criteria referenced under section c) of Paragraph (1) may aim at the obtaining knowledge indispensable for the fulfilment of the responsibilities of public officials in the form of training, extension training, cross-training.

Article 26

- (1) If a public official has been granted a waiver in accord with Paragraph (4) of Article 7, then this public official has to be classified into the highest salary category of the

classification category one below the classification according to Article 23 until the criterion is met.

- (2) If a public official obtains a higher educational qualification and meets all other criteria, then the public official has to be re-classified according to such new qualification.

Article 27

- (1) If a public official has fulfilled the criteria set forth in section b) or c) of Paragraph (1) of Article 25 before the waiting period prescribed for the subsequent classification category, then the public official has to be classified into the highest salary category of the higher classification category.
- (2) If no criteria is prescribed by statutory law or by the public administration agency for the subsequent classification category (section b) or c) of Paragraph (1) of Article 25), but the public official acquires new knowledge that may be taken advantage of in the particular organisation or receives an "exceptionally capable" rating, or performs outstanding work, then the public official has to be classified into the highest salary category of the classification category one category higher before the expiration of the prescribed waiting period.

Article 28

- (1) If a public official receives a "less capable" qualification, then the waiting period of the public official prescribed for the subsequent classification category may be prolonged by one year at the most.
- (2) If a public official does not meet the criteria set forth under section b) or c) of Paragraph (1) of Article 25 by the specified deadline, then the period elapsed between the specified deadline and the fulfilment of the criterion may not be taken into account in the classification into a higher classification category.

Article 29

- (1) If a public official does not meet the criteria specified under Paragraph (3) of Article 25 upon appointment or transfer, then this public official has to be classified in accord with the provisions of Article 23.
- (2) Public officials appointed or transferred in accord with Paragraph (1) have to take the public administration primary examination within the period set forth under Paragraph (3) of Article 25; if failing to meet this obligation, their public service legal relationship will be terminated.
- (3) Public officials are entitled to career advancement on the basis of period serviced in public service legal relationship even in instances set forth in Paragraph (1) and in Article 26 - with the exception of the event specified under Paragraph (1) of Article 28.
- (4) If the period of public service legal relationship established for fixed term in accord with Paragraph (2) of Article 11 exceeds one year, then the career development of the public official shall be governed by the provisions of this act. If the public official repeatedly established fixed term public service legal relationship, then the period of fixed term legal

relationships have to be added together with respect to the calculation of such one-year deadline.

Article 30

- (1) The head of the official organisation may grant the title of honorary counsellor, honorary chief counsellor, honorary special chief counsellor to public officials having higher educational qualifications and constantly performing outstanding work, and the title of honorary senior associate to public officials having secondary educational qualifications and constantly performing outstanding work.
- (2) Public officials with a period serviced in public service legal relationship for at least 9 years may be granted the title of honorary counsellor, for at least 13 years may be granted the title of honorary chief counsellor, for at least 17 years may be granted the title of honorary special chief counsellor, for at least 12 years may be granted the title of honorary senior associate.
- (3) Public officials will be promoted to the highest salary category of the counsellor I category with the title of honorary counsellor, the chief counsellor category with the title of honorary chief counsellor, the special chief counsellor category with the title of honorary special chief counsellor, the senior associate category with the title of honorary senior associate. if a public official attains the classification and salary category associated with the title on the basis of the period serviced in public service legal relationship, then the public official may be classified into a higher classification category according to the general rules of career advancement.
- (4) If the public service legal relationship of a public official is terminated due to retirement, then this person may still claim the description referring to such classification as a pensioner.

Article 30/A

- (1) The head of the official organisation may grant the title of professional advisor and chief professional advisor to public officials meeting the criteria specified under Paragraph (2). The number of titles of professional advisor and chief professional advisor that may be granted has to be specified in the organisational and operational regulations of the public administration agency. The two kinds of titles which may be granted may altogether not exceed 10 % of the number of the public officials of the public administration agency having higher educational qualifications.
- (2) The title of professional advisor may be granted to public officials in the classification category I - having at least 5 years of public administration practice and special examination in public administration or law; the title of chief professional advisor may be granted to public officials in the classification category I - having at least 1 years of public administration practice and special examination in public administration or law, or academic degrees qualified as of public administration type, who have an "exceptionally capable" rating.
- (3) Professional advisors and chief professional advisors are entitled to the remuneration of deputy heads of department or heads of departments excluding senior official bonuses in accord with the regulations governing the public administration agency. Senior officials

are entitled to the higher remuneration if the remuneration associated with the title is higher than the senior official remuneration.

- (4) The title of (chief) professional advisor has to be withdrawn in case of "less capable" rating, in this event the public official will be entitled to the remuneration according to the classification and to the special examination bonus instead of the remuneration associated with the title.

Article 31

- (1) Public officials may receive assignment of heads of divisions, deputy heads of department, heads of department - beyond the specifications of separate legislation - for heading organisational units being separated with respect to the sharing of work. Assignment of deputy head of department - for substitution of the head of the department - may be granted without heading the organisational unit if the head of the department is assigned to fulfil other regular responsibilities beyond the heading of the department or if the number of staff or the organisational hierarchy of the department justifies this.
- (2) In the lack of differing provision of an act, a senior official assignment is for an indefinite term and may be withdrawn at any time without any specific reasoning, and the public official may resign from the assignment at any time without any reasoning.
- (3) Senior official assignment may only be granted to public officials - with the exception of the specifications under Article 8 - having a higher educational qualification, a special examination in public administration or an equivalent qualification.
- (4) In case of meeting the criteria prescribed under Paragraph (1) of Article 25, public officials will be moved to a higher classification category even during the senior official assignment.
- (5) Career advancement of notaries shall be governed accordingly by the provisions of Paragraph (4).
- (6) Public officials of the Prime Minister's Office, the ministry and of agencies with nationwide authority with senior official assignments may - prior to the withdrawal of their senior official assignment - be offered another senior official post corresponding to their qualifications and education at the agencies referred to in this paragraph. If such senior official post is not offered or the public official does not accept the post offered, then the public official has to be re-classified.
- (7) Upon the Government's decision, public officials with senior official assignment at the agencies referred to in Paragraph (6) may in the interest of the government be temporarily or finally transferred among the agencies referred to in Paragraph (6) in accord with their qualification, education, classification and senior official assignment.

Article 32

- (1) The public administration under-secretary of the Prime Minister's Office may establish positions of chief government advisors and government advisors at the Prime Minister's Office, the minister may establish positions of chief ministerial advisors and ministerial advisors in the ministerial cabinet - in the lack of such at the ministerial secretariat - (henceforth jointly: chief advisors, advisors).

- (2) Assignments to the positions of chief advisors and advisors are for an indefinite term and may be withdrawn at any time without any specific reasoning. The public official may resign from the assignment at any time without any reasoning. Public official employed in this position are granted classifications of special chief counsellor or chief counsellor, regardless of their periods services in public service legal relationship. Public officials with classification of special chief counsellor are entitled to a remuneration equal to that of a head of a department, with classification of chief counsellor are entitled to a remuneration equal to that of a deputy head of a department.
- (3) The positions defined in accord with Paragraph (1) are to be listed in the appendix of the organisational and operational regulations (rules of procedure).
- (4) Assignments to fulfil the position of chief counsellor may be granted to public officials having a profession-oriented university degree required for the fulfilment of the responsibilities, a special examination in public administration and at least 5 years of professional practice.
- (5) Assignments to fulfil the position of counsellor may be granted to public officials having a profession-oriented higher educational qualification required for the fulfilment of the responsibilities, a special examination in public administration and at least 3 years of professional practice.
- (6) If the public service legal relationship of a chief advisor or an advisor is terminated due to retirement, then this public officials will be entitled to use the title of chief advisor or advisor - amended with the adjective "retired".
- (7) Public officials have to be re-classified upon termination of their employment in positions of chief advisor and advisor.
- (8) Positions of chief advisors and advisors may be established with the terms and conditions set forth in Paragraphs (2) through (7) at the agencies listed under Paragraph (2) of Article 1.

Training and extension training of public officials

Article 33

- (1) Public officials are entitled to career advancement and are obliged to participate in any training, extension training or cross-training - including the management training in public administration - (henceforth jointly: extension training) prescribed centrally or by the public administration agency.
- (2) Financial conditions of extracurricular extension training have to be provided for in the annual budgetary act as an estimates managed in the chapter of the Ministry of Internal Affairs. A government decree on the extension training of public officials must provide for the method and the terms and conditions of utilising such estimates.
- (3) The costs of extension training within the scope of the educational system shall be financed from the own budgets of the public administration agencies.
- (4) The public administration agency must provide for the conditions of the extracurricular extension training required for career advancement and prescribed centrally or by the public administration agency which are not referred to under Paragraph (2). The public administration agency is obliged to reimburse the remuneration of public officials for the

work hours missed out due to the fulfilment of extension training required for career advancement and prescribed centrally or by the public administration agency and of the associated accounting or examination obligations.

- (5) Public officials are obliged to refund the costs of extension training if failing to meet the specified requirements for reasons within their own control, or if resigning from their public service legal relationship, or if their public service legal relationship is terminated due to deprivation of office with disciplinary punishment or in accord with Paragraph (2) of Article 77 within two years reckoned from the completion of the extension training. Public official have no obligation to refund the costs of mandatory extracurricular extension training with the exception of language training.
- (6) The regularity and planned arrangement of extension training of public officials have to be ensured in accord with medium-term and annual plans. Plans are compiled by the central public administration agencies, the agencies set forth in Paragraph (2) of Article 1 and the public administration agencies of the capital and the counties under the co-ordination of the Ministry of Internal Affairs.

Rating of public officials

Article 34

- (1) Public officials have to be qualified at least every time they are classified into a higher classification category - with the exception of the last five years preceding the old-age pension age-limit -, provided that the public official has worked in the rating period for at least one year under the control of the person qualifying the public official.
- (2) The entity exercising employer's authority is responsible for the rating. If the head of the official organisation has transferred this right, then the person qualifying the public official shall present the rating to his or her direct superior prior to communicating it to the public official.
- (3) The purpose of rating is to evaluate the professional performance of the public official, to assess the knowledge, skills and characteristic features influencing the performance, and to facilitate professional advancement.
- (4) The mandatory elements of qualification are included in the rating sheet given in Appendix 1. Rater may evaluate the activity of a public official in accord with further considerations conforming the requirements of the particular position.
- (5) The rating may only contain conclusions thoroughly established and based on facts. Rater is obliged to reason the evaluation of the capability of the public official qualified in writing.

Article 35

- (1) Upon request of public official, rater is obliged to bring the body representing the interests of employees operating at the public administration agency into the development of the rating and to record the remarks regarding the conclusions made in the rating in the rating sheet.

- (2) Public officials must be informed on their ratings, and they may give their remarks to them in writing. The fact of acknowledgement is attested by the public official with signature on the rating.
- (3) Public officials must receive one copy of the rating upon signature.

Article 36

Public officials may demand a court to annul incorrect or false statements of facts and conclusions infringing their personal rights in the rating.

Performance of work, time off

Article 37

- (1) Public officials are obliged to perform their responsibilities in accord with statutory laws and the decisions of the governing agency, in a professional, impartial and just manner, and in accord with the rules of administration of affairs of a high standard.
- (2) Public officials are obliged to keep state and service secrets.
- (3) Public officials may not give information to unauthorised personnel and agencies on facts obtained in the course of their activities and the disclosure of which would lead to disadvantageous or unlawfully advantageous consequences to the state, the public administration agency, its associate or the citizen.

Article 38

- (1) Public officials are obliged to execute the instructions of their superiors.
- (2) Public officials are obliged to refuse to execute the instructions of their superiors if their fulfilment
 - a) would realise a crime or a misdemeanour;
 - b) would directly and severely threaten the life, physical condition or health of any person.
- (3) Public officials may refuse to execute instructions if their fulfilment would directly and severely threaten the life, physical condition or health of the public official, or would violate statutory laws.
- (4) Public officials are obliged to draw the attention of the person giving the instruction to the fact that and at the same time may request the putting of the instruction in writing if the instruction or its execution would violate statutory laws, or its fulfilment may lead to damages and the public official may be held accountable for the consequences, or the instruction violates legitimate interests of those concerned. A superior giving the instruction may not refuse to put it in writing. A public official may not suffer any disadvantage due to a request of having an instruction put in writing.
- (5) If the person giving the instruction is not a direct superior of the public official, then the request of having the instruction put in writing has to be submitted through the direct superior.

- (6) Public officials are entitled to have their differing opinions in writing in case of disagreeing with the decision or the instruction of their superior. They may not suffer any disadvantage due to this.

Article 39

- (1) Work hours are 40 hours per week.
- (2) Work hours may be less than what is specified under Paragraph (1); in this case remunerations otherwise due have to be decreased pro rata.
- (3) With consideration given to the weekly duration of work hours, the entity exercising employer's authority may define work hours in multi-week, monthly or yearly framework. The timetable of work hours within the framework for work hours is defined by the entity exercising employer's authority.
- (4) Under extraordinary circumstances, public officials are obliged to perform work at the place of their work, or to stay on call for a specified period and at a specified location to perform work beyond the work hours set forth under Paragraph (1).

Article 40

- (1) The performance of work beyond the work hours set forth in Paragraph (1) of Article 39 has to be ordered in writing. The procedures for ordering, recording and accounting such performance of work are defined by the head of the official organisation.
- (2) Public officials are entitled to a time off equivalent to the duration of over-time work in case of performing over-time work.
- (3) Public officials are - in return of their work - entitled to a time off equivalent to twice the duration of the work performed in case of performing work on their weekly day of or on public holidays.
- (4) Public officials are entitled to a maximum time off equivalent to the duration of being on duty or on call. If public officials are on duty or on call on their weekly day of or on public holidays, then they are entitled to a time off according to Paragraph (3).
- (5) A lump time off of a maximum of 20 workdays per annum may be defined for public officials performing over-time work on a regular basis.
- (6) The time off has to be given in the subject year, if this is not possible, then it has to be redeemed. The amount of redemption shall be the pro rata time off amount of the remuneration of the public official at the time of disbursement.
- (7) Public officials with senior official appointment, assignment are not entitled to time off or lump time off for performance of work during the work hours set forth in Paragraph (1).

Article 41

- (1) Public officials are entitled to a basic vacation of 25 work-days.
- (2) Public officials are in addition to the basic vacation entitled to additional leave.

- (3) The amount of additional leave per annum in case of public officials with higher educational qualifications is:
- a) 2 work-days in the classification of junior clerk II;
 - b) 3 work-days in the classification of junior clerk I;
 - c) 4 work-days in the classification of secretary II;
 - d) 5 work-days in the classification of secretary I;
 - e) 7 work-days in the classification of counsellor II;
 - f) 8 work-days in the classification of counsellor I;
 - g) 10 work-days in the classification of chief counsellor;
 - h) 11 work-days in the classification of special chief counsellor.
- (4) The amount of additional leave per annum in case of public officials with secondary educational qualifications is:
- a) 1 work-day in the classification of clerk II;
 - b) 3 work-days in the classification of clerk I;
 - c) 5 work-days in the classification of chief clerk III;
 - d) 7 work-days in the classification of chief clerk II;
 - e) 9 work-days in the classification of chief clerk I;
 - f) 10 work-days in the classification of senior associate.
- (5) Public officials in senior official positions are entitled to the additional leave of senior officials instead of the additional leave specified under Paragraph (3), the amount of which per annum is:
- a) 11 work-days in case of a head of division;
 - b) 12 work-days in case of a deputy head of department;
 - c) 13 work-days in case of a head of department;
 - d) 14 work-days in case of a deputy under-secretary;
 - e) 15 work-days in case of an under-secretary;
- (6) Deputy notaries are entitled to 11, notaries are entitled to 12 and chief notaries are entitled to 13 work-days of additional leave per annum.
- (7) If a public official performs activities under circumstances exposed to ionisation radiation constantly under the ground or over at least 3 hours a day in a place of work exposed to ionisation radiation, then the public official is entitled to 5 work-days of additional leave per annum. If a public official has spent at least 5 years in such a place of work, then the public official is entitled to 10 work-days of additional leave per annum.
- (8) A public official is entitled to the additional leave set forth in Paragraph (7) regardless of the daily work hours spent at a place of work exposed to radioactive hazard, if employed in a position exposed to regular double medical hazard, provided that one of the medical hazards is radioactive hazard.

- (9) If a change effecting the amount of vacation takes place during the year, then public officials are entitled to the pro rata portion of the vacation.

Article 41/A

Vacation without pay must be provided to public officials for the period of foreign service if their spouses perform foreign service.

Article 42

- (1) Public officials are entitled to monthly remuneration in accord with their public service legal relationship.
- (2) The remuneration is made up of the base remuneration determined in accord with Paragraph (2) of Article 43, and - if criteria set forth in this act are met - the remuneration supplement and the remuneration allowance.
- (3) The representative-body of the self-government is obliged to define the remuneration base in a decree every year - with consideration given to the standpoint formulated within the framework of local conciliation of interests and the remuneration base effective in the state administration - in a way that it may not be less than the amount of centrally defined remuneration effective in the state administration by more than 10 % points, however, this may not be less than the remuneration base defined by the representative-body of the self-government in the previous year.
- (4) Public officials with higher educational qualifications are to be classified into class I, with secondary educational qualifications are to be classified into class II, administrators are to be classified into class II, blue-collar workers are to be classified into class IV (henceforth: classification class). The classification class is made up of salary categories.
- (5) For public officials displaying outstanding performance a personal remuneration different from the rules governing the remuneration system set forth in this act may be defined by
 - a) ministers in case of an under-secretary or a deputy under-secretary,
 - b) heads of the official organisation of the public administration agency at central public administration agencies and regional, local agencies at public administration agencies subject to their scope of responsibilities up to a maximum of 20 % of the number of employees defined in the annual budget of the public administration agency concerned charged to the estimates of personal benefits,
 - c) general directors at the official agencies of social insurance self-government - upon consent of the assemblies,
 - d) notaries and chief notaries at the office of local governments - upon consent of the mayors, chief mayors and chairmen of county assemblies,
 - e) heads of agencies in case of agencies listed in Paragraph (2) of Article 1.

The heads specified under sections a) through e) shall provide for the public disclosure of such measures.

Article 43

- (1) The amount according to the first salary category of classification class II (henceforth: remuneration base) - with consideration given to the standpoint developed within the framework of conciliation of public service interests - shall be defined for the first time by this act and subsequently the act on the state budget every year in a way that it may not be lower than the remuneration base in the preceding year.
- (2) Incremental multipliers are associated with the salary categories of increasing serial numbers of each class. The product of the multiplier and the remuneration base will determine the base remuneration associated with the various categories of each class.
- (3) Classification classes and salary categories are included in Appendix 2 of this Act.
- (4) Heads of official organisations - with the exceptions specified under Paragraph (5) - may within their untransferable authority increase the base remuneration of public officials defined in Paragraph (2) of Article 42 depending on the evaluation of their work by a maximum of 20 % within the estimates defined for personal benefits, or may define the base remuneration of public officials receiving "less capable" ratings in an amount reduced by a maximum of 20 %.
- (5) The base remuneration of under-secretaries, deputy under-secretaries and heads of departments - depending on the evaluation of their senior official work - may within an untransferable authority be raised with a maximum of 40 % by
 - a) ministers at the ministries in case of under-secretaries, deputy under-secretaries and heads of departments,
 - b) entities authorised to appoint the head of the agency or in other instances by heads of official organisations - in the lack of differing provisions of an act - at agencies of nationwide authority supervising a budgetary chapter - including the social insurance budgetary agencies referred to under Paragraph (2) of Article 44 - with regard to the heads of such agencies,
 - c) entities authorised to appoint the head of the agency at agencies listed under Paragraph (2) of Article 1 or in other instances by the head of the agency - in the lack of differing provisions of an act - with regard to the heads of such agencies.
- (6) In the course of the application of Paragraphs (4) and (5), the base remuneration of public officials defined previously may not be lowered. In case of changes in the components of the remuneration - excluding remuneration allowances - thus particularly in case of an increase of the remuneration base or of a change in the classification or salary category, the remuneration of public officials have to be re-defined.
- (7) Upon establishment of public service legal relationships, rating is not a pre-condition of applying the employer's measure set forth under Paragraph (4).

Article 44

- (1) Those employed in the offices of the President of the Republic, the Parliament, the Constitutional Court, the Commissioner of the Parliament, in the Prime Minister's Office, in the Governmental Control Office, at central public administration agencies are entitled to remuneration supplement. The amount of remuneration supplement - with the

exceptions specified in Paragraph (2) - is 15% of the base remuneration of the public official.

- (2) The amount of remuneration supplement of public officials with higher educational qualifications employed in the offices of the President of the Republic, the Parliament, the Constitutional Court, the Commissioner of the Parliament, in the Prime Minister's Office, in the Governmental Control Office, in the ministries and at agencies with nation-wide authority supervising a budgetary chapter, and at the National Pension Insurance Directorate and at the National Pension Insurance Pay Office is 50%.
- (3) The amount of remuneration supplement in the public administration agencies of the counties and of the capital, and at regional agencies of central public administration agencies with at least county jurisdiction is 10 % of the base remuneration of the public official.
- (4) The amount of remuneration supplement of public officials with higher educational qualifications
 - a) in case of those employed at agencies listed under Paragraph (1) - with the exception of Paragraph (2) - is 15 % of the base remuneration of the public official,
 - b) in case of those employed at agencies listed under Paragraph (3) is 20 % of the base remuneration of the public official,
 - c) in case of those employed at agencies of the public administration agencies listed under Paragraph (3) with local and district (not county) jurisdiction is 10 % of the base remuneration of the public official.
- (5) Those employed in the Office of the Parliament are entitled to remuneration supplement. The remuneration supplement of those employed in the Office of the Parliament - with the exception specified under Paragraph (6) - is 10% of the supplement according to amount set forth in Paragraph (1) and of the base remuneration of the public official, altogether.
- (6) The remuneration supplement of public officials employed in the Office of the Parliament with higher educational qualifications is 20% of the supplement according to amount set forth in Paragraph (2) and of the base remuneration of the public official, altogether.

Article 44/A

The local government may in a decree define remuneration supplement of a maximum amount set forth in

- a) section c) of Paragraph (4) of Article 44 in case of municipal local governments and section b) of Paragraph (4) of Article 44 in case of other local governments to public officials with higher educational qualifications,
- b) Paragraph (3) of Article 44 - with the exception of municipal local governments - to public officials with secondary educational qualifications.

Article 45

- (1) The base remuneration of senior officials is:
 - a) six and a half times the remuneration base in case of the Prime Minister and ministers.

- b) five and a half times the remuneration base in case of under-secretaries,
 - c) five times the remuneration base in case of deputy under-secretaries,
 - d) four and a half times the remuneration base in case of heads of departments,
 - e) four times the remuneration base in case of deputy heads of departments,
 - f) three and a half times the remuneration base in case of heads of divisions,
- (2) The base remuneration of notaries and chief notaries is
- a) 3.75 times the remuneration base in case of settlements with a population of less than 3,000 capita;
 - b) 4.0 times the remuneration base in case of settlements with a population of between 3,000 and 10,000 capita;
 - c) 4.25 times the remuneration base in case of settlements with a population of between 10,000 and 100,000 capita;
 - d) 4.5 times the remuneration base in case of notaries of towns of county rank and of districts of the capital and in case of chief notaries of the counties;
 - e) 5.0 times the remuneration base in case of the chief notary of the capital.
- (3) District-notaries are entitled to a remuneration supplement of senior officials. The amount of remuneration supplement - with the exception of Paragraph (5) - is
- a) 30 % of the base remuneration of the district-notary in case of notarial districts comprising two municipalities,
 - b) 35 % of the base remuneration of the district-notary in case of notarial districts comprising three municipalities,
 - c) 40 % of the base remuneration of the district-notary in case of notarial districts comprising four or more municipalities.
- (4) When determining the remuneration of district-notaries or notaries of large municipalities, towns (towns of county rank) fulfilling the responsibilities of district-notaries in accord with Paragraph (2), the total population of the settlements within the notarial district, or the total population of a large municipality or a town and the municipalities has to be considered as the basis.
- (5) If the total population of the settlements within the notarial district is less than one thousand capita, then the senior official remuneration supplement of the district-notary is
- a) 5 % of the base remuneration of the district-notary in case of notarial districts comprising two municipalities,
 - b) 10 % of the base remuneration of the district-notary in case of notarial districts comprising three municipalities,
 - c) 25 % of the base remuneration of the district-notary in case of notarial districts comprising four or more municipalities.
- (6) Notaries of large municipalities, towns (towns of county rank) fulfilling the responsibilities of district-notaries are entitled to remuneration supplement. The amount of remuneration supplement is

- a) 25 % of the base remuneration of the notary in case of one municipality in addition to the seat of the notary,
 - b) 30 % of the base remuneration of the notary in case of two municipalities in addition to the seat of the notary,
 - c) 35 % of the base remuneration of the notary in case of three or more municipalities in addition to the seat of the notary.
- (7) Remuneration of deputy notaries will be defined by the representative-body upon appointment and by the notary thereafter in a specific amount within the framework of Paragraphs (2) through (6) in a way that it may not equal the remuneration of the notary and may not be lower than the remuneration already being defined.
- (8) If the senior official posts of public officials are terminated, their remuneration has to be determined with consideration given to Articles 43 and 44.

Article 46

- (1) The amount of remuneration supplement of senior officials - with the exception of Paragraph (2) is 15 or 5 % of the base remuneration in case of under-secretaries or deputy under-secretaries.
- (2) The amount of remuneration supplement of senior officials at the public administration agencies listed under Paragraph (2) of Article 44 is
- a) 120 % of the base remuneration in case of the Prime Minister,
 - b) 65 % of the base remuneration in case of ministers, under-secretaries,
 - c) 50 % of the base remuneration in case of deputy under-secretaries,
 - d) 30 % of the base remuneration in case of heads of departments,
 - e) 20 % of the base remuneration in case of deputy heads of departments,
 - f) 10 % of the base remuneration in case of heads of divisions.

Article 47

- (1) In accord with the specifications of this act, public officials are entitled to remuneration supplement.
- (2) The amount of remuneration supplement must be determined in the percentage of the remuneration base.
- (3) Those performing work between 10:00 p.m. and 6:00 a.m. according to their work-schedule are entitled to night-shift supplement. The amount of supplement is 25 % of the remuneration base. In case the work-schedule falls between 10:00 p.m. and 6:00 a.m. partially, then the night-shift supplement is due proportionally with time.
- (4) If a public official regularly drives an official vehicle and thus the employment of a driver is unnecessary, then the public official is entitled to driving supplement. The amount of supplement is 15 % of the remuneration base.
- (5) A public official is entitled to remuneration supplement if the performance of work is done in the majority of the work hours under risks harmful to health or if the protection of

health may only be implemented by the constant or durable use of a protective gear constituting increased burden to the public official. The amount of supplement is 45 % of the remuneration base.

- (6) Positions providing eligibility for remuneration supplement set forth in Paragraphs (4) and (5) are defined by the head of the official organisation.

Article 48

- (1) If a public official fills a position requiring the use of a foreign language - provided that this is not included among the obligations associated with the position - then the public official is entitled to foreign language proficiency supplement.
- (2) Foreign language proficiency has to be evidenced by a certificate attesting the result of a state language exam or by a document equivalent to the foregoing.
- (3) With regard to the language of the training, the higher educational qualification in a subject of public administration or a supplementary specialisation extension training or management training qualification obtained by the public official abroad is to be regarded as a language exams of a high degree even without a state language exam if the duration of the training exceeds one year.
- (4) Languages and positions providing eligibility for foreign language proficiency supplement are defined by the entity exercising employer's authority.
- (5) The amount of supplement per language exams is
 - a) 50 % of the remuneration base in case of language exams of a high degree,
 - b) 30 % of the remuneration base in case of language exams of a medium degree.

Article 48/A

- (1) As the recognition of additional special qualification or special skills ensuring the more professional fulfilment of the scope of responsibilities and facilitating specialisation within the scope of responsibilities, the head of the official organisation may determine qualification supplement to the public officials of the public administration agency - at the expense of the estimates of the public administration agency for personal benefits.
- (2) Qualification supplement may be determined for public officials who have special qualifications or special skills higher than the educational qualification considered in the classification, provided that they are required in order to fulfil the position.
- (3) Positions and qualifications providing eligibility for qualification supplement have to be listed in the appendix of the organisational and operational regulations (rules of procedure).
- (4) The amount of qualification supplement is
 - a) 50 % of the remuneration base in case of additional special qualifications and special skills obtained in higher educational training or extension training,
 - b) 40 % of the remuneration base in case of special qualifications and special skills of a high degree obtained in accredited higher educational special training or extracurricular special training.

- c) 30 % of the remuneration base in case of special qualifications and special skills of a medium degree obtained in extracurricular special training.
- (5) Public officials meeting two or more criteria are entitled to only one supplement of a large amount. Only a single supplement may be defined even in case of two or more certificates or special qualifications set forth in sections a) through c) of Paragraph (4) and of equivalent level with respect to the qualification supplement.
- (6) Public officials with higher educational qualifications are not entitled to qualification supplement if having additional special qualification set forth in section c) of Paragraph (4).

Article 49

- (1) Public officials are entitled to at least one-month remuneration in every calendar year - as extra benefit - at the particular public administration agency pro rata the duration of the work-performance obligation in the subject year. This amount has to be disbursed by the 15th of the first month following the subject year at the latest.
- (2) The period according to Paragraph (1) of Article 18 and to Article 107 of the Labour Code - excluding the entire term of regular and reserve military and civil service, the entire period of vacation taken without pay by any title and the period of incapability illnesses exceeding 6 months.
- (3) If the public service legal relationship is terminated or the public official is transferred during the year, the portion of at least their one-month remuneration proportional to time must be disbursed on the last day spent in work. The disbursement of this benefit has to be recorded on the public service certificate.
- (4) The basis for the amount of benefit according to Paragraphs (1) and (3) is the remuneration prevailing when the disbursement is due.
- (5)

BH1994 348. Public officials, who in accord with this act are entitled to at least one-month remuneration in every calendar year, may not be deprived of this right of their with reference to having already received a premium exceeding their one-month remuneration in the subject year (Paragraph (1) of Article 49 of Act XXIII of 1992).

BH1993 204. Public officials may not hold a post in any part, may not appear in public on behalf or in the interest of any party. Should a public official fail to terminate incompatibility within 30 days reckoned from the notification, the public service legal relationship of the public official will be terminated (Section b) of Paragraph (4) of Article 21, Paragraph (1) of Article 22, Paragraph (1) of Article 49, Paragraph (5) of Article 73 and Paragraph (7) of Article 75 of Act XXIII of 1992).

Article 49/A

- (1) The payment of remuneration due to a public official in accord with Articles 42 through 49 of this act shall be made by transfer to the bank account managed at a financial institution chosen by the public official or by postal transfer in the lack of such bank account.

- (2) The transfer of the remuneration to a bank account and its one-time withdrawal, or the disbursement of remuneration by means of postal transfer may not cause extra charges to the public official.
- (3) The methods of payment regulated in Paragraphs (1) and (2) have to be implemented by January 1, 1999 at the latest.

Article 49/B

- (1) Public officials performing work at places different from the seat or permanent site of the commissioning public administration agency are on domestic commission.
- (2) Public officials on commission are entitled to catering allowance (henceforth: daily allowance) for the duration of the commission in order to cover the extra costs related to the catering of the public official.
- (3) The amount of daily allowance is 25 % of the amount of remuneration base set forth in the budgetary act per work-day. 21 work-days per month are to be taken into consideration in its calculation, and it has to be rounded up to tens of Hungarian forints.
- (4) Daily allowance may be accounted for as a lump sum if a public official monthly, regularly performs work on commission. The lump sum has to be determined with consideration given to the daily allowance and the calendar days spent on commission per month on the average.
- (5) Fifty percent of the daily allowance is due if the time spent on commission is less than 8 hours.
- (6) No daily allowance may be accounted for if the time spent on commission is less than 4 hours.

Article 49/C

The public administration agency may contribute to the membership of public officials in voluntary and supplementary pension funds as other benefits. Detailed regulations of the contribution of the central budget are defined by the Government.

Chapter IV

DISCIPLINARY LIABILITY AND LIABILITY FOR DAMAGES

Article 50

- (1) A public official commits a disciplinary offence if wrongfully breaching obligations arising from the public service legal relationship.
- (2) Disciplinary punishments that may be imposed on a public official committing a disciplinary offence are:
 - a) censure;
 - b) prolongation of waiting period in the career advancement system;
 - c) reduction or deprivation of benefits according to Article 49 - the amount of benefits not yet paid in the subject year;

- d) referral in the career advancement system with one salary category;
 - e) referral in the career advancement system with one classification category;
 - f) deprivation of personal remuneration according to Paragraph (5) of Article 42;
 - g) deprivation of title according to this act, withdrawal of senior official assignment;
 - h) deprivation of office.
- (3) Among the punishments specified under Paragraph (2), the reduction or deprivation of benefits may be imposed in conjunction with any of the other punishments - with the exception of the censure.
- (4) The term of prolongation according to section b) of Paragraph (2) may be a maximum of 2 years.
- (5) Public officials are subject to disciplinary punishment
- during the term of prolongation of the waiting period in case of the punishment set forth in section b) of Paragraph (2);
 - until the achievement of the category according to the date of referral in case of the punishments set forth in sections d) and e) of Paragraph (2);
 - for 2 years reckoned from the execution of the punishments set forth in sections c), f) and g) of Paragraph (2);
 - for 3 years in case of the punishment set forth in section f) of Paragraph (2).

Disciplinary punishments have to be deleted from all records upon expiration of their term.

- (6) Public officials are obliged to give account of their effective disciplinary punishments during the course of public service legal relationships. If the public service legal relationship was terminated due to deprivation of office, the ex-public official may not be employed at any public administration agency for three years.

BH1996 232. Public officials are obliged to perform their responsibilities in accord with statutory laws and the decisions of the governing agency, in a professional, impartial and just manner, and in accord with the rules of administration of affairs of a high standard. The disciplinary punishment imposed for severe violation of this obligation is deprivation of office (Paragraph (1) of Article 37 and section f) of Paragraph (2) of Article 50 of Act XXIII of 1992 (Civil Servants Act).

Article 51

- (1) In case of reasonable suspicion of committing disciplinary offence, the entity exercising employer's authority is obliged to commence proceedings - with the exception of the event specified under Paragraph (2). No disciplinary proceedings may be commenced if three months have elapsed since the discovering of the violation of obligation or if three years have elapsed since the commitment of a disciplinary offence.
- (2) The entity exercising employer's authority may impose a disciplinary punishment of censure without conducting disciplinary proceedings in case the judgement of the facts of the matter is simple and the public official admits the violation of obligation.

- (3) If criminal or petty offences proceedings have been commenced due to the violation of obligation and it has been closed without concluding the liability of the public official, then the deadline of three months is reckoned from the communication of the final resolution on the closing of proceedings to the public administration, the deadline of three years is reckoned from the final closing of proceedings.
- (4) In case of violation of obligation committed abroad, deadlines are reckoned from returning to the home country.
- (5) Investigation has to take place in the course of disciplinary proceedings, for the conducting of which the entity launching the disciplinary proceedings shall within three days reckoned from the initiation of the proceedings appoint an investigating commissioner from among the public officials of the public administration agency with a classification higher than that of the public official being investigated or in the lack of such public official one with a senior official assignment. If there is no such public official
 - a) in the representative-body of a self-government, then the entity initiating the disciplinary proceedings may invite a member of the representative body,
 - b) in case of another public administration agency, the head of the superior public administration agency may appoint an own public official
 to the fulfilment of the responsibilities of the investigating commissioner.
- (6) One having a reason for incompatibility set forth in sections b) and d) of Paragraph (3) of Article 53 may not be an investigating commissioner.
- (7) The proceedings of the appointing body in disciplinary and indemnity affairs of public officials appointed by the body are governed by the provisions of Article 51 through 58.
- (8) If the body has no quorum in adopting a disciplinary resolution because of the rules of incompatibility, then members of the body must formulate a three-member disciplinary council. In this case the body may not change the resolution of the disciplinary council.

BH1997 464. II. The deadlines specified in the act on the legal status of public officials for the conducting of disciplinary proceedings aim at the acceleration of the proceedings, any overrun of such deadline may however in itself not lead to the annulment of the disciplinary resolution (Paragraphs (1), (7) and (8) of Article 51, Paragraph (1) of Article 53, Paragraph (5) of Article 54 of Act XXIII of 1992).

BH1994 457. The representative-bodies of municipalities constituting a notarial district and appointing the district-notary are jointly entitled to decide whether they commence proceedings in order to conclude the liability of the district-notary for damages or not. An investigating commissioner has to be appointed for concluding the circumstances of the mischief, the liability of the district-notary, the causal relation between the behaviour of the district-notary and the damage, and the extent of the damage. A three-member (disciplinary-indemnity) council has to adopt a resolution following the proposition of the investigating commissioner on its merits. The joint body may authorise the mayor of the municipality concerned to include and issue the indemnity resolution in writing (Paragraph (3) of Article 51 of Act XXIII of 1992).

- (1) The investigating commissioner is obliged to conduct the investigation and within the frame of this to conduct the hearing of the public official reasonably accused of committing the disciplinary offence within 15 days reckoned from the appointment. The duration of the investigation may in a reasonable event be prolonged on one occasion with a maximum of 15 days.
- (2) In the course of the investigation, the public official must be informed on the findings and the evidences thereof related to the commitment of the violation of obligation. The public official must have the opportunity to comment on them and to suggest further proof. The public official must have the opportunity to review the files of the case. Minutes have to be kept on the plea of the public official and on the proof conducted.
- (3) The public official may employ a solicitor in the course of the investigation. Upon request of the public official, the participation of the employees' interest-representing body operating at the public administration agency or the exercising of the right to be represented must be provided for in the course of the disciplinary proceedings. The hearing of the public official must be set in a way that the solicitor of the public official or - upon the according request of the public official - the representative of the interest-representing body could be present.
- (4) If the hearing of the public official may not be conducted during the investigation in case of lasting prevention, then the public official must be informed on the findings and the evidences thereof related to the commitment of the violation of obligation in writing, and with the setting of an 8-day deadline the public official must be required to propose a plea.
- (5) Upon suggestion of the investigating commissioner, the entity exercising employer's authority may suspend the investigation
 - a) until the elimination of any obstacles at the latest, if the public official is unable to propose a plea in accord with the specifications of Paragraph (4) for reasons beyond the control of the public official, or
 - b) until the final closing of the proceedings, if criminal or petty offence proceedings have been commenced because of violation of obligation, provided that the facts of the matter may not be clarified without them.
- (6) The investigating commissioner is obliged to forward all files of the case along with an opinion to the entity exercising employer's authority within 8 days reckoned from the closing of the investigation.

Article 52

- (1) Upon suggestion of the investigating commissioner the entity exercising employer's authority may suspend the public official subjected to disciplinary proceedings until the announcement of the disciplinary resolution if the presence of the public official would hinder the clarification of the facts of the matter or if the weight and the nature of the violation of obligation justifies the public official being kept away from the place of work. Suspension goes together with the punishment of deprivation of office until the corresponding resolution entering into force.
- (2) Suspension must be withdrawn immediately if the reasons for that do not prevail anymore.

- (3) Remuneration is due for the duration of suspension, however, 50 % of this may be retained until the withdrawal of suspension - with the exception of section b) of Paragraph (5) of Article 51/A. Full remuneration must be retained from the delivery of a disciplinary resolution imposing deprivation of office, until it enters into force.
- (4) The amount retained has to be disbursed following the disciplinary resolution enters into force, unless the disciplinary resolution imposing deprivation of office has entered into force.

Article 53

- (1) The merits of the case will be decided by a three-member disciplinary council within 8 days reckoned from the proposition of the investigating commissioner. The resolution of the disciplinary council is reached in a session behind close doors and in an ordinary resolution.
- (2) The entity exercising employer's authority shall be the chairman of the disciplinary council; its members shall be public officials with a classification at least equivalent to that of the public official subjected to the proceedings or public officials with senior official assignments. If there is no sufficient number of such public officials in the office of the representative-body of the self-government, then the mayor may invite members of the representative-body to the disciplinary council.
- (3) The following persons may not participate in the proceedings and in the decision-making of the disciplinary council, or as the keeper of minutes:
 - a) the investigating commissioner who has conducted the investigation of the case or the relatives of this investigating commissioner,
 - b) the relatives of the public official subjected to proceedings,
 - c) those heads as witnesses or experts in the course of the investigation, and
 - d) those who may not reasonably be expected to impartially judge the case.

BH1997 464. II. The deadlines specified in the act on the legal status of public officials for the conducting of disciplinary proceedings aim at the acceleration of the proceedings, any overrun of such deadline may however in itself not lead to the annulment of the disciplinary resolution (Paragraphs (1), (7) and (8) of Article 51, Paragraph (1) of Article 53, Paragraph (5) of Article 54 of Act XXIII of 1992).

Article 54

- (1) The hearing of the disciplinary council must be set in a way that the parties are to receive notification on the hearing at least three work-days prior to the hearing.
- (2) The public administration agency shall be represented by the investigating commissioner of the case at the hearing, the public official may employ a solicitor, or upon request of the public official, the participation of the employees' interest-representing body operating at the public administration agency or the exercising of the right to be represented must be provided for.
- (3) If any of the parties or their representatives does not show up at the hearing, then the hearing may not take place and the case may only be judged on the merits if the public

official or the representative of the public official has been orderly notified. The proceedings may be conducted, if the public official or the representative of the public official has reported the intention of not participating in the hearing.

- (4) The disciplinary council may hear witnesses, obtain documents, bring in experts or conduct a survey in order to clarify the facts of the matter.
- (5) In case the case was not possible to be clarified at the hearing, then a new hearing has to be set for within an additional 8 days.

BH1997 464. II. The deadlines specified in the act on the legal status of public officials for the conducting of disciplinary proceedings aim at the acceleration of the proceedings, any overrun of such deadline may however in itself not lead to the annulment of the disciplinary resolution (Paragraphs (1), (7) and (8) of Article 51, Paragraph (1) of Article 53, Paragraph (5) of Article 54 of Act XXIII of 1992).

BH1994 113. II. The hearing of the disciplinary council in the disciplinary case of the public official has to be set in a way that the parties are to receive the notification at least 48 hours prior to the hearing (Paragraph (1) of Article 54 of Act XXIII of 1992).

Article 55

The costs associated with the conduction of the disciplinary proceedings shall be borne by the public administration agency. However, if the disciplinary liability of the public official has been concluded finally, then the public official is obliged to reimburse the costs of procedural actions initiated and of the solicitor employed by the public official.

Article 55/A

- (1) The disciplinary proceedings must be abated if
 - a) the public service legal relationship is terminated during its course;
 - b) the disciplinary proceedings have been commenced following the deadline set forth in Paragraphs (1), (3) and (4) of Article 51;
 - c) the public official has not committed the disciplinary offence being accused of or the commitment of that may not be proven;
 - d) there is a disqualification of liability.
- (2) The abatement of the disciplinary proceedings shall be decided by the entity exercising employer's authority in case of section a) of Paragraph (1) and by the disciplinary council in case of sections b) through d) of Paragraph (1).

Article 56

- (1) The disciplinary resolution may not be enforced until the final judgement of any appeals submitted. However, if the public official terminates the public service legal relationship prior to the expiration of the deadline available to submit an appeal or the final judgement of such appeal, then the resolution immediately becomes enforceable.
- (2) A disciplinary resolution imposing deprivation of office may not be enforced during the period of maternity leave.

- (3) If the public service legal relationship is terminated prior to or during the enforcement of the finally imposed disciplinary punishment set forth in sections b) through e) of Paragraph (2) of Article 50, then the punishment or its remaining term has to be enforced at the public administration agency subject to the scope of the act, provided that the public official repeatedly establishes public service legal relationship within three years reckoned from the enforceability of the punishment.

Liability for damages

Article 57

- (1) Public officials are liable for damages caused by wrongful violation of obligations arising from their public service legal relationship.
- (2) In case of negligence, public officials are liable up to three months of remuneration and public officials permanently employed abroad are liable up to three months of allowance - during the term of foreign service - in case of causing damages
- a) by severely violating regulations governing the financial management of the public administration agency,
- b) by failing to fulfil or incompletely fulfilling the controlling obligation;
- c) by violating statutory laws in the course of official measures,
- or if damages were due to the fulfilment of instructions - violating a statutory law - to which the public official receiving the instructions had previously drawn the attention.

Article 57/A

- (1) Stock shortage is a shortage in the materials and goods (inventory stock) orderly delivered and received for handling due to unknown reasons exceeding the amount of natural quantitative shrinkage and the loss associated with handling. The scope of materials for which natural quantitative shrinkage and loss associated with handling may not be accounted, the lower and upper limits of shrinkage and loss will be determined by the head of the official organisation. The natural quantitative shrinkage and the loss associated with handling for a given inventory period may also be defined in variable amounts.
- (2) Public officials whose scope of responsibilities associated with the position and specified in the document of appointment include the handling of materials and goods (inventory stock) orderly delivered and received are liable for any arising stock shortage regardless of the extent of delinquency.
- (3) Liability for stock shortage may only be enforced in the event of
- a) the document of appointment of the public official including the description and the extent of liability for stock shortage;
- b) the inventory stock being delivered and received orderly;
- c) the stock shortage being discovered in the course of inventory-taking organised in accord with the inventory-taking order set forth by the public administration agency and covering the entire inventory stock.

- (4) If the public official liable for the stock shortage in accord with the document of appointment works in a position or place of work where the inventory stock received is always handled solely by the particular public official, then the public official shall be liable for the full amount of the stock shortage.
- (5) Public officials liable for the stock shortage in accord with the documents of their appointment and other public officials handling the inventory stock shall be liable for the stock shortage in proportion with their remuneration.
- (6) The presence of the public official or in case of prevention a representative thereof must be provided for upon the inventory-taking. If a public official fails to provide for representation, then the public administration agency is obliged to assign a representative lacking interest and professional being suitable for the fulfilment of this function.
- (7) The public official may comment the inventory-taking during and after the inventory-taking.
- (8) The conclusion of liability for stock-shortage is governed by the specifications of Article 58 with the addition that liability has to be assessed within 60 days following the completion of the inventory-taking. In case of criminal proceedings, the deadline will commence on the day following the delivery of the final resolution of the investigating authority or the court. Public officials liable for the stock shortage in accord with the documents of their appointment may not be obliged to indemnification after the expiration of these 60 days.

Article 58

The conclusion of the liability of a public official for damages shall be governed by the regulations of this act regarding the disciplinary proceedings with the addition that the commencement of proceedings shall be governed by the provisions regarding limitation in time.

Chapter V

PUBLIC SERVICE LEGAL DISPUTES

Article 59

- (1) Public officials may directly appeal to a court in order to enforce claims arising from the public service legal relationship.
- (2) Public officials may appeal to a court against a decision subject to the scope of judgement of the entity exercising employer's authority if it is allowed by law.
- (3) Appeals must be submitted to the court within 15 days reckoned from the receipt of documents of employer's measures in matter associated with
 - a) termination of public service legal relationship,
 - b) written notice for elimination of incompatibility,
 - c) conclusions of rating,
 - d) disciplinary and indemnification resolutions.
 - e) unilateral modification of appointment.

- f) notices to pay.

Public officials may appeal to a court within the limitation in time governing the enforcement of the claim.

- (4) Measures referred to in grievances in instances specified under sections b) through f) of Paragraph (3) may not be enforced until the final decree of a court.

BH1996 344. Public officials may appeal to a court against a decision subject to the scope of judgement of the entity exercising employer's authority if it is allowed by law (Paragraph (2) of Article 59 of Act XXIII of 1992).

Article 60

- (1) Upon action of a public official, the court shall annul dismissal if it conflicts with a dismissal prohibition or is otherwise unlawful.
- (2) If the public administration agency has unlawfully terminated the public service legal relationship, then the public official must be put in a situation as if the public service legal relationship had not been terminated.
- (3) In case of the annulment of the termination of the public service legal relationship the public official must be employed further in the original position, and overdue remuneration and other emoluments and damages sustained must be reimbursed. The portion of remuneration and other emoluments and damages recovered from elsewhere does not have to be reimbursed.
- (4) In case the public official does not demand the maintenance of the public service legal relationship, then this has to be regarded as if the public service legal relationship had been terminated by mutual consent upon the court decree coming into force. In this case the public officials - including trainees and public officials employed for fixed term - are entitled to severance pay.
- (5) If the dismissal is unlawful because the public administration agency defines a term of dismissal shorter than what is specified in this act, then the dismissal shall not be annulled, but the public service legal relationship shall in this case be maintained until the last day of a formal dismissal.

Chapter VI

PUBLIC SERVICE REGISTER

Article 61

- (1) The public administration agency shall maintain a register on the public official with a scope of data set forth in Appendix 3 of this act (henceforth: public service core register). Data may not be obtained in the scope not included in Appendix 3 unless otherwise stipulated by an act, such data may not be maintained.
- (2) Among the data in the public service core register the description of the public administration agency, the name and the classification data of the public official are of public interest, such data may be disclosed without prior knowledge and consent of the public official.

Article 62

- (1) Public administration agencies shall in the order defined by the Government continuously provide to the central public service register data on the core data and the changes thereof of the public service core register listed in Appendix 4, and on the development of the number of employees, the posts filled and vacant, the roles of responsibilities, the positions and the changes thereof. The central public service register is maintained by the Ministry of Internal Affairs.
- (2) The public service core register system of the public administration agency and the central public service register may not be interconnected with other data systems unless otherwise authorised by law.
- (3) Data from the public service core register and the central public service register may only be supplied for statistical purposes in a manner not suitable for personal identification. Data for purposes set forth in Paragraphs (2), (3), (4), (7), (10) and (11) of Article 20/A and in Paragraph (7) of Article 31 and in Paragraph (4) of Article 63 may also be supplied to authorised entities in a manner suitable for personal identification.

Article 63

- (1) The following entities are entitled to access the public service core register managed at the particular public administration agency - to the extent justified by their proceedings - and to import data from that beyond the central public service register:
 - a) public officials with regard to their own data,
 - b) superior of a public official,
 - c) senior official performing the rating,
 - d) the entity or person controlling lawfulness,
 - e) the entity or person conducting disciplinary proceedings,
 - f) a court in connection with a labour suit,
 - g) the national security services acting within their scope of responsibilities, the investigating authority, the attorney and the court in criminal proceedings commenced in connection with the public service legal relationship,
 - h) the assigned associate of the agency in charge of personnel, labour and remuneration-accounting functions within the particular scope of responsibilities.
- (2) The following entities are entitled to access the central public service register
 - a) public officials with regard to their own data.
 - b) the heads of central public administration agencies in the scope required for the establishment of government decisions.
- (3) Data - excluding data suitable for personal identification - may be supplied from the central public service register in the manner set forth in a government decree.
- (4) The central public service register also includes the names of
 - a) public officials within the scope set forth in Paragraph (7) of Article 31 and in Article 20/A,

- b) senior officials, professional (chief) advisors and public officials having participated in training, extension training designed for government interests in order to co-ordinate training and extension training tasks.
- (5) Public officials are entitled to request the correction of any false data maintained on them or the deletion of unlawfully maintained data, and to refuse to report unlawfully requested data. The data-manager is obliged to correct or delete any false data without delay.

Article 64

- (1) Among the documents related to the public service legal relationship of public officials, the data-registration sheet, the curriculum vitae, the testimonial, the deed of oath, the appointment, the documents ordering classification, retention and transfer, the rating, the document terminating the public service legal relationship, the resolution imposing an effective disciplinary punishment, and a copy of the public service certificate have to be stored together (personal files).
- (2) The entities specified under Paragraph (1) of Article 63 are entitled to access the personal files.
- (3) The personal files of public officials are posted or requested by the public administration agency if a public official previously had a public service legal relationship.
- (4) Information on the data maintained on a public official may not be given in addition to the data of public interest; personal files may not be disclosed with the exception specified under Paragraph (3).

Public service control

Article 64/A

- (1) The implementation of public service statutory laws is controlled by the Government - with the participation of the Minister of Internal Affairs and the heads of public administration offices of the capital and the counties. Within the framework of this, the subject areas of investigations (audits) and the agencies set forth in Paragraph (1) of Article 1 subjected to the investigation (henceforth: investigated agencies) shall be defined annually upon the recommendation of the Minister of Internal Affairs. The audit shall be conducted and the Government shall be informed on the experiences thereof by the Minister of Internal Affairs.
- (2) In case of central public administration agencies, the Minister of Internal Affairs is entitled - within the framework of audits and subject investigations - to
 - a) access documents containing employer's measures,
 - b) initiate measures at the head of the public administration agency or - in the event of dispute - at its superior agency in case of violation of statutory laws,
 - c) commence disciplinary or indemnification proceedings.
- (3) In instances set forth in sections b) and c) of Paragraph (2), the head of the public administration agency is obliged to examine the request of the Minister of Internal Affairs on the merits and to inform the Minister of Internal Affairs on the measures taken or the reasons for discarding the request within 30 days reckoned from the request.

- (4) The controlling authority related to investigated agencies beyond the scope of Paragraph (2) is exercised by the head of the public administration of the capital or the county under the co-ordination of the Minister of Internal Affairs.

Chapter VII

CONCILIATION OF INTERESTS OF PUBLIC OFFICIALS

Article 65

- (1) In order to conceal the interests of public administration agencies and of public officials, to settle any disputes through negotiations, and to develop appropriate agreements, a Public Officials' Interest-Conciliation Forum (henceforth: KÉF) operates with the participation of the Government, the national self-governmental pressure groups, and of the negotiating group of the employees' interest-protecting organisations of public officials.
- (2) The scope of the KÉF covers subject areas regarding the living and working circumstances, employment conditions of public officials. Thus its opinion has to be invited with regard to the following in particular:
- a) matters related to the public service legal relationship,
 - b) in connection with provisions of the central, the social insurance and the local governments' budgets concerning those engaged in public service legal relationships,
 - c) in ranking long-term wage-policy concepts and annual wage-policy measures effecting this area,
 - d) in theoretical issues of the management of public administration work-force and personal benefits, and with respect to the regulation of public service training, extension training.
- (3) The KÉF shall formulate opinion on legislation drafts concerning public administration and its personnel and shall analyse their operation, and shall participate in the development of the ethical norms of public service. The KÉF shall in accord with the central public service register analyse and assess the development of the number of employees, qualifications, remuneration relations and the reasons for changes in them.
- (4) The KÉF is entitled to request information, formulate opinion and issue recommendations in matter referred to its scope of authority.
- (5) The regulations on the organisation and the operation of the KÉF are included in the agreement between the Minister of Internal Affairs acting on behalf of the Government and the parties to the conciliation of interests. Responsibilities of its secretariat shall be fulfilled by the Ministry of Internal Affairs.

Article 66

- (1) Public service issues at the place of work are settled through the conciliation of interests of public officials at their place of work. The head of the official organisation of the public administration agency and the appointed officer of the employees' interest-representing body operating at the public administration agency shall participate in the conciliation of interests of public officials at the place of work. The negotiating parties may also bring experts into the conciliation of disputes.

- (2) The head of the official organisation of the public administration agency is obliged to invite the opinion of the employees' interest-representing body operating at the public administration agency with respect to
 - a) the regulations to be issued in regulatory subject areas referred to the authority of the head of the office in the government decree on the performance of work, the work-hours and time off, the rewarding and the benefits of public officials,
 - b) decrees of self-governments issued in accord with the authorisation specified under Article 4,
 - c) the definition of the amount of the remuneration vase in accord with Paragraph (3) of Article 42,
 - d) the remuneration supplement that may be introduced in accord with Article 44/A and its amount.
- (3) The local employees' interest-representing body may request information
 - a) in order to familiarise with drafts, statistical headcount and remuneration figures, calculations, analyses and guidelines devised in the subject areas listed under Paragraph (2),
 - b) on enforcement of public service statutory laws,
 - c) on conformance to local agreements.
- (4) The local employees' interest-representing body may present suggestions for
 - a) measures concerning public officials to the public administration agency,
 - b) uniform interpretation of local regulations concerning public officials, and
 - c) local regulatory subject areas concerning public officials.

Chapter VIII

REGULATION ON THE PUBLIC SERVICE LEGAL RELATIONSHIP OF ADMINISTRATORS AND BLUE-COLLAR WORKERS

Article 67

- (1) Public service legal relationship of administrators and blue-collar workers shall be governed by the provisions specified in Articles 4 through 9, Articles 11 and 11/B, Articles 13 through 22, Article 33, Articles 37 through 40, Paragraphs (7) and (8) of Article 41, Articles 42 through 44, Articles 47 and 48, Articles 49 and 49/A, in Chapters IV, V, VI and IX, and in this chapter of this Act. Provisions of Article 12 of this Act are applicable to administrators.
- (2) the amount of vacation of administrators and blue-collar workers shall be governed by the specifications of Article 131 of the Labour Code.

Article 68

- (1) Administrators must take the primary exam of administrators within six months reckoned from the commencement of their public service legal relationship. If an administrator fails

to take the primary exam within six months following the specified deadline, then the public service legal relationship of the administrator shall be terminated.

- (2) No primary exam of administrators has to be taken by those possessing a qualification earned at the faculty of administration management of an economic vocational secondary school or a primary or special exam in public administration.
- (3) The bearing of costs of the primary exam of administrators are governed by the provisions of Paragraphs (4) and (5) of Article 33.
- (4)

Article 69

The activity of administrators must be assessed at least every five years. The considerations of this assessment will be defined by the entity exercising employer's authority with consideration given to the rules of rating set forth in Articles 34 through 36.

Article 70

- (1) if an administrator has been waived from the qualification criteria upon application of the specifications of Paragraph (4) of Article 7, then until the obtaining of the qualification this administrator has to be classified into a salary category one below the category according to otherwise prevailing regulations.
- (2) The base remuneration of an administrator head of division is two and a half times the remuneration base.
- (3) Blue-collar workers may be appointed with primary educational qualifications, as well. In particularly reasonable instances the entity exercising employer's authority may waive this criterion.
- (4) Blue-collar workers may be assigned as leader of a workteam with applying the specifications of Paragraphs (1), (2) and (4) of Article 31 accordingly.
- (5) The base remuneration of a leader of a workteam is two and a three tenths times the remuneration base.

Chapter IX

MISCELLANEOUS PROVISIONS

Article 71

- (1) Regulations of the Labour Code have to be applied for the public service legal relationship when they are specifically stipulated by law.
- (2) Provisions of the Labour Code have to be applied in accord with the following:
 - a) Article 4, Paragraphs (1) and (2) and (4) of Article 5, Articles 6 through 12, Article 15, Articles 18 and 19, Articles 21 through 28, Article 74, Article 77, Article 85, Article 91, Article 97, Paragraphs (1) through (3) of Article 102, Paragraph (1) and the first sentence of Paragraph (2) and Paragraph (4) of Article 103, Paragraphs (4) and (5) of Article 104, Paragraphs (1) and (3) through (5) of Article 105, Articles 106 and 107, Paragraph (3) of

Article 117, Paragraph (2) of Article 119, Articles 120 through 122, Paragraphs (1) and (2) of Article 123, Articles 124 and 125, Paragraph (2) of Article 126, Articles 127 through 129, Paragraph (2) of Article 130, Paragraphs (1) through (3) and (6) of Article 132, Articles 133 through 140, Paragraph (1) of Article 144, Paragraph (2) of Article 151, Article 152, Paragraph (1) of Article 153, the first and third sentences of Paragraph (1) of Article 154, Articles 155 through 157, Articles 159 through 164, Paragraph (2) of Article 165, Paragraph (2) of Article 166, Paragraphs (1) and (4) of Article 167, Articles 168 and 169, Articles 171 and 172, Article 174, Articles 176 through 183, Paragraphs (1) and (2) of Article 184, Articles 185 through 187, Articles 204 and 205, Articles 207;

- b) Paragraphs (1) and (2) of Article 90 with the exception of the event of termination without legal successor;
 - c) provisions of Articles 100 through 150 with the addition that public officials may only conclude indentures with another public administration agency or employer upon prior permission of the entity exercising employer's rights;
 - d) Article 158 with the addition that deviation from the first sentence of Paragraph (1) is allowed in case of the methods of payment regulated in Article 49/A of this act.
- (3) Unless otherwise provided for, the following interpretations of the statutory law are required
- employment refers to public service legal relationship,
 - employer refers to the public administration agency,
 - employee refers to the person engaged in public service legal relationship,
 - contract of employment refers to appointment,
 - formal dismissal by employer refers to dismissal,
 - labour dispute refers to public service legal dispute,
 - wage or absence fee refers to remuneration,
 - measure leading to disadvantageous consequences refers to disciplinary proceedings,
 - personal base wage refers to the base remuneration, remuneration supplement and senior official remuneration allowance of the public official.

Article 71/A

The Public Officials' Day is July 1st.

Article 72

- (1) In the classification of public officials (Article 23), the period serviced in employment, public service or civil servant legal relationship, in judicial service or employment, public prosecution or official service legal relationship, and in other legal relationship aimed at the performance of work shall be regarded as the basis, where six months of the period with no obligation to perform work and exceeding six months without interruption have to be included. The entire term of regular and reserve military and civil service, vacation taken without pay in order to nurse, attend children under the age of 10 or taken by spouses of employees on permanent foreign service.

- (2) With regard to the application of Paragraph (1), six months of the period recognised in accord with a statutory law as period serviced in employment prior to July 1, 1992 have to be taken into account regardless of whether a legal relationship aimed at performance of work had been maintained in its course or whether the obligation to perform work has been enforced in case of such legal relationship.
- (3) In the application of this act, the outworker employment and the membership in a co-operative, the membership in specialised groups, the activities based on subcontracting and commissioning contracts, and the activities of business ventures and civil-law partnerships involving personal contribution and of attorney at law and of the self-employed in particular are to be regarded as other legal relationship aimed at performance of work.
- (4) The period of parliamentary, self-governmental representative and mayor's assignments are to be regarded as a period serviced in public service legal relationship, if the public official repeatedly established public service legal relationship following the termination of such assignments.
- (5) With regard to the application of this act, the term "spouse" refers to the persons set forth in section b) of Article 97 of Act IV of 1957 amended and framed into a uniform structure by Act I of 1981.
- (6) The following interpretations of the statutory law are required
 - a) state administration agency refers to public administration agency,
 - b) state administration senior official or executive refers to public officials,
 - c) administrative worker refers to administrator,
 - d) state administration worker refers to public official, administrator and blue-collar worker.
- (7) With regard to the application of this act, the period serviced in public service legal relationship at a public administration agency or at its legal predecessor agency, or in state administration employment is to be considered public administration practice regardless of whether the legal relationship was maintained continuously or not.

BH1994 291. The act on the legal status of public officials orders the exclusive consideration of the period serviced in employment and other legal relationship aimed at performance of work as the basis for public service legal relationship, and the period with no obligation to perform work and exceeding six months without interruption has to be excluded from this. Public officials are entitled to material benefits set forth by law according to this statutory law (Paragraph (1) of Article 72 of Act XXIII of 1992).

Article 73

- (1) Specifications of Paragraph (1) of Article 21 of this act are to be applied for elections held following the act coming into force.
- (2) The list of agencies subject to the scope of this act will be published by the Government.
- (3) Following this act coming into force, the legal status of the head and the employees-if a public administration agency have to be provided for upon establishment.
- (4) With regard to the application of this act, government commissioners qualify as under-secretaries: heads of public administration agencies with nation-wide authority controlled

by the Government qualify as under-secretaries; heads of central public administration agencies operated within the scope of responsibility of a minister qualify as heads of department or as under-secretaries - upon decision of the minister.

- (5) Upon this act coming into force, the employment of those employed at the agencies listed under Paragraphs (1) and (2) of Article 1 shall be transformed into public service legal relationship. Those concerned have to be classified - in accord with the public service period and the educational qualification - within six months reckoned from this act coming into force. Those not meeting the criteria specified in this act may only be granted temporary classifications.
- (6) Administrators may be classified temporarily even if having no secondary educational qualification, but this has to be obtained in order to receive a final classification.
- (7) Those among the executive staff upon this act coming into force yet fulfilling administrative functions shall be classified as administrators.

Article 74

- (1) Upon this act coming into force, any disciplinary proceedings under way have to be conducted in accord with the regulations of this act. Labour suits related to the disciplinary resolution have to be abated and the entity exercising employer's authority may commence disciplinary proceedings within 30 days reckoned from the receipt of the resolution on the abatement.
- (2) In case the disciplinary resolution imposes a punishment of no dismissal, then the punishment of deprivation of office may not be imposed in the repeatedly conducted disciplinary proceedings.

Article 75

- (1) The obligation specified in this act to take primary exams in public administration or of administrators must be met by December 31, 1995. The public service legal relationship shall be terminated upon lapse of this deadline without success - with consideration given to the specifications of Paragraph (7) of Article 25, as well.
- (2)
- (3) Public officials and administrators may only be classified finally, if meeting the requirements of the examination required for the classification and stipulated by law, unless the time required in order to pass the pension age-limit as of July 1, 1992 is less than
 - a) five years in case of primary exams in public administration or of administrators,
 - b)
- (4)
- (5) The public service legal relationship of public officials with a qualification of secondary degree and employed in an organisational unit fulfilling basic activities of a central public administration upon this act coming into force may not be terminated for the lack meeting the condition set forth in Paragraph (5) of Article 7, if

- a) the time remaining until the achievement of the old-age pension age-limit is less than five years, or
 - b) the undergraduate studies at a higher educational institution are commenced in the 1993/94 school year at the latest and the qualification is obtained within the prescribed time-limit.
- (6) The public service legal relationship may not be terminated for the lack of meeting the conditions set forth in sections a) and b) of Paragraph (5) if there is an opportunity of employment in an organisational unit fulfilling responsibilities outside the basic activities of a central public administration. If a public official does not give consent to such employment, then the public service legal relationship is terminated by power of this act.
 - (7) Provisions of Paragraphs (3) and (4) of Article 25 and of Paragraph (1) of Article 68 may not be applied towards public officials already obtaining eligibility for old-age pension provision upon appointment or upon transfer from agencies subject to the scope of statutory laws regulating the public service legal relationship, the official service legal relationship.
 - (8) Public officials are obliged to eliminate incompatibility within 30 days reckoned from this act entering into force. Provisions of Article 22 are applicable in case of failure to meet this deadline.
 - (9) Data registers maintained prior to this act coming into force have to be continuously maintained until the introduction of the new register - covering the scope of data specified in this act.
 - (10) The titles of chief counsellor and counsellor granted prior to this act coming into force shall be eliminated upon the final classification, but the allowance associated with the title has to be integrated into the remuneration.

Article 76

- (1) This act shall come into effect on July 1, 1992 - with the exception of the specifications of Paragraph (2).
- (2) Rules of the remuneration system shall enter into effect on the date of announcement of this act. These rules - with the exception of remunerations in accord with the remuneration system - are applicable from January 1, 1992. The remunerations in accord with the remuneration system have to be achieved until January 1, 1995. More advantageous regulations on the remuneration system and the benefits set forth in separate statutory laws and related the remuneration of ministers may be applied from January 1, 1992 at agencies where the conditions of them may be provided for from savings on wages or from budgetary allotment (addressed reserves). The amount of remuneration base in the Year of 1997 is 23.400.00 HUF.
- (3) The remuneration defined for a public official in a public service legal relationship established following this act coming into effect may not exceed the remuneration according to this act.
- (4) The remuneration of public officials, administrators and blue-collar workers moved to public service legal relationship upon this act coming into effect may not be reduced due to the introduction of the new remuneration system.

- (5) Public officials dismissed at dates following this act coming into effect will be entitled to severance pay in accord with this act.

Article 77

- (1) If a public official employed in an important and confidential position set forth in a statutory law following this act coming into effect does not meet the security criteria required in order for the state life and the national economy to operate legitimately, then the head of the official organisation will initiate the transfer of the public official into a position of less importance and confidentiality or into an important position not qualifying as confidential conforming to the qualification and educational degree of the public official - along with the withdrawal of senior official assignment, appointment in case of senior officials.
- (2) If the public official does not accept the transfer, then the head of the official organisation will initiate the termination of public service legal relationship with mutual agreement. If the public official does not give consent to this, then the public service legal relationship must be terminated with immediate effect upon the date set forth in Paragraph (2) of Article 72 of Act CXXV of 1995 (henceforth: National Security Act).
- (3) If the public official concerned states the intention of not willing to be subjected to the obligations associated with important and confidential positions, then this person must be regarded as not meeting the security criteria, and the public service legal relationship of this public official shall be terminated by power of this act.
- (4) If upon the information received from the national security service the head of the official organisation decided that the public official employed in an important and confidential position does not meet the security criteria required in order for the state life and the national economy to operate legitimately, but in accord with Paragraph (3) of Article 72 of the National Security Act the public official files a complaint in connection with the findings of the security expert opinion, then the public official has to be dismissed from the performance of work from the date of the notification until the evaluation of the complaint. The public official will be entitled to remuneration for the term of dismissal.
- (5) Notification on the expert opinion set forth in Paragraph (1) of Article 72 of the National Security Act must be handled in accord with the rules of confidential processing methods.

Article 78

- (1) Targeted benefits may be defined to public officials for the term of completing a specific task, if obliged by the head of the public administration agency to perform stressed additional responsibilities (henceforth: task).
- (2) The head of the public administration agency is entitled to define the task in accord with the guidelines of the Government.
- (3) The Government shall separately provide for the source of targeted benefits, the scope of public administration agencies performing the tasks, and for the methods of using the estimates.

Article 79

Article 80

- (1) The Government shall in a decree specify further regulations regarding
 - a) the qualification, extension training, primary and special exams in public administrations, the primary exam of administrators, the management training in public administration;
 - b) the public service register;
 - c) the personal files related to the public service legal relationship;
 - d)
 - e) the peculiarities of the performance of work, the work-hours and the time off, the rewarding and the special benefits, the cultural, welfare and health-care benefits in the public service legal relationship;
 - f) the personnel and wages management of public administration agencies;
 - g) the public service legal relationship of public officials, administrators and blue-collar workers permanently employed abroad;
 - h) the scheduling of the implementation of switching to the methods of payment regulated in Article 49/A with respect to the central public administration agencies and to their regional and local agencies (Paragraph (1) of Article 1);
 - i) the enlistment in the reserves;
 - j) the invitation, contents, evaluation and disclosure of tenders.
- (2) The Minister of Internal Affairs will organise and co-ordinate the training, extension training and cross-training of public officials, and will perform responsibilities related to management training in public administration.

Entering, closing and transitory provisions to the amendments of
Act XXIII of 1992 on Legal status of public officials.

Act CI of 1997 on amendment of Act XXIII of 1992 on Legal status of public officials

Article 72

- (1) This act shall come into effect on January 1, 1998 - with the exception of the specifications of Paragraph (2).
- (2)
 - Articles 7 and 20 of this act shall enter into force on the 8th day reckoned from the announcement of the act,
 - Paragraphs (2) and (4) of Article 25 specified with Article 23, Paragraph (1) of Article 67, section d) of Paragraph (4) and Paragraph (7) of Article 74 of this act shall enter into force on November 1, 1997,
 - Articles 8 and 19 of this act shall enter into force on September 1, 1998.

Article 74

- (1) The public service legal relationship of those employed in public service legal relationship at the mayor's office in order to perform public services specified in Article 2 of this act has to be terminated within three months reckoned from this act coming into effect, with the appropriate application of Article 17/A of the Civil Servants Act.
- (2) Following this act coming into effect, the appointment for the performance of responsibilities set forth in Paragraphs (1) through (3) of Article 11/A of the Civil Servants Act may only refer to filling the positions of chief political advisors and political advisors.
- (3) Assignment of chief advisors and advisors set forth in Paragraph (1) of Article 32 of the Civil Servants Act may be granted for three years reckoned from this act coming into force to even those not having a special exam in public administration.
- (4) Within three months reckoned from this act coming into force, with the date of this act coming into force
 - a) the classification of public officials has to be modified in accord with the provisions specified in Article 22 of this act;
 - b) the temporary or final nature of the classification of public officials will cease, and the classification documents and the documents regarding the prescription of special exam in public administration have to be modified accordingly;
 - c) public officials appointed for a fixed term have to be obliged to take the primary exam in public administration through the appropriate application of the provisions specified in Paragraph (4) of Article 29 of the Civil Servants Act upon this act entering into effect. Upon unsuccessful lapse of the deadline, the public service legal relationship of the public official shall be terminated by power of the act;
 - d) public officials concerned have to be re-classified due to the inclusion of the term of regular and reserve military and civil service as period serviced in public service legal relationship, and their remuneration has to be defined in accord with provisions of Articles 43 and 44 of the Civil Servants Act with the addition that the -20% deviation set forth in Paragraph (4) of Article 43 of the Civil Servants Act may not be applied;
 - e) remuneration of professional advisors, chief advisors has to be defined in accord with Paragraph (4) of Article 30/A of the Civil Servants Act in a way that their remuneration in effect upon this act coming into force may not be reduced;
 - f) public officials employed in the positions of chief advisors and advisors have to be re-classified according to the provision specified in Paragraph (2) of Article 32 of the Civil Servants Act.
- (5) Remuneration of public officials with titles of (chief) professional advisor upon this act entering into effect may not be reduced due to the specifications of Paragraph (3) of Article 30/A of the Civil Servants Act.
- (6) Senior official assignment, appointment or titles of (chief) professional advisor may not be withdrawn from public officials with senior official assignments, appointments or titles of (chief) professional advisor upon this act entering into effect due to the lack of special exam in public administration for three years reckoned from this act entering into effect. Public officials without special exam in public administration may be granted senior official assignments, appointments or titles of (chief) professional advisor until

December 31, 1999, they have to meet the obligation of taking the special exam in public administration within one year reckoned from being granted senior official assignment, appointment or title of (chief) professional advisor. Specifications of Paragraph (4) of Article 25 of the Civil Servants Act are to be applied accordingly in the calculation of the deadline.

- (7) The anniversary premium of those being in public service legal relationship upon this act entering into effect - with consideration given to the term of regular and reserve military and civil service - has to be disbursed on the basis of remuneration defined as of the day of this act entering into effect within two months reckoned from this act entering into effect, provided that they have attained any of the categories during the period between July 1, 1992 and the day of this act entering into effect.
- (8) Public officials being senior officers at or members of the board of supervisors of business ventures upon this act entering into effect are obliged to report this fact in writing to the entity exercising employer's authority within 30 days reckoned from this act entering into effect.

Appendix 1 to Act XXIII of 1992

RATING SHEET

1. Personal information:
Name (maiden name):
Mother's name:
Place of birth:
Date of birth:
Classification:
Senior official assignment:
2.
 - a) Commencement of the particular career stage:
 - b) Date of rating:
 - c) Reason for waiting period shorter or longer than specified:
3. Criteria and responsibilities prescribed by statutory law and defined by employer:
4. Points to consider in the evaluation of meeting the criteria and the responsibilities:
 - a) Professional knowledge and expertise
 1. Outstanding
 2. Above average
 3. Average
 4. Below average
 5. Not satisfactory
 - b) Analytic skills
 1. Outstanding
 2. Above average
 3. Average
 4. Below average
 5. Not satisfactory
 - c) Judgement capacity
 1. Outstanding
 2. Above average
 3. Average
 4. Below average
 5. Not satisfactory
 - d) Accuracy
 1. Outstanding
 2. Above average

- 3. Average
- 4. Below average
- 5. Not satisfactory
- e) Skills of expression in writing
 - 1. Outstanding
 - 2. Above average
 - 3. Average
 - 4. Below average
 - 5. Not satisfactory
- f) Skills of expression orally
 - 1. Outstanding
 - 2. Above average
 - 3. Average
 - 4. Below average
 - 5. Not satisfactory
- g) Sense of responsibility
 - 1. Outstanding
 - 2. Above average
 - 3. Average
 - 4. Below average
 - 5. Not satisfactory
- h) Sense of vocation
 - 1. Outstanding
 - 2. Above average
 - 3. Average
 - 4. Below average
 - 5. Not satisfactory
- i) Skills of establishing and keeping contacts
 - 1. Outstanding
 - 2. Above average
 - 3. Average
 - 4. Below average
 - 5. Not satisfactory
- j) Diligence, endeavour
 - 1. Outstanding

2. Above average
3. Average
4. Below average
5. Not satisfactory

In case of senior officials (if directing several public officials or administrators):

k) quality of work of the team directed

1. Outstanding
2. Above average
3. Average
4. Below average
5. Not satisfactory

l) Organisation of work

1. Outstanding
2. Above average
3. Average
4. Below average
5. Not satisfactory

5. Other points deemed by the rater as important to consider:

6. Assessment of the capability of the person being rated (in accord with the consideration specified under sections 4. and 5.):

1. Extremely capable
2. Capable
3. Less capable
4. Not capable

Rating has been communicated to the person being rated.

name and signature of rater:

title of rater:

I have read the contents of the rating.

My remarks:

signature of the person being rated

Remarks of the interest-representing body:

Appendix 2 to Act XXIII of 1992

REMUNERATION SYSTEM

CLASSIFICATION CATEGORY I (public officials with higher educational qualification)

Description of classification category	Salary category	Term of public service legal relationship (years)	Multiplier
Trainee	1	0-1	1.25
Junior clerk II	2	1-3	1.55
	3	3-5	1.65
	4	5-7	2.00
Junior clerk I	5	7-9	2.10
	6	9-11	2.35
Secretary II	7	11-13	2.50
	8	13-15	2.60
Secretary I	9	15-17	2.65
	10	17-19	2.80
Counsellor II	11	19-21	2.85
	12	21-23	2.90
Counsellor I	13	23-25	2.95
	14	25-29	3.10
Chief counsellor I	15	29-33	3.20
	16	33-37	3.30
Special chief counsellor	17	37 +	3.40

CLASSIFICATION CATEGORY II (public officials with secondary educational qualification)

Description of classification category	Salary category	Term of public service legal relationship (years)	Multiplier
Trainee	1	0-2	1.00
Clerk II	2	2-4	1.25
	3	4-6	1.35
	4	6-8	1.55
Clerk I	5	8-10	1.60
	6	10-12	1.65
	7	12-15	1.80
Chief clerk III	8	15-18	1.85
	9	18-21	1.90
	10	21-24	2.00
Chief clerk II	11	24-27	2.05
	12	27-29	2.10
Chief clerk I	13	29-31	2.20
	14	31-34	2.30
Senior associate	15	34 +	2.40

CLASSIFICATION CATEGORY III (administrators)

Description of classification category	Salary category	Term of public service legal relationship (years)	Multiplier
Administrator	1	0-3	0.60-0.80
	2	3-8	0.85-1.05
	3	8-14	1.10-1.30
	4	14-24	1.35-1.55
	5	24-34	1.60-1.80
	6	34-38	1.85-2.05
	7	38 +	2.10-2.20

CLASSIFICATION CATEGORY IV (blue-collar workers)

Description of classification category	Salary category	Term of public service legal relationship (years)	Multiplier
Blue-collar workers	1	0-3	0.50-0.70
	2	3-8	0.75-0.95
	3	8-14	1.00-1.20
	4	14-24	1.35-1.45
	5	24-34	1.50-1.70
	6	34-38	1.75-1.95
	7	38 +	2.00-2.05

Appendix 3 to Act XXIII of 1992
SCOPE OF DATA IN THE PUBLIC SERVICE CORE REGISTER

The public official's

I.

- Name (maiden name)
- Place and date of birth
- Mother's name
- residence, home address, place of temporary residence, telephone number
- marital status
- date of birth of children (number of dependants, commencement of dependence)

II.

- highest educational qualification (all in case of two or more qualifications)
- special qualifications
- special qualifications acquired in extracurricular education, and data on documents authorising the holding of specific positions
- academic degree
- foreign language proficiency

III.

- terms in previous employment

description

description of place of work

title

classification

method of termination

IV.

- commencement of public service legal relationship, periods to be excluded from its calculation,
- nationality,
- number and date of testimonial,
- information on primary exam in public administration,
- information on special exam in public administration,
- data on periods serving as the basis for the calculation of the amount of anniversary premium and severance pay,
- number and date of deed of oath.

V.

- name, seat, statistical numeric identifier of employing public administration agency
- commencement of public service legal relationship at this agency
- current classification, senior official assignment, FEOR (Classification System of Responsibilities) number
- data on granting of titles, premium and honours
- date of ratings
- effective disciplinary punishment

VI.

- personal benefits

VII.

- virtue and term of absence of public official from work

VIII.

- data on remuneration and salary, and special benefits, and training, extension training contribution

IX.

- data in connection with the specifications of Article 21/A (report of public official in connection with senior officer and supervisory board membership assignments in business ventures, and decision of the entity exercising employer's authority with regard to the incompatibility of the post reported).

Appendix 4 to Act XXIII of 1992

SCOPE OF DATA IN THE CENTRAL PUBLIC SERVICE REGISTER

The public official's

I.

- technical identifier

II.

- sex, name of public official in case of Paragraph (4) of Article 63
- date of birth

III.

- highest educational qualification (all in case of two or more qualifications)
- special qualification(s)
- special qualification(s) acquired in extracurricular education, and data on documents authorising the holding of specific positions
- academic degree
- foreign language proficiency

IV.

- commencement of public service legal relationship
- information on primary exam in public administration
- information on special exam in public administration
- data on periods serving as the basis for the calculation of the amount of anniversary premium and severance pay

V.

- name, seat, statistical numeric identifier of employing public administration agency
- commencement of public service legal relationship at this agency
- current classification, senior official assignment, FEOR (Classification System of Responsibilities) number

VI.

- data on remuneration and salary, and special benefits, and training, extension training contribution

VII.

- date and method of termination of public service legal relationship and of final and fixed term transfers, data on severance pay

Appendix 5 to Act XXIII of 1992

Scope of data of record on those engaged in public service legal relationship and enlisted in the reserves

The public official's

I.

- Name
- technical identifier
- date of birth
- home address information (residence, place of temporary residence), telephone number

II.

- highest educational qualification (all in case of two or more qualifications)
- special qualifications
- special qualifications acquired in extracurricular education, and data on documents authorising the holding of specific positions
- academic degree
- foreign language proficiency

III.

- terms in previous employment

description

description of place of work

title

classification

method of termination

IV.

- name and address of employing public administration agency
- decision and date of decision regarding mass work-force cut in case of the specifications under Paragraph (6) of Article 17/B
- date of enlistment in the reserves
- term of enlistment in the reserves

V.

- description and date of senior official assignment, appointment

VI.

- term of public service legal relationship
- classification class, category
- salary category
- remuneration
- code number
- titles granted

**Act XXII of 1992 on the
Labour Code**

**PART ONE
INTRODUCTORY PROVISIONS**

Fundamental rules of exercising rights and performing duties

Article 4

- (1) Rights and duties set forth in this act must be exercised and performed in accord with their intended purpose.
- (2) The exercising of rights is in particular not in accord with their intended purpose if it is directed at or leading to the infringement of legitimate interests, the limitation of interest-enforcement options, the harassment or the suppression of expression of opinion of others.
- (3) The adverse consequences of exercising of rights not in accord with their intended purpose must be remedied accordingly.

The prohibition of adverse discrimination and the obligation of positive discrimination

Article 5

- (1) In connection with employment, adverse discrimination must not be applied among the employees with respect to their sex, age, nationality, race, origin, religion, political belief, association with employees' interest-representing bodies or activities in conjunction with the foregoing, and to all other circumstances not related to employment. Discrimination directly following from the type or nature of the job is no adverse discrimination.
- (2) In case of any disputes arising in connection with the violation of the prohibition of adverse discrimination, employer has to prove that its procedures have not violated the specifications of Paragraph (1).
- (4) Regulations on employment may prescribe certain obligations of positive discrimination - in connection with the employment - with regard to a specific scope of employees and in the event of identical conditions.

Legal statements

Article 6

- (1) Statements related to employment may be made without any constraints on their format, if not stipulated otherwise in regulations on employment. Upon request of employee, statements have to be put in writing even if it would otherwise not be obligatory.
- (2) Statements made in violation of the constraints on the format are invalid.
- (3) Employer is obliged to reason its measures in writing if employee has the option to initiate legal remedy. In this case the employee has to be advised on the method of and deadline for legal remedy.

- (4) Written statements may be regarded as communicated upon delivery to the person concerned or authorised to receive it. Communication is also effective if the party concerned refuses or deliberately obstructs to receive it; this has to be recorded.

Invalidity

Article 7

- (1) An agreement may be impugned if the party was wrong in a fact or circumstance upon conclusion, provided that such mistake was caused or recognised by the other party, or both parties had the same misconception. A statement may also be impugned if a party was forced to make it by unlawful threats.
- (2) An agreement may be impugned by the party being misled or forced to make a statement by unlawful threats or being in a misconception.
- (3) The deadline for such impugnement is thirty days reckoned from the recognition of being wrong or misled, or in case of unlawful threats the discontinuation of the distress. The deadline for impugnement is accordingly governed by the rules of limitation in time with the addition that the right of impugnement may not be exercised upon lapse of six months.
- (4) An impugnement must be communicated to the other party in writing and within the deadline set forth in Paragraph (3). Thereafter the proceedings shall be governed by the regulations on handling labour disputes.
- (5) Specifications of Paragraphs (1) through (4) are accordingly governing if a party intends to impugn an own legal statement.
- (6) With regard to the application of this act, agreements are contracts of employment, and other employment-related agreements concluded between employer and employee.

Article 8

- (1) Agreements violating any regulation on employment or statutory laws in any other manner are null. If nullity may not be redressed within a short period of time and without the violation of the interests of the parties and the public, then nullity has to be considered officially.
- (2) Employees may not waive their rights ensuring the protection of wages and personality in advance nor may preliminary conclude any agreement infringing such rights at the expense of employee.

Article 9

Null and successfully impugned agreements are invalid. If any part of an agreement becomes invalid, then it shall be replaced by the regulations on employment, unless the parties had had not concluded an agreement without the invalid part.

Article 10

- (1) Rights and duties arising from invalid agreements are to be assessed as if they had been valid. Legal relationships established on the basis of an invalid agreement must be terminated by employer with immediate effect, if not stipulated otherwise in this act.
- (2) In case of invalidity due to reasons within the control of employer, the legal consequences of formal dismissal by employer are to be applied accordingly.
- (3) If parties sustain damages from the invalidity of the agreement, then their indemnification will be accordingly governed by the regulations on liability for damages.

BH1995 737. Rights arising from valid contracts of employment may - in accord with separate statutory law - be enforced upon those acting for companies not being incorporated yet (Paragraph (3) of Article 16 of the Decree of the Council of Ministers 48/1979 (XII. 1.), Paragraph (1) of Article 25 of Act VI of 1988 (Business Act).

Limitation of claims from employment in time

Article 11

- (1) Claims related to employment lapse within three years. Liability for damages cause by crimes lapses within five years, and if the limitation of indictability in time is longer than this, then it lapses accordingly.
- (2) Lapse of a claim is reckoned from the date it becomes due. Lapse of a claim must be considered officially. Performance beyond the limitation in time may not be claimed back by virtue of limitation in time.
- (3) If an eligible person may not enforce a claim for reasonable causes, then it may be enforced within six months reckoned from the elimination of obstacles even if the limitation in time has already expired or if less than six month of has remained.
- (4) Written notice for enforcement of a claim, enforcement of a claim in front of a court, modification of a claim upon agreement, conclusion of an agreement or acknowledgement by obligor shall suspend the limitation in time. Limitation in time shall continue upon completion of the suspension of the limitation in time or upon final closing of proceedings causing the suspension of the limitation in time. If an enforceable resolution has been adopted in the course of the proceedings suspending the limitation in time, then the limitation in time shall only be suspended by the enforcement actions.

Calculation of deadlines

Article 12

- (1) Days refer to calendar days, if not stipulated otherwise in regulations governing employment.
- (2) Deadlines set in days do not include the day of action (e.g. delivery) causing the commencement of the deadline.
- (3) Deadlines set in weeks shall expire on the day regarded as the day of commencement by its description. The day of expiration of deadlines (terms) set in months or years is day regarded as the day of commencement by its number. If this day is missing from the month of expiration, then it is the last day of the month.

- (4) If the last day of a deadline set for making a statement falls on Saturday, Sunday or a public holiday, then the deadline will expire on the subsequent work-day.
- (5) Failure to meet deadlines set forth in this act may be discarded if it is explicitly allowed by this act.

PART ONE LABOUR RELATIONS

Article 15

- (1) Employees and employers have - in accord with the terms and conditions set forth in separate acts - the right to establish without any prejudice and together with others interest-representing organisations to facilitate and protect their economic and social interests, and to join any organisation of their choice - depending exclusively on the regulations of the particular organisation - or to stay away from organisations of this kind.
- (2) Interest-representing organisations are entitled to formulate or to joining alliances or co-operatives, including international alliances.

Chapter II

Trade unions

Article 18

With regard to the application of this act, trade unions refer to all organisation of employees aimed primarily at facilitating and protecting the interests of employees related to employment.

Article 19

- (1) Employees are entitled to establish trade unions within the work-organisation, as well. The trade union has the right to maintain bodies within the work-organisation and to involve its members in the operation of such bodies.
- (2) The trade union has the right to inform employees on their rights and duties concerning their financial, social and cultural, and living and working circumstances, and to represent its members towards the employer or the state agencies in the scope of labour relations and employment.
- (3) The trade union is entitled to represent its members - with proxy - in front of a court, other authority and other agencies in issues concerning their living and working circumstances.

Article 21

- (1) State agencies, local governments and employers are obliged to co-operate with the trade unions, and in within the framework of this to facilitate their interest-representing activities through providing the required information, and to communicate detailed

standpoints and the reasons thereof regarding their remarks and proposals within thirty days.

- (2) Employers are obliged to inform the trade union maintaining a representative office at the employer in advance on any measures directly concerning employees or the employees of a particular site in the extent specified under Paragraph (1) of Article 94/A.
- (3) In case of legal succession in the entity of employer, the legal predecessor and the legal successor employer is obliged - at an appropriate date prior to the legal succession, or at least prior to effecting the employment and working circumstances of employees - to inform the trade union on the reason for legal succession, its legal, economic and social consequences concerning employees, and to enter into consultation on other proposed measures concerning employees.
- (4) With regard to the application of this act, the trade union maintaining a representative office at the employer are the trade union maintaining a body authorised to represent it or having officers at the employer in accord with its by-laws.

Article 22

- (1) The trade union may request information from employer on any issue related to the economic and social interests of employees in connection with the employment. Employer may not refuse to give such information or to reason its measures. Moreover, the trade union is entitled to communicate its standpoint, opinion on employer's measure (decision) to employer, and to initiate consultation in connection with this.
- (2) The trade union is entitled to examine conformance to regulations on working circumstances. Within the scope of this, it may request information from the agency concerned on the implementation of regulations on employment and the required information, data must be made available to it.
- (3) The trade union may draw the attention of agencies responsible for implementation to any shortcoming or fault observed in the course of such examination, and may commence proceedings if these agencies fail to take the necessary measures in due course. The agency conducting proceedings is obliged to inform the trade union on their outcome.

Article 23

- (1) The trade union maintaining a representative office at the employer is entitled to file a complaint against any unlawful measure (fault) of employer directly concerning employees or their interest-representing bodies.
- (2) Complaints have to be submitted to the senior officer of employer within five work-days reckoned from learning about the measure objected. Complaints may not be submitted beyond one month reckoned from the taking of the particular measure.
- (3) There is no place for complaint if employee may initiate legal dispute against a measure. To the contrary, the trade union maintaining a representative office at the employer is entitled to file a complaint if employer has terminated the employment of an officer of the trade union by formal dismissal and in the lack of prior consent of the direct superior body of the trade union.

- (4) If employer disagrees with the complaint, it leaves room for conciliation. The conciliating negotiation related to the complaint must be commenced within three work-days reckoned from filing the complaint. If conciliation fails to lead to an agreement within seven days, then the trade union may appeal to a court within five days reckoned from the conclusion of such failure. The court shall decide within fifteen days in non-legal proceedings.
- (5) The measure objected may not be enforced or its enforcement must be suspended until the completion of the conciliating negotiation between employer and the trade union or until the final decree of the court.

Article 24

- (1) Employer is obliged to provide for the opportunity of the trade union to publish information, invitation and other data related to its activities it deems necessary in a manner regularly applied at employer or in any other suitable manner.
- (2) The trade union has the right to use premises of employer for the purpose of its interest-representing activities after and during the work-hours in accord with the agreement concluded with employer.

Article 25

- (1) Employer is obliged to provide for reduced work-hours to the officer of the trade union.
- (2) The amount of reduction of work-hours considering all officers are for every three member of the trade union employed by employer shall - in the lack of a differing agreement - be
two hours per month up to 200 trade union members,
one and a half hour per month between 201 and 500 trade union members,
one hour per month from 501 trade union members.
The amount of this reduction does not include the duration of negotiations with employer. The trade union shall decide on the utilisation of the reduction of work-hours. Absence from work must be reported in advance.
- (3) Officers are entitled to an absence fee for the term of the reduction of work-hours.
- (4) Employer is obliged to provide a total of one day extraordinary paid vacation to the trade union members for every ten member of the trade union employed by employer in accord with prior conciliation for the purpose of training or extension training organised by the trade union. The amount of this vacation that may be utilised will be defined by the trade union. Employer must be notified at least thirty days prior to the utilisation of this vacation.
- (5) Upon request of the trade union, the period of the reduction of work-hours due in accord with Paragraph (2) not being used up, but the half of the reduction of work-hours at the most must be redeemed by employer in cash. Employer shall determine the amount of cash-redemption in accord with the average salaries of trade union officers in the preceding calendar year and shall disburse it to the trade union subsequently in every

month and in gross amounts. The trade union may only use this amount of money for purposes in connection with its interest-protecting activities.

Article 26

- (1) Employer may not demand employees to give a statement on their involvement in a trade union.
- (2) Employment of an employee may not depend on whether being the member of a trade union or not, and on whether terminating previous trade union membership or not, or on whether agreeing to join the trade union specified by employer.
- (3) Employment of employees must not be terminated and employees must not be impaired or damaged in any way for their involvement or activity in a trade union.

Article 27

It is prohibited to link any eligibility or benefit to involvement in or absence from a trade union.

Article 28

- (1) Prior consent of the direct superior body of the trade union is required for employer-initiated transfer of an employee holding an elected trade union post to a different place of work and for the termination of the employment of such employee through formal dismissal by employer. The opinion of the competent agency of the trade union must be invited prior to an extraordinary dismissal applicable to such officer, and the competent agency of the trade union must be notified on the application of legal consequences in accord with Article 109 and on the transfer of an officer employed at varying places of work to a different place of work.
- (2) The trade union shall communicate its standpoint related to employer's measure according to Paragraph (1) within eight days reckoned from the receipt of employer's communication. If the trade union disagrees with the proposed measure, then the communication must include the reasons for the disagreement. If the trade union does not communicate its opinion to employer within the above deadline, then it has to be regarded as if the trade union would agree with the proposed measure.
- (3) In case of extraordinary dismissal of an officer, specifications of Paragraph (2) are applicable with the difference that the trade union is obliged to state its opinion related to the proposed measure within three days reckoned from the receipt of employer's communication.
- (4) Officers are entitled to the protection set forth under Paragraph (1) during the term of the assignment and for one year reckoned from the termination of the assignment, provided that the post had been held for at least six months.
- (5) In case the body of the trade union authorised to proceed in the matter of an elected officer, then the authorisation set forth in Paragraph (1) will be exercised by the body of the trade union in which the officer performs activities.
- (6) Officers are entitled to the protection set forth under Paragraph (1) for the term and under the conditions set forth in Paragraph (4) even in case of legal succession in the entity of employer.

Article 74

- (1) Employer is obliged to inform employee on the agency or person exercising and performing employer's rights and duties arising from the employment (employer's authority).
- (2) If employer's authority was not exercised by the authorised agency or person, then the proceedings are invalid, unless employee was able to reasonable conclude the authorisation of the person (agency) from the circumstances.
- (3) No valid deviation from the provisions specified under Paragraphs (1) and (2) is allowed.

Establishment of employment

Article 77

Employees may only be demanded to make statements or fill out data-sheets, or be subjected to capability examinations which do not violate their personal rights and may provide relevant information with respect to the establishment of employment.

Article 85

- (1) Female employees have to be temporarily transferred to a position complying with their physical condition- on the basis of presenting a medical opinion regarding the capability for the position - or the conditions of work have to be modified accordingly for the period between the conclusion of pregnancy and the child's age of one year. Consent of employee is required for the assignment to the new position.
- (2) Wages of female employees temporarily transferred in accord with Paragraph (1) or employed under modified working conditions without transfer may not be lower than their average salaries in the preceding year. If employer is unable to provide to a position complying with their physical condition, then they have to be waived from the performance of work and wages due for downtime have to be provided to them for this period.
- (3) Employer is obliged to continue the employment of employees with their capacity to work being changed in the course of the employment in positions complying with their physical condition, in accord with the specifications of separate statutory laws.
- (4) No valid deviation from the provisions specified under Paragraphs (1) and (2) is allowed.

Article 90

- (1) Employer may not terminate employment through formal dismissal in the following instances and during the subsequent period set forth in Paragraph (2):
 - a) disability due to illness, however for a maximum of one year following the expiration of sick-leave, two years in case of tuberculous illness, and for the entire period of eligibility for sick-pay in the course of disability due to occupational accidents or occupational illnesses;

- b) enlistment on sick-pay for attending a sick child or vacation without pay for this purpose or for attending or nursing close relatives at home (section a) of Paragraph (4) of Article 138, Article 139);
 - c) pregnancy, first three months following confinement, and maternity leave, and vacation without pay for nursing a child (section b) of Paragraph (4) of Article 138);
 - d) period reckoned from the receipt of draft call for regular or reserve military service, call for civil service.
- (2) The prohibition of dismissal if the term set forth in Paragraph (1)
 - a) exceeds fifteen days is fifteen days reckoned from that,
 - b) exceeds thirty days is thirty days reckoned from that,

Article 91

- (1) The effect of prohibitions of dismissal listed in Article 90 is governed by the date of the communication of dismissal. However, if dismissal is already communicated prior to the commencement of the term of dismissal, then its is governed by the date commencement of the term of dismissal.
- (2) The prohibitions of dismissal listed in Article 90 are not applicable to the termination of employment and extended employment of employees eligible for old-age pension or receiving disability pension on the date of the communication of dismissal or on the date of commencement of the term of dismissal at the latest.

Proceedings in case of termination or terminating of employment

Article 97

- (1) With regard to the application of Paragraph (2) of Article 90, Paragraph (2) of Article 91, Paragraph (2) of Article 94/A and Paragraphs (2) and (5) of Article 95, an employee is eligible for old-age pension if passing the prevailing old-age pension age-limit and having a service period required for the old-age pension - with consideration given to the dispensation provided for social insurance legislation in certain positions.
- (2) Upon terminating (termination of) employment, wages and other emoluments have to be disbursed, and the certificates prescribed in regulations on employment and in other statutory laws have to be issued to employee on the last day spent in work.
- (3) In case the legal predecessor employer is entitled to more than fifty percent of the votes in the decision-making body of the legal successor employer, then it shall be liable for the emoluments due to employee as guarantor in case of
 - a) formal dismissal of employment for an indefinite term by the legal successor employer for reasons associated with the operations of employer within one year reckoned from the date of legal succession, and of
 - b) termination of employment for an indefinite term in accord with Paragraph (2) of Article 88 within one year reckoned from the date of legal succession.

Regulations on performance of work

Article 102

- (1) Employer is obliged to employ employee in accord with the contract of employment, the regulations on employment and other statutory laws.
- (3) Employer is obliged to
 - a) organise the work in a manner allowing employee to exercise rights and perform duties arising from the employment;
 - b) provide the information and instructions required for the performance of work to employee;
 - c) provide for the obtaining of knowledge required for the performance of work.

Article 103

- (1) Employee is obliged to
 - a) appear at the specified place and in the specified time, in a condition suitable for work and to spend work-hours at work, and to be at the disposal of employer for the performance of work during this period;
 - b) perform work with reasonably expected expertise and care, and in accord with the regulations, specifications and instructions regarding the work;
 - c) co-operate with fellow employees, and to perform work and in general to behave in a manner not threatening the health and physical condition of others, not disturbing others in their work, not causing financial damages or inappropriate judgement of others;
 - d) perform work in person.
- (2) Employee is obliged to perform the preparatory and closing jobs - within the legitimate work-hours - specified in the regulations on employment or in the contract of employment, and related to the position. If these jobs may only be completed beyond the work-hours then employee is entitled to a compensation in accord with regulations on over-time work.
- (4) Employee is obliged to participate in the training courses and the extension training selected by employer - upon reimbursement of wages and expenses - and to take the specified exams, unless this would be disproportionately disadvantageous to employee considering personal or family circumstances.

Article 104

- (1) In the lack of different agreement, employee is obliged to perform work in accord with employer's instructions.
- (4) Lawful refusal of instructions does not waive employee from being available for the performance of work and from performing lawful instructions in the future.
- (5) If employee does not perform work as a result of lawful refusal to follow an instruction, then is entitled to an absence fee for the downtime.

Article 105

- (1)
- (3) Employee is obliged to perform jobs beyond the scope of the particular position or to perform work outside the permanent place of work under specifically justified circumstances. This may however not lead to disproportionate injuries to the employee considering the post, qualification, age, physical conditions and other circumstances of the employee.
- (4) If employee in addition to the performance of work according to Paragraph (1) fulfils the original position as well, then is entitled to extra compensation (substitution fee) over the wages. Such jobs may not exceed two months per calendar year - in the lack of different agreement.
- (5) Female employees may not be bound to perform work at different premises without their consent between the conclusion of pregnancy until the child's age of three.

Article 106

- (1) Employee may in accord with the terms and conditions specified in Article 105 also be bound in writing to temporarily perform work at another employer (delegation). Employer is obliged to reimburse any additional expenses arising in connection with this.
- (2) The entity exercising employer's authority must also be specified in the event set forth in Paragraph (1). In the lack of different agreement, the rights and duties arising from the employment may be exercised and must be fulfilled by the employer the employee is delegated to. The right to terminate employment may solely be exercised by the employer delegating the employee.

Article 107

Employee is waived from the obligation to perform work

- a) for the period of fulfilling citizen's obligations;
- b) upon decease of close relative (Paragraph (2) of Article 139) for at least two days on each occasion;
- c) if being disabled;
- d) for the entire period of mandatory medical examinations (including medical examinations related to pregnancy);
- e) for the period of fulfilling fire-fighting or technical rescue services as voluntary or institutional fire-fighter, provided that fire-fighting or technical rescue is not included among the duties associated with the positions;
- f) for the entire period away blood-transfusion service, for at least for hours if its organised outside the place of work;
- g) if unable to appear at the place of work for unavoidable reasons;
- h) in accord with regulations on employment or upon permission of employer.

Article 110

- (1) Employer may conclude indentures in order to meet its need for professionals. In these contracts employer agrees to provide support in the course of studies and the other party undertakes the obligation of completing studies according to the agreement and to maintain employment with employer for a specific period of time following the obtaining of the particular qualification.
- (2) Employee is obliged to report to employer in advance if willing to enter into an indenture with another employer.

BH1994 346. If it is stipulated in the indenture that employee must be employed in a position complying with the qualification obtained after the completion of the studies and employer does not provide for this within a reasonable period of time, then employee may lawfully terminate employment for this reason and employer may not demand the reimbursement of expenditures it has spent on the studies. (Article 11 of Decree of the Council of Ministers 48/1979 (XII. 1.)).

Article 111

No indenture may be concluded

- a) for provisions of benefits due in accord with regulations on employment, and
- b) if employer has obliged employee to complete the studies.

Article 112

- (1) The indenture must be put in writing.
- (2) The form and amount of support borne by employer, the period to be obligatorily spent by employee at employer in employment - proportionately to the amount of support and which may not exceed five years - have to be specified in the indenture.
- (3) The period to be spent at employer in employment - in the lack of different specification of the indenture - does not include the event of suspension of employment whereas employee is not entitled to vacation.

Article 113

- (1) In case employer fails to provide the support or commits other significant breach of contract, the other party is waived from obligations arising from the contract and may enforce any damages sustained due to the breach of contract.
- (2) If the party receiving support does not pursue studies with adequate results or does not commence work at employer at the date according to the agreement or does not serve the specified term or commits other significant breach of contract, then employer may claim the reimbursement of the amount corresponding to the actually provided support. In case the party receiving support does not serve a portion of the term specified in the contract, then the obligation of reimbursement will be proportionate to this.

Article 114

Any disputes arising in connection with the indenture - with the exception of contracts concluded for participation in regular curricular training - must be assessed in accord with regulations governing the settlement of labour legal disputes.

Article 115

- (1) Employer is obliged to provide for the time off required for the pursuit of studies to employees participating in regular curricular training.
- (2) Employer shall define the amount of time off in accord with the certificate issued by the educational institution on the duration of mandatory curricular activities and field practice.
- (3) In addition to the specifications of Paragraph (2), employer is obliged to provide a time off equal to four work-days inclusive of the day of the exam for each exam - for each examination subject if employer has to take exams in two or more examination subjects on the same examination day. Recitations specified by the educational institution qualify as exams.
- (4) Employer is obliged to provide a time off equal to ten work-days for the compilation of diploma thesis (special or class paper).
- (5) Employees participating in extracurricular training are entitled to reduction of work-hours for study purposes only if it is prescribed in regulations on employment or specified in the indenture.
- (6) Employer is obliged to provide the time off set forth in Paragraphs (3) and (4) in accord with employee's request.

Article 117

- (1) Work-hours are eight hours a day.
- (3) In case of work extremely harmful or highly hazardous to health statutory laws or collective contracts of employment may limit the maximum time allotted to harmful (hazardous) activities within the work-hours - up to six hours at the most - and may prescribe other limitations as well.

Article 119

- (1) Rules of work are defined in the collective contract of employment or by employer in the lack of this.
- (2) If the rules of work allow for various timetables or define the timetable with a blanket nature, then employer is obliged to communicate the timetable at least one week in advance and at least for one week to employee. In the lack of this, the timetable of the last period will be governing.

Article 120

- (1) Work-hours are split across the work-days specified in the blanket work-hours evenly, if blanket work-hours are applied.
- (2) Work-hours may also be split across work-days unevenly. In this case work-hours may not be less than four hours and more than twelve hours a day - in case of positions of partially or entirely on-duty nature; no valid deviation from this is allowed.
- (3) The daily work-hours allotted to activities harmful or highly hazardous to health may not exceed six hours a day even in case of uneven work-schedules; no valid deviation from this is allowed.
- (4) The collective contract of employment or an agreement between the parties may also prescribe split daily work-hours.

Article 121

- (1) Female employees between the conclusion of pregnancy until the child's age of one and juveniles may not be employed in night shifts; no valid deviation from this is allowed.
- (2) Night shift refers to work performed between 10:00 p.m. and 06:00 a.m.

Recess

Article 122

- (1) If daily work-hours exceed six hours, a recess of at least twenty minutes must be provided for employees (between the work-hours).
- (2) If work-hours may not be interrupted because of three or more shifts or of uninterrupted operations, and in case of positions of on-duty type or where catering may be provided for during the work-hours, the recess must be provided for during the work-hours.
- (3) Employees are also entitled to recess between the work-hours after three consecutive over-time hours.

Article 123

- (1) Time off equal to at least eleven hours between the completion of day-to-day work and the commencement of work on the following day must be provided to employees.
- (2) Collective contracts of employment or agreement of the parties may differ from Paragraph (1) but a time off equal to at least eight hours must still be provided for.

Article 124

- (1) Employees are entitled to two days off every week, one of these must fall on Sunday.
- (2) Employees employed in a work-order different from Paragraph (1) are entitled to an uninterrupted time off equal to at least forty-two hours per week. This must include Sunday or if work is done on Sundays because of its purpose, this must include another full calendar day.

- (3) Differently from Paragraph (2) - with the exception of positions harmful to health - the time off may also be provided for every two weeks or jointly in every month if stipulated in the collective contract, but a day off on Sunday must be provided for.
- (4) Deviation from Paragraph (3) - with the exception of positions harmful to health - is allowed for in case of seasonal employers and positions.

Article 125

- (1) Employees do not have to perform work on the public holidays set forth in Paragraph (2).
- (2) Public holidays: January 1, March 15, Easter Monday, May 1, Whit Monday, August 20, October 23, December 25 and 26.
- (3) Employees may only be employed regularly on public holidays at employers and in positions operating without any interruption (continuously or constantly) and on these days because of their intended purpose.
- (4) Changes in the scheduling of work-hours due to public holidays shall be regulated by the Minister of Labour every year. However, in the course of these changes a Sunday may not be declared to be a work-day.

Article 126

- (1) Employer may oblige employees to perform work in extraordinary work-hours under exception circumstances.
- (2) Performance of work in extraordinary work-hours refers to over-time work, performance of work on a day off or on public holidays, and being on duty at a specific site and for a specific period of time.

Article 127

- (1) Over-time work is work beyond the regular daily work-hours of an employee. If work-hours are not broken down into work-days in advance, then over-time work is work performed over the blanket work-hours. Deviation from this provision is not allowed.
- (2) With respect to ordering, work performed on a day off or on public holidays are to be regarded as over-time work. If employees had to work on their weekly day off, first of all another day off (time off) has to be provided for them until the end of the month following the performance of work.
- (3) It does not count as over-time work if employees work off the time of their permitted absence in accord with an agreement concluded with employer.

BH1992 557. Workers may regardless of any unusual work-schedule demand the compensation for work performed in over-time and on vacation or on days off. if performing work over the blanket work-hours defined in their work-contract (Paragraph (2) of Article 39 of the Labour Code, Articles 29 and 39 of Decree of the Minister of Labour 17/1979 (XII. 1.)).).

Article 128

- (1) Ordering of over-time work (on duty) may not threaten the physical condition, health of employees and may not constitute a disproportionate burden considering personal, family and other circumstances.
- (2) Female employees between the conclusion of pregnancy until the child's age of one, juveniles and employees employed in positions harmful (hazardous) to health may not be employed in over-time work (on duty); no valid deviation from this is allowed.
- (3) Employees being single parents may be employed in over-time work (on duty) only upon their consent - until the child's age of four.

Article 129

- (1) The ceiling for over-time work which may be ordered on four consecutive days is a total of eight hours; no valid deviation from this is allowed. The ceiling for over-time work which may be ordered per calendar year is one-hundred-and-forty-four hours, in case of differing provision of the collective contract it is a maximum of two-hundred hours, in case of differing provision of the collective contract covering several employers it is a maximum of three-hundred hours.
- (2) The limitation of daily over-time work specified in Paragraph (1) does not cover work performed on the weekly day (time) off and on public holidays.
- (3) Over-time work (on duty) is not subject to limitation - with the exception specified in Paragraph (2) of Article 128 - if it is required in order to prevent or overcome accidents, grievous disasters or sever damages.

Regular vacation

Article 130

- (1) Employees in every calendar year served in employment are entitled to regular vacation comprising of base and supplementary vacation.
- (2) Vacation is due for the period of suspension of employment in the following instances
 - a) for the period of illnesses causing disability;
 - b) for the period of maternity vacation;
 - c) for the first year of vacation without pay for attending or nursing a child under the age of twelve;
 - d) for the period of vacation without pay not exceeding thirty days;
 - e) for the period of reserve military service; and
 - f) for all periods served away from work for which employee receives absence fee or average salary payment.

Article 132

- (1) Juvenile workers are entitled to five work-days of supplementary vacation per annum, this for the last time in the year the juvenile turns eighteen.
- (2) Upon decision of the parents, the employee taking a larger role in raising a child or a single parent is entitled to a supplementary vacation of
 - a) two work-days in case of one,
 - b) four work-days in case of two,
 - c) seven work-days in case of three or more children under the age of sixteen.

With regard to such supplementary vacation, children have to be first considered in the year of their birth and to be considered the last in the year when they turn sixteen.

- (3) Blind employees are entitled to five work-days of supplementary vacation per annum
- (6) The collective contract or the work-contract may define other supplementary vacation beyond what is specified under Paragraphs (1) through (5).

Article 133

- (1) If the employment of an employee has commenced during the year, then the proportionate part of the vacation is due.
- (2) If a fraction day arises from the calculation of regular vacation, any fraction equal or more than half a day is to be regarded as a full work-day.

Giving out the vacation

Article 134

- (1) The date of giving out the vacation will be defined by employer - upon preliminary hearing of employee.
- (2) Employer is obliged to give out one quarter of the base vacation at the date requested by employee - with the exception of the first three months of employment. Employee must report a corresponding request at least fifteen days prior to the first day of the vacation.
- (3) Vacation has to be given out in the year it is due. In case of exceptionally important economic interest, employer shall give out the vacation by January 31 following the subject year at the latest, or in case of illness of employee or other unavoidable obstacle hindering employee within thirty days reckoned from the elimination of such obstacle. No deviation from this provision is allowed. Vacation may only be given out in three or more parts upon request of employee.
- (4) Employee must be informed on the date of giving out the vacation at least one month prior to the commencement of the vacation. Employer may only change this date under exceptional circumstances, and is obliged to reimburse damages and expenses of employee arising in connection with this.
- (5) Employer may interrupt the vacation of employee already commenced for exceptionally important interests. In this event, the time spent with travelling to and from the place of residence during the vacation and the place of work, and the time spent in work may not

be included in the vacation. Employer is obliged to reimburse damages and expenses of employee arising in connection with this interruption.

Article 135

- (1) When giving out the vacation, the work-days according to the work-order (work-schedule) have to be taken into account.
- (2) In case of work-schedules providing more than two days off per week, all days of the week are to be regarded as work-days with respect to the giving out of the vacation, with the exception of employee's two days off and the public holidays.
- (3) The vacation of employees whose work-schedule does not provide for two days off per week has to be calculated in a way that the performance of work should be waived for the same calendar period (week) as of those working with five-day work-weeks.

Article 136

- (1) Upon termination of employment or regular military or public service drafting of employee, the vacation proportional to the time served at the employer and not taken out must be redeemed in cash. Vacation may not be redeemed in cash in any other instances; no deviation from this provision is allowed.
- (2) If employee has taken out more vacation until the termination of employment then it would be due if for the period served at the employer, then the wages paid for the difference must be reimbursed. Overpayment may not be claimed back if employment has been terminated due to retirement or decease of employee, or termination of employer without legal successor, or if employee has been drafted for regular military or civil service.

Sick leave

Article 137

- (1) Employees are entitled to fifteen days of sick leave per calendar year for the period of disability due to illness - not including disability due to occupational accidents or occupational illnesses according to social insurance regulations.
- (2) Disability of employee will be attested by the medical attendant - in accord with the provisions on medical assessment of earning capacity. Disability does not need to be attested on one occasion every year in case of sick leave up to a maximum of three work-days.
- (3) Employee is entitled to 80 percent of the absence fee for the period of sick leave.
- (4) Employee is entitled to the portion of sick leave for the calendar year proportional to time if employment commences during the year. This may however not exceed the sick leave due in the calendar year and not yet utilised if employee has already been employed during the year.
- (5) The portion of sick leave not used up in the calendar year may not be claimed later on.

- (6) Paragraph (2) of Article 130, Paragraph (2) of Article 133 and Paragraphs (1) and (2) of Article 135 have to be applied accordingly with respect to the sick leave.

Other reductions of work-hours

Article 138

- (1) Pregnant and child-bearing women are entitled to twenty-four weeks of maternity leave. This has to be given out that four weeks should fall before the expected date of confinement, if possible.
- (2) Maternity leave will cease
 - a) upon expiration of six weeks reckoned from still-birth of the child;
 - b) upon the fifteenth day reckoned from the death of a child in case of decease;
 - c) the day following the granting of custody of child to the state. the term of maternity leave may however not be less than six weeks following confinement.
- (3) If a child is attended in an institution maintained for nursing premature infants, the portion of maternity leave not utilised previously may be taken out following the release of the child from the institution - within one year reckoned from confinement.
- (4) Upon request of employee, employer is obliged to authorise vacation without pay
 - a) following the expiration of the maternity leave for the purpose of nursing the child until the child turns three - or ten in case of permanently sick or severely impaired children, and
 - b) for the period of the illness of the child for the purpose of attending the child at home until the child turns twelve.
- (5) Female employees are entitled to one hour of work-hour reduction twice a day during the first six months of breast-feeding, then once a day until the end of the ninth month. The reduction of work-hours in case of twins is due proportionately to the number of twins.

Article 139

- (1) Employer is obliged to authorise vacation without pay to employee - upon request of employee - for the period of nursing a close relative requiring permanent (foreseeably exceeding thirty days) attending or nursing (henceforth: nursing) at home, if employee personally ensures nursing. Permanent nursing at home and its justification will be attested by the medical attendant of the person requiring nursing.
- (2) Close relatives are: spouse, next of kin, next of kin of spouse, adopted, step- or foster-child, adopting, step- and foster-parent, sibling, and companion.

Article 140

- (1) Employee must - upon employee's request - be authorised to take out vacation without pay up to one year, if employee is building a house for himself/herself on his/her own. vacation without pay may be claimed by the person specified in the construction permit or the spouse (companion) living in the same household.

- (2) The uninterrupted vacation without pay requested must be given out at the date specified by employee - at least one month in advance.
- (3) If employee wants to take out the vacation in parts, then preliminary agreement with employer is required regarding the schedule of giving out the vacation.

Article 144

- (1) At least the mandatory minimum wage (minimum wage) is due as personal base wage or performance wage in accord with the specified terms and conditions, no deviation from this provision is allowed.

Article 151

- (1) If a regulation on employment prescribes it, employee's wage must be supplemented to the absence fee or absence fee has to be paid in the lack of the performance of work. Absence fee must also be paid if the regulation on employment prescribes the payment of wage without performance of work and without specification of its amount.
- (2) Employee is entitled to absence fee
 - a) for work-hours lost due to absence set forth in section a) of Article 107;
 - b) for two work-days in the event set forth in section b) of Article 107;
 - c) in the events set forth in sections d) and f) of Article 107;
 - d) for the time lost due to public holidays (Article 125);
 - e) for the period of vacation (Articles 131 and 132);
 - f) for the period of work-hour reduction for breast-feeding (Paragraph (5) of Article 138);
 - g) for the period of dismissal from performance of work set forth in the regulation on employment.

Article 152

- (1) Employee must receive average salary, employee is entitled to the time-proportionately calculated average wage paid for the period of the calculation of the average (henceforth: prevailing period).
- (2) In the calculation of average according to Paragraph (1), wages paid at dates different from the due date of the wage have to be regarded as payments made on the due dates of wage payment.
- (3) In the calculation of average, in case of time wages, the personal base wage has to be taken into account in the amount in effect at the due date of the average salary.
- (4) The basis for the calculation of average salary is constituted by the wages paid for the last four calendar quarters.
- (5) If the employment of employee is shorter than four calendar quarters, then the wages paid for the last applicable calendar quarter(s) or in the lack of quarter, the last calendar month(s) shall be taken into account upon calculation of average salary.
- (6) Only the (time-proportionate) portion of wages paid in the prevailing period yet due for a specific period beyond the prevailing period. and paid beyond the prevailing period yet

due in accord with the performance of work during the prevailing period applicable to the period constituting the basis for the calculation of the average may be included in the amount of wages paid out upon the calculation of the average - this portion is calculated with consideration given to the distributor according to Paragraph (8).

- (7) If the employment of employee is shorter than one calendar month, then an amount equal to the absence fee has to be regarded as average salary.
- (8) Average salary per hour and per work-day has to be calculated by dividing the total amount of employee's wages in the prevailing period with the number of hours or work-days (jointly: distributor) spent at work and paid with wages yet not spent in work in the particular period.
- (9) Calendar quarters - months, in the lack of calendar quarter(s) according to Paragraph (5) - without corresponding distributors associated with the wages paid to employee may not be taken into account upon defining the prevailing period.
- (10) If the regulation on employment prescribes the application of monthly average salary in the specification of payment obligation, then one-month average salary refers to twenty-times the one-day average salary of employee. One-day average salary in case of hourly wages refers to the product of average salary defined for one hour and all the daily work-hours of the employee.

Reimbursement of expenses

Article 153

- (1) Employer is obliged to reimburse to employee all expenses incurred necessarily and reasonably in the course of the fulfilment of obligations related to the work, and all other necessary expenses incurred in the interest of employer, if employer has given prior consent to the latter.

Protection of wages

Article 154

- (1) Wages have to be defined and paid in the legitimate Hungarian currency - in the lack of different provision of a statutory law. Payment in assignments or in other form is prohibited. This provision is without prejudice to employer transferring the wages or specified portion of the wages to employee's bank account in accord with the provision of the collective contract or employee's commission.

Article 155

- (1) If not stipulated otherwise in regulations on employment or in an agreement of the parties, then wages due to employee are to be accounted and paid monthly, subsequently and on a single occasion. If employment lasts for a period less than one month, then wages are to be accounted and paid at the end of the employment.
- (2) If the achievement constituting the basis for the wages or part of the wages due to employee may only be identified within a period longer than one month, then payment

has to be made at a corresponding date. However, advance payment still has to be made - at least once every month - in this event.

- (3) If not stipulated otherwise in regulations on employment or in an agreement of the parties, wages have to be paid by the 10th day of the month following the subject month. If the date of wage payment falls on a day off or on a public holiday, then wages have to be paid on the preceding work-day at the latest.

Article 156

Personal base wage due for two weeks - of employees establishing employment within thirty days, or being continually employed in a persisting employment within fourteen days reckoned from the completion of regular or civil service - has to be paid in advance - upon request of employee. In the lack of a different agreement, wages paid in this manner are to be deducted in two parts within two months. If employee's employment is terminated before that, the portion not paid back may be deducted from the wage of employee.

Article 157

- (1) If employee is not present at the place of work on the day of wage payment for just reasons, then upon request of employee, the wage has to be paid on the last work-day spent at the place of work before wage payment or the wage has to be sent to the place of residence at the expense of employer.
- (2) if the duration of vacation taken out without any interruption is at least ten work-days, then employer is obliged upon employee's request to pay to employee at least two work-days prior to the commencement of the vacation the wage due
 - a) at the day of wage payment falling on the term of the vacation, and
 - b) for the term of regular vacation taken out.
- (3) If in case of Paragraph (2) of Article 155 the employment was terminated prior to the payment, then employer is obliged to send the wage to the address specified by employee on the due date. Expenses of sending shall be borne by employer.

Article 159

For the period of default, the interest set forth in private law regulations are due.

Article 160

Written and detailed account has to be provided to employee on the wages of employee. The account has to provide for employee being able to check the accuracy of calculations, and the titles and amounts of deduction from the wage, no deviation from this provision is allowed.

Article 161

- (1) Deductions from the wages are only allowed in accord with statutory laws, enforceable resolutions or upon employee's consent; no deviation from this provision is allowed.

- (2) Employer may deduct claims from provision of advances paid to employee from the wages.
- (3) Other deductions from the wages are governed by the legal regulations on judicial enforcement.
- (4) These provisions govern the deduction of trade union membership fees, as well. Employer may not demand compensation for the deduction and the transfer of membership fee to the trade union.

Article 162

- (1) In case of disbursement of wages without legal grounds, it may be re-claimed from employee in written notice within sixty days.
- (2) Wages disbursed without legal grounds may be re-claimed within the general limitation in time, if employee had to recognise or had caused the unsubstantiatedness of the payment.
- (3) Employer may enforce claims for reimbursement of employee's debts related to employment in a written notice.

Article 163

Deduction of wages benefiting employer or its representative or a mediator in return of employee establishing or retaining the employment is forbidden.

Article 164

- (1) Employee may not waive claims regarding wages in advance.
- (2) Part of the wages free of deductions may not be transferred.
- (3) Regulations on employment prohibit the transfer of wage claims falling due in the future.
- (4) Employer may not take advantage of imputation against wage claims free of deductions or in any other manner if prohibited by regulations on employment.
- (5) No deviation from provisions specified under Paragraphs (1) and (2) is allowed.

Social benefits

Article 165

- (1) Employer may contribute to the satisfaction of cultural, welfare and health care needs, and may improve the living standards of employees. Contributions and the amounts thereof are defined in the collective contract, but employer may offer contributions to employee even beyond this.
- (2) If the work brings along the extensive contamination or wear of clothing, then employer is obliged to provide work-gear for employee.

Article 167

- (1) The amount of indemnity in case of negligent mischief may not exceed fifty percent of one-month average salary of employee.
- (4) Cash-desk inspector and auditor of financial institutions are fully liable for damages caused within the scope of accountancy or by omitting or incompletely performing related audits in case of negligent mischief.

Article 168

Employee is obliged to reimburse damages fully in case of malicious mischief.

Article 169

- (1) Employee is obliged to reimburse damages fully regardless of delinquency in case of shortages occurring in objects received with the obligation to return or to account for, if they are permanently kept in custody, used or handled exclusively by employee.
- (2) Employee is waived from liability if able to prove that the shortage was caused by unavoidable external cause or that employer had not provided for the conditions of secure safe-keeping.
- (3) Employee bears full financial liability according to Paragraph (1) only if receiving the objects (tools, products, goods, materials, etc.) on the basis of a slip or receipt. Cashiers/treasurers, cash-managers and custodians bear liability regardless of the foregoing with respect to cash, securities and other valuables they handle.
- (4) The existence of criteria set forth in Paragraphs (1) and (3), the occurrence and the extent of damages (shortages) shall be proven by employer.
- (5) If objects delivered for safe-keeping suffer damages due to deterioration, the liability of employee has to be evaluated in accord with the regulations specified for delinquency liability, but in this case employer has to prove innocence.

Article 171

- (1) If damages have been caused by two or more employees, then they shall be liable proportionately with their delinquency and to their wages in case of a shortage occurred in the objects delivered for safe-keeping.
- (2) In case damages have been caused by two or more employees deliberately, they shall be obliged jointly and severally.

Article 172

- (1) In concluding the amount of damages the following have to be taken into account:
 - a) the expenditure on repair of damaged objects - including overhead costs - and the amount of any depreciation remaining after the repair;
 - b) the consumer price - considering obsolescence - effective at the time of the damages being caused if the object was destroyed or became unfit for use or was lost.
- (2) Employee does not have to reimburse the part of damages caused by the employer's contribution.

Liability of employer for damages

Article 174

- (1) Employer is fully liable for damages caused to employee in connection with the employment regardless of its delinquency.
- (2) Employer is waived from liability if able to prove that damages were caused by unavoidable causes beyond its control or by unavoidable conduct of employee.
- (3) The part of damages caused by wrongful conduct of employee does not have to be reimbursed.
- (4) Employee shall prove that the mischief is in causal relationship with the employment.
- (5) The control of employer in particular covers the causes arising from the conduct related to activities performed by employer in the course of responsibilities, the characteristics, the status, the transport and the operation of materials, equipment, devices and energy applied.

Article 176

- (1) Employer bears liability according to Article 174 for damages arising in belongings and objects of employees taken to their place of work.
- (2) Employer may prescribe the placement of objects taken to the place of work at a storage place (locker room) or the reporting of objects taken in. Employer may prohibit, limit or may prescribe conditions for the taking of objects not required for travelling to work or for the performance of work. If employee breaches any of the prescribed regulations, employer shall be liable for damages sustained only in case of malicious mischief.

Article 177

- (1) Employer in accord with Articles 174 through 176 is obliged to reimburse lost income, material damages and costs of employee incurred in connection with the damages or their elimination.
- (2) Employee's non-pecuniary damages must also be reimbursed.

Article 178

- (1) When determining the income lost within the scope of employment, lost wages and the cash-value of recurring services - given in both cash and in kind - must be considered, to which employee is entitled in addition to the wages in accord with the employment, provided that they had been regularly taken advantage of prior to the mischief.
- (2) Other recurring salaries lost due to impairment must be reimbursed as income lost outside the employment.
- (3) When determining the income lost, future changes foreseeable to take place at a specific time must also be taken into consideration.

- (4) Damages avoided by employee performing extraordinary work despite significant incapacity arising from the impairment must also be reimbursed.
- (5) The value of services due only in case of performance of work and the amounts received by virtue of reimbursement of costs do not need to be reimbursed.

Article 179

- (1) When determining the amount of lost wages, the regulation on the calculation of labour average salary (Article 152) have to be followed.
- (2) If there was a general wage raise within the period prevailing in the calculation of average salary, then the average salary of employees employed with performance wage should only be calculated from the date of wage settlement, if this is more advantageous to employees.

Article 180

- (1) The value of benefits in kind and the amount of material damages have to be defined in accord with consumer prices effective upon specification of compensation.
- (2) The amount of material damages have to be calculated with consideration given to obsolescence. If damages caused in objects may be repaired without the loss of value, then the costs of repair are to be regarded as damages.

Article 181

- (1) Employer is also obliged to reimburse damages and reasonable expenses of close relatives of employee sustained in connection with the mischief (Paragraph (2) of Article 139).
- (2) If employee dies in connection with the mischief, then the dependant relative of employee may in addition to the specifications of Paragraph (1) claim compensation substituting the amount of dependence providing for the satisfaction of needs in a quality equivalent to that of prior the impairment - with consideration given to actual and foreseeable wage or income.

Article 182

When calculating the amount of compensation, the following have to be deducted:

- a) pension contribution falling on the lost wage;
- b) provision due in the scope of state health-care and social insurance;
- c) what employee was able to earn or could have reasonable earned in the given situation by utilising own labour force;
- d) what employee (or dependant of employee) has received by utilising the deteriorated object;
- e) what the eligible person has received as a result of costs saved due to the mischief.

Article 183

- (1) Pension may also be defined as compensation. Pension has to be defined normally if the compensation is intended to serve provision for or to supplement provision for employee or a relative of employee eligible for provision.
- (2) If the whole or part of the damage may not be calculated accurately, then employer is obliged to pay an amount of general compensation what is suitable for full financial compensation of the damaged party. Pension may also be defined as general compensation.

Article 184

- (1) If a change takes place in the substantial circumstances of the employee sustaining impairment following the specification of compensation, then the damaged party, the employer or the insurance company in case of compensation provided for according to a liability insurance may request the modification of the specified compensation.
- (2) The amount of compensation specified for juvenile employees must be revised upon employee turning eighteen or upon expiration of one year reckoned from the completion of studies pursued in order to obtain special qualifications, and the compensation due for the subsequent periods has to be determined in accord with the changes taken place in the capacity to work or in the qualifications.

Article 185

Employer is obliged within fifteen days reckoned from learning about the mischief to invite the damaged party to submit a claim for damages. Employer shall give written and reasoned reply to the reporting of claim for damages within fifteen days.

Article 186

- (1) With respect to limitation in time (Article 11), claims for the difference between
 - a) average salary and sick pay,
 - b) average salary and reduced salary due to impairment, and for
 - c) average salary and disability pension have to be regarded as unrelated.

If several claims for damages arise in connection with the impairment due at different dates, then their limitation in time has to be calculated separately from each other and from the date of each claim becoming due.

- (2) The limitation in time with the distinction specified under Paragraph (1) reckons from
 - a) the date of the first payment of the sick pay,
 - b) the date when the reduced work-capacity arising due to the impairment has lead to damages occurring in the form of lost income for the first time, and finally
 - c) the date of disability superannuation.
- (3) Claim for pension may only be enforced retroactively for a period beyond six months if the eligible party is in no default in the enforcement of the claim or if employer failed to

fulfil its obligation set forth in Article 185. Claim for pension may not be enforced retroactively for a period beyond three years.

Article 187

- (1) Employer or the insurance company may annually request certificates of incomes from employment and of income circumstances from employee or from relative of employee, as required.
- (2) Employer shall notify the damaged party within fifteen days if implementing wage improvement constituting a basis for the modification of the amount of compensation (Paragraph (3) of Article 184).

MISCELLANEOUS AND TRANSITORY PROVISIONS

Article 204

- (1) Labour disputes in front of the labourite arbitration commission upon this act entering into force must be terminated. The party initiating the labour dispute is entitled to appeal to a court in order to enforce its claim within thirty days reckoned from the termination.
- (2) If no legal dispute has yet been initiated in connection with employer's measure or in order to enforce the claim of employer or employee, then the eligible party may file its action in accord with the specifications of Article 202.

Article 205

- (1) Claims arising from employment established prior to this act coming into force shall be governed by the law effective upon arising of such claims, and the order of enforcement of such claims shall be governed by the provisions of this act.
- (2) Statements (measures) or agreements in connection with the termination of employment are to be assessed in accord with the law effective upon making such statements or conclusion of such agreements.

Article 207

Indentures concluded and benefits related to studies already commenced prior to this act entering into force shall be governed by the law effective upon conclusion or upon commencement of the studies.