

Act CLII of 2017
on the implementation of the Union customs legislation

In order to perform national tasks arising from the provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, and of the Union legal acts adopted in implementation thereof, for the purpose of functioning of the internal market of the European Union and of securing the customs revenues, taking into account the Union acquis, the National Assembly adopts the following Act:

PART ONE

GENERAL PROVISIONS

CHAPTER I

1. Scope of the Act

Section 1 [*Scope of the Act*]

(1) In respect of customs administrative cases, the Union customs legislation shall be implemented subject to the provisions of this Act. This Act and the provisions of international treaties applicable in Hungary to import and export procedures shall apply to matters not covered by European Union law in cases related to international trade in goods in the territory covered by this Act if they fall within the material competence of the customs authority.

(2) The territorial scope of this Act shall, except as specified in paragraph (3), cover the territory of Hungary.

(3) The territorial scope of this Act

a) shall cover customs offices established abroad pursuant to international treaties,

b) shall not cover customs points established by foreign customs authorities in the territory of Hungary pursuant to international treaties.

(4) The personal scope of this Act shall, except as specified in Part Three, cover the customs authorities and, if they are subject to Hungarian law, persons, including all forms of organisational structures provided for in the Act on the Civil Code (hereinafter "Ptk."), covered by Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (hereinafter "the Code").

(5) Except where excluded on account of the personal nature of the customs administrative case or the content of the obligation, the departing party shall be replaced by his legal successor within the meaning of civil law. Where the subject matter of the case affects a right in rem, the departing party shall be replaced by the new holder of the right in rem affected by the case.

(6) Except where otherwise provided, provisions on customs duties shall apply to other charges if their imposition and recovery is conferred on the customs authority by law.

(7) Where the customs legislation refers to a right of disposal over the goods similar to that of their owner, the provisions of the Ptk. shall apply to the right of disposal.

2. Interpretative provisions

Section 2 [*Interpretative provisions*]

For the purposes of this Act, the following interpretative provisions shall apply:

1. *tax rules* means Acts providing for taxes, obligations to pay taxes and budget support for the benefit of the central budget,

2. *other charges* means any payment obligation in connection with the import of the goods,

the imposition, recovery or control of which falls within the material competence of the customs authority, in particular excise duty and value added tax,

3. *excise goods* means products thus defined in the Act on excise tax,

4. *overdue debt* means the amount notified by the National Tax and Customs Administration (hereinafter “NAV”) to the debtor and not paid, without permission, by the debtor within the time limit,

5. *party* means the person who is the holder of rights and is bound by obligations under the customs legislation; furthermore, the customs representative, the administrator, the liquidator and the receiver shall, in the course of their duties, also be considered as parties,

6. *customs payment shortfall* means the difference between the customs duties and other charges incurred and the customs duties and other charges notified at an amount lower than those; and the amount of the customs duties and other charges incurred but not notified if it is incurred not through an infringement of the legislation or incorrect assessment of available data by the customs authority, not including the case of acceptance without checking; furthermore, for the purpose of imposing customs administration fines, the amount of import duties and other charges incurred in respect of products seized and confiscated because of non-compliance with the rules, and the difference in other charges determined in accordance with section 179 (7) shall also constitute a customs payment shortfall.

7. *customs office* means the county (capital) tax and customs directorates of NAV and their subplaces, as well as the directorates specified in a government decree,

8. *customs administration procedure* means a procedure commenced, in relation to the application of the customs legislation, by the customs authority upon application by the party or *ex officio*,

9. *customs administrative case* means a customs authority measure taken by the customs authority aimed at taking a decision to be made on the basis of the customs legislation to enforce the provisions of the customs legislation; customs controls, establishing an infringement, verifying a fact, data or status, or operating a register, and enforcing decisions concerning these,

10. *customs organ* means the organ of NAV performing customs tasks as well.

3. Procedural principles

Section 3 [Role of principles]

In customs administration procedures, in harmony with the provisions of the customs legislation and Articles XXIV and XXVIII of the Fundamental Law, all participants in the procedure shall act in accordance with the rules applying to them, and by asserting in each phase of the procedure the fundamental principles and fundamental rules specified in this Subtitle.

Section 4 [Principle of legality]

(1) The customs authority shall act on the basis of authorisation by law, exercising its powers within the framework of the law and according to their purpose.

(2) When exercising its powers, the customs authority shall act

a) in compliance with the requirements of professionalism, reasonability, cooperation with the party and the principle of good faith;

b) in compliance with the requirements of equality before the law and equal treatment, without undue discrimination and partiality;

c) within the time limit laid down in the customs legislation, within a reasonable time.

(3) In the interest of professionalism and efficiency, the customs authority shall organise its activity in such a manner as to result in the least possible expense for all participants in the

procedure and for the customs administration procedure to be closed as expeditiously as possible.

Section 5 [*Principle of ex officio procedure*]

With the exception of those procedures which may be commenced exclusively upon application, the customs authority shall, on the basis of customs legislation, commence a procedure *ex officio*; in the course of which it determines *ex officio* the facts of the case and the method for and the scope of taking of evidence, and it may, in the framework of the customs legislation, review its own decisions and procedures.

Section 6 [*Fundamental principles concerning the party and other participants in the procedure*]

(1) The party, the witness, the official witness, the expert, the interpreter, the holder of the object of the on-site inspection (hereinafter jointly “other participants in the procedure”) shall act in good faith and cooperate with the customs authority in the course of the customs administration procedure, in respect of which they may not engage in conduct aimed at deceiving the customs authority or delaying the procedure or the decision-making procedure.

(2) In the procedure, the good faith of the party and the other participants in the procedure shall be presumed; it is for the customs authority to prove bad faith.

Section 7 [*Basic principles applicable to the customs authority*]

The customs authority shall ensure that, in the course of the customs administration procedure, other participants in the procedure and the party are aware of their rights and obligations and shall promote the exercise of the rights of the parties.

CHAPTER II

4. General provisions on procedure

Section 8 [*Obligation to proceed*]

Within the area of its territorial competence or on the basis of designation, the customs authority shall be obliged to proceed in cases falling within its material competence. If the central or regional organ of the customs authority fails to perform its duty to conduct a procedure then its superior organ specified by law shall instruct it to conduct the procedure. If the superior organ takes no action, the administrative court shall oblige the customs authority to conduct the procedure.

Section 9 [*International jurisdiction, material competence, territorial competence*]

(1) The customs authority shall examine *ex officio* its own international jurisdiction, material and territorial competence in every phase of the procedure.

(2) If the customs authority detects an absence of either material or territorial competence, and the authority or organ having material or territorial competence in the case can be established beyond doubt then it shall, except where otherwise provided in the customs legislation, transfer the case to that authority or organ within 8 days and it shall simultaneously notify the party thereof.

(3) If the application referred to in section 39 is to be accepted by the customs authority of another Member State then the party shall be notified thereof.

Section 10 [*Dispute over material and territorial competence*]

(1) Where several authorities have territorial competence in a case, the authority to proceed shall be the one at which the procedure first commenced.

(2) Where, in the same case,

a) several organs of the customs authority held that they have material and territorial competence;

b) several organs of the customs authority held that they do not have material and territorial

competence, and, consequently, the procedure may not be commenced or is not in progress, or
c) a procedure was commenced before several organs of the customs authority and, although the organ at which the procedure first commenced is known, it cannot be determined which organ is entitled to proceed,

the customs organs involved shall be obliged to initiate consultations among themselves immediately, but within 3 days at the latest.

(3) Consultation shall be initiated by the organ at which the procedure commenced later, or by the organ that established the absence of its material and territorial competence later or by the organ to which the party submitted its application for carrying out the consultation.

(4) Where the procedure referred to in paragraph (1) remains unsuccessful, the proceeding organ shall, if there is a dispute over territorial competence, be designated by the superior organ within 15 days of receipt of the reference of the request for designation; whereas, if there is a conflict over material competence, the proceeding authority shall be designated by the administrative court.

Section 11 [*Data management*]

(1) In procedures commenced upon application, it shall be presumed that the applicant party has given his consent for the personal data necessary to clarify the facts of the case, including his sensitive data, to be managed.

(2) The customs authority shall ensure that no secrets protected by an Act (hereinafter “protected data”) are divulged to the public or become known to unauthorised persons and that the protection of personal data is guaranteed.

(3) The customs authority may, in the course of its procedure, in the manner and within the scope specified by law, access those protected data which are related to its procedure or the management of which is necessary for successfully conducting the procedure.

Section 12 [*Confidential management of data*]

(1) Where justified, the customs authority shall, upon application or *ex officio*, order the confidential management of the main personal identification data and address of the party and other participants in the procedure if they may suffer seriously detrimental consequences due to their participation in the customs administration procedure. The procedural decision shall be communicated to the person who submitted the application.

(2) The expert may, pursuant to paragraph (1), request the confidential management of his main personal identification data and address not featured among his publicly available data recorded in the register of judicial experts.

(3) The customs authority shall keep the main personal identification data and address separate and confidential in the case file and shall ensure that the confidentially managed data do not become accessible in the course of the procedural acts.

Section 13 [*Use of language*]

(1) Except where otherwise provided in the customs legislation, the official language in the customs administration procedures shall be Hungarian.

(2) If the customs authority commences a customs administrative procedure *ex officio* involving an immediate procedural measure during the stay in Hungary of a party other than a Hungarian national who is not familiar with the Hungarian language then the customs authority shall ensure that no prejudice to the party will result from not being familiar with the Hungarian language.

(3) A party who is not familiar with the Hungarian language may request the customs authority to adjudicate his application, submitted in his mother tongue or in an intermediary language, in cases not falling under the scope of paragraph (2), as well, provided that he advances and bears the costs of translation and interpretation.

Section 14 [*Exclusion*]

(1) A person who cannot be expected to administer the customs administrative case in an unbiased way shall not participate in administering the customs administrative case.

(2) Anyone whose right or legitimate interest is directly affected by the customs administrative case; furthermore, anyone who provided a witness testimony in the case, or who proceeded as the representative of the party or as an official witness, the expert or the holder of the object of the inspection shall be excluded from administering the customs administrative case.

(3) An organ, the head of which is subject to any ground for exclusion, shall not participate in administering the customs administrative case.

(4) Any person who participated in administering the customs administrative case on first instance may not participate in the administration of the case on second instance.

(5) Should the case administrator identify grounds for exclusion, he shall report the existence of such grounds for exclusion to the head of the organ who is vested with the power to issue official written documents. Grounds for exclusion may also be reported by the party.

(6) The head of the organ who is vested with the power to issue official written documents shall decide on the issue of exclusion and, where necessary, appoint another case administrator and also decide as to whether the procedural acts performed by the excluded case administrator should be repeated. Where the grounds for exclusion were reported by the party, the customs authority shall decide on the exclusion in a procedural decision and communicate it also to the party.

(7) Where the notification of the grounds for exclusion made by the party is manifestly unfounded or the party again makes an unfounded notification in the same procedure for the exclusion of the same case administrator, a customs administration fine may be imposed upon the party.

(8) Where grounds for exclusion arise in connection with the head of the organ who is vested with the power to issue official written documents, another organ with the same material competence designated by the head of the superior organ shall proceed. This designation of another organ shall be communicated to the party by the superior organ in a procedural decision,

(9) Where there is no other organ with the same material competence that may be designated, the organ in relation to which grounds for exclusion emerged shall proceed.

(10) The superior organ shall inform the party of the circumstances referred to in paragraph (9).

(11) The rules on exclusion shall apply accordingly to the head of the organ proceeding in the customs administrative case who is vested with the power to issue official written documents, with the proviso that, where no other person vested with the power to issue official written documents or one who could be vested with such power is available at the organ, the person who exercises the material competence shall proceed.

(12) The decision made pursuant to paragraph (11) shall be communicated to the party.

Section 15 *[General rules on communication]*

Where, pursuant to Article 6(3)(a) of the Code, means for the exchange and storage of information other than the electronic data-processing techniques are used, unless otherwise provided for in this Act or the Union customs legislation, the customs authority shall maintain contact with the party and the participants in the procedure in person, by post or through means as specified under the Act on the general rules on electronic administration and trust services (hereinafter "Eüsztv.").

Section 16 *[Right of access to files in the procedure]*

(1) At every phase of the procedure, the party may access the files created in the course of the procedure. The party shall be entitled to exercise this right even if he has previously not

participated in the procedure.

(2) The witness may access the files containing his witness testimony and the holder of the object of the inspection may access the files created in relation to the inspection.

(3) A third party may only access files containing personal data or protected data if he provides proof that accessing the data is necessary for the assertion of his right or for the performance of his obligation imposed by law or a final decision by an authority, and if all other statutory requirements for accessing the protected data are satisfied. The right of access to files may be exercised for a reimbursement of costs, for rendering personal data or protected data unrecognisable and making copies of such excerpts of these files, specified in a decree by the minister responsible for tax policy (hereinafter “minister”).

(4) No access shall be allowed to

- a) drafts of decisions,
- b) internal correspondence within the customs authority,
- c) any file from which a conclusion may be drawn as to the identity of any person in respect of whom the customs authority has ordered the confidential management of his main personal identification data and address,
- d) files containing classified data in the absence of user or access authorisation,
- e) any other file containing protected data if the Act providing for the protection of the data concerned excludes it, or if failing to access the protected data would not impede a person entitled to access files from exercising his statutory rights.

(5) The party may, by specifying the data, apply for the limitation of the right of access to files in order to protect business interests and other reasonable private interests. The customs authority shall, on the basis of careful deliberation, grant the application if failing to access the protected data would not impede the persons entitled to access files from exercising their statutory rights.

(6) In order to provide access to the files of the procedure, the customs authority shall render unrecognisable those personal data and protected data and data referred to in paragraph (5) which the persons entitled to access the files is otherwise not entitled to access.

(7) Upon application by the person referred to in paragraph (1), the customs authority shall, after having examined whether the reasons provided for in paragraphs (4) to (6) are satisfied when adjudicating the application, either provide access to the files or shall, in a procedural decision, partially grant or dismiss the application for access to the files.

(8) In the course of access to files, the person entitled thereto may make copies or excerpts or he may request copies. Such copies or excerpts shall, upon request, be authenticated by the customs authority.

(9) Even after the completion with administrative finality of the procedure, the person entitled to access the files may, pursuant to paragraphs (4) to (8), access the files kept by the customs authority.

(10) Should the customs authority be unable to establish whether or not the reasons for limitation referred to in paragraph (5) are satisfied upon submitting the application for accessing the files, it shall request the person who is entitled to protection on the basis of his business interests and other reasonable private interests to make a statement. The access to the files shall not be rejected if the person who is entitled to protection makes no statement within the time limit.

CHAPTER III

5. Special provisions on certain administrative measures taken by the customs authority

Section 17 [*Security measures*]

(1) If, in the course of the customs administration procedure, the later performance of the obligation which is the subject of the procedure appears to be in jeopardy then, prior to the expiry of the time limit for performance and within 5 days of the occurrence of the underlying circumstance, the customs authority shall order, as a security measure, that the monetary claim be secured or it shall seize the specific item.

(2) The order on security measures shall be revoked if

a) it had been ordered for securing a payment obligation and this amount has been deposited with the customs authority or the organ performing the enforcement, or

b) the reason for it being ordered has otherwise ceased.

(3) Where it may reasonably be assumed that the performance of the obligation that can be ordered in the decision on the merits is in jeopardy, the customs authority shall, within 3 days, take the measures specified under paragraph (1) as provisional security measures.

(4) The provisional security measure shall cease to be effective when the decision concluding the customs administration procedure reaches administrative finality.

Section 18 [*Seizure*]

(1) If the facts of the case cannot be clarified otherwise or would involve significant delay, or the omission of seizure would jeopardise the success of clarifying the facts of the case, the customs organ shall, except where otherwise provided in the customs legislation, be entitled to remove the possession of the goods and items from the disposal of their holder (hereinafter “seizure”).

(2) In the interest of seizing the goods and items, their holder shall be ordered to hand over the goods and items. No person shall be obliged to hand over the goods and items if he cannot be interviewed as a witness or if, on the grounds of section 51 (4) *c*), he may refuse to provide witness testimony if by handing over the goods and items he would divulge the identity of the person passing him information.

(3) The exemption from handover of the goods and items in respect of a person who has the right to refuse to testify on the grounds of section 51 (4) *c*) shall prevail even where the relationship that provided the grounds for the exemption no longer exists.

(4) Where the person obliged to hand over the goods and items fails to do so, the customs authority shall perform seizure and may impose a customs administration fine on the person obliged to hand over the goods and items.

(5) The performance of seizure shall be governed by the provisions on inspection, with the proviso that the rules on the holder of the object of the inspection shall apply to the holder of the seized goods and items.

(6) If the seizure has been ordered despite a reference to section 51 (4) *c*) then an appeal against the procedural decision that ordered the seizure shall have a suspensory effect on the enforcement of the procedural decision.

Section 19 [*Removal and safeguarding of seized goods and items*]

(1) The customs authority shall remove and safeguard the seized goods and items, or it shall, if the removal and safeguarding is impossible or it would imply disproportionate costs, leave the goods and items in the custody of the holder of the goods, simultaneously prohibiting the right of their alienation and use. Except where otherwise provided in the customs legislation, the costs related to the removal, storage and safeguarding of the seized goods and items shall be borne by the party.

(2) Seized goods and items shall be described in the minutes of the seizure permitting their unique identification.

(3) Seized goods and items shall be safeguarded in such a way that they remain in an unaltered state, their substitution is not possible and they are easy to identify.

(4) Authenticated copies of the seized documents shall, if it does not jeopardise the interests of the customs administration procedure, be issued at the request and expense of the holder of the documents.

Section 20 [*Termination of seizure*]

(1) Except where otherwise provided in the customs legislation, the customs authority shall terminate seizure if

- a) the grounds for ordering it have ceased,
- b) the customs authority terminated the customs administration procedure,
- c) it made a decision on the merits of the case, or
- d) seizure may be ordered in the course of the criminal proceedings instituted for an infringement of the customs legislation, and for this purpose the court, the prosecution service or the investigating authority has sought assistance from the customs authority.

(2) Except where otherwise provided, any seized goods and items no longer needed for clarifying the facts of the case shall, within 30 days of the communication of the decision that terminated the seizure, be released to the person from whom the goods and items were seized, provided that he has paid the costs incurred in connection with the seizure. If the customs authority initiates a procedure which falls within the material competence of another organ, it shall hand over the seized documents and pieces of physical evidence which are necessary for conducting the procedure to the requested organ.

(3) The seized goods and items may be released either to the person who verifies beyond reasonable doubt his ownership of the goods and items, or to the person from whom the goods and items were seized, provided that he has verified the legality of their possession. If the possession of the seized item is illegal then the customs authority shall, instead of releasing the property, proceed in accordance with section 22 (1) b).

(4) Where the owner or holder of the seized item fails to collect it within 30 days of the communication of the decision that terminated the seizure, the customs authority shall take action for selling the seized goods and items. The sale price accrued from the sale of the goods and items shall replace the goods and items ordered to be released but not collected, and shall be applied to satisfy firstly, customs duties and other charges and secondly, the costs incurred.

(5) If sale of the goods and items ordered to be released was unsuccessful, the customs authority shall take action for having the seized goods and items destroyed. The owner and the holder of the seized item shall be jointly and severally liable for the costs of destruction.

(6) The goods and items ordered to be released to the party may be withheld in order to secure a payment obligation determined in respect of him in another customs administration procedure.

Section 21 [*Sale of seized goods and items*]

(1) The customs authority shall decide to effect the preliminary sale of the seized goods and items where the seized goods and items are exposed to rapid deterioration or are unfit for long-term storage.

(2) The customs authority may also decide to effect the preliminary sale of the seized goods and items where

- a) handling, storing or safeguarding the seized goods and items would, in particular having regard to their value or to their expected long-term storage, imply disproportionate and significant costs,
- b) the value of the seized goods and items would, as a consequence of their expected long-term storage, significantly decrease.

(3) In the cases specified in paragraphs (1) and (2), where no legitimate claim had been filed for the release of the seized goods and items within 5 days of such a call from the authority,

the seized goods and items may be sold.

(4) The sale price accrued from the sale of the seized goods and items shall replace the seized goods and items.

Section 22 [Confiscation]

(1) Except where otherwise provided in the customs legislation, the customs authority shall, in the course of the customs administration procedure, confiscate the item if

- a) it was used or intended to be used as means of committing an infringement,
- b) its possession is illegal or jeopardises public safety and security,
- c) it was created by way of an infringement,
- d) it was the subject of the infringement, or was used to transport such an item after committing the infringement,
- e) it was supplied by the owner or with his approval by another person, to the person concerned for committing the infringement.

(2) In the cases provided for in points a) and d) of paragraph (1)

a) confiscation may not be applied if the item is not the property of the person committing the infringement, unless the owner was aware of the infringement in advance and gave his consent to it,

b) confiscation may be disapplied on an exceptional basis if it would be a disproportionate and unfair disadvantage for the person committing the infringement or the owner of the item, considering the gravity of the infringement.

(3) The ownership of a confiscated item shall be transferred to the state. Confiscated items shall, after their confiscation, be sold by the customs authority pursuant to the provisions of this Act.

PART TWO

IMPLEMENTATION OF THE CUSTOMS LEGISLATION OF THE EUROPEAN UNION

CHAPTER IV

SCOPE OF THE CUSTOMS LEGISLATION, MISSION OF CUSTOMS AND DEFINITIONS

6. Regarding Article 5 of the Code

Section 23 [Definitions]

(1) Customs authority, within the meaning of Article 5(1) of the Code, shall, in respect of Hungary, be construed as to mean NAV and other authorities having, in accordance with the law, material competence for the application of the customs legislation.

(2) An association of persons which is not a legal person but which is recognised under national law as having the capacity to perform legal acts shall, as referred to in Article 5(4) of the Code, be construed as to mean individual firms, specialised groups, civil law associations, condominiums, resort condominiums, common garages, building societies and all other associations of persons which are not a legal person.

(3) For the purpose of Article 5(31)(a) of the Code, a natural person shall be considered to have his habitual residence in the territory of Hungary if he has, considering also the dates of exit and entry as whole days, customarily resided in Hungary for at least 183 days in the specific calendar year.

(4) For the purposes of this Act and Article 39(a) of the Code, serious criminal offences relating to the economic activity of the applicant shall be construed as to mean crimes specified in section 216/B (2), section 218 (1) to (3), section 224/A, section 253 (1) to (3),

section 254, section 256/A (1), section 258/B (1) to (3), section 258/C (2) to (4), section 258/E (2), section 261/A (1) to (3), section 263 (2) and (3), section 263/A (1) to (3), section 263/B (1) and (3), section 263/C (1), section 264 (1) to (3), section 264/C (1) to (3), section 274 (1), section 277/A, section 280 (1) to (3), section 281 (1) and (3) *a*), section 281/A (1) and (2), section 282 (1) and (2), (3) *b*) and (4), section 282/A (1) to (3), section 283/A (1), section 283/B, section 303 (1) to (4), section 317 (1) and (4) to (7), section 318 (1) and (4) to (7), section 326 (1) and (3) to (6), as well as in Chapter XVII of Act IV of 1978 on the Criminal Code as in force on 30 June 2013, and crimes specified in section 176 (1) to (3), section 178 (1) to (3), section 182 (1) to (3), section 183 (1), section 184/B (1) to (3), section 184/C (1) to (3), section 186 (1) to (3), section 241 (1), section 242 (1) and (2), section 248 (1) and (2), section 249 (1), section 250 (1) and (2), section 290 (1) to (4), section 293 (1) to (4), section 295 (1) and (2), section 298 (1), (1a) and (3), section 321 (1), section 324 (1) and (2), section 325 (1) to (3) and (5), section 326 (1) to (5), section 327 (1) to (3), section 329 (1) to (3), section 330 (1) and (2), section 342 (1), 347 (1) and (2), section 353 (1) to (5), section 358 (2), section 372 (1) and (3) to (6), section 373 (1) and (3) to (6), section 374 (1) and (3) to (6), section 375 (1) to (5), section 379 (1) and (3) to (6), as well as in Chapters XXXVIII to XLIII of Act C of 2012 on the Criminal Code. With regard to an economic operator being a legal person, it is a further condition that the perpetration of the above mentioned crimes was aimed at, or resulted in, gaining benefits referred to in section 1 (1) 2 of Act CIV of 2001 on measures applicable to legal entities under criminal law for the benefit of the economic operator submitting application for the status of authorised economic operator, and the crime

a) was committed by members or officers authorised for management or representation, supervisory board members of the economic operator submitting an application for the status of authorised economic operator, or by the agents thereof, within the framework of the activities of the economic operator submitting an application for the status of authorised economic operator,

b) was committed by members or employees of the economic operator submitting an application for the status of authorised economic operator within the framework of the activities of the economic operator submitting an application for the status of authorised economic operator, and the criminal offence could have been prevented had the executive officer properly fulfilled his supervisory or control obligations.

CHAPTER V

MEANS FOR THE EXCHANGE AND STORAGE OF INFORMATION

7. Regarding Article 6 of the Code

Section 24 [*Functioning of computerised systems*]

(1) In the event of a temporary failure of the computerised customs system of the customs authority, on weekdays between 8.00 and 16.00 (hereinafter “during office hours”) lasting for a period exceeding 2 hours, or in other periods (hereinafter “outside office hours”) lasting for a period exceeding 4 hours, the customs authority shall, by means of email, inform the economic operators and simultaneously publish the introduction of fallback operation rules on the website of NAV. The customs authority shall provide information on both the beginning and the termination of the fallback procedure.

(2) The economic operator shall, by means of email or in person, notify the customs authority without delay of the temporary failure of his computerised system if its duration exceeds, during office hours, 2 hours or, outside office hours, 4 hours.

(3) The notification referred to in paragraph (2) may take place simultaneously with lodging

the declaration.

(4) The customs office concerned shall approve the use of the fallback procedure on the basis of the notification referred to in paragraph (2) and notify the party thereof.

(5) The customs office concerned may, for the purpose of examining the notification referred to in paragraph (2), require evidence or carry out on-the-spot controls; furthermore, it may also seek assistance from the customs office having territorial competence for the seat or establishment of the operator of the party's system.

(6) The economic operator shall, by means of e-mail or in person, notify the customs office concerned, as referred to paragraph (3), without delay of the termination of the fallback situation. This customs office shall notify the economic operator of having taken note of this notification.

(7) In the event of a fallback situation occurring outside the official office hours of the customs office concerned where simplifications within the meaning of Article 182 or 185 of the Code are used, or where the operation of an authorised consignor or authorised consignee pursuant to Article 233(4)(a) or (b) of the Code is involved, the holder of the authorisation shall, by way of derogation from paragraph (3), itself decide on the use of the fallback procedure, of which he shall notify the customs office having territorial competence on the working day after the introduction of the fallback procedure. In this case, paragraph (4) shall not apply.

(8) The customs authority may conclude agreements with economic operators for the purpose of testing the computerised systems deployed or to be deployed in connection with the exchange of information between the customs authority and the economic operator, of providing the information necessary for the use of the systems, and of certifying software used for the systems.

CHAPTER VI

RIGHTS AND OBLIGATIONS OF PERSONS WITH REGARD TO THE CUSTOMS LEGISLATION

8. Regarding Article 9 of the Code

Section 25 [Registration]

(1) In the cases related to registration and record keeping of persons falling under the scope of customs legislation and this Act, the customs authority shall, unless otherwise provided by this Act, proceed. References to the customs identification number (hereinafter "VPID number") shall, in respect of activities falling under the scope of the tax law, be construed as references to the Union customs identification number (hereinafter "EORI number") specified in the customs legislation.

(2) With the exception specified under Article 6(2) of Commission Delegated Regulation (EU) 2015/2446 (hereinafter "DA"), taking paragraph (9) into account, each person other than an economic operator shall be required to register where he submits, by electronic means or on paper, a customs declaration or an application referred to in Article 22 of the Code to the customs authority.

(3) Pursuant to Article 4 of the DA, the customs authority may authorise those persons as referred to in Article 5(4) of the Code to submit the particulars necessary for the EORI registration by means other than electronic data-processing techniques who have no direct access to the relevant computerised system of the customs authority.

(4) Data communication by means other than electronic data-processing techniques shall be made using the form published on the website of the customs authority.

(5) In addition to the particulars specified in the tax law, a person within the meaning of

Article 5(4) of the Code, other than an economic operator within the meaning of Article 5(5) of the Code,

a) shall lodge his statement to the customs authority as to whether or not he has an EORI number, and

b) shall, if he is a natural person other than a Hungarian national, communicate to the customs authority the type and number of the travel document, the date of issue and of expiry, and the residence and contact details of the issuing authority.

(6) In addition to the particulars specified in the tax law, the economic operator

a) shall, if he is a taxpayer established in the territory of the European Union, notify the customs authority of the numbers of his current accounts, and

b) shall lodge his statement to the customs authority as to whether or not he has an EORI number.

(7) The customs authority may request the production of documents proving the authenticity of the particulars.

(8) Where a request for a customs identification number is made, the customs authority shall, on the basis of the notification, assign an EORI number in the cases referred to in Article 9(1) and (2) of the Code.

(9) The customs authority shall, on the basis of Article 6(2) of the DA, establish on each occasion whether it is justified that registration shall not be required in view of the circumstances of the case.

Section 26 [*Invalidation of an EORI number*]

(1) The customs authority shall, on the basis of Article 7(1)(b) of the DA, invalidate the EORI number that it assigned if

a) an application by the person concerned for company registration or for registration in the public register of the treasury was rejected by the company registry court or the treasury, respectively, except where the party proves, within 30 days of the receipt of the order of the company registry court rejecting the application, that he has, within 8 days of the rejection of the application for company registration, resubmitted the application and the procedure for registration is in progress,

b) the company registry court has terminated the company registration procedure with respect to the person concerned,

c) in its final order, the company registry court has ordered the de-registration of the person concerned, or the person has been removed from the public register of the treasury or from the register of private entrepreneurs,

d) the seat of the person concerned, which has been notified in accordance with the rules applying to it, is not a real address,

e) it gains knowledge in a credible way of the fact that the notified representative of the organisation is not a real person,

f) the final decision withdrawing his tax number has reached administrative finality, or

g) the person other than an economic operator died.

(2) Acting in accordance with the customs administration procedure, the customs authority shall make a final decision on the invalidation of the EORI number.

(3) Where, in respect of a party who is obliged to register at the company registry court, the invalidation of the EORI number is ordered on the basis of paragraph (1) *d)* or *e)*, the customs authority shall, by notifying by electronic means the company registry court, initiate de-registration of the party concerned by the invalidation of the EORI number from the register on the day following the day of establishing that the final decision reached administrative finality. If the EORI number has been invalidated in line with paragraph (1) *d)* or *e)*, the customs authority shall, in respect of parties remaining in the register of private entrepreneurs,

on the day following the day of establishing that the final decision reached administrative finality, seek assistance from the organ administering the register of private entrepreneurs in order to enter the fact and date of invalidation in this register; and in respect of other parties not obliged to register at the company registry court, notify the other organ administering the register in which the party is registered of the invalidation.

(4) In the cases provided for in paragraphs (1) *d*) or *e*), the customs authority shall, by way of a public notice, communicate the final decision ordering the invalidation of the EORI number to the party.

(5) The customs authority shall notify the company registry court, the organ administering the register of private entrepreneurs or the other organ administering the register in which the party is registered of the final decision annulling the final decision ordering the invalidation of the EORI number and of the time when it reached administrative finality.

(6) After the customs authority becomes aware of the circumstance referred to in Article 7(1)(b) of the DA, the processing of the declaration, notification and application containing the EORI number of the party concerned by the expected invalidation of the EORI number shall be suspended until the final decision, referred to in paragraph (2), made in the course of the invalidation procedure reaches administrative finality. On the day following the day of establishing when the decision of first instance reached administrative finality, or, if it has been appealed, on the day following the day of establishing when the decision of second instance reached administrative finality, the customs authority shall take action for

a) terminating the suspension if the final decision ordering the invalidation of the EORI number has been annulled,

b) rejecting the declaration, notification and application if the invalidation of the EORI number has been upheld.

(7) In the course of the procedure commenced, upon application or *ex officio*, for the purpose of invalidating the EORI number, the final decision on the invalidation of the EORI number may be made if, in respect of the party existing in the register with the EORI number concerned, the customs administrative procedures that had commenced before the customs authority became aware as referred to in Article 7(1)(b) of the DA or the acceptance of the application for the invalidation have been closed, the customs authority has indicated on the current account the obligations to pay the customs duties and other charges due, the interest referred to in Article 112 or 114 of the Code and the charges and costs to be paid for the customs authority procedures, and has taken action for recovering the overdue debts.

(8) The invalidation of the EORI number does not directly terminate its use as a VPID number under tax rules. Termination of use as a VPID number may be carried out by NAV where tax administration procedures have been concluded and tax debts have been recovered.

CHAPTER VII

PROVISION OF INFORMATION

9. Regarding Article 12 of the Code

Section 27 [*Customs secret*]

(1) Customs secret means any information, in whatever form it appears, acquired by the customs authority in the course of performing its duties related to the application of the customs legislation.

(2) The customs authority, its serving and former employees and all other persons involved in the controls or the procedure shall keep all secrets protected by the legislation and acquired in the course of performing their duties confidential.

Section 28 [*Data request by the customs authority*]

(1) The customs authority may, for the purpose of performing its tasks and checking the information it acquired and in order to identify the person and the goods, request data from the following registers

a) to identify the person from the personal data and address records of the citizens, from the passport records on the basis of the passport number, from the register of official company records and from the register of private entrepreneurs,

b) to identify the goods and the vehicle, from the register of motor vehicles,

c) for the purpose of checking the criteria laid down in Article 39(a) of the Code, in respect of the fact (indication of time and criminal offence, punishment and secondary punishment imposed) of perpetration by the applicant of serious criminal offences relating to the economic activity of the applicant, as laid down in section 82 (2) herein, from the register of criminal offenders of the criminal records system, from the registry of convictions handed down against Hungarian nationals by courts of the Member States of the European Union, and from the system referred to in the Act on the recording of criminal and law enforcement biometric data,

d) in connection with checking the criteria laid down in Article 39(a) of the Code for the purpose of ensuring the implementation of Article 28(2) of the DA, in respect of the criminal proceedings (indication of the proceeding organ, Member State, start time of the proceedings) instituted against the applicant on the grounds of a serious criminal offence relating to the economic activity of the applicant, as laid down in section 82 (2), from the register of persons subject to criminal proceedings, from the criminal records system, from the register of convictions handed down against Hungarian nationals by courts of the Member States of the European Union, and from the system referred to in the Act on the recording of criminal and law enforcement biometric data, or

e) on the basis of authorisation by law, from the registers determined therein.

(2) Upon request by the customs authority, the credit institution shall, free of charge, provide data on payment transactions for checking the truthfulness of the customs value and payment of the customs debt, other charges, the interest referred to in Article 112 or 114 of the Code, the customs administration fine and the charges and costs to be paid for the customs authority procedures.

(3) The customs authority may receive data from the organ of the personal data and address records using main personal identification data or a linking code generated by the organ of the personal data and address records.

(4) Customs secrets may be used by agencies that are part of the official statistical system for statistical purposes if compliance with confidentiality requirements is ensured in the course of processing and, unless otherwise provided by the Act on official statistics, they are rendered unfit for subsequent unique identification.

Section 29 [Communication of customs secrets and aggregated data]

(1) For the purpose of this section, the customs authority shall inform, within 30 days after receiving the request for administrative assistance or request for data *ex officio* on customs secret

a) the national security services for the purpose of the fulfilment of their tasks specified in an Act,

b) the organ carrying out internal crime prevention and crime investigation tasks specified in the Act on the Police, and the counter-terrorism organ for the purpose of the fulfilment of their tasks specified in an Act,

c) the prosecution service, the investigating authority and the organ conducting preparatory proceedings for the purpose of the fulfilment of their tasks specified in an Act,

d) the courts for the purpose of the fulfilment of their judicial activities,

- e)* for the purpose of the fulfilment of their tasks of licensing, controlling, supervision, registration, certification and market surveillance,
- ea)* the national state administration organ for foreign trade,
- eb)* the authority designated to license the export and import of drug precursors,
- ec)* the authority for precious metal testing and certification,
- ed)* the authority for supervising public warehousing,
- ee)* the authority designated to fulfil the tasks related to the FLEGT licensing scheme regarding timber imports to the European Union,
- ef)* the market surveillance authority,
- eg)* the organ for agricultural and rural development supports,
- eh)* the organ operating the market information system,
- ei)* the organs for environment protection and nature conservation,
- ej)* the food-chain supervision organ,
- ek)* the wine authority,
- el)* the authority designated to license and supervise the import and export of certain goods or imports from and exports to certain countries,
- em)* the state administration organ for healthcare,
- f)* the minister responsible for agricultural policies for the purpose of the fulfilment of his tasks related to regulating the agricultural system and preparing market protection analyses,
- g)* the minister, provided that providing information is required for the fulfilment of his tasks under the law,
- h)* the minister responsible for healthcare and the minister responsible for foreign trade for the purpose of the fulfilment of their controlling tasks,
- i)* the minister responsible for trade for the purposes of anti-dumping and anti-subsidies and preparing market protection analyses,
- j)* the minister responsible for justice for the purpose of complying with obligations towards the European Union,
- k)* the State Audit Office and the organ designated by the Government to perform internal audits for the purpose of carrying out audits within their powers,
- l)* the Hungarian National Bank for the purpose of preparing the balance of payments,
- m)* the Hungarian Central Statistical Office for the purpose of statistics,
- n)* the Hungarian Energy and Public Utility Regulatory Authority for the purpose of preparing data compilations of energy statistics, and on the data of economic operators registered as licence holders, for the fulfilment of its official duties,
- o)* the organisation carrying out tasks related to the emergency stockholding of oil, petroleum products and natural gas for the purpose of the fulfilment of such tasks,
- p)* the collecting societies for the purpose of the fulfilment of their tasks related to enforcing claims specified in the Act on copyright,
- q)* the notary proceeding in a probate procedure, in the course of the procedure falling under notarial competence, for the purpose of carrying out such procedure,
- r)* Hungarian Export-Import Bank Private Limited Company (Magyar Export-Import Bank Zártkörűen Működő Részvénytársaság) and the Hungarian Export Credit Insurance Private Limited Company (Magyar Exporthitel Biztosító Zártkörűen Működő Részvénytársaság) to enable them to provide information on available services to those authorised to export goods, services and rights of a financial value in trade,
- s)* the transportation authority with respect to the outcome of the procedure conducted by the customs authority concerning security and safety standards specified in Article 39(e) of the Code for the purpose of the fulfilment of their tasks related to the classification of regulated

agents or known consignors.

(2) Communication of customs secrets may only include data that the organs referred to in paragraph (1) are entitled to manage in accordance with the law.

(3) Data qualifying as customs secrets may be provided to the organs of the European Union or of the Member States only in accordance with the customs legislation.

(4) Data qualifying as customs secrets may be provided to the authorities of third countries in accordance with the provisions of the relevant international treaties on mutual administrative assistance in customs matters, or of this Act.

(5) to (6)

(7) Individual data qualifying as customs secrets which do not constitute personal data may be managed and transmitted with data-processing techniques where the receiving state complies with the conditions of data security.

(8) For the purpose of this section, the customs authority shall inform *ex officio*, within 30 days after receiving the request, the minister responsible for trade and the minister responsible for foreign trade on aggregated data serving the purposes of customs policy and trade policy analyses.

Section 30 [Individual data management]

(1) The customs authority and

a) the authorities specified in section 29 (1) *e) ea) to ee)*, the authority designated for the market surveillance of certain products intended for economic use (equipment, apparatus, machines and systems) and certain measuring instruments subjected to mandatory verification from the authorities referred to in section 29 (1) *e) ef)*, and the authority under section 29 (1) *e) el)*, in respect of the control of international trade in goods,

b) the organ for agricultural and rural development supports, in respect of authorisation, issuing accounting documents and export refunding,

c) the customs authorities of Member States, in respect of tasks arising from the customs union,

may, where the technical conditions of data protection are met, carry out individual data management for the purpose of performing their common tasks.

(2) The person concerned may, in a statement addressed to the customs authority and made in writing or by electronic means, forbid complying with the data request under section 29 (1) *r)*.

(3) Where complying with the data request is forbidden under paragraph (2), the customs authority shall refuse to comply with the data request under section 29 (1) *r)*.

(4) If the person concerned forbids the transmission of his data after complying with the data request under section 29 (1) *r)*, the customs authority shall refuse to comply with any further data request made after the statement, and notify the Hungarian Export-Import Bank Private Limited Company and the Hungarian Export Credit Insurance Private Limited Company of the fact that transmission of the data has been prohibited.

Section 31 [Data request]

(1) The party shall be entitled to request, for a fee, traffic data related to its own customs activity kept in the computerised customs system of NAV. The criteria for determining the amount of the fee payable shall be specified in a decree by the minister.

(2) For the purpose of market research or for any other purpose, traffic data may, for a fee, be provided that provide no personal identification; however, no data shall be provided on strategic goods, in particular trade in goods for the purpose of state reserves, national security or national defence, or if the number of exporters, importers or manufacturers involved in the distribution is less than 3. The criteria for determining the amount of the fee payable shall be specified in a decree by the minister.

(3) There exists no obligation to keep customs secrets confidential where the authority functioning as the financial intelligence unit, acting within its functions provided for in the Act on the prevention and combating of money laundering and terrorist financing or for the purpose of complying with the written request of a foreign financial intelligence unit, makes, by means of direct access, an inquiry for or requests in a written form, data classified as customs secrets from the customs authority.

10. Regarding Article 15 of the Code

Section 32 [*Provision of data to the customs authority*]

(1) A request by the customs authority for the provision of data may be made in the form of a written or oral communication, or an electronic message sent by the computerised system of the customs authority.

(2) The person concerned may refuse to provide information if, in respect of that, he cannot be interviewed as a witness or may refuse to be one.

(3) If the person directly or indirectly involved in customs controls so requests, the customs authority shall, instead of the original documents, take over copies prepared and recognised as identical to the original documents by this person, provided that the customs authority considers them sufficient to clarify the facts of the case.

(4) If the customs authority sends its request for the provision of data by electronic means via the electronic system operated by it for this purpose to a financial institution, a payment institution or an investment firm, the provisions of the Act on the Code of Tax Administration Procedure (hereinafter “Air.”) shall apply to this request and to compliance with that.

(5) If the party does not comply with his obligation to provide data when called upon by the customs authority by the time set, a customs administration fine may be imposed upon him; furthermore, the customs authority may suspend the customs controls and the post-release controls and may, at the expense of the party subject to controls, have the records and the accounts prepared by an expert.

(6) In the case of duty-free admission of fuel on the basis of Article 107 of Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty (hereinafter “Regulation (EC) No 1186/2009”), in order to check compliance with the obligation set in Article 110(1) of Regulation (EC) No 1186/2009, and to secure the fulfilment of an obligation to pay customs duties set in Article 110(2) of Regulation (EC) No 1186/2009, the customs authority may oblige the subject of the release for free circulation customs procedure to provide his main personal identification data, and data regarding the time of entry and, if it happened, exit of the vehicle, the vehicle registration number and operating mode of the vehicle.

(7) When controlling the traffic of goods and passengers across the customs border, the customs authority shall, pursuant to the Act on aviation, be entitled to request data on passenger records referred to in the Act on aviation from the air carrier performing passenger transport from the time of termination of check-in for inbound flights and from one hour before the time check-in begins for outbound flights.

(8) The customs authority shall erase data received pursuant to paragraph (7) within 24 hours from their receipt, unless it is established that the customs authority requires them to perform its law enforcement tasks.

11. Regarding Article 16 of the Code

Section 33 [*Keeping the data*]

Data kept in the electronic systems of the customs authority and the economic operators and any amendments thereof shall be kept for 10 years from the year of the generation or the

amendment of these data.

CHAPTER VIII

CUSTOMS REPRESENTATION

12. Regarding Article 18 of the Code

Section 34 [*Customs representation*]

(1) In order for persons who are established in another Member State and who meet the criteria set out in Article 39(a) to (d) of the Code to act as a customs representative under Article 18(3) of the Code

a) production of a valid authorised economic operator authorisation or proof of compliance with the criteria set out in Article 39(a) to (d) of the Code issued by the customs authority of the place of establishment, and

b) a tax number issued by the national tax and customs authority, or a Community tax number issued by the Member State of establishment shall be required.

(2) In order for persons established in Hungary who meet the criteria set out in Article 39(a) to (d) of the Code to act as a customs representative in another Member State under Article 18(3) of the Code, the customs authority shall issue a certificate of compliance with the criteria set out in Article 39(a) to (d) of the Code.

(3) Statutory representation within the meaning of the Ptk. shall not qualify as customs representation.

(4) to (7)

13. Regarding Article 19 of the Code

Section 35 [*General rules on customs representation*]

(1) An *ad hoc* or permanent empowerment or agency may be given for customs representation.

(2) Unless the empowerment provides otherwise, it shall extend to all statements and acts related to the procedure.

(3) Where a person does not act in person in a customs administration case, the customs authority shall examine whether the acting representative is entitled to represent.

(4) Where a person appoints a representative in the course of the customs administration procedure, the customs authority shall send the documents to the representative, with the exception of the summons to appear in person, which is served to the person summoned, and the customs authority shall simultaneously notify the representative thereof.

(5) The customs authority shall call upon the party to make a statement within a time limit if the statements made by the party and the customs representative do not coincide or if their other procedural acts are contradictory. If any of the persons concerned fails to make a statement within the time limit, the customs authority shall make a decision on the basis of the data and information available to it.

(6) If an attorney-at-law, a registered in-house legal counsel, a law office or a European Community lawyer acts as a customs representative before the customs authority in a customs administration case, then, in addition to determining the type of customs representation, the provisions on authorising attorneys-at-law of the Act on the professional activities of attorneys-at-law shall apply.

(7) If the customs representative acts before the customs authority on the basis of an appointment made by a person under statutory representation within the meaning of the Ptk. then this person shall empower the customs representative through his statutory

representative.

Section 36 [*Customs representation in an individual case*]

(1) A person empowered on an *ad hoc* basis shall, except where section 35 (6) applies, prove his authorisation to represent in accordance with the provisions of this section.

(2) The *ad hoc* empowerment shall be put in writing, in connection with which the empowered person shall, on request by the customs authority, submit his original empowerment or an authenticated copy thereof to the customs authority.

(3) The written *ad hoc* empowerment shall be incorporated in a public deed or a private deed of full probative value.

(4) An *ad hoc* empowerment drawn up abroad shall be incorporated in a public deed or an authenticated private deed and be legalised.

(5) The withdrawal or unilateral termination of an *ad hoc* empowerment shall be effective towards the customs authority as of the time the customs authority is notified, and towards other persons as of the time when they are notified.

(6) The termination of customs representation due to the death of the party shall be effective as of the time of establishment of death.

Section 37 [*Customs representation in more than one case*]

(1) In customs administrative cases, the permanent empowerment or the agency shall be valid in the procedure before the customs authority if it has been notified by the person concerned or his representative on paper or electronically using the form established by the customs authority and published on the NAV website.

(2) Where customs representation is used for the submission of an application referred to in Article 22 of the Code then representation shall be notified electronically.

(3) Where the permanent empowerment or the agency or its termination is notified by the representative, the customs authority shall notify thereof the person who has given the empowerment or the principal in writing. The principal shall, without delay, notify the customs authority of the withdrawal or unilateral termination of a permanent empowerment or agency; the termination of the right of representation may be notified by the representative as well. The establishment and termination of the right of representation shall be effective towards the customs authority as of the time the customs authority is notified, with the proviso that the representative shall still be considered as a person entitled to receive documents from the customs authority on the day of notification of the termination of the right of representation.

CHAPTER IX

DECISIONS RELATING TO THE APPLICATION OF THE CUSTOMS LEGISLATION

14. Regarding Article 22 of the Code

Section 38 [*Relationship between the Union and national legislation in procedures commenced upon application*]

Except where otherwise provided, the provisions on decisions made upon application referred to in Articles 22 to 28 of the Code shall, with the additions provided for in this Act, apply to procedures commenced upon application on the basis of this Act.

Section 39 [*The application*]

(1) An application submitted by the party in a customs administration procedure shall be a statement made by the party in which he requests that a customs administration procedure be carried out or a decision be made by the customs authority for the purpose of asserting his right or legitimate interest.

(2) Except where otherwise provided, the party may freely avail of his application until the decision made on the application reaches administrative finality.

(3) The provisions of this section shall apply accordingly, in addition to the application to commence the procedure, to all other applications submitted by the participants in the procedure in relation to the procedure.

(4) Unless the customs legislation provides for additional requirements, the application shall contain the data necessary for the identification of the party and his representative and their contact details.

(5) The party may not be required to attach the statement of a specialist authority or a preliminary statement of a specialist authority to his application and, with the exception of the data necessary for the identification of the party, he may not be required to submit data that are considered to be public information or that must be recorded in a publicly certified register established by law.

(6) The application shall be adjudicated on the basis of its content, even if that does not coincide with the designation used by the party.

Section 40 [*Remedy of deficiencies*]

Where remedy of deficiencies is required in respect of an application, the customs authority shall proceed on the basis of Article 13(1) of the DA or Article 12(2) of Commission Implementing Regulation (EU) 2015/2447 (hereinafter “IA”).

Section 41 [*Termination of the customs administration procedure*]

The customs authority shall terminate the procedure if

a) the party applying for binding information under Article 33 of the Code did not comply with the call to remedy the deficiency, nor did he request an extension of the respective time limit, or his failure to make a statement prevented the clarification of the facts of the case,

b) the procedure has become redundant,

c) the administrative service fee or, as a condition for commencing procedures determined in the customs legislation, a fee shall be paid, and the party fails to comply with his payment obligation by the time limit set for this, despite being called upon to do so by the customs authority.

d) the procedure was commenced upon application and the applicant party has withdrawn his application, and the procedure may not be continued *ex officio*,

e) the customs organ of the customs authority establishes that another customs organ has already proceeded in the case, or

f) the party fails, in a procedure commenced upon his application where his representation is not appropriate or invalid, to arrange for a person capable of acting as a representative to be appointed or to act in person after being called upon to do so by the customs authority.

Section 42 [*The administrative time limit*]

(1) Where the customs legislation contains no provision on the time limit for the performance of a procedural act or the making of a procedural decision, the customs authority shall, without delay but no later than within 8 days, ensure that the procedural act is performed or the procedural decision is made.

(2) The administrative time limit applicable to acting as a specialist authority shall be 30 days, which shall not be extended.

Section 43 [*Application for excuse*]

(1) Any person who failed, through no fault of his own, to meet a due date or a time limit in the course of the customs administration procedure may submit an application for excuse.

(2) The application for excuse shall be adjudicated by the organ of the customs authority in the procedure of which the failure occurred.

(3) The application for excuse may be submitted after becoming aware of the failure or after the removal of the obstacle but, at the latest, within a time limit corresponding to the time limit prescribed for the procedural act being the object of the application for excuse, calculated from the due date or the last day of the time limit, but within 45 days at the latest.

(4) Where a time limit has not been met, the act left unperformed shall be performed simultaneously with the submission of the application for excuse if the conditions for it are met.

(5) No application for excuse shall be available for failure to meet the time limit for the application for excuse or of the procedural act repeated on the basis of the application.

(6) Where the customs authority grants the application for excuse, it shall consider the due date or time limit not met to have been met and it shall, where necessary, amend or revoke its decision, or otherwise repeat certain procedural acts.

Section 44 [*Involvement of specialist authorities*]

(1) Where the decision on the merits of the customs administrative case depends on the adjudication of a professional issue which falls within the material competence of another organ or authority (hereinafter “specialist authority”), the customs authority shall obtain the mandatory statement of the specialist authority entitled to adjudicate the professional issue.

(2) The specialist authority need not be involved if

a) the customs legislation sets a time limit or a due date for the submission of the application, and the submission was early or late,

b) the application manifestly does not originate from the person entitled to submit it and the application is to be rejected.

(3) The provisions of the Act on the Code of General Administrative Procedure on the procedure of the specialist authority shall apply to the procedure of the specialist authority.

(4) A preliminary statement, not older than 6 months, of a specialist authority may be attached to the application submitted by the party. The customs authority shall use the preliminary statement of a specialist authority submitted together with the application as a statement of the specialist authority.

(5) For the purpose of this section, the Forensic Institute of NAV shall not be deemed to be a specialist authority.

Section 45 [*Summons*]

(1) Where it is necessary to interview someone in person in the course of the customs administration procedure, the customs authority shall oblige that person to appear at the location and at the time specified. If, due to his age, health condition or for another legitimate reason, the person summoned cannot appear before the customs authority, he may also be heard at his place of residence.

(2) The summons shall be communicated in such a way that the person summoned, unless the circumstances of the case require otherwise, learns about it at least 5 days before the interview.

(3) The person summoned shall comply with the summons.

(4) The summons shall indicate in what case and in what capacity the customs authority intends to interview the summoned person. The person summoned shall be warned of the consequences of failure to appear.

(5) The organ of the customs authority may, in the course of the customs administration procedure, summon a person not having a domicile, or the statutory representative of an organisation not having a seat, within the area of its territorial competence for its seat or seek assistance from another customs organ for this purpose.

Section 46 [*Infringements related to summons*]

(1) If the person summoned

a) fails to comply with a regular summons, or leaves the location of the procedure without permission before being interviewed, and fails to justify his absence with good cause in advance or fails to provide a proper excuse subsequently, or

b) appears, upon being summoned, in a state in which he cannot be interviewed, and he fails to provide an excuse for this circumstance,

a customs administration fine may be imposed on him.

(2)

(3) Where the organisational representative of a legal person or another organisation did not comply with a summons and the statutory representative does not, after being called upon by the customs authority, communicate the name of the representative, a customs administration fine may be imposed on the statutory representative called upon, or the legal person or other organisation.

Section 47 [*Notification of a procedural act*]

(1) Where summoning the party is not necessary, the customs authority shall inform the party of the interview of the witness and the expert who he initiated being interviewed, the inspection and the hearing, including the information that he may participate in the procedural act but his presence is not mandatory. The notice shall be communicated in such a way that the party, unless the circumstances of the case require otherwise, receives it at least 5 days in advance.

(2) The party may not be notified and the hearing or the inspection shall be conducted in a closed session if the confidential management of the main personal identification data and the address of the witness, the expert or the holder of the object of the on-site inspection to be heard has been ordered, and the confidentiality of such data cannot be ensured during the hearing or the inspection.

(3) Where the action is related to its functions and powers, the specialist authority shall be informed of the procedural act at least 5 days before it is performed.

Section 48 [*Clarifying the facts of the case*]

(1) The customs authority shall clarify the facts of the case necessary for making a decision. Where the information available is insufficient to make a decision, the customs authority shall carry out a procedure for taking evidence.

(2) Facts of which the customs authority has official knowledge and facts of common knowledge need not be proved.

(3) In the customs administration procedure, any piece of evidence that serves to clarify the facts of the case may be used. No piece of evidence obtained in violation of the law may be used as evidence. Evidence shall, *inter alia*, include statements of the party, documents, witness testimonies, minutes of the inspection, expert opinion, minutes of the customs controls and physical evidence.

(4) The customs authority shall be free to select the manner of taking evidence.

(5) The customs authority shall evaluate the pieces of evidence separately and jointly, and shall determine the facts of the case by its free conviction based on such an evaluation.

Section 49 [*The party's statement*]

(1) The party shall have the right to make a statement, provide data, or refuse to make a statement in the course of the customs administration procedure.

(2) Where clarifying the facts of the case so requires, the customs authority may, except where otherwise provided in the customs legislation, call upon the party to make a statement or provide data in a procedure commenced upon his application. Where the party makes no statement after being called upon by the customs authority to do so or does not provide the requested data in a customs administration procedure commenced upon his application, the customs authority shall make a decision on the basis of the available data.

(3) If the party, against his better knowledge, misrepresents or withholds data or a fact relevant for the customs administrative case or provides untrue data, a customs administration fine may be imposed on him.

(4) In the case described in paragraph (1), the customs authority shall warn the party of his rights and obligations and the legal consequences of the provision of false, falsified or untrue evidence.

Section 50 [Documents]

(1) Where clarifying the facts of the case so requires and it may not be obtained on the basis of the Eüsztv, the customs authority may, with the exceptions specified under section 39 (5), call upon the party to produce an official document or other document.

(2) The party may also submit a copy of the document if he declares that it is a true copy of the original in every respect. In the absence of such a statement, the copy of the document may not be used as evidence in the customs administration procedure.

(3) Where doubts arise as to the authenticity or the contents of an authentic instrument issued abroad, the customs authority shall call upon the party to produce the legalised authentic instrument issued abroad.

(4) Where the party also attaches the certified Hungarian translation of a document issued in a language other than Hungarian, the customs authority shall accept it with the contents of the translation. If the party did not attach the certified Hungarian translation of a document issued in a language other than Hungarian in the customs administration procedure, the customs authority may, having regard to the circumstances of the case, require the party to submit it.

Section 51 [Witness]

(1) Any fact that pertains to the case may also be verified by witness testimony.

(2) A person summoned as a witness shall be obliged to appear for the interview and shall, with the exceptions specified in this Act, be obliged to provide witness testimony.

(3) A person shall not be interviewed as a witness

a) if he cannot be expected to make a statement that is admissible as evidence,

b) on a fact deemed to be protected data if he has not been exempted from the obligation of confidentiality.

(4) The witness may refuse to provide witness testimony if

a) he is a relative of the party within the meaning of the Ptk. (hereinafter “relative”),

b) he would, by his statement, implicate himself or his relative in having committed a criminal offence,

c) he is a media content provider pursuant to the Act on the freedom of the press and the fundamental rules of media contents (hereinafter “media content provider”), or a person who is in an employment relationship or another legal relationship aimed at the performance of work with a media content provider, even after the cessation of his legal relationship, if, by providing his witness testimony, he would divulge the identity of a person passing him information in relation to the activity of providing media content, or

d) he is a person protected by diplomatic immunity.

(5) Witness testimony obtained in violation of the provisions of paragraph (3) or section 53 (6) or witness testimony where the witness was not informed of his rights specified in paragraph (4) before providing the witness testimony shall not be used as evidence.

(6) If, despite a warning of the consequences, the witness does not comply with his obligation specified in paragraph (2), a customs administration fine may be imposed on him.

Section 52 [Interviewing the witness]

(1) At the beginning of the interview, the personal identity of the witness shall be determined. The witness shall declare what his relationship with the parties is and whether or not he is biased. If there is any fact supporting that the witness is biased, it shall be recorded

in the minutes. The witness shall be warned of his rights, his obligations and the legal consequences of perjury.

(2) A witness not yet interviewed may not be present at the interview of the party, another witness or the expert.

(3) The rules governing the hearing shall apply to the interview, even where the customs authority interviews the witness outside the hearing.

(4) The party or any other participants in the procedure shall not be present at the witness interview if the witness provides witness testimony on protected data or if the confidential management of the main personal identification data and the address of the witness has been ordered.

(5) The customs authority may allow the witness to provide witness testimony in writing following his interview, or instead of it. In this case, the testimony shall be written and signed by the witness with his own hand, a qualified electronic signature of the witness shall be affixed to his testimony made in the form of an electronic deed, or the witness testimony written by the witness in any other way shall be authenticated by a judge or a notary. Witness testimony incorporated in a public deed or a private deed of full probative value may be accepted. Providing witness testimony in writing shall not exclude the customs authority from summoning the witness for the purpose of being interviewed.

(6) Where the witness provides witness testimony in writing, without having been interviewed or following his interview, it must be clear from the written witness testimony that the witness provided his testimony in the knowledge of the impediments to providing testimony and of the consequences of perjury. The customs authority shall inform the witness thereof, simultaneously with giving permission to provide witness testimony in writing, while warning him of the impediments to providing testimony and of the consequences of perjury.

Section 53 [*The official witness*]

(1) In the course of carrying out a security measure, inspection or seizure, the customs authority may resort to an official witness.

(2) No official witness may be resorted to if audio or audio-visual recordings are made of the procedural act.

(3) The official witness shall sign the minutes to confirm the events and facts experienced by him in the course of the procedural act.

(4) The following may not act as an official witness: a relative of the party, persons engaged in a legal relationship aiming at the performance of work, entered into with the proceeding customs authority, and persons lacking procedural capacity.

(5) Nobody may be obliged to act as an official witness.

(6) The official witness shall be warned of his rights and obligations prior to the procedural act. The official witness may make an observation on the procedural acts and shall be entitled to the reimbursement of costs according to the ministerial decree on the reimbursement of the costs incurred by witnesses, which are subsequently reimbursed by the customs authority.

(7) The official witness shall be bound by the obligation of confidentiality with regard to the facts and data he learnt of; the proceeding customs organ, the organ entitled to adjudicate the appeal or an administrative court may exempt him from this obligation in respect of facts, data and circumstances pertaining to the subject matter of the case.

Section 54 [*Inspection*]

(1) Where the inspection of a movable property or real estate (hereinafter jointly “object of the inspection”) is necessary for clarifying the facts of the case in the course of the customs administration procedure, the customs authority may order an inspection.

(2) Inspections may be carried out by the case administrator of the customs authority or an expert appointed by the customs authority, who shall, with the exception set out in section

55 (3), provide proof of his entitlement. A letter of authorisation shall, except in the case of customs controls, post-release controls and oversight controls, be issued to the person conducting the inspection in order to carry out the inspection.

(3) In the course of the customs administration procedure, the specialist authority proceeding in the case shall deliver its statement in the framework of an on-site inspection. The customs authority shall inform the specialist authority of the time of the on-site inspection at least 15 days in advance by sending its request to the specialist authority.

Section 55 [*Carrying out the inspection*]

(1) The holder of the object of the inspection shall be notified of the inspection in advance, subject to the exceptions listed under paragraph (2) and (3). Where it is justified for the purpose of carrying out an inspection effectively, the notification shall contain a call for the holder of the object of the inspection to attend in person and to prepare the necessary documents. Unless otherwise required by the circumstances, the notification shall be communicated by ensuring that the holder of the object of the inspection receives it five days earlier.

(2) If advance notification would jeopardise the effectiveness of the inspection, the holder of the object of the inspection shall be informed of the inspection orally at the beginning of the inspection.

(3) If notification before the beginning of the inspection would jeopardise its effectiveness, the customs authority shall, when the inspection is completed, hand over or, without delay, send a copy of the minutes to the holder of the object of the inspection. The notification may be dispensed with if the inspection can be carried out without the involvement of the holder of the object of the inspection, by means of external examination.

(4) The absence of the holder of the object of the inspection shall not be an obstacle to carrying out an inspection if an employee of or a person authorised by the holder of the object of the inspection is present or, in the absence of these, an official witness is present.

(5) The party may be present at the inspection, unless the confidential management of the main personal identification data and the address of the holder of the object of the inspection has been ordered.

(6) The inspection may be carried out during the hours when the activity covered by the inspection is conducted, at a private residence that is not registered as a business address, unless the successful performance of the inspection makes it necessary to choose another time, on working days between 8:00 a.m. and 8:00 p.m. The inspection shall be carried out so as to cause the least amount of disturbance to the work and regular activities of the holder of the object of the inspection.

(7) In the case of a life-threatening situation or an event threatening to cause serious damage, or for the compelling reason of the protection of public order, public security and safety and health, the inspection may be carried out without delay.

(8) In the course of carrying out the inspection, simultaneously with notifying the owner, the holder of the object of the inspection may be obliged to produce the object of the inspection or to allow the party to enter the site of the inspection.

(9) In the course of the inspection, the person conducting the inspection shall, within his powers, be entitled to enter the area, building and other facility covered by the inspection, examine any document, object or work process related to the object of the inspection, request information from the holder of the object of the inspection and any other persons present at the place of the inspection, take photographs or make audio-visual recordings of the location, the object of the inspection and the processes, take samples, and use any other method of taking evidence.

(10) If the inspection is carried out by the person entitled thereto using means of information technology, upon certification of the entitlement to carry out the inspection, within the scope specified by law or, in respect of personal data and Acts, the holder of the object of the inspection shall grant access to the person conducting the inspection to the data, where necessary by providing the technical conditions and access rights to the information technology system.

(11) The holder of the object of the inspection may not be obliged to produce the object of the inspection that contains classified data if he has not been exempted from the obligation of confidentiality in respect of the object of the inspection.

(12) If the holder of the object of the inspection is a media content provider, or a person who is in an employment relationship or another legal relationship aimed at the performance of work with a media content provider, he may not be obliged to produce the object of the inspection if, by doing this, he would divulge the identity of a person passing him information in relation to the activity of providing media content. This exemption shall prevail even where the relationship that provided the grounds for the exemption no longer exists.

Section 56 [*Obstruction of carrying out the inspection*]

(1) If the holder of the object of the inspection does not, despite being warned of the legal consequences, produce the object of the inspection upon a call from the customs authority, or obstructs its on-site examination, the customs authority may seize the object of the inspection.

(2) A customs administration fine may be imposed upon any person who obstructs the inspection or its effectiveness.

Section 57 [*Expert*]

(1) Except where otherwise provided in the customs legislation, while setting a time limit of at least 15 days, an expert shall be appointed in a procedural decision if particular specialist knowledge is necessary to establish an important fact or another circumstance in the case and the proceeding customs organ does not possess the required specialist knowledge.

(2) Where the statement of a specialist authority is to be obtained on the same professional issue, no expert shall be appointed.

(3) The rules of this Act on exclusion shall apply to the exclusion of experts.

(4) A person who shall not be interviewed as a witness or who may refuse to provide witness testimony shall not act as an expert.

(5) A customs administration fine may be imposed upon the appointed expert if he fails to perform his tasks within the time limit, without having requested in advance an extension of the time limit or provided notice of being prevented from performing his duties.

(6) The customs authority shall communicate all data to the appointed expert that are necessary for the performance of his tasks. The appointed expert may access the documents of the case to the extent necessary for the performance of his tasks, may be present at the interview of the party and the witness, the hearing and the inspection and may pose questions to the party, the witness and the holder of the object of the inspection.

(7) The party may assist in the expert examination.

(8) Prior to delivering his opinion, the appointed expert shall be warned of the legal consequences of delivering a false opinion.

(9) If the expert opinion is lacking clarity or incomplete, or if it appears to be inconsistent with itself, the opinion of another expert or proven facts, or if there is otherwise significant doubt regarding its correctness, the appointed expert shall, upon a call from the customs authority, provide the information necessary.

(10) Where there is such a difference between expert opinions delivered on the same fact to be proved regarding a professional issue essential for adjudicating the case which cannot be clarified by means of information requested from the experts or by any other means, the

customs authority shall appoint another expert to deliver an opinion as to the possible reasons for such a difference between the opinions, and as to whether any supplement is required for either of the opinions.

(11) If the customs authority interviews the appointed expert outside the hearing, the rules governing the hearing shall apply to the interview.

(12) The provisions of the Act on judicial experts shall apply to experts regarding issues not regulated herein.

Section 58 [*The interpreter*]

(1) If the case administrator is not familiar with the foreign language used by the party or another participant in the procedure, an interpreter shall, except where otherwise provided for in the customs legislation, be engaged.

(2) If the party or another participant in the procedure is hearing-impaired, he shall, at his request, be heard using the services of a sign language interpreter, otherwise the hearing-impaired person present may, instead of being interviewed, also make a statement in writing. If the party or another participant in the procedure is deaf-blind, he shall, at his request, be interviewed using the services of a sign language interpreter. If the party or another participant in the procedure who is present is speech-impaired, he may, at his request, make a statement in writing instead of being interviewed.

(3) A member of the proceeding customs authority who does not proceed in the case or, if it is essential for clarifying the facts of the case, a person present at the location of the control who speaks the foreign language may be resorted to as an interpreter. The person resorted to as an interpreter shall be informed of his rights and obligations, and the fact of this information and the statement of the person resorted to as an interpreter shall be recorded in the minutes of the on-the-spot controls.

(4) The rules of this Act on exclusion shall apply to the exclusion of interpreters.

(5) A person who cannot be interviewed as a witness or may refuse to provide witness testimony shall not act as an interpreter.

(6) Prior to giving his opinion, the interpreter shall be warned of the legal consequences of false interpretation or false translation.

Section 59 [*The hearing*]

(1) The customs authority may conduct a hearing to clarify the facts of the case or if jointly interviewing the persons participating in the procedure is necessary.

(2) At the hearing, the customs authority may interview the party, the witness, the expert and may inspect the object of the inspection.

(3) Where the conditions are met, the customs authority may also conduct a hearing in the framework of an inspection.

(4) The party may make observations concerning what was heard at the hearing, may pose questions to the person being interviewed and initiate a hearing of other persons or obtaining other pieces of evidence.

(5) Any persons, other than those referred to in paragraph (2), whose participation has not been objected to by the parties may participate in the hearing. The customs authority may also exclude the public from the hearing in order to protect of protected data and confidentially managed data.

(6) Whoever disturbs the order of the hearing may be called to order by the person heading the hearing and, in the event of repeated or more serious disruptive conduct, he may be expelled from the hearing, and a customs administration fine may be imposed on him.

Section 60 [*Disclosure of evidence to the party*]

If the customs authority, while carrying out a procedure for taking evidence, did not ensure that the party had access to all pieces of evidence, it shall, upon conclusion of the procedure,

notify the party that he may acquaint himself with the evidence, in compliance with the provisions on access to files, and that he may, within 8 days of having access to the evidence, make an observation and, where necessary, additional motions to produce evidence.

Section 61 [*Consequences of obstructing the procedure*]

Whoever fails to comply with his obligation due to his own fault in the course of the customs administration procedure shall be obliged by the customs authority to reimburse the extra costs incurred, and a customs administration fine may be imposed on him for obstruction.

Section 62 [*The recording of procedural acts*]

(1) Without prejudice to the provisions on customs controls and post-release controls, minutes shall be prepared on carrying out the on-site inspection, the interview of the witness, the involvement of the official witness, the security measure, the hearing, the seizure and the right to be heard exercised in person. Simplified minutes may be prepared if an inspection is carried out in connection with an examination of goods referred to in Article 189 of the Code, which shall contain the place and time of the inspection and the findings made by the customs authority.

(2) Except for the minutes of the customs controls, the minutes shall contain

a) the name of the proceeding customs organ, the name of the case administrator, the subject matter of the case and the case number.

b) the name, address, tax number or tax identification code, EORI number where he has one, procedural status and, if made available to the customs authority, other contact details of the person concerned by the procedural act,

c) the name of the official witness involved,

d) the fact that the person concerned by the procedural act has been warned of his rights and obligations,

e) the relevant statements and findings pertaining to the case, the circumstances and findings revealed by the procedural acts which are relevant for adjudicating the case, including the observations made by the official witness,

f) the place and time where and when the minutes were drawn up, and

g) the signature of the person concerned by the procedural act, the official witness, the case administrator and the keeper of the minutes on each page.

(3) Upon a reasoned request by the person concerned by the procedural act, his statement, testimony, expert opinion, or parts of them shall be recorded in the minutes verbatim.

(4) The customs authority may, upon application or *ex officio*, make audio visual recordings of individual procedural acts. Where such a recording is made, only the data necessary for the identification of the persons participating in the procedural act and the location and time of the recording and the fact of making audio visual recordings shall be specified in the minutes.

Section 63 [*Request for administrative assistance*]

(1) In the course of a procedure commenced upon application, the customs organ of the customs authority may seek assistance from another authority or organ to obtain data and information.

(2) The requested organ shall comply with the request for administrative assistance in accordance with the rules applying to it.

Section 64 [*Request for carrying out a procedural act*]

(1) If, in a procedure commenced upon application, another customs organ is entitled to carry out certain procedural acts, the customs organ which was requested to conduct this procedural act shall carry out the procedural act as part of the procedure of the requesting customs organ.

(2) Where the request is aimed at examining the criteria set out in Article 39 of the Code,

the requested customs organ shall notify the requesting customs organ of its findings within 60 days.

Section 65 [*Granting the right to be heard*]

(1) In the course of exercising the right to be heard, the customs authority may make audio visual recordings of the person concerned by the specific case, statements made by him and means of evidence raised by the party in his statements. The audio visual recordings made by the customs authority and the personal data contained in it may be used

- a) for the purpose of customs controls and post-release controls,
- b) for the purpose of criminal proceedings and infraction procedures instituted for an infringement of the customs legislation, or
- c) in the course of a customs administration procedure, with the exception of point a), which falls within the material competence of the customs authority, or for the purpose of exercising the rights of the person concerned.

(2) At the beginning of exercising the right to be heard, the party shall be informed of the making of audio visual recordings and its statutory conditions and of the possibility to consult the recordings.

(3) The customs authority shall store the audio visual recordings in its electronic system for the storage of information and shall erase them upon the expiry of the period for keeping the data specified in section 33.

Section 66 [*Final decisions and procedural decisions*]

(1) The customs authority shall adopt a final decision on the merits of the case, while it makes procedural decisions on any other issues occurring in the course of the procedure.

(2) The final decision shall, except where otherwise provided in the customs legislation, contain

- a) the name of the proceeding customs organ, the number of the case and the name of the case administrator,
- b) the name and address or seat of the beneficiary or obliged party, and the personal identification data, and where applicable the EORI number, of the party provided by him in the application,
- c) indication of the subject matter of the case,
- d) in the operative part
 - da) the decision of the customs authority, and information on the possibility, place and time limit of filing for legal remedy, of the legal remedy procedure, and, in the case of an administrative court action, of the possibility to request a hearing,
 - db) the name of the specialist authority and the operative part of its statement,
 - dc) decision on the payment to the party or to the central budget of the duty or fee payable for conducting the procedure,
 - dd) establishment of possible procedural costs, unless the customs authority makes a separate decision on it,
 - de) decision on the bearing of possible procedural costs, unless the customs authority makes a separate decision on it,
 - df) the due date or time limit for performance of the obligation and the legal consequences of failure of voluntary performance, including information on any payment obligation of late payment surcharges and their amount, in the decision determining a payment obligation,
 - dg) information on the amount and the modes of payment or clearing of the payment obligation and the duty or fee on appeal specified in the final decision,
- e) in the statement of the reasons
 - ea) the determined facts of the case and the evidence accepted as their basis,
 - eb) taking evidence initiated by the party but omitted, and the reasons for the omission,

ec) in the case of a final decision made within discretionary power or by assessing specific circumstances, the criteria and facts taken into consideration when exercising discretionary power or assessing specific circumstances,

ed) the reasons underlying the statement of the specialist authority, or the reasons for not making a request to a specialist authority,

ee) the references to the legal provisions upon which the final decision made by the customs authority was based,

ef) the reference to the laws establishing the material and territorial competence of the customs authority,

f) the place and time of making the decision, the name and position of the person exercising the power, and the name and position of the person issuing the decision if other than the person exercising the power,

g) the signature of the person issuing the decision and the stamp of the customs authority.

(3) The procedural decision shall, except where otherwise provided in the customs legislation, contain the content elements specified in paragraph (2) *a*) to *c*), *d*) *da*), *df*) and *dg*), *e*) *ec*) and *ef*), *f*) and *g*). The procedural decision terminating the procedure shall also contain the content elements specified in paragraph (2) *d*) *dc*) to *de*) and *e*) *ee*).

(4) A simplified decision which dispenses with statement of the reasons and the information on legal remedy may be made if

a) the customs authority fully grants the application and there is no party with opposing interests in the case, or the decision does not affect the right or legitimate interest of the party with opposing interests, or

b) it establishes only the time of a procedural act.

(5) Except where otherwise provided in the customs legislation, the customs authority may indicate its favourable decision or its decision releasing the goods in the form of an endorsement on the paper-based application or express it in the form of an electronic message in procedures initiated upon application lodged on paper or by electronic means, or by means of lodging a customs declaration, temporary storage declaration, entry summary declaration, exit summary declaration, re-export declaration or re-export notification.

Section 67 [*Provisions on the decision*]

(1) The decision may contain protected data only of the type that the person to whom the decision is communicated may, in accordance with the rules on access to files, access. The decision shall be worded in a way that it refers to the content of the protected data taken into account without disclosing them. The decision shall be worded in a way that no conclusion may be drawn from that as to the identity of any person in respect of whom the confidential management of his main personal identification data and address has been ordered.

(2) The decision shall, except in the cases referred to in section 66 (5), be drawn up in a separate official document or recorded in the minutes. The decision shall be drawn up in a separate official document where it is communicated by service or by electronic means.

(3) A final decision and a procedural decision, or several final decisions or procedural decisions, may be drawn up in a single official document. The operative parts and the statements of reasons of decisions drawn up in a single official document shall be worded separately in respect of each decision. Drawing up decisions in a single official document shall not affect the time limits for making the individual decisions and the application of the rules on legal remedy. Where the person entitled to apply for legal remedy submits an application for legal remedy against the final decision and procedural decision drawn up in a single official document, the provisions on legal remedies available in connection with final decisions shall apply.

(4) Where the customs legislation makes it possible, the customs authority shall draw up its

decision in a format established for this purpose and containing the data specified in the legislation.

Section 68 *[Administrative finality of decisions of the customs authority]*

(1) The decision of first instance of the customs authority shall reach administrative finality if

- a) it has not been appealed and the time limit for appeal has expired,
 - b) the right of appeal has been waived or the appeal has been withdrawn,
 - c) appeals, including independent appeals against procedural decisions, are not applicable,
- or
- d) the customs organ entitled to adjudicate the appeal has upheld the decision of the organ of first instance.

(2) Where the right of appeal is waived or the appeal is withdrawn, the decision shall reach administrative finality

- a) upon communication of the decision of first instance if, subject to granting the application, the party had waived his right of appeal before the decision was communicated, and there is no party with opposing interests in the case,
- b) on the day of the arrival to the customs organ of the last waiver or withdrawal if, within the time limit for appeal, each person entitled to appeal waives his right to appeal or withdraws his appeal.

(3) In the case referred to in paragraph (1) c), the decision of first instance shall reach administrative finality upon its communication.

(4) In the case referred to in paragraph (1) d), the decision of first instance shall reach administrative finality upon communication of the decision of second instance.

(5) Where the appeal procedure is terminated, the procedural decision or final decision of first instance made by the customs authority that is contestable through independent appeal shall reach administrative finality on the date the procedural decision terminating the appeal procedure reaches administrative finality.

(6) The provisions of the decision of first instance that are not involved in the appeal shall reach administrative finality according to paragraphs (1) to (5) if

- a) only another participant in the procedure has appealed the provision of the decision which affected him, or
- b) only certain provisions of the decision have been appealed and adjudication of the appeal does not affect the provisions not contested in the appeal.

Section 69 *[Communication and publication of the decision]*

(1) Except where otherwise provided in the customs legislation, the final decision shall be communicated to the party, those regarding whom the decision establishes rights or obligations, and the specialist authority which acted in the case. The final decision may also be communicated to the person whose rights or legitimate interests it affects.

(2) The procedural decision shall be communicated to those regarding whom it contains a provision and whose rights or legitimate interests it affects. At the request of the party, the customs authority shall, on one occasion, issue a copy of the procedural decision not communicated to the party, free of duties and fees.

(3) Except where otherwise provided in the customs legislation, the decision may also be communicated orally to the persons specified under paragraphs (1) and (2).

(4) Where the person specified in paragraphs (1) or (2) lodges a customs declaration by electronic means, the decision shall, as an attachment to the decision, be sent to the user mail storage facility. If, in this form, the decision is not received within 5 days, the decision shall be served in person or by post. In the event of receipt in person, the fact and the date of the communication shall be recorded on the document, which must be signed by the person who

received the decision. Where a person specified in paragraphs (1) or (2) receives the decision neither in person nor in the mail storage facility within the time limit, the customs authority shall, without delay, serve him the decision by post.

(5) Where the person referred to in paragraphs (1) or (2) submits an application referred to in Article 22 of the Code in an electronic system set up for this purpose, the customs authority shall communicate its decisions through this system. The date of the communication shall be the time of sending the decision made by the customs authority.

(6) By way of derogation from paragraph (5), the date of the communication of the decision shall be the date when it was communicated in writing or orally, or it was provided by a means referred to under paragraph (4). Except where otherwise provided in the customs legislation, a decision communicated by way of a public notice shall be considered as communicated on the 15th day following the posting of the public notice.

(7) Except where otherwise provided in the customs legislation, the acquisition of a right bound to a specific day shall take place at the beginning of that day. The legal consequences of a failure to meet a time limit or of a delay shall occur upon the expiry of the last day of the time limit.

Section 70 [*Rules on service by post*]

(1) Where service through a postal service provider is unsuccessful because the addressee or his authorised recipient states that he refuses to accept the consignment, the document shall be considered served on the day of the attempted service.

(2) Where the service of the document was unsuccessful because it was returned to the customs organ from the address recorded in the personal data and address records, the accommodation declared in the customs administration procedure, or the seat of the addressee marked

- a) "nem kereste" ("unclaimed"),
- b) "ismeretlen" ("unknown") or
- c) "elköltözött" ("moved"),

the document shall, until proven to the contrary, be considered served, in the case referred to in point a), on the 5th working day following the second service attempt, and in the cases referred to in point b) to c), on the 5th working day following the service attempt.

(3) The party or other participant in the procedure may lodge a service objection if the service took place in violation of the laws governing the service of official documents.

(4) A natural person party or another participant in the procedure may also lodge a service objection if he was unable, through no fault of his own, to receive the official document. This provision shall also apply to where the service was performed by electronic means.

(5) The party or another participant in the procedure may lodge a service objection within 15 days of becoming aware of the service, but within 45 days of the communication at the latest, beyond which no further appeal may be lodged. Where the party or other participant in the procedure becomes aware of his obligation, which has reached administrative finality, due to service from a claim for payment preceding an enforcement procedure initiated by the customs authority or from the commencement of the enforcement procedure, the service objection may also be lodged within 15 days of receipt of the claim for payment or of becoming aware of the enforcement procedure, even if 45 days have passed since the service. Except where otherwise provided in an Act, service objections may not be lodged in the course of the enforcement procedure.

(6) The service objection shall contain those facts and circumstances which prove the irregular nature of the service or substantiate the lack of fault on part of the party or other participant in the procedure.

(7) The service objection shall be adjudicated by the customs organ that issued the document being the subject of the service.

(8) The service objection shall have no suspensory effect on the continuation of the procedure or on the enforcement. The customs authority may, upon application or *ex officio*, suspend the enforcement procedure until the decision adjudicating the service objection reaches administrative finality if the facts and circumstances presented in the application substantiate its acceptance.

(9) Where the customs authority upholds the service objection, actions taken following the service objected by the party or other participant in the procedure shall be rendered null and void, or the procedure from the time of the service shall, to the extent necessary, be repeated.

Section 71 [*Communication by public notice*]

(1) The communication shall be performed by public notice where

a) the party's whereabouts are unknown,

b) the legal successor is unknown,

c) the party fails to appoint an authorised recipient, or

d) use of available means of communication other than public notice is obstructed by an insurmountable obstacle or their use already seems futile at the outset.

(2) Except where otherwise provided in the customs legislation, the public notice shall contain

a) the date of posting the public notice,

b) the name of the proceeding customs organ,

c) the number of the case and subject matter of the case,

d) the name, last known address, seat and tax number of the party, and

e) the notice that the customs authority has made a decision in the case, but its service has been unsuccessful and the party or his authorised recipient may therefore, collect the decision that has not yet reached administrative finality at the organ of the customs authority.

(3) The public notice shall be posted on the bulletin board of the customs authority and shall be published on the website of the customs authority used for electronic information purposes.

(4) The public notice shall be posted on the bulletin board of the customs authority and published on the website of the customs authority used for electronic information purposes on the same date. Calculation of the time limits related to the communication by public notice shall be based on the public notice being posted on the bulletin board of the customs authority. Where communication by public notice is used, the date of posting the public notice on and removing the public notice from the bulletin board of the customs authority shall be indicated in the document, and the time of publication on the internet website shall be documented in a traceable manner.

(5) Where the conditions for communication by public notice are no longer fulfilled, the customs authority shall, without delay, ensure that the public notice is removed and make contact with the party according to the general rules on communication.

Section 72 [*Access to the decision*]

(1) If no customs legislation or Act restricts or excludes access to the decision then, following the definitive conclusion of the procedure, a version of the final decision with administrative finality not containing any personal data or protected data, as well as the procedural decision annulling the final decision of first instance and instructing the customs authority which adopted the final decision of first instance to conduct a new procedure, may be accessed by anyone without restriction, and copies thereof may be requested by anyone against a reimbursement of costs as specified in a decree by the minister.

(2) A request for access to a decision referred to in paragraph (1) shall be complied with by the customs authority that has adopted the decision with administrative finality within 8 days,

after that the personal data and protected data contained in the decision have been rendered unrecognisable. Where any reference is made to a natural person in the decision, it shall be consistent with his role in the procedure; however, if this is not capable of preventing the identification of the natural person in question, the identification data shall be deleted in a manner so as not to prejudice the determined facts of the case.

(3) Any data accessible on public interest grounds may not be rendered unrecognisable in the decision.

(4) Personal data and protected data may not be rendered unrecognisable if the requesting person, indicating the data in question, provides proof that accessing the data is necessary for the assertion of his right or for the performance of his obligation imposed by law or a final decision by an authority, and if all statutory requirements for accessing the protected data are satisfied.

Section 73 *[Rectification of the decision]*

(1) Where there is a typing error with respect to a name, number or other data or a calculation error in the decision which does not affect the merits of the case, the amount of the procedural costs or the obligation to bear the procedural costs, the customs authority shall, having interviewed the party where necessary, rectify the decision.

(2) The customs authority shall effect the rectification

a) on the original of the decision and on all of its copies if available,

b) by withdrawing the erroneous decision and replacing the decision, or

c) by issuing a rectifying decision.

(3) The same legal remedy shall be available against the rectified part of the decision as the one available against the original decision.

(4) The rectification shall be communicated to those to whom the decision to be rectified was communicated.

Section 74 *[Supplementation of the decision]*

(1) Where the decision is lacking a mandatory element prescribed by law or fails to address an issue related to the merits of the case, the customs authority shall supplement the decision.

(2) The decision shall not be supplemented if 1 year has elapsed since the decision reached administrative finality.

(3) The customs authority shall communicate the supplement in a consolidated decision, replacing the decision where possible.

(4) The same legal remedy shall be available against the supplement as the one available against the original decision.

(5) The supplement shall be communicated to those to whom the supplemented decision was been communicated.

15. Regarding Article 23 of the Code

Section 75 *[Monitoring]*

When monitoring the authorisations referred to in Article 22 of the Code and the status of authorised economic operator, the rules on inspections shall apply to on-the-spot controls.

16. Regarding Article 28 of the Code

Section 76 *[Amendment and revocation of favourable decisions]*

In the event of a change in any of the elements relating to the person, subject matter or facts of the case compared to the main procedure, the final decision made by the customs authority shall constitute a new final decision and not an amendment.

17. Regarding Article 29 of the Code

Section 77 [*Ex officio customs administration procedure*]

Except where otherwise provided in the customs legislation, the provisions of this Act on procedures commenced upon application shall apply to *ex officio* customs administration procedures, subject to the derogations provided for in this Subtitle.

Section 78 [*Commencement of the ex officio customs administration procedure*]

(1) The organ of the customs authority shall, in the area of its territorial competence, commence the customs administration procedure *ex officio* if

a) it becomes aware of a fact, data, or circumstance which is the underlying reason to commence the procedure,

b) it has been obliged by a court to do so,

c) it has been ordered by its superior organ to do so.

(2) The customs authority shall, except for the measures on customs controls, post-release controls and oversight controls, notify the known party of the commencement, on the basis of the customs legislation, of an *ex officio* customs administration procedure within 8 days of performance of the first procedural act. Notification may be dispensed with only where it would frustrate the success of the procedure.

(3) The notification shall include

a) the subject matter of the case, the number of the case, the date of commencement of the customs administration procedure and the administrative time limit, the periods not to be included in the administrative time limit, the name of the case administrator and his contact details at the customs authority, and

b) information on the rights and obligations of the parties.

Section 79 [*The administrative time limit in ex officio customs administration procedures*]

(1) Except where otherwise provided in this Act, the administrative time limit applicable to *ex officio* customs administration procedures shall be 90 days, which shall not be extended.

(2) In procedures referred to paragraph (1), the administrative time limit shall start on the date when the first procedural act is performed.

(3) The administrative time limit applicable to *ex officio* customs administration procedures according to paragraph (1) shall not include

a) the period of time of consultations regarding a dispute over material and territorial competence,

b) the period of time of the procedure of the specialist authority,

c) the period of time of a malfunction or other unavertable event that makes the functioning of the customs authority impossible for at least one whole day,

d) the period of time of preparation of an expert opinion,

e) the period of time specified in Article 8(1) of the DA,

f) the period of time of complying with the obligation to provide data under Article 15 of the Code, and the duration of any suspension of the customs administration procedure,

g) the period of time elapsed during the obstruction in any way of the customs controls by the person directly or indirectly concerned by the customs controls,

h) where a final decision imposing a customs administration fine or charging interest on arrears is made in the course of customs controls, the period of time between the communication of the final decision imposing the customs debt and when it reaches administrative finality.

i) the period of time between the action taken to communicate the decision obliging the applicant party to advance procedural costs and the time of complying with this obligation.

j) the period of time between the day following the day of posting the request by the customs authority for administrative assistance, the minutes or the decision and the time of the service thereof, and the period of time of the communication by public notice.

Section 80 [*Suspension of the ex officio customs administration procedure*]

(1) Except where otherwise provided in the customs legislation, the customs authority shall suspend the customs administration procedure if

- a) another organ must be requested to assist in the case,
- b) such an issue arises in the course of the procedure the adjudication of which falls under the material competence of another authority, or
- c) it cannot be reasonably decided in the absence of another decision closely related to the given case made by the customs authority.

(2) The customs authority shall communicate its procedural decision on the suspension of the procedure to another authority specified under paragraph (1) b) with a request to be informed of the conclusion of the procedure.

(3) All time limits shall be interrupted by the suspension of the procedure and they shall, with the exception of the administrative time limit, start again when the suspension terminates. Any procedural acts performed during the period of suspension shall not be effective, except for those performed in order to eliminate the reason for suspension.

(4) Even if the procedure is suspended, the customs authority may decide that the suspension of the procedure shall not affect pending procedural acts and the time limits set for performing them. This decision shall be communicated to the party.

18. Regarding Article 33 of the Code

Section 81 [*Final decisions relating to binding information*]

Application for a final decision relating to binding origin information may also be submitted on paper.

CHAPTER X

AUTHORISED ECONOMIC OPERATOR

19. Regarding Article 39 of the Code

Section 82 [*Infringement of minor importance, serious infringement or repeated infringement of the customs legislation and taxation rules*]

(1) An infringement of minor importance referred to in Article 24(2) of the IA shall, where the applicant was acting in good faith, be established by the customs authority, *inter alia*, where the aggregate amount of the fines imposed for infringement of or failure to comply with the obligations laid down in the customs legislation and taxation rules relating to the economic activity of the economic operator taken into account when examining the criteria specified in Article 39(a) of the Code does not exceed 20% of the obligation to pay customs duties and taxes incurred within the period examined pursuant to Article 24(1) of the IA.

(2) If, within the period examined pursuant to Article 24(1) of the IA,

a) a fine has been imposed on the applicant for falsifying or destroying documentation, books or records in a decision that has reached administrative finality, or

b) an individual amount of fine exceeding HUF 20 million has been imposed on the applicant on each occasion for infringement of or failure to comply with the obligations laid down in the customs legislation and taxation rules relating to the economic activity of the applicant in a decision that has reached administrative finality, and

the aggregate amount of the fines incurred pursuant to points a) and b) exceeds 20% of the obligation to pay customs duties and taxes incurred in respect of the applicant within this same period, it shall, *inter alia*, constitute a serious infringement of customs legislation and taxation rules.

(3) If, within the period examined pursuant to Article 24(1) of the IA, tax fines, default fines

and customs administration fines (for the purposes of this Subtitle hereinafter jointly “fines”) have, in decisions that have reached administrative finality, been imposed altogether more than ten times on the applicant for infringement of or failure to comply with the obligations laid down in the customs legislation and taxation rules relating to the economic activity of the applicant, and the aggregate amount of fines thus imposed exceeds 20% of the obligation to pay customs duties and taxes incurred in respect of the applicant also within this same period, it shall, *inter alia*, constitute a repeated infringement of the customs legislation and taxation rules.

Section 83 [*Practical standards of competence, official training, official exam*]

(1) Fulfilment of the practical standards of competence referred to in Article 39(d) of the Code and in Article 27(1)(a) of the IA shall be examined in respect of the period of a minimum 3 years before the submission of the application, which period may nevertheless not start before 1 May 2004.

(2) For the purpose of proving the practical standards of competence referred to in Article 39(d) of the Code and in Article 27(1)(a) of the IA, the criteria acceptable in respect of the applicant and the person employed by or acting on the basis of an agency given by the applicant shall be specified in a decree by the minister.

(3) Training as referred to in Article 39(d) of the Code and in Article 27(1)(b) of the IA shall be understood to mean official training and the official exam for customs experts. A certificate shall be issued as proof of having passed the official exam.

(4) The register of training organisations carrying out official training procedures for customs experts, and of examiners who may be employed under an agency contract for carrying out official exam procedures shall be administered by the ministry led by the minister (hereinafter “organisation administering the register”).

(5) The register of training organisations carrying out official training procedures for customs experts shall contain

- a) the name and tax number,
- b) the registration number,
- c) the name of the representative,
- d) the seat, postal address,
- e) the phone number and electronic contact details of the training organisation.

(6) The organisation administering the register shall keep the data kept in the register of training organisations for the purpose of checking official training and official examinations and using them in other administrative or court procedures or proceedings for 5 years after de-registration of the training organisation.

(7) The register of examiners shall contain the following data:

- a) the main personal identification data,
- b) the address, postal address,
- c) the phone number, electronic contact details,
- d) the number of the diploma proving higher education, the name of the issuing institution and the date of issue,
- e) the description of other professional qualifications, number of the diploma or certificate proving such qualifications, the name of the issuing institution and the date of issue,
- f) any state-recognised language certificate, type and degree of language proficiency examination.

(8) The name, correspondence address, registration number and, subject to his consent, other registered data of the examiner registered under paragraph (7) shall be publicly available. The organisation administering the register shall, for each year by 31 March

following the current year, publish the publicly available data of examiners registered during the current year and any changes to their publicly available registered data on the website of the ministry led by the minister, and shall publish the publicly available data of all registered persons on the website of the organisation administering the register.

(9) The organisation administering the register shall keep the data of natural persons de-registered from the register of examiners for 5 years after the de-registration.

CHAPTER XI

PENALTIES

20. Regarding Article 42 of the Code

Section 84 [*customs administration fine*]

(1) The proceeding customs organ shall impose a customs administration fine for any infringement specified in the customs legislation related to the following fields:

- a) making a declaration, correctness of the particulars of the declaration, notification and keeping of documents,
- b) customs supervision, customs administrative cases,
- c) customs procedures,
- d) final decisions relating to the application of the customs legislation,
- e) reliefs from customs duty,
- f) free zones, transit areas.

(2) An infringement under paragraph (1) a) shall occur in particular if

a) when lodging a customs declaration, temporary storage declaration, entry summary declaration, exit summary declaration, re-export declaration or re-export notification, the declarant does not ensure

aa) the accuracy and completeness of the information given in the declaration, notification or application, or

ab) the authenticity, accuracy and validity of the supporting documents,

b) the declarant who lodges a customs declaration or temporary storage declaration does not provide the customs authorities with the documents supporting his declaration where the Union legislation so requires or where it is necessary for customs controls,

c) where the person obliged to keep the documents or information does not keep the documents or information relating to the completion of customs formalities for the period laid down in the customs legislation,

d) in the case of a customs procedure, the supporting documents required for the application of the provisions governing the customs procedure concerned are not in the declarant's possession at the time when the customs declaration or supplementary declaration is lodged, and thus the declarant does not provide the customs authorities with those supporting documents,

e) in the case of simplified declaration or entry in the declarant's records, the declarant of the customs procedure does not lodge a supplementary declaration at the customs office with territorial competence within the specific time limit,

f) an entry summary declaration, notification of arrival of a sea-going vessel or of an aircraft, temporary storage declaration, customs declaration, pre-departure declaration, re-export declaration, exit summary declaration, or re-export notification is not lodged in accordance with the Code by the person from whom it is required by the customs legislation.

(3) An infringement referred to in paragraph (1) b) shall occur in particular if

a) the person who brings goods into the customs territory of the Union fails to comply with

his obligation to convey the goods to the appropriate place, or fails to inform the customs authority if these obligations cannot be complied with,

b) the holder of the customs procedure concerned removes non-Union goods under customs supervision from customs supervision,

c) means of identification affixed to the goods, packaging or means of transport by the customs authority are removed or destroyed without the prior permission of the customs authority,

d) the person involved in the accomplishment of customs formalities or in customs controls does not, upon a request from the customs authority and within any time limit specified, provide that authority with all the requisite documents and information, in an appropriate form, and all the assistance necessary for the completion of those formalities or controls,

e) the person who brings goods into the customs territory of the Union does not present them to customs after their entry,

f) goods are unloaded or transhipped, under Article 140 of the Code, from the means of transport carrying them without the authorisation of the customs authority or not in places designated or approved by that authority,

g) the person who takes goods out of the customs territory of the Union does not present them to customs prior to their exit,

h) non-Union goods introduced unlawfully into the customs territory of the Union or goods under a transit procedure not presented at the customs office of destination are acquired or held,

i) the person concerned obstructs, by his activity or omission, the conduct of the customs administrative case.

(4) An infringement referred to in paragraph (1) *c)* shall occur in particular if

a) the holder of the inward processing procedure does not discharge the customs procedure within the specific time limit,

b) the holder of the outward processing procedure does not export, under Article 262 of the Code, the defective goods within the specific time limit,

c) the holder of the transit procedure does not present the goods intact at the customs office of destination within the prescribed time limit and in compliance with the measures taken by the customs authority to ensure their identification,

d) the holder of the procedure does not fulfil the obligations arising from the storage of goods covered by the customs warehousing procedure, as laid down in the customs legislation,

e) the customs authorities are provided with false information or documents relating to the customs controls or the application of the customs procedure concerned,

f) goods in a customs warehouse undergo processing operations beyond the permitted usual forms of handling without the permission of the customs authority,

g) information on loading of goods concerned by export refunds pursuant to Article 5(7)(b) of Commission Regulation (EC) No 612/2009 of 7 July 2009 on laying down common detailed rules for the application of the system of export refunds on agricultural products is omitted or is not provided to the customs authority in compliance with the prescribed time limit.

(5) An infringement referred to in paragraph (1) *d)* shall occur in particular if

a) non-Union goods in temporary storage are not placed under any customs procedure or re-exported by the person responsible for these goods within the time limit laid down in Article 149 of the Code,

b) goods are stored in a temporary storage facility or a customs warehouse without the prior permission of the customs authority,

c) the holder of the authorisation for the operation of storage facilities for the customs warehousing of goods fails to fulfil the obligations arising from the storage of goods covered by the customs warehousing procedure,

d) the holder of the decision relating to the application of the customs legislation fails to comply with the obligations resulting from that decision,

e) the holder of the final decision relating to the application of the customs legislation does not inform the customs authority without delay of any factor arising after the final decision was made by that customs authority which may influence its continuation or content,

f) the person concerned was granted authorisation as an authorised economic operator, authorisation to use the simplified declaration, to use other simplifications under the Code, to place goods under a special procedure or to establish a transit area by the customs authority through false statements, or provided the customs authority with false information in order to make any other final decision relating to the application of the customs legislation,

g) the holder of an authorisation for centralised clearance or the holder of an authorisation for self-assessment fails to comply with, or complies in an erroneous or deficient way with his obligation to provide data for the determination of other charges.

(6) An infringement referred to in paragraph (1) *e)* shall occur if the criteria or obligations required for the use of relief from duties are no longer fulfilled, or if the customs authority subsequently establishes that a condition for release for free circulation with relief from duties of the goods was not fulfilled at the time of acceptance of the customs declaration.

(7) An infringement referred to in paragraph (1) *f)* shall occur in particular if

a) goods are brought into a free zone that adjoins the land frontier between a Member State and a third country not directly, that is, through another part of the customs territory of the Union,

b) the person from whom it is required by the customs legislation does not submit, as specified in the Code, the notification of the activities carried on in a free zone,

c) a building is constructed in a free zone without the approval of the customs authority under Article 244(1) of the Code,

d) goods brought into a free zone are not presented to customs under Article 245 of the Code by the person concerned.

(8) Where a customs payment shortfall is incurred as a result of infringements referred to in paragraph (1) or failures related to them, the amount of the customs administration fine shall, with the exceptions specified under paragraphs (12) and (13), section 85 (1), (3) and (4) and section 86, be set at 50% of the amount of the customs payment shortfall.

(9) Where the economic operator has not taken into account the incidental expenses relating to the importation of goods specified in the Act on value added tax when determining the taxable amount of the value added tax payable in connection with the importation of goods because it also constituted the taxable amount for the services performed for him, and he has paid the tax charged on him in respect of these incidental expenses by the person who provided him the service, or has assessed and declared this tax as payable; the difference existing for this reason between the amount of value added tax payable in connection with the importation of goods that could lawfully be imposed and the amount of such value added tax notified in error shall not constitute a customs payment shortfall.

(10) Where no customs payment shortfall is incurred as a result of the infringements referred to in paragraph (1) or omissions related to them, the amount of the customs administration fine shall, with the exceptions specified under paragraphs (12) and (13), section 85 (1), (3) and (4) and section 86, be determined at an amount,

a) in the event of the infringement referred to in paragraph (1) *a)*, up to HUF 100 000 in respect of natural persons or up to HUF 500 000 in respect of all other persons,

b) in the event of the infringements referred to in paragraph (1) *b)*, *c)* and *e)*, up to HUF 125 000 in respect of natural persons or up to HUF 850 000 in respect of all other persons,

c) in the event of the infringements referred to in paragraph (1) *d)* and *f)*, up to HUF 150 000 in respect of natural persons or up to HUF 1 million in respect of all other persons.

(11) When imposing a fine under paragraph (10), the customs authority shall assess all circumstances of the case, the gravity and frequency of the conduct of the party, his acting representative, employee, member, or agent, and whether the party, his acting representative, employee, member, or agent acted with the circumspection that can be expected under the circumstances.

(12) Where the infringement referred to in paragraph (1) *b)* is committed in such a way that excise goods are brought into the customs territory of the European Union and they are not presented to customs after their entry, the amount of the customs administration fine shall be an amount equal to 200% of the amount of the customs duties and other charges chargeable on the goods, but at least HUF 40 000.

(13) Where an invoice containing a movement certificate or an origin declaration EUR.1 or EUR-MED, for the purposes of checking the particulars contained in them, is returned by a foreign authority to Hungary or the customs authority of Hungary, without a request for administrative assistance from abroad, examines the above mentioned documents and the “supplier’s declarations”, and the particulars prove to be false as a result of the subsequent examination, the exporter or the supplier shall be obliged to pay, as a customs administration fine, one percent of the selling price, or in the absence of that, of the value of the goods determined by the customs authority, but at least HUF 50 000 and not more than HUF 1 million. A customs administration fine shall be imposed in respect of each document proving origin. For long-term supplier’s declarations, a customs administration fine of an amount between HUF 500 000 and HUF 1 million shall be imposed in respect of each supplier’s declaration.

(14) The fine specified in paragraph (13) shall be imposed where the exporter or the supplier fails to comply with his obligation to provide the proof of origin until the time indicated in the call from the customs authority. Where the amount per title of customs duties and other charges concerned does not exceed EUR 10, no customs administration fine shall be imposed.

(15) The fine specified in paragraph (13) may be imposed if the exporter or the person who made out the supplier’s declaration, when issuing the proof of origin, deceived the customs authority in respect of the prohibition of drawback of customs duties by

- a)* concealing the proportion of non-originating materials in the export product, or
- b)* indicating a lower proportion of non-originating products than it actually is.

(16) Where the infringement specified in paragraph (15) is established on the basis of a request for administrative assistance by a foreign customs authority,

a) where paragraph (15) *a)* applies, the customs authority shall not verify the proof of origin, and shall impose the fine specified in paragraph (13) for each proof of origin,

b) where paragraph (15) *b)* applies, the customs authority shall impose the customs administration fine in accordance with paragraph (13) for each proof of origin, and, if the fine and the customs payment shortfall has been paid and the product has acquired originating status in full compliance with the provisions on origin, shall simultaneously verify the proof of origin.

Section 85 [*Warning and fine with a reduced amount*]

(1) Where the customs authority establishes that

a) the infringement or the failure related to it has not been committed by falsifying or destroying documentation, books or records,

b) where no customs payment shortfall is incurred as a result of the infringement or the failure, or the amount of customs payment shortfall incurred does not exceed HUF 30 000 in respect of natural persons or HUF 150 000 in respect of legal persons, and

c) the person concerned has committed an infringement or failure specified in section 84 (1) for the first time,

the customs authority shall not impose a fine and shall warn the person concerned.

(2) Paragraph (1) shall not apply in the event of an infringement under section 84 (12).

(3) With the exceptions set out in paragraph (4), no customs administration fine shall be imposed in connection with making a declaration or the correctness of the particulars of the declaration where the declarant applies, in accordance with Article 173(3) of the Code, for the amendment of the customs declaration on the basis of information also related to the notified customs duties and other charges.

(4) Where the declarant applies, in accordance with Article 173(3) of the Code, for the amendment of the customs declaration in respect of the subject matter of the controls on the basis of information also related to the notified customs duties and other charges after the post-release controls thereon by the customs authority have started but still before the minutes containing the findings of these post-release controls are communicated, 50% of the amount of the fine that may be determined under sections 84 (8), (10) and (13) shall be imposed as a customs administration fine, with the exceptions specified under paragraph (1) and section 86. The amendment of the customs declaration concerned by the infringement in respect of the subject matter of the controls shall be performed by the customs organ carrying out the controls in the course of the controls.

(5) Paragraphs (3) and (4) shall apply on condition that the debtor fulfils his obligation to pay customs duties and other charges incurred, or, in respect of the payment obligation, the customs authority permits payment in instalments in a decision that has reached administrative finality.

(6) Paragraphs (3) and (4) shall not apply where the subsequent entry in the accounts and the subsequent imposition of the other charges is related to the concealment of data required for determining the customs debt or to falsifying or destroying documentation, books and records.

(7) The customs authority shall impose the customs administration fine separately in respect of each person involved in the infringement taking place under section 84 (1). Where no customs payment shortfall is incurred as a result of the activity or the failure, the assessment under section 84 (11) shall be carried out in respect of each person.

Section 86 [*Fine of an increased amount*]

Where the infringement or the failure has been committed by falsifying or destroying documentation, books, records, and as a result thereof an obligation to pay customs duties and other charges has been incurred, the amount of the customs administration fine shall be 200% of the obligation to pay customs duties and other charges incurred as a result of the infringement or the failure. Where no obligation to pay customs duties or other charges has been incurred as a result of the infringement or the failure committed in bad faith, the amount of the customs administration fine shall range from a minimum of HUF 15 000 to a maximum of HUF 300 000 in respect of natural persons, and from a minimum of HUF 50 000 to a maximum of HUF 3 million in respect of all other persons.

Section 87 [*Provisions governing the imposition of fines*]

(1) The amount of the customs administration fine shall be rounded to the nearest HUF 1000.

(2) A customs administration fine may be imposed several times in the course of a single procedure and, with regard to the infringement under section 84 (1), even separately for each infringement. Repeated errors in one customs declaration shall be considered as one error.

(3) With the exception specified under section 89 (1), the notified customs administration fine shall be paid within 15 days of the date when the decision reached administrative finality.

(4) In the event of late payment of the customs administration fine, interest on arrears referred to in Article 114 of the Code shall be charged where its calculated amount exceeds HUF 5000. The central bank base rate shall be applicable when determining the interest on arrears.

(5) The rules on tax abatement in the Act on the rules of taxation (hereinafter “Art.”) shall apply to the reduction and remission of customs administration fines. The national tax and customs authority shall be entitled to adjudicate the application and it shall carry out the procedure in accordance with the procedural rules set in the Art.

(6) Where the customs administration fine is based on a separate decision that determined a customs payment shortfall then the fine may be determined after this decision has reached administrative finality. The rules on ex officio procedures shall apply to the imposition of the fine.

Section 88 [*Lapse of the customs administration fine*]

(1) No customs administration fine shall be imposed in the event of an infringement causing a customs payment shortfall where the period available for the notification of the customs duties and other charges has expired in respect of the infringement for which a penalty is to be imposed. No customs administration fine shall be imposed in the event of an infringement not causing a customs payment shortfall where 3 years have elapsed since the day of committing the infringement for which a penalty is to be imposed.

(2) Enforceability of the customs administration fine shall lapse when 3 years have elapsed since the date when the decision thereon reached administrative finality.

(3) The limitation period shall be suspended during the suspension and stay of the enforcement procedure, criminal sequestration ordered for the whole property of the person obliged to pay the fine, as well as during payment concessions or tax exemptions subject to certain conditions as specified in an Act. For the purposes of suspension of the limitation period, the registration of a mortgage lien shall be regarded as the same as the suspension of the enforcement procedure.

Section 89 [*Customs administration fine in an accelerated procedure*]

(1) Where an infringement under section 84 (1) *b*) is committed in such a way that non-Union goods are introduced into the customs territory of the Union and the amount of the customs payment shortfall incurred does not exceed HUF 50 000, the proceeding customs office may impose and collect a customs administration fine on the spot in an accelerated procedure if the holder or carrier of the non-Union goods admits the fact of the infringement, acknowledges the information on the legal consequences, and waives his right to appeal. The accelerated procedure may only be applied if the fine imposed is paid on-the-spot. In this case, 50% of the amount of the customs administration fine that may be determined under section 84 (8) or (12), but at least HUF 4000 or, in the event of an infringement involving excise goods, at least HUF 25 000 shall be imposed.

(2) The person concerned shall be informed of the use of the accelerated procedure and of the conditions of conducting the accelerated procedure specified in an Act and of the legal consequences. The person concerned shall confirm the acknowledgement of the information by signing a statement.

(3) Where the person concerned has made a declaration of acceptance, the customs organ shall make a final decision on the spot on the basis of the minutes drawn up.

(4) In the event of an accelerated procedure, the original of the final decision and the receipt proving the payment of the fine imposed shall be handed over to the person concerned in a certified manner. The receipt handed over shall contain the name of the organ making the final decision, the number of the final decision imposing the customs administration fine, the name, EORI number, tax identification number or, in the absence of that, the number of the personal identification document of the person concerned, the amount of the customs administration fine imposed and the number of the centralised collection account kept with the Hungarian State Treasury.

(5) In the course of the accelerated procedure, in the case of a foreign national who is not familiar with the Hungarian language, engaging an interpreter may be dispensed with if the person concerned, having received foreign language information on the process of the accelerated procedure issued by the head of NAV, waives his right to use an interpreter.

Section 90 [*Seizure in connection with an accelerated procedure*]

(1) In the event of the infringement under section 84 (12), the customs authority shall seize the excise goods concerned and the converted means of transport.

(2) Where an infringement under section 84 (1) *b*) is committed in such a way that non-Union goods are introduced into the customs territory of the Union, the customs authority may, with the exception of indispensable items and, in the absence of other infringements, perishable goods and live animals, seize the goods that were the subject of the infringement and the means used for their use, storage and transport as a guarantee until the amount of the customs duties notified and other charges and the imposed customs administration fine is paid, in particular where

- a*) if it may be reasonably assumed that the later satisfaction of the claim is in jeopardy,
- b*) the party has an overdue debt regarding customs duties, other charges or customs administration fines, or
- c*) the costs expected to be incurred in connection with the seizure, storage, transport and sale do not imply a disproportionate burden compared to the overdue debt or the value of the goods and the means.

(3) The proceeding customs office shall mark the seized items in a way suitable for the identification of the goods as necessary for conducting the customs administration procedure.

(4) An appeal against a decision made in the customs administration procedure involving seizure shall be lodged at the customs office carrying out the seizure within 8 days of the communication of the decision, which shall send the appeal to the organ conducting the second instance procedure within 3 days of receiving it. The appeal lodged against a decision made in the customs administration procedure involving seizure shall be adjudicated by the organ conducting the second instance procedure within 15 days of sending. The appeal lodged against a decision made in the customs administration procedure involving seizure shall not have a suspensory effect on the enforcement of the seizure.

(5) Concerning the accelerated procedure, the seizure shall be terminated if

- a*) the amount of the customs duties and other charges notified in the customs administration case, as well as the customs administration fine determined in a decision that has reached administrative finality, has been paid, or
- b*) the seized means of transport are not owned by the person who committed the infringement, and the owner declares in writing that, at the time of the infringement concerned, he was not aware that the means were used for the purpose of infringing the customs legislation, and after that the facts of the case can be clarified without maintaining the seizure.

(6) In the event of the accelerated procedure, section 20 (3) shall, except in the case referred to in section 20 (1) *d*), apply to the release of the seized goods and items. The release of the

seized goods and items shall be conditional on payment of the storage fee determined on the basis of the implementing decree of this Act. In the case referred to in section 20 (1) *d*), the seized item shall be handed over to the court, the prosecution service or the investigating authority proceeding in the criminal case, simultaneously with terminating the seizure.

(7) Non-Union goods and items ordered to be released to the persons referred to in section 20 (3) shall be placed under a customs procedure or taken out of the customs territory of the European Union within 30 days of the communication of the decision ordering the termination of the seizure.

(8) In addition to section 20 (4), the customs authority shall sell the seized non-Union goods and items if the owner of the seized means that were used for transport fails, despite being called upon thereto by the customs authority, to make the declaration referred to in paragraph (5) *b*).

(9) The costs related to the removal, storage and safeguarding of the seized goods and items shall be borne by the party if the party was obliged to pay a customs administration fine in a decision that has reached administrative finality. Otherwise, the incurred costs shall be borne by the state.

(10) Where the party has not paid the notified customs duties and other charges or the customs administration fine, the non-Union goods seized as a guarantee and the means used for their use, storage and transport shall be confiscated and, except for the case under Article 243 of the DA, sold.

(11) Excise goods seized in accordance with paragraph (1) shall be confiscated simultaneously with their seizure and then destroyed if a customs administration fine has been imposed in a decision that has reached administrative finality. The seizure and the simultaneous confiscation shall be ordered simultaneously by the customs authority.

(12) Except where otherwise provided in the customs legislation, the provisions of the excise laws shall apply to the destruction of excise goods seized in accordance with paragraph (1).

(13) Means of transport seized in accordance with paragraph (1) shall be confiscated simultaneously with the seizure. Such means shall be sold, provided that the buyer, upon sale, undertakes to reverse the conversion that enabled the infringement within 3 months and to present the means to the customs authority. Paragraph (10) shall apply to the seizure and the simultaneous confiscation.

(14) Instead of being sold, confiscated road vehicles, vessels and aircraft may, subject to the approval of the head of NAV, be handed over to the organs of NAV for use in the course of performing their duties.

(15) The obligation to pay customs duties and other charges chargeable on goods that have been seized and simultaneously or subsequently confiscated shall be taken into account as a customs payment shortfall for the purpose of determining the customs administration fine.

Section 91 [*Revocation, suspension or amendment of the authorisation as a consequence of an infringement*]

(1) Where an infringement under section 84 (1) is committed concerning the use of an authorisation granted by the customs authority, the customs authority shall, simultaneously with imposing a customs administration fine, examine whether it is necessary to revoke, suspend or amend the authorisation concerned.

(2) The customs authority shall revoke the authorisation granted to the person concerned by the specific case in connection with which the infringement under section 84 (1) was committed if the criminal proceedings instituted against the holder of the authorisation or his employee concerning the infringement revealed have been concluded with a final and binding conviction establishing criminal liability delivered by the court.

(3) The authorisation may be revoked in any other case where the customs authority, having discovered the infringement or the failure, establishes that maintaining the validity of the authorisation would seriously jeopardise the exercise of customs supervision or carrying out the customs controls related to the authorisation.

(4) In the exceptional cases and for the period of time specified in Article 16(1) of the DA, the customs authority shall suspend the authorisation granted to the person concerned by the specific case in connection with which the infringement under section 84 (1) was committed if it establishes that the infringement is the result of a failure related to the use of the authorisation, but the conditions specified in paragraphs (2) and (3) are not met. The suspension of the authorisation granted by the customs authority may not be terminated before the holder of the authorisation has eliminated the circumstance giving rise to the infringement.

(5) Where the conditions specified in section 85 (1) are fulfilled, the customs authority shall, subject to the exceptions listed under paragraphs (2) and (3), call upon the holder of the authorisation to eliminate the circumstance giving rise to the infringement within a time limit. If the circumstance is properly eliminated within the specific time limit and the customs authority has verified this, it shall not suspend the authorisation. If the circumstance giving rise to the infringement still exists upon expiry of the time limit, the customs authority shall take action to suspend the authorisation in accordance with paragraph (4) or amending the authorisation in accordance with paragraph (6).

(6) In the event of establishing an infringement of minor importance referred to in section 82 (1), the customs authority may, instead of suspending the authorisation in accordance with paragraph (4), decide to amend the authorisation as follows:

a) concerning the authorisation for placing goods under a customs procedure on the basis of a simplified declaration as referred to in Article 166 of the Code, it requires submission of further particulars or supporting documents,

b) it revokes, in part or in whole, the presentation waiver granted in accordance with Article 182(3) of the Code, or

c) it requires a guarantee with a full amount to be provided for the authorisations concerned, instead of providing a comprehensive guarantee with a reduced amount or a guarantee waiver.

(7) In the event of an amendment of the authorisation under paragraph (6), the conditions for the repeated fulfilment of the circumstances giving rise to the revoked facilitations shall be examined from the time the amendment took effect.

Section 92

CHAPTER XII HUNGARY LEGAL REMEDY

21. Regarding Article 44 of the Code

Section 93 [*Legal remedy*]

(1) The provisions of this Act shall apply to legal remedy procedures relating to customs administration procedures.

(2) Except where otherwise provided in the customs legislation, an independent legal remedy shall be available against the final decision of the customs authority. An independent legal remedy shall be available against the procedural decision of the customs authority where this is permitted by this Act; the right to legal remedy against a procedural decision may otherwise be exercised in the framework of the legal remedy against the final decision or, in its absence, in the framework of the legal remedy against the procedural decision terminating the customs administration procedure.

Section 94 [*Types of legal remedy procedures*]

(1) Legal remedy procedures commenced upon application shall be the following:

- a) appeal procedures,
- b) supervisory measures,
- c) administrative court actions.

(2) Legal remedy procedures *ex officio* shall be the following:

- a) amendment or revocation of a decision within the customs authority's own material competence,
- b) supervisory measures,
- c) the procedure commenced upon the intervention or action of the prosecutor according to the Act on prosecution service.

Section 95 [Appeal]

(1) An appeal may be lodged against any decision of first instance in accordance with Article 44(1) and (3) of the Code.

(2) An independent appeal shall be available against a procedural decision of first instance

- a) on a provisional security measure,
- b) on the legal status of the party or on legal succession,
- d) terminating the procedure,
- e) suspending the procedure,
- f)
- g) rejecting an application for excuse,
- h) except for section 90 (1) and (4), ordering seizure, as well as rejecting the application for its termination,
- i) rejecting an application for asserting the right of access to files,
- j) concerning an application to restrict the right of access to files, and
- k) concerning the determination and bearing of procedural costs.

(3) No appeal shall be available against a decision of first instance made by the minister.

Section 96 [The administrative time limit in the legal remedy procedure]

(1) Except where otherwise provided in this Act, the administrative time limit shall be 30 days, which shall include the time of the action taken for the communication of the legal remedy.

(2) Except for paragraph (3), for the purpose of calculating the time limit under paragraph (1), the provisions laid down in Article 55 of the Code shall apply.

(3) In the event of a procedure conducted by the superior organ or in the repeated procedure, the administrative time limit shall start on the day following the arrival of all documents of the case to the organ entitled to proceed. The organ shall forward the documents upon being called upon to do so by the superior organ.

(4) In exceptionally justified cases, the head of the proceeding organ may, before its expiry, extend the administrative time limit specified in paragraph (1) once by a period of up to 30 days. The reasons for the extension of the time limit shall be indicated in the procedural decision.

(5) Section 79 (3) a) to f) shall apply to periods not to be included in the administrative time limit of the legal remedy procedure.

Section 97 [Suspensory effect of the appeal]

(1) The provisions laid down in Article 45 of the Code shall apply to the suspensory effect of the appeal related to the final decision made by the customs authority pursuant to the customs legislation.

(2) Where the customs authority has not declared its procedural decision to be enforceable immediately, the appeal shall have a suspensory effect on the enforcement of the procedural

decision, subject to the exceptions laid down in paragraph (3).

(3) Appeal against a procedural decision on a provisional security measure, on granting an application to restrict access to files, ordering seizure, except for the conditions in section 90 (6), or rejecting the application for the termination of seizure shall have no suspensory effect on the enforcement.

Section 98 [*Lodgement of the appeal*]

(1) Appeal shall only be admissible in relation to the contested decision, on grounds that are substantively and directly related to it, and only with reference to the violation of a right or harm to an interest directly resulting from the decision.

(2) The appeal shall set forth the grounds for it.

(3) Except where otherwise provided in the customs legislation, the appeal shall be lodged at the customs organ that made the decision within 15 days of the communication of the decision. The time limit for appeal shall be considered to have been met if the application for appeal had been lodged, within the relevant time limit, at an organ not having material or territorial competence.

(4) The person entitled to appeal may waive his right to appeal within the time limit for appeal. The waiver of the right to appeal may not be withdrawn; the waiver shall otherwise be governed by the provisions on the application.

(5) The customs authority of first instance shall, without an examination on the merits, dismiss

a) the appeal lodged by a person not entitled to appeal, or

b) the appeal against a procedural decision that may not be contested in an independent appeal

in a procedural decision.

Section 99 [*Examination, forwarding and rejection of the appeal*]

(1) Where an appeal that is lacking clarity or that is contradictory has been lodged, the customs authority of first instance shall call upon the person entitled to appeal to lodge an unequivocal application, setting a time limit of 8 days and warning him of the legal consequences of a failure to comply. The period between the personal delivery, posting or sending of the call for remedy of deficiencies and the expiry of the time limit shall not be included in the time limit of the forwarding. If the person entitled to appeal does not make a statement within the time limit, the customs authority of first instance shall reject the appeal.

(2) Where a belated appeal without an application for excuse has been submitted, the customs authority of first instance shall call upon the person entitled to appeal to submit an application for excuse, setting a time limit of 8 days and warning him of the legal consequences of a failure to comply. The period between the personal delivery, posting or sending of the call and the expiry of the time limit shall not be included in the time limit of the forwarding. If the person entitled to appeal does not submit an application for excuse within the time limit, the customs authority of first instance shall reject the appeal.

(3) Following the call under paragraph (2), the provision on simultaneous submission shall not apply to an application for excuse submitted in respect of the time limit of the appeal.

(4) Except where otherwise provided in the customs legislation, the appeal and all documents of the case shall be forwarded to the superior organ within 15 days of the date of arrival of the appeal. As part of the forwarding, the customs authority of first instance shall express its opinion on the appeal.

(5) Where an application for excuse has been submitted simultaneously with the appeal or within the time limit determined in accordance with this Act, the time limit for forwarding shall start on the day when the favourable procedural decision was issued.

(6) The customs authority of first instance shall dispense with forwarding if

a) it proceeds in accordance with Article 23(3) or (4) of the Code in respect of its decision that is in violation of the legislation,

b) it rejects the appeal,

c) it terminates the procedure.

(7) The customs authority of first instance or, following the forwarding, the superior organ shall terminate the procedure where all appellants have withdrawn their applications for appeal. The statement withdrawing the application for appeal may not be withdrawn.

Section 100 [*Adjudication of the appeal*]

(1) If the customs authority of first instance forwards the application, the superior organ shall examine the decision contested by the appeal and the procedure preceding the decision-making, regardless of who appealed and for what reason.

(2) The appeal procedure shall, with the exception of oversight controls, be conducted by the superior organ of the customs authority of first instance.

(3) An appeal against a final decision shall be adjudicated in a final decision, while an appeal against a procedural decision shall be adjudicated in a procedural decision. The examination may result in the superior organ upholding the decision, or annulling or amending it in accordance with Article 23(3) of the Code.

(4) Where the final decision contested by the application for legal remedy is in part in violation of the law, the superior organ shall, where the circumstances of the case allow it, annul the final decision only in respect of the findings that violate the law, and it shall uphold or amend it with respect to the other parts.

(5) The superior organ, where the data available is not sufficient to adopt the decision or where further clarification of the facts of the case is required,

a) may, in addition to annulling, in whole or in part, the decision, order the customs authority that proceeded at first instance to conduct a new procedure, or

b) shall take measures itself for supplementing the facts of the case, and may, without making a decision, order the customs authority that proceeded at first instance to carry out the necessary procedural acts.

(6) If the superior organ orders the customs authority that proceeded at first instance to carry out the necessary procedural acts in order to supplement the facts of the case then it shall inform the party of the procedure and its start date via the customs authority of first instance without delay. The time limit for the procedure shall be 90 days from the arrival of the order of the superior organ to the customs authority that proceeded at first instance, which shall neither be extended nor suspended. The time limit for the legal remedy procedure shall not include the period of time of the procedure. If the customs authority that proceeded at first instance cannot clarify the facts of the case within the time limit, it shall inform the superior organ thereof without delay, which shall make a decision on the basis of available data.

(7) The decision made in the course of the appeal procedure shall be communicated in writing via the customs authority of first instance to the appellant and all other persons to whom the decision of first instance was communicated.

Section 101 [*New procedure related to a decision that is in violation of the law*]

(1) If the decision contested by the application for legal remedy is, in whole or in part, in violation of the law and therefore conducting a new procedure is to be ordered, the superior organ adjudicating the application for legal remedy shall, in its decision, determine the circumstances to be covered by and examined in the new procedure.

(2) The customs authority of first instance may examine exclusively the circumstances which are the underlying reasons to order the new procedure and the elements of the facts of the case related to them in the new procedure ordered by its superior organ or the court.

(3) The customs authority of first instance shall be bound by the operative part and the

statement of reasons of the decision of the superior organ, and it shall proceed in the repeated procedure and the decision-making in accordance with that.

(4) In the course of the new procedure, other than grounds for nullity, no such new facts may be stated and no such new evidence may be submitted, of which the subject of the procedure had been aware before the decision of first instance in the preceding procedure was made but had not submitted, despite the call thereto by the customs authority. The call by the customs authority shall include a warning of the legal consequences. In the event of failure to replace the documents, a further condition shall be that a customs administration fine be imposed by the customs organ of first instance for obstructing the control in the course of the control or supplementary control.

Section 102 [*Supervisory measures*]

(1) The provisions of the Air. on supervisory measures shall apply to the supervisory measures taken upon application or *ex officio* by the superior organ proceeding in the customs administration procedure.

(2) In the event of post-release controls under Article 48 of the Code, when adjudicating the lodgement of an application for a supervisory measure, the administrative time limit shall be 60 days from the day following the date of arrival of the documents to the supervisory organ, which the head of the organ may extend by 30 days.

Section 103 [*Administrative court actions*]

(1) With the exception of procedural decisions that may not be contested in an independent appeal, the party may bring an administrative court action against a decision of the customs authority with administrative finality. An administrative court action may be brought against a decision contestable by appeal if any entitled person has appealed and the appeal has been adjudicated.

(2) No settlement shall be available with respect to an administrative court action against a final decision of the customs authority.

Section 104 [*Amendment or revocation of the decision*]

(1) The customs organ may, unless it has been adjudicated by the superior organ or a court, amend or revoke its final decision that is in violation of the law within the time limit laid down in the customs legislation.

(2) If, in connection with paragraph (1), an appeal or a statement of claim is submitted before a measure is taken by the customs authority then the customs authority shall proceed while taking the relevant provisions into account.

Section 105 [*Intervention and action of the prosecutor*]

Where the prosecutor, on the basis of the Act on prosecution service, makes an intervention or, if the intervention remains unsuccessful, takes action, the customs authority may, without prejudice to the provisions of the customs legislation, amend (modify) or revoke (annul) its own decision which was challenged by the prosecutor.

Section 106 [*Nullity*]

(1) Without prejudice to the provisions of the Code and its implementing regulations, the decision of the customs authority shall be annulled or revoked and, where necessary, a new procedure shall be conducted if

- a) the case does not fall under the material competence of the proceeding customs organ,
- b) the content of the decision was influenced by a criminal offence, provided that it has been established by a final and binding judgment that a criminal offence was committed or passing such a judgment was not excluded due to lack of evidence,
- c) the content of the decision is contrary to a decision of the administrative court adopted in the given case, or
- d) a serious procedural violation of law specified in this Act has been committed while

making the decision.

(2) The decision may not be annulled, even if there are grounds for nullity referred to in paragraph (1) *a*) or *d*) if

a) it would violate the exercised right of the party acquired in good faith and a period of 3 years has elapsed since the decision reached administrative finality, or

b) a period of 5 years has elapsed, in the case of a decision determining an obligation, since it reached administrative finality or, where it is longer, from the last day of the time limit for performance; or in the event of a decision specifying a continuous obligation, from the last performance.

(3) Where grounds for nullity as specified under paragraph (1) *b*) or *c*) exist, the decision may be annulled without any time restriction if this does not affect an exercised right that was acquired in good faith.

(4) The provisions of this section shall not apply to decisions annulled in accordance with Article 27 of the Code.

22. Regarding Article 45 of the Code

Section 107 [*Suspension of implementation*]

(1) The implementation of the final decision under Article 45(2) of the Code may be suspended *ex officio* if

a) the customs organ that made the decision of first instance establishes in the course of the legal remedy that the final decision made by itself,

b) the customs organ of second instance adjudicating the application for legal remedy or for a supervisory procedure establishes in the course of the legal remedy that the final decision or the procedural decision which may be contested in an independent appeal made by the customs organ that proceeded in the case, or

c) the customs organ conducting the *ex officio* supervisory procedure establishes that the final decision or the procedural decision which may be contested in an independent appeal made by the customs organ that proceeded in the case
is inconsistent with the customs legislation.

(2) Implementation of the decision under Article 45(2) of the Code shall be suspended upon application where the person concerned requests suspension of implementation with reference to the reason that its implementation would lead to irreparable damage to him. The application shall be adjudicated by the customs organ specified in paragraph (1).

(3) In the case described in paragraph (2), the decision made on the suspension of the implementation may be contested in an independent legal remedy, but the application lodged for legal remedy shall have no suspensory effect on the implementation of the final decision, the implementation of which was requested to be suspended.

CHAPTER XIII

CONTROL OF GOODS

23. Regarding Article 46 of the Code

Section 108 [*Customs controls*]

(1) The rules on customs controls shall also apply where control tasks regarding goods are conferred upon the customs authority acting within its customs administrative powers by legislation other than customs legislation. The provisions on *ex officio* procedures shall apply to issues not dealt with in the course of the customs controls.

(2) In the course of the measures taken by the customs authority, it may make audio visual recordings of the person concerned, the surroundings and the circumstances and objects

relevant to the measures taken by the customs authority. Audio visual recordings made by the customs authority and personal data contained in it may be used for the purpose of proceedings instituted for a crime or an infraction committed at the location of the event or in the course of a customs administration procedure which falls within the material competence of the customs authority, or for the purpose of exercising the rights of the person concerned.

(3) If no criminal proceedings or infraction procedures are instituted on grounds of the acts contained in the audio visual recordings, and the customs authority does not intend to use it in the course of a procedure commenced for the purpose of customs control or for the purpose of exercising the rights of the person concerned, the audio visual recordings shall be erased within 30 days from the time of the recorded act.

Section 109 [*Commencement of customs controls*]

Customs controls may be commenced in the form of a written or oral communication, or an electronic message sent by the computerised system of the customs authority. In the event of a communication in written form, the procedure shall commence upon its posting or, if postal service is disappplied, upon its personal delivery. In the event of a communication in an oral form, the procedure shall commence upon communication of the procedure for customs controls. In the event of a communication in the form of an electronic message, the procedure shall commence upon sending the electronic message.

Section 110 [*On-the-spot customs controls*]

(1) If control acts are carried out by the customs authority at the premises of the holder of the goods or of the holder's representative, of any other person directly or indirectly involved in the operations relating to the goods in a business capacity or of any other person in possession of the documents and data relating to the commercial operations involving those goods for business purposes then, in connection with this, an employee of the customs authority having a service card and an authorisation to carry out controls shall be entitled to carry out control acts.

(2) If the person subject to controls uses the real estate of another person for the purpose of his economic activity, the owner of the real estate shall be obliged to allow the control by the customs authority.

Section 111 [*Rights of the person subject to controls*]

Except where otherwise provided, the person subject to controls shall be entitled to

- a) confirm the identity and authorisation of the person acting on behalf of the customs authority,
- b) be present at the procedural act carried out against him,
- c) arrange appropriate representation, and
- d) access all the files created in the course of the procedure in accordance with the rules of this Act on access to files.

Section 112 [*Duration of the customs controls*]

(1) The customs authority shall conclude the customs controls without delay, within 60 days of their commencement.

(2) Where justified, the head of the customs organ conducting the procedure may extend the procedural time limit specified in paragraph (1) once by a period of up to 60 days.

(3) Section 79 (3) shall apply to periods not to be included in the administrative time limit of the customs controls.

Section 113 [*Procedure outside the area of territorial competence*]

(1) If it becomes necessary to carry out procedural acts outside the area of territorial competence of the proceeding customs organ, they shall be carried out by the customs organ conducting the procedure, or, where justified, it shall, for the purpose of carrying out the procedure, seek assistance from the customs organ having material and territorial competence

according to the general rules.

(2) The customs organ conducting the procedure shall, within 5 days, notify the person subject to controls on seeking assistance and on receiving a response thereto.

Section 114 [*Provisions on the findings of the customs controls*]

(1) Where the customs authority establishes an infringement in the course of the customs controls then, in the absence of other official documents substantiating this fact that may be used as evidence, it shall record the findings in the minutes.

(2) The minutes of the customs controls shall contain

- a) the name of the customs organ conducting the controls,
- b) the reference number of the minutes,
- c) the name, seat, domicile, tax number or tax identification code and EORI number of the person subject to controls;
- d) reference to the laws serving as the basis for the controls,
- e) the start time of the controls,
- f) the subject matter of the controls,
- g) the findings established by the customs organ carrying out the controls, the clarified facts of the case and reference to the laws relevant for it and the evidence substantiating it, the list of evidence proposed by the person subject to controls and rejected, and the statement of reasons for the rejection,
- h) possible proposals for rectifying any deficiencies revealed,
- i) where an adverse decision is made on the basis of the facts of the case recorded in the minutes, information on the right to be heard provided in accordance with Article 22(6) of the Code and on the time limit applicable to it,
- j) the name and the signature of the person carrying out the controls, the stamp of the customs organ carrying out the controls, and the place and date.

(3) The minutes containing the findings of the controls shall be communicated to the person subject to controls and the person in respect of whom, on the basis of them, an adverse decision is expected to be made.

(4) Where, in the course of exercising his right to be heard, the person subject to controls or the person in respect of whom an adverse decision is expected to be made submits such facts and evidence, following the examination of which further clarification of the facts of the case is required, the customs organ carrying out the controls shall then continue the controls and prepare supplementary minutes on its results.

(5) The rules applicable to the minutes of the controls shall apply to the supplementary minutes.

Section 115 [*Legal consequences connected to infringements*]

Where the person subject to controls or the person in respect of whom an adverse decision is expected to be made did not exercise his right to be heard, or the observation made in the course of exercising that right does not justify further clarification of the facts of the case, the proceeding customs organ shall, in order to enforce the provisions of the customs and other laws, proceed primarily as follows:

- a) it shall enter in the accounts the customs debt revealed as a result of the controls and determine the payment obligation regarding the other charges, and shall notify them,
- b) it shall repay the customs duties and other charges collected at an amount higher than is specified in the law, and shall remit the customs duties and other charges entered in the accounts and determined at an amount higher than specified in the law and which are not yet paid, or
- c) shall determine the legal consequences of the infringement revealed in the course of the controls.

Section 116 [*Conclusion of the customs controls*]

Customs controls may be concluded in the form of a written or oral communication, or an electronic message sent by the computerised system of the customs authority. In the event of a communication in a written form, the procedure shall be concluded upon its posting or, if postal service is disappplied, upon its personal delivery. In the event of a communication in an oral form, the procedure shall be concluded upon the communication of the procedure for customs controls. In the event of communication in the form of an electronic message, the procedure shall be concluded upon sending the electronic message.

Section 117 [*Relationship between the customs organ carrying out the customs controls and the customs organ entitled to take measures*]

Where the customs organ carrying out the customs controls and the customs organ entitled to take further measures are not the same, the customs organ carrying out the customs controls shall, without delay, send the minutes, the supplementary minutes and the evidence substantiating the findings to the customs organ entitled to take further measures for the purpose of resolving the situation. This latter organ shall proceed in accordance with section 115 within the administrative time limit of the customs controls commenced by the customs organ carrying out the controls.

Section 118 [*Requests for administrative assistance in customs matters and for subsequent verification of origin*]

(1) For the purpose of complying with the requests for administrative assistance in customs matters and for subsequent verification of origin, the customs authority may collect data or carry out on-the-spot controls in order to establish the veracity and authenticity of the data kept in the records of the customs authority and of the party and the facts and circumstances related to them.

(2) Where complying with the request for administrative assistance in customs matters is possible on the basis of the data available to the customs authority, the party concerned need not be notified of the procedure.

(3) Where it is necessary to involve the party for the purpose of complying with the request for administrative assistance or where the request is a request for subsequent verification of origin, the rules on customs controls shall apply to the procedure under paragraph (1).

(4) On the basis of paragraph (1), the customs authority shall in particular examine

- a) the records of Union and non-Union goods, the source and records of the stocks of goods, raw materials and semi-finished products by way of inventory,
- b) the truthfulness of the declared facts, data and circumstances,
- c) the production, storage, transport and use of the goods and the activities carried out in connection with the goods,
- d) the circumstances of the procurement and the sale of the goods, the resources in staff and equipment pertaining to these and the truthfulness and authenticity of the documents proving the fact of the procurement and the sale.

(5) Where the data, facts and circumstances revealed as a result of the collection of data gives rise to doubts regarding or refute the veracity of the data contained in the documents and records of the party, or the customs authority reveals other risks or a circumstance indicating an infringement of law, it shall take the necessary measures for the purpose of further clarification of the facts of the case.

24. Regarding Article 47 of the Code

Section 119 [*Cooperation*]

(1) The owner, the operator of the border post and the postal operator shall provide appropriate office premises and, where necessary, storage premises to the customs office

created at his establishment, station, port or airport, arrange for their operation and maintenance free of charge, and provide communal services for a fee.

(2) The carrier or freight forwarder shall determine the schedule of the stay period of the vehicles used in international traffic at the customs border, taking the time required for customs controls into account.

(3) Where passengers travelling by rail are subject to customs controls on board the train, the undertaking railway company shall provide service compartments and travel free of charge to those who carry out the inspections.

(4) The operator of the international public airport shall, for the purpose of carrying out the customs controls, provide a workspace for the customs authority operating at the airport and operation and maintenance of the buildings in which the customs authority is placed free of charge, and communal services for a fee.

25. Regarding Article 48 of the Code

Section 120 [*Post-release controls*]

(1) The customs authority shall conduct its post-release control activities in accordance with the criteria specified in the customs legislation and on the basis of the information on controls published by the head of NAV each year by 20 February. As a part of this, the directions of the post-release controls shall be specified so that awareness of being controlled encourages the parties to voluntarily comply with the law.

(2) The information on controls published by the head of NAV shall specify the use of the control capacity of the customs authority having regard to the latest economic trends, the objectives of the customs policy, the amendments to the law, and the forms of behaviour mostly infringing customs and tax revenue interests and the risks revealed.

(3) The information on controls shall in particular include the priority examination objectives for the specific year.

Section 121 [*Commencement and conclusion of the post-release controls*]

(1) Post-release controls shall be commenced or concluded upon posting or, if postal service is disappplied, upon personal delivery, or upon communication by electronic means of written notification.

(2) Simultaneously with the notification under paragraph (1), the customs authority shall inform each debtor of the commencement and the conclusion of the controls.

Section 122 [*Duration of the post-release controls*]

(1) The customs authority shall conclude the post-release control, as an *ex officio* customs administration procedure, within 120 days of its commencement.

(2) Where justified, the head of the customs organ conducting the procedure may extend the procedural time limit specified in paragraph (1) once by a period of up to 90 days. Where justified by exceptional circumstances, upon a request from the customs organ conducting the procedure, the superior organ may extend the extended procedural time limit once by a period of up to 90 days.

(3) Section 79 (3) shall apply to periods not to be included in the administrative time limit of the post-release controls.

(4) Following the expiry of the time limit, the person subject to controls may, if he considers that exceeding the time limit occurs for a reason attributable to the customs organ conducting the procedure, lodge an objection to the superior organ of this customs organ, which shall, having considered the content of the objection, in a procedural decision, extend the procedural time limit or instruct the proceeding customs organ to conclude the controls immediately.

Section 123 [*Use of data revealed*]

Data revealed in the course of the post-release controls may be used by the customs

authority for the purpose of clarifying the facts of the case in the course of the post-release controls of another person who was or is directly or indirectly related to the person subject to controls.

Section 124 [*Recording the findings in the minutes*]

(1) The customs authority shall record the findings of the post-release controls in the minutes.

(2) Where the facts of the case have been duly clarified in respect of a part of the transactions and customs declarations which were subject to post-release controls, partial minutes may be prepared.

(3) The rules applicable to the minutes of the customs controls shall apply to the partial minutes.

Section 125 [*Service of the minutes*]

(1) The minutes or partial minutes of the controls shall be communicated to each debtor, subject to paragraph (2).

(2) Where an indirect customs representative acted before the customs authority in the course of the customs procedures which are subject to post-release controls, the indirect customs representative shall have the same rights and obligations in the course of the post-release controls as the person represented by him, with the proviso that the right of access to files of the indirect representative may be limited in accordance with this Act upon application lodged by the person who empowered him.

Section 126 [*Making a final decision*]

For the purpose of calculating the period available for the notification of the customs debt, at most once 30 days may, irrespective of the number of the debtors, be taken into account in respect of the suspension under Article 103(3)(b) of the Code, with the proviso that the suspension shall take effect at the time from when the right to be heard may be exercised for the first time.

Section 127 [*Examination and sampling of goods*]

Article 189 and 190 of the Code shall apply to examining and sampling goods in the course of the post-release controls.

Section 128 [*Relationship between post-release controls and customs controls*]

The rules on customs controls shall apply to post-release controls, subject to the derogations provided for in the rules laid down regarding Article 48 of the Code.

Section 129 [*Oversight controls*]

(1) For the purpose of examining the professionalism and legality of the post-release controls, the customs authority may conduct oversight controls, which shall, in particular, aim at revealing acts that compromise the financial interests of the European Union and its Member States, and shall not cover those new elements relating to the person, subject matter and facts of the case that have changed compared to the main procedure and have not yet been adjudicated by the organ proceeding in the main case.

(2) The subject matter of the oversight controls shall correspond to the subject matter of the main controls and may cover all post-release controls conducted in respect of the party subject to controls in a specific period.

(3) Union and national rules applicable to post-release controls shall apply to oversight controls, subject to the derogation that the head of NAV may extend the administrative time limit specified in section 122 (1) once by a period of up to 90 days.

(4) The minutes of the oversight controls shall, in addition to the elements specified in section 114 (2), contain the discrepancies revealed compared to the findings of the main controls.

(5) The organ conducting the oversight controls shall make a final decision after conclusion

of the controls. Where the oversight controls establish any discrepancy compared to the facts, data and circumstances revealed by the previous controls, the oversight controls shall amend the final decision made on the basis of the previous controls or, in the absence of a final decision, make a final decision of first instance.

(6) An appeal shall be available against the final decision made on the findings of the oversight controls, which may be lodged at the minister controlling NAV. The final decision of second instance made by the minister controlling NAV may, on the grounds of violation of an Act, be contested by an action before the court.

CHAPTER XIV

KEEPING DOCUMENTS AND OTHER INFORMATION; CHARGES AND COSTS

26. Regarding Article 49 of the Code

Section 130 [*Application for establishing a transit area*]

(1) The customs authority shall, in terms of customs control aspects, authorise the establishment of the transit area that was applied for if it establishes that the operator fully meets the conditions required for the customs control of goods and passenger traffic.

(2) The obligations relating to the operation of the transit area shall be specified in the authorisation by the authorising customs office.

27. Regarding Article 51 of the Code

Section 131 [*Keeping the documents and information*]

(1) Article 51 of the Code shall not apply to any obligation to keep documents and information resulting from other laws, in particular from the provisions of the Art. and the Act on accounting.

(2) Documents and information may be kept in their original form in a way that makes it possible to obtain from them the data relating to the customs controls.

28. Regarding Article 52 of the Code

Section 132 [*Payment of charges*]

(1) Except where otherwise provided in the customs legislation, the customs authority shall, in a final decision, notify and recover the charges under Article 52 of the Code in a separate procedure.

(2) Except where otherwise provided in an international treaty or a law, charges incurred in a procedure commenced upon application shall be paid by the applicant. Charges that may be imposed in procedures commenced *ex officio* shall be paid by the person concerned in the specific case.

(3) Where several persons are concerned in the specific procedure or several persons apply for the procedure, the charges incurred shall be imposed on each person concerned or each applicant separately.

Section 133 [*Advancement and payment of procedural costs*]

(1) In a procedure commenced upon application, the procedural costs shall, unless this Act provides otherwise, be advanced by the applicant party. Where several parties share the same interest, they shall be jointly and severally liable for advancing the procedural costs.

(2) The customs authority shall determine the procedural costs in precise figures and it shall, in the customs administration procedure, make a decision on bearing the costs and, where appropriate, the reimbursement of costs.

(3) The party may not be obliged to advance procedural costs that are included in the administrative service fee.

(4) In procedures commenced or continued *ex officio*, procedural costs shall be advanced by the customs authority, with the exception of costs related to the appearance of the party, the costs of the person acting on behalf of the party, translation costs that are not to be borne by the authority, and mailing costs and document forwarding costs incurred by other participants in the procedure.

(5) Except where otherwise provided in the customs legislation, the procedural costs shall be borne by the party by whom they were incurred. The participant in the procedure shall bear the costs caused by his conduct in bad faith.

(6) Costs that no one can be obliged to bear shall be borne by the customs authority.

(7) Where several parties share the same interest, they shall be jointly and severally liable for bearing the procedural costs.

(8) In a dispute procedure, the procedural costs shall be borne by

- a) the applicant party if the application is rejected,
- b) the customs authority if the application is granted.

(9) Where the final decision grants the application in part only, the procedural costs shall be borne by the parties and the customs authority proportionally.

Section 134 [*Common rules on payment*]

(1) The charges or the costs shall be paid within 10 days of the communication of the final decision, and the fact of the payment shall be proved at the customs office determining the charges or the costs by the working day following the expiry of the time limit for payment.

(2) Article 45 of the Code and section 107 shall apply to the enforceability and the suspension of a final decision determining charges or costs.

(3) The customs office may, upon application, authorise that the person to whom it authorised regular in-house inspection pay the charges aggregated monthly. In that case, the customs office shall communicate the final decision on the charges or costs payable for the procedures it conducted in the reference month to the person liable for payment within 5 days following the reference month.

(4) In the event of belated payment of the charges, interest on arrears referred to in Article 114 of the Code shall be paid only where its calculated amount exceeds HUF 5000. For the purpose of Article 114 of the Code, the central bank base rate shall be taken into account as the interest rate.

(5) In the event of non-payment of the charges and costs, the customs authority shall proceed in accordance with section 166.

Section 135 [*Storage fee and inspection fee*]

(1) Except in the cases provided for in the legislation, a storage fee shall be paid for storage of goods in a customs warehouse by the customs authority.

(2) In the cases referred to in Article 52(2)(a) of the Code, an inspection fee shall be paid.

(3) For the purpose of imposing an inspection fee, the following shall be deemed to be customs premises:

a) the seat of the customs office,

b) a customs yard type I, where all conditions necessary for the conduct of the customs administration procedure specified in a uniform manner by the customs authority in advance are ensured and where anybody may ask the customs authority to conduct a customs administration procedure.

(4) For the purpose of imposing an inspection fee, the following shall not be deemed to be customs premises:

a) a customs yard type II, where only the operator may request a customs administration procedure to be conducted,

b) the place of the in-house inspection, where the customs office carries out, on written

application from the person requesting the in-house inspection, all the procedural acts that can be carried out in respect of the customs procedure concerned without prejudice to the customs controls, and which may be

- ba*) of an *ad hoc* nature (*ad hoc* in-house inspection), or
- bb*) of a regular nature (regular in-house inspection).

(5) The amount of the fee under paragraphs (1) and (2) shall be specified in a decree by the minister.

Section 136 [*Examination fee*]

An examination fee shall be paid for a laboratory examination initiated by the person concerned and carried out by the Forensic Institute of NAV. The person concerned shall pay the fee on the basis of an invoice issued by NAV. The examination fees of the Forensic Institute shall be published in an advisory note issued by the head of NAV.

Section 137 [*Procedural costs*]

(1) The administrative service fee shall be a procedural cost incurred in the customs administration procedure in connection with the services rendered under Article 52(2) of the Code.

(2) In addition to the charges for the services specified in Article 52(2) of the Code, the following costs may be incurred:

1. the duty on the appeal procedure,
2. the expert fee, including the reimbursement of the costs to the expert,
3. the costs related to the appearance of the party (summons),
4. the costs related to using mother tongue, sign language interpretation and translation,
5. the costs related to exercising the right of access to files,
6. reimbursement of the costs to the witness and the official witness,
7. mailing and document forwarding costs incurred by the party or other participants in the procedure,
8. the amount of the recompense for damage caused lawfully by the on-site inspection or the expert activities.

CHAPTER XV

CURRENCY CONVERSION AND TIME LIMITS

29. Regarding Article 53 of the Code

Section 138 [*Currency conversion*]

(1) The applicable rate of exchange, within the meaning of Article 53(1)(a) of the Code, shall be construed as meaning the rate of exchange published on the second to last Wednesday of each month by the Hungarian National Bank or, where no rate of exchange has been published on that day, the most recently published central exchange rate.

(2) Regarding the rate of exchange determined in accordance with Article 53(2) of the Code, the value in forints of the amount determined in euro shall be maintained unchanged if, at the time of the annual adjustment, the conversion of that amount leads to an alteration of less than 5% in the value expressed in forints.

(3) The value fixed in accordance with Article 53(2) of the Code shall be published in an advisory note issued by the head of NAV once a year.

30. Regarding Article 55 of the Code

Section 139 [*Calculation of the periods, dates and time limits*]

(1) The provisions of this section shall be applicable subject to Article 55 of the Code.

(2) A time limit determined in days or working days shall not include the day when the act or circumstance underlying the commencement of the time limit occurred, or the day of communication, service, posting and removal of a public notice.

(3) The time of filing a submission or a request for administrative assistance sent by post shall be the day of posting.

(4) The time of filing an electronic document shall be the day of sending the document, but the administrative time limit shall start on the following working day.

(5) In case of doubt, the time limit shall be considered to have been met.

31. Regarding Article 58 of the Code

Section 140 [*The Customs Tariff Committee and its tasks*]

The Customs Tariff Committee shall ensure that the tasks assigned by the European Commission to the Member States, such as collection, control and forwarding to the Commission of applications for benefits, are implemented. The composition and rules of procedure of the Customs Tariff Committee shall be specified in a decree implementing this Act.

CHAPTER XVI ORIGIN OF GOODS

32. Regarding Article 64 of the Code

Section 141 [*Applications relating to the preferential origin of goods*]

(1) Application for the issue of an information certificate INF 4, to become a registered exporter, for authorisation for accounting segregation, or for the status of approved exporter may also be lodged on paper.

(2) The customs authority may authorise an exporter who transports products subject to a preferential arrangement or measure to make out invoice declarations or origin declarations, irrespective of the value of the products (hereinafter “approved exporter”).

(3) The exporter applying for the authorisation shall provide the customs authority with all guarantees necessary to prove the originating status of the products, as well as the fulfilment of the other rules laid down in the relevant provisions.

(4) The approved exporter authorisation shall be issued on condition that

1. the exporter

a) declares that he intends to transport goods to third countries in respect of which the rules on preferential trade in force allow the issue of such an authorisation,

b) fulfils the conditions laid down in Article 39(d) of the Code and Article 26(1)(b) of the IA,

c) always fully complies with his obligation to prove the origin of the goods, and

2. in the preceding 12 months, the customs office having territorial competence was not required to reject, with final and binding effect, the authentication of the movement certificates EUR.1, EUR-MED or replacement certificates of origin, or the verification of the proofs of origin as a result of a subsequent verification procedure carried out upon a request from the foreign customs authority.

(5) The approved exporter

a) shall undertake to make out invoice declarations or origin declarations only for those goods in respect of which all the necessary documents or registration data supporting the originating status are in his possession at the time of making them out,

b) shall accept full responsibility for the way of use of the authorisation, in particular for

incorrect declarations on origin of goods or other incorrect use of the authorisation,

c) shall ensure and accept responsibility for that the person responsible for making out declarations on origin of goods in his enterprise knows the rules on origin,

d) shall undertake to keep the documents supporting the origin from the date of making out the declaration until at least the period specified in the relevant preferential arrangement or measure,

e) shall undertake to present the documents supporting the originating status of the goods to the customs authority at any time within the period referred to in point *d)*.

(6) The authorisation for accounting segregation shall be granted by the customs office having territorial competence for the seat of the applicant on the basis of Article 58 of the DA or the relevant provision of an international agreement and in compliance with this section. Where the manufacturer has more than one establishment, the customs organ granting the authorisation shall inform the customs offices having territorial competence for the establishments by sending a copy of the final decision to them.

(7) The authorisation under paragraph (6) may be granted if the applicant

a) fulfils the conditions laid down in Article 39(d) of the Code and Article 26(1)(b) of the IA,

b) conducts activities as a Union producer, and carries out its activities in Hungary,

c) declares that it always fully complies with its obligation to prove the origin of the products,

d) where the manufacturer, its chief accountant or senior financial officer declares that it keeps double-entry books and applies the “FIFO method” (first in – first out) for the purpose of keeping its stock records and that it will keep records in its accounts of the originating and non-originating materials segregated,

e) declares that it is required to use this method because of the costs of physical segregation or that physical segregation is impossible.

(8) The holder of the authorisation for accounting segregation shall

a) undertake to issue proofs of preferential origin or request their authentication only for those products in respect of which all the necessary documents or registration data supporting the originating status are in its possession at the time of making them out,

b) accept full liability for the way of use of the authorisation and the consequences of proofs of preferential origin made out in error or the incorrect use of the authorisation,

c) deliver its analytical register covering the specific period to the customs organ granting the authorisation at the end of each accounting period,

d) upon a request from the customs authority, allow access to all documents, records and accounts in respect of any period within the period for keeping the documents specified in the relevant preferential arrangement or measure,

e) undertake that the stock records must include both the originating and non-originating materials kept in the accounts, with the proviso that the balance in the stock records shall be reduced each time that a finished product is manufactured, regardless of whether the originating status of the product is proved or not.

f) undertake that, where the products are taken out of the customs territory of the Union without proof of preferential origin, the balance of non-originating materials in the stock records is reduced only to the extent allowed by the balance, with the proviso that if it is not possible, the balance of originating materials in the stock records shall be reduced.

(9) When authorising accounting segregation, the customs authority shall examine the records of the manufacturer for the purpose of determining the opening stocks of the originating and non-originating materials.

(10) Where the customs authority withdraws the authorisation in accordance with Article

58(4) of the DA, it shall simultaneously invalidate all the proofs of preferential origin issued in error.

CHAPTER XVII

VALUE OF GOODS FOR CUSTOMS PURPOSES

33. Regarding Article 70 of the Code

Section 142 [*Transaction value by way of simplification*]

The declarant who is in possession of the approval under section 143 may prove that the transaction value declared is based on pricing at arm's length in accordance with the Guidelines for Multinational Enterprises and Tax Administrations concerning the revision of prices between associated enterprises prepared in conformity with the Convention on the Organisation for Economic Cooperation and Development (OECD) promulgated by Act XV of 1998, including the related protocols and accession statements, provided that it substantiates, simultaneously with the application for simplification under section 143, the way in which the price complies with the conditions specified in Article 70(2) of the Code, or proves in another way that the relationship did not influence the price of the goods to be valued.

34. Regarding Article 73 of the Code

Section 143 [*Simplification*]

(1) The customs authority may approve that the elements of the transaction value and the elements not to be included in the customs value, where they are not quantifiable when the customs declaration is accepted, are determined in accordance with the calculation provided in the application of the economic operator.

(2) The economic operator shall make a statement on the calculation method used. The calculation method shall be substantiated with the accounting data of the applicant, and the documentation proving that shall, simultaneously with the application, be submitted to the customs authority. In addition to the calculation method, an average value or a percentage may also be determined.

CHAPTER XVIII

INCURRENCE OF A CUSTOMS DEBT

35. Regarding Article 84 of the Code

Section 144 [*Joint and several liability*]

(1) In the framework of joint and several liability, except for paragraph (2), the customs authority may notify the customs debt incurred and, if the law allows it, the other charges, at its own discretion, to any of the debtors without any restrictions regarding the order and without simultaneously obliging them to perform.

(2) Paragraph (1) shall not apply to the cases covered by Article 6(2) of the DA.

36. Regarding Article 86 of the Code

Section 145 [*Special rules for calculating the amount of import duty*]

(1) The non-tariff reliefs from import or export duty shall be laid down in the customs legislation and in the international treaties applicable in Hungary.

(2) Where goods are declared by an act under Article 141 of the DA, it shall simultaneously be deemed to be an application for relief from customs duty. Where the customs authority

accepts the declaration, it shall be deemed to be equivalent to the acceptance of the customs declaration.

(3) Where the customs legislation provides for a special licence or authorisation in respect of the use of the non-tariff reliefs from customs duties, the licence or the authorisation may be granted to the person who fulfils the specific conditions.

(4) Paragraph (2) and (3) shall apply to the export of goods liable to export duty. An oral declaration shall be sufficient in such cases.

(5) For the purpose of Article 41 of Regulation (EC) No 1186/2009, national law adopted in accordance with the provisions of Council Directive 2007/74/EC of 20 December 2007 on the exemption from value added tax and excise duty of goods imported by persons travelling from third countries shall be construed to mean the Act on the exemption from value added tax and excise duty of goods imported in travellers' personal luggage.

(6) Fuel admitted free of import duties to the customs territory of the European Union in the standard tanks of private and commercial motor vehicles and motor cycles in accordance with Article 107 of Regulation (EC) No 1186/2009 shall not be alienated in the territory of Hungary without the payment of the import duties and other charges.

CHAPTER XIX

GUARANTEE FOR A POTENTIAL OR EXISTING CUSTOMS DEBT

37. Regarding Article 89 of the Code

Section 146 [*Application for exemption from providing a guarantee for value added tax*]

(1) The customs authority shall, upon application, authorise exemption from providing a guarantee for value added tax to a taxable person acting in his own name in the customs administration procedure

a) who is not subject to bankruptcy proceedings, liquidation proceedings, dissolution proceedings or involuntary de-registration proceedings,

b) who, at the time of adjudicating the application, does not have and, while operating without interruption in the two consecutive calendar years preceding the reference year, did not have an overdue debt incurred regarding customs duties or other charges falling within the material competence of the customs authority, and

c) who, in the reference year and in the preceding two consecutive years, was not and is not subject to a procedure to withdraw his tax number.

(2) For the purpose of paragraph (1) *b)*,

a) the payment obligation in respect of which the person concerned has carried out a self-revision by the date of communication of the decision with administrative finality adjudicating the application,

b) in the two consecutive calendar years preceding the reference year,

ba) the overdue debt of the taxable person, kept in the records under the title of value added tax, which was paid late, if it did not exceed 3% of his obligations incurred under this title in this period, and

bb) the amount of overdue debts of the taxable person, kept in the records in respect of payment obligations which fall within the material competence of the customs authority, which was paid late, if it did not exceed 3% of his total obligations incurred under these titles in this period and was not suspended, or

c) the overdue debt in respect of which the customs authority establishes on the basis of an application for excuse that the late payment was the result of force majeure, shall not constitute an overdue debt.

(3) The customs authority shall, upon application, authorise the provision of a guarantee for

50% of the amount of the value added tax in the customs administration procedure to a taxable person acting in his own name in respect of whom the conditions specified in paragraph (1) *a*) to *c*) are fulfilled, while operating without interruption, only in the calendar year preceding the reference year.

(4) For the purpose of paragraph (3), paragraph (2) *b*) shall apply, subject to the derogation that the period to be examined shall be the calendar year preceding the reference year.

(5) An economic operator who has an authorisation specified in Article 38(2)(a) of the Code shall be exempted from providing a guarantee for value added tax in the customs administration procedure.

(6) No authorisation for exemption or benefit shall be granted with respect to providing a guarantee for value added tax on the basis of the authorisation specified in paragraphs (1) and (3) if the customs authority provides for the suspension of the payment of the value added tax determined in the course of the customs procedure in respect of the goods declared for release for free circulation.

(7) If the conditions specified in paragraph (1) are fulfilled then the authorisation issued by the customs authority shall be valid for an indefinite period after it has taken effect.

(8) The exemption or benefit specified in paragraphs (1), (3) and (5) shall apply to providing a guarantee for excise duty on natural gas not for fuel purposes, electrical energy and coal.

Section 147 [*Relationship between the guarantee for a potential or existing customs debt and the authorisation for exemption from providing a guarantee for value added tax*]

(1) If the guarantee is provided only in respect of the territory of Hungary on the basis of the second subparagraph of Article 89(2) of the Code then, except in the cases referred to in paragraph (2), the guarantee shall, in addition to the import or export duty, also cover the other charges.

(2) If the person providing the guarantee has an authorisation for a full or partial exemption from providing a guarantee for value added tax under this Act then, in the case referred to in paragraph (1), he shall not be required to provide a guarantee in respect of the exempted amount for value added tax and excise duty on natural gas not for fuel purposes, electrical energy and coal until this authorisation is in effect.

Section 148 [*Exemption from providing a guarantee*]

(1) For the purpose of Article 89(7) of the Code, no guarantee shall be required in respect of public authority activities carried out by the State or an authority, or a person or organisation which (who) has been authorised to exercise public authority by the Fundamental Law or by law.

(2) For the purpose of this section, public authority activities shall in particular be activities concerning legislation, justice, prosecution, defence, law enforcement, foreign and justice administration, application of the law in public administration, administrative and financial audit, supervision of or monitoring the legality, public finances and decision-making on the allocation of EU and other international grants.

38. Regarding Article 90 of the Code

Section 149 [*Calculation of the guarantee*]

For the purpose of the second subparagraph of Article 90(1) of the Code, the customs authority shall, when the obligation to provide a guarantee arises, determine the amount of the guarantee to be provided while taking the traffic data and business plan of the applicant into account.

39. Regarding Article 92 of the Code

Section 150 [*Forms of the guarantee*]

Pursuant to Article 92(1) of the Code, the person providing the guarantee shall provide

a) a guarantee referred to in Article 92(1)(a) of the Code by means of a coverage certificate issued by a credit institution or by means of a cash deposit,

b) a guarantee referred to in Article 92(1)(b) of the Code as an undertaking by means of a declaration of guaranty or a contract of directly enforceable suretyship under the Ptk.

Section 151 *[Guarantee in the form of a cash deposit]*

(1) The customs authority may accept, as a guarantee under section 150 *a)*, an original coverage certificate according to which

a) the amount specified in the discretionary account is available for the payment of customs duty and other charges,

b) the national tax and customs authority may enforce its claim by means of a direct debit submitted against the account with a reference to the coverage certificate, and

c) the issuing credit institution undertakes that the amount indicated in it may be only availed of by the customs authority.

(2) The customs authority shall accept as a guarantee a cash deposit that has been made available to the customs authority using a unique identification specified by the customs authority on the customs deposit account managed by the customs authority. The customs authority shall inform the party of the acceptance without delay. A guarantee in the form of a cash deposit can only be provided in HUF.

(3) Where, in accordance with the agreement between the credit institution and the customs authority, the credit institution notifies the customs authority by electronic means of the amounts paid to it irrevocably by the party, the customs duties and other charges notified shall be considered as being guaranteed and the goods may be released.

Section 152 *[Guarantee in the form of a declaration of guaranty or a contract of directly enforceable suretyship]*

(1) Unless otherwise provided by the Union customs legislation, the provisions of the Ptk. shall apply to a declaration of guaranty or a contract of directly enforceable suretyship under section 150 *b)*.

(2) By way of derogation from the provisions of the Ptk., the contract of directly enforceable suretyship shall be valid where it has been signed only by the guarantor, even without the signature of the beneficiary. The contract of directly enforceable suretyship shall take effect with the approval of the customs authority.

(3) The original declaration of guaranty shall be accepted as a guarantee which, in addition to the particulars specified in the relevant provisions of the Union customs legislation, contains

a) the name, seat, tax number and bank account number of the guarantor,

b) the name, address, current account number, tax number or tax identification code and EORI number of the party requesting the undertaking as the principal,

c) the name, address, tax number or tax identification code and EORI number of the third person represented by the principal,

d) the amount, in figures and letters, and currency of the undertaking,

e) a possible reference to the period of validity of the undertaking,

f) the undertaking of the guarantor to pay the amounts claimed to the centralised collection account kept with the Hungarian State Treasury indicated in the notification of the claim within 30 days of the receipt of the first application in writing by the beneficiary.

g) a reference to the start time of the undertaking,

h) the provision that the amount of the undertaking shall be reduced by the amounts of the payments made by the guarantor in connection with the specific declaration of guaranty,

i) the name of the beneficiary customs authority.

(4) The original contract of directly enforceable suretyship shall be accepted as a guarantee where, in addition to the particulars specified in paragraph (3), it also contains

a) the objections arising from the obligation guaranteed by the suretyship in connection with the completion and discharge of the specific customs operation that may, within 30 days of the receipt of the claim for payment, be raised, which the surety may invoke against the beneficiary, and

b) the possibility of extending the time limit of 30 days following the application in writing and the related possible consequences in terms of payment of interest and costs.

(5) The beneficiary customs authority shall inform the guarantor of the approval of the declaration of guaranty or the contract of directly enforceable suretyship without delay.

(6) In the case referred to in Article 151(3) of the IA, the guarantor shall inform the beneficiary customs authority referred to in paragraph (5) by means of an item sent by post attested by an acknowledgment of receipt.

(7) In the event of a notification of a claim by the beneficiary customs authority related to the obligation to assume liability of the guarantor, the application in writing shall contain the identification data (name, address, tax number or tax identification code, EORI number and data related to legal succession) of the person requesting the undertaking, the amount of the overdue debt, the prescribed but missed time limit for payment, the number of the final decision concerned by the payment obligation and the type of the customs operation.

(8) The undertaking issued by a foreign credit institution, financial institution or insurance company shall not contain the particulars referred to in paragraphs (3) and (4) in addition to the particulars specified in the relevant provisions of the Union customs legislation.

(9) If the declaration of guaranty, contract of directly enforceable suretyship or coverage certificate by a bank under section 151 is issued by a foreign credit institution, financial institution or insurance company then a certified Hungarian translation may be required.

(10) The forms of the undertaking under section 150 *b)* shall be published by NAV on its website.

40. Regarding Article 94 of the Code

Section 153 [*Authorisation for undertaking*]

(1) Where approval by the customs authority referred to in Article 94(1) of the Code is required, the customs authority shall grant approval in the form of an authorisation (authorisation for undertaking) to provide a guarantee for customs duties and other charges covering a single operation to such an applicant who

a) is not subject to bankruptcy proceedings, liquidation proceedings, dissolution proceedings or involuntary de-registration proceedings,

b) provides a guarantee in the form of a declaration of guaranty or cash, and

c) attaches to his application the authentic statement of signature (signature registration certificate witnessed and executed by a public notary) of the person(s) entitled to represent or the signature specimen countersigned by an attorney-at-law or bar association legal counsel submitted to the company registry court.

(2) The highest amount ceiling that may totally be undertaken with the undertaking and, where necessary, the period of validity of the authorisation shall, in accordance with the guarantee provided, be specified in the authorisation under paragraph (1).

(3) This section shall apply in the event of approval of an individual undertaking provided in the form of vouchers, with the proviso that the holder of the authorisation shall, in addition to the criteria specified in paragraph (1), undertake in writing to pay the overdue debts incurred in respect of the holder of the customs procedure.

Section 154 [*Use of the authorisation for undertaking*]

(1) The undertaking to provide a guarantee under section 152 (1) may be undertaken in writing by filling out and lodging the form published on the website of NAV.

(2) Where the representative submitting the electronic customs declaration and the guarantor are the same person, the original of the undertaking need not be submitted if the number of the authorisation for undertaking is indicated in the customs declaration.

(3) The customs office having territorial competence shall, by way of an electronic message, notify the person submitting the electronic customs declaration of the acceptance of the electronic customs declaration submitted in accordance with paragraph (2) and the amount accepted as a guarantee on the basis of the undertaking.

(4) In the case described in paragraph (2), the amount of the guarantee required by the customs authority for the customs procedure shall be separated from the guarantee provided for the authorisation for undertaking.

(5) The customs office having territorial competence shall send an electronic notification of the release of the amount of the guarantee separated by the customs authority on the basis of the undertaking, as referred to in paragraph (4), to the person submitting the electronic customs declaration.

(6) The customs office having territorial competence may require the person submitting the electronic customs declaration to submit the original of the undertaking referred to in paragraph (2) to it as well.

(7) Where the customs office having territorial competence accepts the undertaking given in writing, it shall collect it, and manage the amount undertaken on the basis of the undertaking separately from the guarantee provided for the authorisation for undertaking.

(8) The undertaking given in writing may be accepted only where it was signed by the person(s) entitled to represent the company in accordance with section 153 (1) c), and the limit of the maximum amount determined in the authorisation for undertaking and reduced by the debit has not been exceeded.

(9) Where any of the cases specified in Article 98(1) of the Code occurs, the customs office having territorial competence shall release without delay the amount separated on the basis of the undertaking and return, with the endorsement of the customs office having territorial competence, the undertaking given in writing to the person who submitted it.

(10) The undertaking given in writing shall be returned if the undertaking given by the same or another guarantor gives rise to a new binding relationship and the guarantor specifically confirms that he assumes liability also for the debts which existed already at the beginning of the binding relationship.

41. Regarding Article 95 of the Code

Section 155 [*Application for a comprehensive guarantee by museum institutions supported by the State*]

The criterion laid down in Article 84(3)(k) and (l) of the DA shall be deemed to be fulfilled where the applicant is a museum institution supported by the State under the Act on museum institutions, public library services and community culture and the application covers the transit procedure exclusively.

CHAPTER XX

RECOVERY, PAYMENT, REPAYMENT AND REMISSION OF THE AMOUNT OF IMPORT OR EXPORT DUTY

42. Regarding Article 101 of the Code

Section 156 [*Determination of the amount of import or export duty*]

For the purpose of the third subparagraph of Article 101(3) of the Code, the amount of import or export duty payable shall be rounded to the nearest HUF 100.

43. Regarding Article 102 of the Code

Section 157 [*Notification of the customs debt*]

(1) For the purpose of Article 102(1) of the Code, in the event of procedures initiated by lodging a customs declaration, the customs authority shall, except where a customs docket is used, notify the amount of the customs duty and other charges in a final decision. The decision on the amount of customs duty and other charges entered in the accounts and granting the application may be included in a simplified final decision.

(2) In the case of declarations lodged using data-processing techniques and where the technical criteria are fulfilled, the customs authority may make its final decision notifying the amount of customs duty and other charges in the form of an electronic document. The decisions specified in this paragraph shall be issued in electronic form bearing an automated signature supervised by a person.

(3) In the case specified in Article 88(2) of the DA, the customs authority shall refrain from notifying the customs debt. In this case, no customs payment shortfall shall, by way of derogation from section 2 (6), be incurred.

44. Regarding Article 103 of the Code

Section 158 [*Limitation of the customs debt*]

(1) For the purpose of Article 103(2) of the Code, the customs debt may be notified within a period of 10 years from the time of the commission of the act.

(2) In the case specified in paragraph (1), the relevant provisions of the customs legislation shall apply to the entry in the accounts, recovery and extinguishment of a customs debt determined after the expiry of a period of 3 years.

(3) Paragraphs (1) and (2) shall also apply to other charges, credit interest and interest on arrears.

Section 159 [*Limitation of the right to enforcement and reclaims*]

The provisions of the Act on enforcement procedures applied by the tax authority shall apply to the limitation of the right to enforcement of other charges, credit interest, charges and costs to be paid for the customs authority procedures, and interest on arrears, and the provisions of the Art. shall apply to the limitation of the right to reclaim overpayment and unduly paid customs duty and other charges, credit interest, charges and costs to be paid for the customs authority procedures, and interest on arrears.

45. Regarding Article 104 of the Code

Section 160 [*Entry in the accounts*]

(1) The provisions of Council Regulation (EU, Euratom) No 609/2014 of 26 May 2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements (hereinafter “Euratom Regulation”) shall apply to the implementation of Article 104(3) of the Code.

(2) On the basis of a decision made by the superior organ on adjudicating the application for legal remedy, amounts of customs duty entered in the accounts may, with the exceptions specified in Article 119 of the Code, be removed from the separate accounts referred to in Article 6(3) of the Euratom Regulation (hereinafter “separate accounts”) exclusively if

a) the superior organ annuls the decision of the customs organ without obliging it to conduct a new procedure, or

b) the superior organ annuls the decision of the customs organ with obliging it to conduct a

new procedure and the new procedure is not expected to result in a payment obligation being incurred.

(3) On the basis of a decision adopted by the court in an administrative court action, amounts of customs duty entered in the accounts may, with the exceptions specified in Article 119 of the Code, be removed from the separate accounts exclusively if

a) the court annuls the decision of the customs authority without obliging it to conduct a new procedure and the customs authority does not dispute the judgment of the court, or

b) the court annuls the decision of the customs authority without obliging it to conduct a new procedure and the customs authority has exhausted all possibilities for ordinary or extraordinary legal remedy, or

c) the court annuls the decision of the customs authority with obliging it to conduct a new procedure and the new procedure is not expected to result in a payment obligation being incurred.

(4) If the superior organ or the court annuls the decision of the customs organ while obliging it to conduct a new procedure but the new procedure results in the entry in the accounts of an amount of customs duty lower than it originally was, the difference in the amount of customs duty may be removed from the separate accounts exclusively simultaneously with making the decision in the new procedure.

46. Regarding Article 108 of the Code

Section 161 [*Time of payment of the amount of customs duty and other charges*]

(1) The time of payment of the notified amount of customs duty and other charges shall be the date when the total amount was, in compliance with the requirements, credited to the centralised collection account kept with the Hungarian State Treasury, administered by the customs authority. The credit institution and the customs authority may conclude an agreement on executing, through the Treasury, the aggregated transfer of the customs guarantee, customs duty and other charges paid in cash.

(2) An extension of the period specified in the third subparagraph of Article 108(1) of the Code may be authorised upon application. Granting the authorisation shall be conditional on the payment difficulty being

a) not attributable to the applicant or, in order to avoid it, he proceeded with the care that is generally expected under the given circumstances, and

b) of a temporary nature, and therefore the subsequent payment of the obligation may be reasonably assumed.

(3) When adjudicating the application under paragraph (2) and specifying the conditions, account shall be taken of the reasons for and the circumstances of the occurrence of the payment difficulties. In the case of a private person, an extension of the period may also be authorised where the applicant proves that paying the customs duties and other charges immediately or in one amount entails a disproportionately serious burden on him, having also regard to his family, income, financial and social circumstances.

47. Regarding Article 109 of the Code

Section 162 [*Payment of the customs debt*]

(1) The debtor may pay the customs duty by the reconciliation of the deposited customs guarantee, by transfer of funds or, where the technical criteria are fulfilled, by paying with a bank card at points of sales (POS) terminals and, up to an amount of HUF 2 million, in cash.

(2) In addition to paragraph (1), making a transfer in the books from the claim of the debtor related to payment of taxes and customs duties kept in the records by the national tax and customs authority to the obligations of the debtor related to payment of customs duties or

offsetting the aforementioned claims against the aforementioned obligations shall also be recognised as payment. In this case, the date of the payment of the customs debt shall be the date of acceptance of the application of the debtor or, in the event of *ex officio* transfer in the books or offsetting, the date of the transfer in the books or of the offsetting.

(3) When administering the records concerning the direct Union revenue account which falls within the material competence of the customs authority, electronic payments by transfer of funds through the electronic payment and settlement subsystem specified in law in respect of payments to be made to the customs authority shall also be recognised as performance by transfer of funds within the meaning of paragraph (1), and payment with bank cards at points of sales (POS) terminals through the electronic payment and settlement subsystem specified in law shall also be recognised as performance using bank cards.

(4) Payments against obligations prescribed by the customs authority kept in the records by the national tax and customs authority, made to an inappropriate revenue account or in a way unfit for identification, including overpayment, shall be deemed to be unpaid until the time the debtor requests the customs authority that prescribed the debt to transfer the payment from one account to another or to identify it, or the item has been identified *ex officio*, irrespective of the fact that the payment was otherwise executed within the time limit. In this case, the customs authority shall, on the basis of an instruction given by the debtor, take action for the transfer from one account to another or for the identification without charging any interest.

(5) The amount of other charges imposed or to be retransferred by the customs authority which is small for each title, that is, less than EUR 10 or than an amount in HUF equal to EUR 10 converted at the exchange rate under section 138 (1), except for other charges imposed on excise goods, shall not be paid or repaid. The amount thus unpaid shall be removed simultaneously with the closure of the customs administration procedure, and the amount thus not to be repaid shall be accounted for by the customs authority as income. A difference in other charges of less than ten euros need not be paid or repaid and an overpayment of customs duty of less than EUR 10 that was incurred from the difference between the amount imposed in a single final decision under one or more titles and the amount paid need not be repaid. The debt thus incurred shall subsequently be removed and the overpayment shall, for each tax type, be prescribed and accounted for by the customs authority as income in its internal documentation.

(6) Within 30 days of the lodgement of the application, the national tax and customs authority may perform repayment of amounts of money kept in the records as overpayment or undue payment without paying any interest.

(7) The customs authority may require that the debtor proves, by producing the original of the current account statement, the payment of the customs duty and other charges, the credit interest referred to in Article 112(2) of the Code, the interest on arrears referred to in Article 114 of the Code and the customs administration fine.

(8) The documents used for and proving the payment of the customs duty and other charges, the credit interest referred to in Article 112(2) of the Code, the interest on arrears referred to in Article 114 of the Code, the customs administration fine and the fees and charges imposed on the basis of this Act shall, in addition to the data specified in the MNB Decree on payment services, contain

- a) the EORI number, tax number or tax identification code and, in the case of a foreign person, the number of the identity document of the customs debtor,
- b) the number of the account to be debited,
- c) the data of the receiving credit institution,
- d) the number of the revenue account of the customs authority,
- e) the amount payable,

- f) the date of the payment or the debiting,
- g) the number of the final decision notifying the payment obligation, and
- h) the financial identification number pertaining to the payment obligation.

(9) The payment slip proving the payment of the customs duty and other charges need not contain the data specified in paragraph (8) *h*) where the authorisation for deferment of payment of the customs duty provides, upon application by the party, the possibility of aggregated payment.

48. Regarding Article 110 of the Code

Section 163 [*Relationship between deferment of payment of customs duty and payment of other charges*]

The rules governing deferment of payment under Article 110 of the Code shall also apply to the other charges that are payable together with the customs duty.

49. Regarding Article 111 of the Code

Section 164 [*The period for which payment of the customs duty is deferred*]

The customs authority may, upon application, authorise the debtor to pay, under Article 111(6) of the Code, the notified customs debt in accordance with the rules on deferment of payment of the customs duty where

- a) the period is one calendar week, by the Friday of the fourth week following this calendar week, or
- b) the period is one calendar month, by the 16th day of the month following this calendar month.

50. Regarding Article 112 of the Code

Section 165 [*Payment in instalments*]

(1) Upon application by the debtor, payment in instalments of the customs duties and other charges kept in the records of the customs authority may be authorised. The national tax and customs authority shall be entitled to adjudicate the application and it shall carry out the procedure in accordance with the procedural rules set out in the Art.

(2) Payment in instalments may be authorised where the payment difficulty

- a) is not attributable to the applicant or, in order to avoid it, he proceeded with the care that is generally expected under the given circumstances, and
- b) is of a temporary nature and therefore the subsequent payment of the obligation may be reasonably assumed.

(3) When adjudicating the application and specifying the conditions, account shall be taken of the reasons for and the circumstances of the occurrence of the payment difficulties.

(4) In the case of a private person, payment in instalments may also be authorised where the applicant proves that paying the customs duties and other charges immediately or in one amount entails a disproportionately serious burden on him, having also regard to his family, income, financial and social circumstances.

(5) If the party fails to comply with the criteria for granting the payment in instalments or to perform the payment of the instalments due, the concession shall cease to be valid and the debt shall become due and payable in full on the date of the payment of the last instalment.

(6) For the purpose of the third subparagraph of Article 112(2) of the Code, the central bank base rate shall be applicable when determining the credit interest.

(7) In accordance with Article 112(3) of the Code, the customs authority may refrain from requiring a customs guarantee or from charging credit interest in connection with the

authorised payment in instalments where its payment would create serious economic or social difficulties to the applicant.

(8) The applicant shall, for the assessment of its serious economic difficulties under paragraph (2), lodge

a) the audited accounts with the balance sheet covering the 3 years preceding the reference year,

b) statements on the supplier and customer base, other investments and shares covering the reference year, and on the changes in the assets covering the preceding 3 years,

c) a statement on the amounts of claims expiring within 30, 60 and 90 days, and of claims that are subject to pending litigation,

d) the general tax certificate under tax rules or, if he has an overdue debt, the debt rescheduling agreement, except where the applicant is listed in the register of taxpayers free of tax debt obligations at the time of lodging the application,

e) a statement as to whether or not the applicant is subject to bankruptcy proceedings, liquidation proceedings, dissolution proceedings or involuntary de-registration proceedings.

(9) For the assessment of the social difficulties of the natural person, the customs authority shall call upon the applicant to prove the reasons referred to in the application.

(10) In connection with the authorised payment in instalments, the customs authority may, in exceptionally justified cases, decide to grant an exemption to the applicant in respect of both requiring a customs guarantee and charging credit interest.

51. Regarding Article 113 of the Code

Section 166 [*Legal consequences of non-payment of the customs debt*]

(1) Where the amount of customs duty and other charges due, credit interest, interest on arrears and customs administration fine determined have not been paid within the prescribed period, or where the customs authority of any Member State has sent a request for administrative assistance for the purpose of enforcing the overdue debt, the customs authority shall, without delay, take action as follows:

a) where the guarantee provided for the customs administration procedure covers the whole amount of the overdue debt, the customs authority shall make use of it,

b) where the guarantee provided for the customs administration procedure does not cover the whole amount of the overdue debt, the customs authority shall enter the available guarantee in the accounts and shall, without delay, take action in respect of the outstanding amount and, if no guarantee needed to be provided, for commencing the enforcement procedure.

(2) The national tax and customs authority shall be entitled to carry out the enforcement procedure. The provisions of the Act on enforcement procedures applied by the tax authority shall apply to the enforcement procedure, notwithstanding the provisions on the statute of limitation.

(3) The customs authority may withhold the customs duty and other charges that may be refunded to the debtor up to the amount of the overdue debt owed by the debtor as kept in the records of NAV.

(4) In the event of partial payment of a customs debt and overdue debt of other charges, credit interest, interest on arrears, a customs administration fine determined in a single final decision, the amount paid shall first be accounted against the customs debt. At least that proportion of the amount outstanding, in addition to the settlement thus carried out, shall be accounted against the overdue debt of other charges, credit interest, interest on arrears, customs administration fine which is *pro rata* to the overdue debt of other charges, credit interest, interest on arrears, customs administration fine determined within the prescribed

amount payable. The debtor shall be informed of the settlement.

52. Regarding Article 114 of the Code

Section 167 [*Interest on arrears*]

(1) The interest on arrears notified shall be paid within 15 days of the date when the decision reached administrative finality.

(2) No interest on arrears shall, except in the case referred to in section 157, be charged where the period available for the notification of the customs duties and other charges has expired.

(3) For the purpose of Article 114(1) of the Code, the central bank base rate shall be taken into account as the National Central Bank rate.

(4) For the purpose of Article 114(3) of the Code, section 165 (3), (4) and (7) to (9) shall apply to the assessment of serious economic or social difficulties.

53. Regarding Article 116 of the Code

Section 168 [*Repayment and remission of the customs debt*]

(1) Where, on the basis of a decision or a court judgment amending or annulling a final decision determining customs duty and other charges, credit interest, interest on arrears and customs administration fine, the title for claiming the payment obligation (or part of the amount of the payment obligation) determined ceases to exist the proceeding customs office shall, in the decision amending or annulling that final decision, or in the decision made in order to implement the court judgment, provide for repayment or remission of the amount by the customs authority. This provision for obligation of repayment or remission shall constitute an own initiative within the meaning of Article 116(4) of the Code.

(2) In the cases provided for in paragraph (1), the customs authority shall retransfer the repayable amount within 30 days of the date that the final decision providing for the repayment reached administrative finality.

CHAPTER XXI

EXTINGUISHMENT OF A CUSTOMS DEBT

54. Regarding Article 124 of the Code

Section 169 [*Extinguishment of a customs debt*]

(1) The provisions of the customs legislation shall apply to regularising the customs status, including the incurrance of customs debt and identification of the debtor, of non-Union goods ordered to be released and previously seized or seized and preliminarily sold or confiscated, having regard to the relevant criminal procedure and tax rules.

(2) Following applying the provisions on the entry in the accounts of the own resources of the Union, the provisions of the Act on enforcement procedures applied by the tax authority regarding entry in the accounts of the enforced amount shall apply to the entry in the accounts of the amount accrued from the sale of the non-Union goods or, if sold, of the confiscated non-Union goods or, if confiscated, from the consideration replacing the non-Union goods under seizure sold preliminarily.

CHAPTER XXII

ARRIVAL OF GOODS

55. Regarding Article 133 of the Code

Section 170 [*Notification of arrival of an aircraft*]

In accordance with Article 133(2) of the Code, the operator of the airport may, in an agreement concluded with the customs authority, undertake to notify the arrival of the aircraft entering the customs territory of the European Union to the customs authority using the data kept in the airport systems.

56. Regarding Article 134 of the Code

Section 171 [*Customs supervision*]

In order to ensure the customs supervision, the customs authority may temporarily place goods brought into the customs territory of the Union under an authority measure, for the duration of making available the criteria, information and administrative authorisations granted by other authorities necessary for implementing the customs procedure by the person concerned, or of carrying out the examination connected to the customs controls. The customs authority shall store the goods placed under its authority measure in a customs warehouse or in a place designated by the customs office. Where an appropriate guarantee has been provided, the customs office may provide for leaving the goods in the person concerned's custody. The person concerned shall reimburse the costs incurred in the course of the goods being under the authority measure in accordance with Article 52(2)(d) of the Code and this Act.

Section 172 [*Supervision of activities carried out in a transit area*]

(1) The customs control of goods and passenger traffic shall be ensured in transit areas operated at international public airports during operating hours.

(2) Any person who performs retail or catering activities in a transit area shall notify the customs authority thereof. In the course of retail sales performed by him, the person performing the sale shall undertake to separate sales to incoming transit passengers, to transit passengers travelling directly to third countries or to another Member State of the European Union, and to other persons who are entitled to enter the transit area.

57. Regarding Article 140 of the Code

Section 173 [*Customs control of aircraft*]

Where the customs authority intends, regarding an aircraft entering the customs territory of the European Union, to inspect the aircraft, its passengers or the goods carried by it, it shall indicate that, directly or through the operator of the airport, to the aircraft commander, who shall ensure that no goods are unloaded from and no passenger leaves the aircraft without the permission of the customs authority, provided that it does not jeopardise the safety of life or property. The aircraft may continue its flight only after the customs controls have been carried out.

58. Regarding Article 148 of the Code

Section 174 [*Temporary storage facility*]

(1) In order to ensure customs supervision, the operator of the temporary storage facility shall, on a monthly basis, send detailed guarantee reports on an item-by-item basis to the customs office supervising the temporary storage facility.

(2) By means of the guarantee reports referred to in paragraph (1), the customs office supervising the temporary storage facility shall also be informed of any goods which have been in temporary storage for a period exceeding 60 days.

(3) The particulars to be provided in the report referred to in paragraph (1) shall be specified in the decree on the detailed rules of the implementation of the Union customs legislation.

CHAPTER XXIII

PLACING GOODS UNDER A CUSTOMS PROCEDURE

59. Regarding Article 158 of the Code

Section 175 [*Customs docket*]

Where a customs debt or an obligation to pay other charges has been incurred for any goods declared orally, the customs authority shall issue a docket (hereinafter “customs docket”) conforming to the specimen specified in the ministerial decree on the detailed rules of the implementation of the Union customs legislation against payment of those amounts.

Section 176 [*Customs declarations in formats different from that of the single administrative document*]

(1) Printing and lodgement of the Single Administrative Document (hereinafter “SAD”) by means of data-processing systems may be authorised by the customs authority in the form approved by it. Regarding a form different from that of the SAD, the form, content and technical requirements for the SAD shall be published in an advisory note issued by the head of NAV.

(2) In both cases, the authorisation number shall be indicated on the SAD printed by means of data-processing systems.

(3) No authorisation by the customs authority shall be required for the party to lodge the declaration recorded in a manner directly suitable for computer processing, in accordance with the information specified in paragraph (1).

60. Regarding Article 159 of the Code

Section 177 [*Seat and territorial competence of customs offices*]

The seat and territorial competence of the customs offices in the territory of Hungary shall be specified in a government decree.

61. Regarding Article 173 of the Code

Section 178 [*Amendment of the customs declaration*]

The procedure specified in Article 173(3) of the Code shall be carried out in accordance with the rules on procedures commenced upon application.

62. Regarding Article 179 of the Code

Section 179 [*Centralised clearance*]

(1) Authorisation for release for free circulation, end-use or temporary admission involving an obligation to pay value added tax carried out in the framework of centralised clearance under Article 179 of the Code involving Hungary or of single authorisations for simplified procedures valid on the grounds of Article 251 of the DA may be granted, or agreement to such an authorisation may be given only to an economic operator having a Hungarian tax number. No tax number shall be required for the agreement where the economic operator initiates release for free circulation only related to tax-exempt importation of goods.

(2) When granting an authorisation for centralised clearance or extending it to Hungary, the existence of the cause for disqualification under paragraph (3) shall be examined.

(3) The customs authority shall reject the application for granting the authorisation where the activity described by the economic operator in the application for the authorisation indicates that the place where the other charges are incurred in connection with the activity is Hungary, and the guarantee provided by the economic operator does not provide the customs authority with direct entitlement to notify the claim in the course of enforcing payment of the

overdue debts incurred. This criterion shall not be examined where the economic operator is exempted from the obligation to provide a guarantee for value added tax on the basis of this Act.

(4) Agreement to an authorisation for release for free circulation, end-use or temporary admission involving an obligation to pay value added tax may be given, or such an authorisation involving more than one Member State may be granted, where there is an agreement in force between the Member State of the authorising customs authority and Hungary on the allocation of retained national collection costs.

(5) Where the authorisation for centralised clearance was not granted in Hungary, the holder of the authorisation shall submit, by the date set in the authorisation, the tax declaration necessary for determining the other charges imposed in the course of release for free circulation, end-use or temporary admission involving an obligation to pay value added tax to the customs office indicated in the authorisation upon incurring the obligation to pay taxes. An economic operator that has an authorisation for determining the amount of value added tax by way of self-assessment and has no other obligation to pay taxes incurred towards the customs authority does not need to submit the tax declaration necessary for determining the obligation to pay value added tax.

(6) The customs authority shall determine the other charges on the basis of the tax declaration.

(7) Where an additional payment obligation is incurred on the basis of the difference between the amount of the other charges calculated on the basis of the tax declaration and of the other charges calculated on the basis of the customs declaration or the post-release controls, the customs authority shall subsequently determine it against the holder of the authorisation and shall communicate to him. Where the holder of the authorisation fails to perform the payment within the time limit, the customs authority shall enforce its claim primarily against the tax guarantee that enables direct notification of the claim. Where it is established on the basis of the customs declaration or the post-release controls that the other charges were set too high, the customs authority shall repay the overcharged amount.

(8) The debtor may use a financial representative under the Air. for performing his obligation to pay taxes and fees. A customs representative may exclusively act as a representative in connection with the performance of an obligation to pay taxes and fees where he is also acting as a customs representative in the customs procedure carried out by the authorising customs authority.

63. Regarding Article 185 of the Code

Section 180 [*Authorisation for self-assessment*]

An economic operator having an authorisation for self-assessment to whom the customs authority allows his supplementary declarations to be available through direct electronic access in his system in accordance with Article 225 of the IA shall submit the tax declaration referred to in section 179 (5), necessary for determining the other charges imposed in the course of his activity upon the obligation to pay taxes being incurred, to the customs office indicated in the authorisation, by the date set in the authorisation, to which section 179 (7) shall also apply. An economic operator who has an authorisation for determining the amount of VAT by way of self-assessment and has incurred no other obligation to pay taxes towards the customs authority does not need to submit the tax declaration necessary for determining the obligation to pay value added tax.

CHAPTER XXIV

DISPOSAL OF GOODS

64. Regarding Article 198 of the Code

Section 181 [*Sale of goods and use of goods for charitable purposes*]

(1) The customs authority may carry out sale of the goods with the intervention of a trader, by auction or by electronic auction. The customs authority shall carry out sale of the goods by electronic auction by applying the provisions of the Act on enforcement procedures applied by the tax authority.

(2) Where it is not possible to sell the goods but they are tradable, they may, with the exception of excise goods, be used for charitable purposes instead of being destroyed.

65. Regarding Article 199 of the Code

Section 182 [*Abandonment of goods to the State*]

For the purpose of Article 249(2) of the IA, the customs authority shall make the public appeal by way of publishing a public notice on the website of NAV. If, after the publication, the owner of the goods fails to present himself, the customs authority shall consider the public notice as communicated on the 91th day following the publication and shall decide on abandonment to the State.

CHAPTER XXV

RELIEF FROM IMPORT DUTY

66. Regarding Article 203 of the Code

Section 183 [*Relief from import duty for returned goods*]

The document supporting relief from import duty for returned goods referred to in Article 253(2)(d) of the IA may also be lodged and issued on paper.

CHAPTER XXVI

SPECIAL PROCEDURES

67. Regarding Article 215 of the Code

Section 184 [*Unregularised customs-approved treatment or use of goods*]

The customs authority shall proceed in accordance with Article 198 of the Code and this Act in order to regularise the situation of the goods in respect of which the procedure has not been discharged in accordance with the criteria laid down in the customs legislation.

Section 185 [*Tax declaration in the course of inward processing*]

The holder of the authorisation for inward processing shall submit the tax declaration, referred to in section 179 (5), necessary for determining the other charges to be imposed when applying Article 324(1) of the IA, to the customs office indicated in the authorisation upon incurring the obligation to pay taxes, by the date set in the authorisation. An economic operator who has an authorisation for determining the amount of VAT by way of self-assessment and has incurred no other obligation to pay taxes towards the customs authority does not need to submit the tax declaration necessary for determining the obligation to pay value added tax.

Section 185/A [*Cooperation agreement related to fixed transport installations*]

In accordance with Article 321(3) of the IA, the holder of the customs procedure and the customs office shall put, in the form of a cooperation agreement, in writing the methods of exercising customs supervision over the goods carried by a fixed transport installation.

CHAPTER XXVII

STORAGE

68. Regarding Article 243 of the Code

Section 186 [*Application for designation of a free zone*]

(1) The minister, acting in accordance with the customs administration procedure, shall decide on designating certain parts of the territory of Hungary as free zones where it

- a) is justified for reasons of the national economy,
- b) facilitates international trade in goods, and
- c) results in a reasonable ratio between economic needs and administrative costs.

(2) The operator of the free zone shall lodge the application for the decision under paragraph (1) at the minister by electronic means or on paper.

(3)

Section 187 [*Procedure following acceptance of the application*]

(1) Following acceptance of the application, the minister shall contact the customs authority, which shall, within 40 days of the request, examine the data provided in the application, assess and evaluate its fulfilment of the criteria required for exercising customs supervision, the plans of the buildings indicated in the application, compliance with the security and customs control aspects related to the planned activity and the adequacy of the guarantees provided for the operation of the free zone in accordance with customs and other laws.

(2) Where the customs authority needs to commence a procedure *ex officio* in connection with the examination of the criteria, its duration shall not exceed 30 days.

(3) The customs authority shall communicate the results of its examination in the form of a summary report within the period specified in paragraph (1), to which it shall attach an original of the minutes of the on-site inspection. The customs authority shall declare in the summary report as to whether or not it supports the application.

(4) The minister shall examine the forwarded summary report and the minutes. Where, as a conclusion of this, it is established that the customs authority does not support the application or any of the criteria specified in section 186 (1) is not fulfilled when adjudicating the application then the minister shall take action for granting the right to be heard within the meaning of Article 22(6) of the Code.

(5) The final decision on the merits made by the minister shall reach administrative finality at first instance; no appeal shall be available against the final decision, and it may be contested only by way of an administrative court action.

(6) On the basis of the decision with administrative finality on the designation of the free zone, the minister shall fulfil the obligation to communicate the information to the European Commission in accordance with Article 243(2) of the Code.

Section 188 [*Amendments related to the designated free zone*]

(1) The construction of any building deviating from the application lodged or of a further building, changing the entry and exit points or starting any further activity in the designated free zone shall require the approval of the head of NAV.

(2) For the purpose of communicating information to the European Commission, the head of the customs authority shall inform the minister of the authorisation of any amendments not involving the decision of the minister on the designation of the free zone.

CHAPTER XXVIII

FORMALITIES PRIOR TO THE EXIT OF GOODS

69. Regarding Article 263 of the Code

Section 189 [*Customs control of aircraft*]

Where the customs authority selects an aircraft leaving the customs territory of the European Union, its passengers or the goods carried by it for inspection, it shall indicate that, directly or through the operator of the airport, to the aircraft commander before the inspection. The aircraft commander shall ensure that no goods are unloaded from and no person leaves the aircraft without the permission of the customs authority, provided that it does not jeopardise the safety of life or property. The aircraft may begin its flight only after the customs controls have been carried out.

CHAPTER XXIX

EXPORT AND RE-EXPORT

70. Regarding Article 269 of the Code

Section 190 [Export]

The export declaration for goods taken out of the customs territory of the Union may be lodged retrospectively on paper as well.

71. Regarding Article 270 of the Code

Section 191 [Re-export declaration]

Sections 175 to 180 shall apply to the re-export declaration.

CHAPTER XXX

DEVELOPMENT OF ELECTRONIC SYSTEMS

72. Regarding Article 278 of the Code

Section 192 [Acceptance of the SMGS consignment note]

The paper-based SMGS consignment note under the Agreement on International Goods Traffic by Rail (hereinafter “SMGS”) and its Annexes promulgated by Act XXXVII of 2011 may be accepted for the presentation of goods to customs in transit procedures carried out by rail in the territory of Hungary exclusively in respect of consignments arriving from a third country.

PART THREE

SCRUTINY OF TRANSACTIONS FORMING PART OF THE SYSTEM OF FINANCING BY THE EAGF

CHAPTER XXXI

GENERAL PROVISIONS

73. Interpretative provisions

Section 193 [Definitions within the system of financing by the EAGF]

(1) Chapter III of Title V of Regulation (EU) No 1306/2013 of the European Parliament and of the Council shall be implemented in accordance with this Part.

(2) For the purpose of Part Three:

a) *organ carrying out EAGF subsequent checks* means the department of the authority designated by the relevant law,

b) *authority* means the organ of NAV having the relevant functions and powers,

c) *Special Service* means the department under Article 85(1) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council,

d) party means the person who is the holder of rights and is bound by obligations under Part Three; furthermore, the administrator, the liquidator and the receiver shall, in the course of their duties, also be considered as a party.

74. Scope of Part Three

Section 194 [*Scope of Part Three*]

The personal scope of this Part shall cover the authority and the persons falling under the scope of Regulation (EU) No 1306/2013 of the European Parliament and of the Council, including all forms of organisational structures provided for in the Ptk.

CHAPTER XXXII

IMPLEMENTATION OF CHAPTER III OF TITLE V OF REGULATION (EU) No 1306/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

75. Regarding Articles 80 and 81 of Regulation (EU) No 1306/2013 of the European Parliament and of the Council

Section 195 [*Implementation of Articles 80 and 81 of Regulation (EU) No 1306/2013 of the European Parliament and of the Council*]

(1) The authority shall check those entities receiving or making payments relating directly or indirectly to the system of financing by the European Agricultural Guarantee Fund (hereinafter “EAGF”), or their representatives in accordance with Chapter III of Title V of Regulation (EU) No 1306/2013 of the European Parliament and of the Council (hereinafter “EAGF subsequent checks”). The EAGF subsequent checks shall aim to ascertain whether transactions forming part of the system of financing by the EAGF have actually been carried out and have been executed correctly.

(2) The provisions of this Act on *ex officio* procedures shall apply to executing EAGF checks, subject to the derogations provided for in Part Three.

(3) It shall be mandatory to carry out EAGF subsequent checks at the party

a) upon a call by the President of the State Audit Office,

b) upon the instruction of the minister,

c) upon a call by the European Commission or the European Court of Auditors,

d) if ordered by the head of the Special Service.

(4) The organ carrying out EAGF subsequent checks may carry out on-site inspection at the economic operator before starting the EAGF subsequent checks where there is a possibility that the documentation, books, other records and documents being subject to the scrutiny may be destroyed or falsified.

(5) The competent representatives of the European Commission and any Member States of the European Union, indicated as experts in their letter of authorisation, may also participate in the EAGF subsequent checks. The experts shall have access to the same premises and to the same documents as the auditor.

(6) In order to improve the efficiency of EAGF subsequent checks and to reduce the administrative burden on parties, the authority may also carry out checks in cases falling within its material competence jointly and simultaneously with other authorities.

76. Commencement of EAGF subsequent checks

Section 196 [*Commencement of EAGF subsequent checks*]

(1) The EAGF subsequent check shall commence when the relevant letter of authorisation is served or a copy of it is delivered.

(2) An employee of the authority having a service card and a letter of authorisation (for the purpose of this Chapter hereinafter “auditor”) shall be entitled to carry out EAGF subsequent checks.

(3) The auditor may only commence the checks on-the-spot if the party, his representative or the person authorised by him or, in their absence, an official witness is present.

(4) The letter of authorisation shall contain

- a) the name of the organ carrying out EAGF subsequent checks,
- b) the reference number of the letter of authorisation,
- c) the name, seat, domicile and tax number or tax identification code of the party subject to checks,
- d) reference to the laws serving as the basis for the EAGF subsequent checks,
- e) the subject matter of the EAGF subsequent checks, regarding which the checks are directed,
- f) the EAGF financial period subject to the checks,
- g) the name of the auditor,
- h) the stamp of the organ carrying out EAGF subsequent checks, the signature of its head, and the place and date.

77. Carrying out EAGF subsequent checks

Section 197 [*Carrying out EAGF subsequent checks*]

(1) The authority may collect documentation, books, records, other documents, data-carrying media and other physical evidence related to the activity of the party subject to EAGF subsequent checks against a receipt at the latest by the conclusion of the EAGF subsequent checks. The receipt shall indicate the collected documents and data-carrying media in detail.

(2) The party subject to checks may, at his own expense, make copies of the documents before they are collected. Where the party so requests, the authority shall, instead of the original documents, collect copies prepared and recognised as identical to the original documents by the party.

(3) Where the party subject to checks carries out his entrepreneurial activity in the home of a private individual or uses the real estate of another person for the purpose of this activity, it shall, at the commencement of the EAGF subsequent checks, be necessary to specify the premises or parts of the home or real estate owned by another person in which the party carries out his activity. The EAGF subsequent checks may only be carried out in the premises or locations used by the party, in respect of which use the data shall primarily be established on the basis of the contract concluded between the owner and the party subject to checks.

(4) Where the party subject to checks uses the real estate of another person for the purpose of his entrepreneurial activity, the owner of the real estate shall be obliged to allow the on-the-spot checks by the authority.

(5) The EAGF subsequent checks may also be carried out through on-the-spot checks and at the official premises of the authority. Such checks shall include an examination of assets and documents stored or safeguarded outside the seat, establishment, branch or domicile of the party. Ordering on-the-spot checks shall not be a condition for exercising the entitlements referred to in this paragraph.

(6) On-the-spot EAGF subsequent checks may be carried out at the premises of the party subject to checks during the hours when his activity is conducted (during office hours), and at other persons' premises during the day, between 8:00 a.m. and 8:00 p.m., unless successful performance of the subsequent checks makes it necessary to choose another time.

(7) EAGF subsequent checks shall be carried out during office hours at the official premises of the authority.

(8) Where the documents of the party subject to checks are incomplete or not structured, or his records are inaccurate or incomplete, and as such are unsuitable for clarifying the facts of the case, the authority shall, setting an appropriate time limit, call upon the party to duly structure or rectify the documents or the records, or to remedy any deficiencies in respect of them.

78. Conclusion of EAGF subsequent checks

Section 198 [*Conclusion of EAGF subsequent checks*]

(1) Within the period available for the EAGF subsequent checks, the head of the organ carrying out EAGF subsequent checks may order a final hearing to be conducted in the course of preparing the minutes.

(2) Where the communication of the document ordering to a final hearing to be conducted is unsuccessful or the party subject to checks fails to provide an excuse for his absence, the authority shall finalise the minutes. Where such a motion for evidence is submitted by the party at the final hearing which concerns the merits of the findings made in the course of the EAGF subsequent checks, the authority shall continue the EAGF subsequent checks.

(3) The authority shall record in the minutes its findings regarding the fulfilment or infringement of the obligations laid down in the relevant laws, which shall contain

- a) the name of the organ carrying out EAGF subsequent checks,
- b) the reference number of the minutes,
- c) the name, seat, domicile and tax number or tax identification code of the party subject to checks,
- d) reference to the laws serving as the basis for the EAGF subsequent checks,
- e) the start time of the EAGF subsequent checks,
- f) the subject matter of the EAGF subsequent checks, regarding which the checks were targeted,
- g) the EAGF financial period subject to the checks,
- h) the findings made by the auditor, the clarified facts of the case and reference to the laws relevant to it and the evidence substantiating it, the list of evidence proposed by the party and rejected, and the statement of reasons for its rejection,
- i) possible proposals for rectifying any deficiencies revealed,
- j) information on the possibility to make observations and on the time limit applicable to it,
- k) the name and signature of the auditor, the stamp of the organ carrying out EAGF subsequent checks, and the place and date.

(4) Where the facts of the case have been clarified in respect of a part of the activity of the party that was subject to EAGF subsequent checks, partial minutes may be prepared on the basis of the findings of the EAGF subsequent checks. The rules governing the minutes under paragraph (3) shall apply to the partial minutes.

(5) The minutes containing the findings of the EAGF subsequent checks shall be communicated to the party subject to checks. The EAGF subsequent checks shall be concluded upon delivery of the minutes. In the event of communicating the minutes by way of service, the EAGF subsequent checks shall be concluded on the date of posting.

(6) The party subject to checks may make observations on the findings of the minutes of the EAGF subsequent checks, which may be lodged at the organ carrying out EAGF subsequent checks within 15 days of the communication at the latest, beyond which no further observations may be lodged.

(7) The party subject to checks may, orally or in writing, waive his right to make

observations within the time limit for making observations. The waiver expressed orally shall be recorded in the minutes of the EAGF subsequent checks. The statement waiving the right to make observations may not be withdrawn.

Section 199 [*Adjudication of the observations made by the party*]

(1) The organ carrying out EAGF subsequent checks shall be entitled to adjudicate the observations made by the party.

(2) Where it is necessary for the purpose of examining the facts and evidence raised in the observations made by the party subject to checks, the organ carrying out EAGF subsequent checks may, in a procedural decision, order supplementary checks to be carried out.

(3) The period available for carrying out supplementary checks shall be 30 days. Otherwise, the rules governing EAGF subsequent checks shall apply to supplementary checks.

(4) Supplementary minutes shall be prepared on the supplementary checks, to which the rules governing the minutes shall apply, subject to the derogation that the party subject to checks may make observations within 8 days of the minutes of the supplementary checks being communicated at the latest, beyond which no further observations may be lodged. The observations made shall be examined and evaluated by the organ carrying out EAGF subsequent checks.

(5) The authority shall send the minutes of the EAGF subsequent checks or the supplementary checks to the organ for agricultural and rural development support.

79. EAGF oversight checks

Section 200 [*EAGF oversight checks*]

(1) Following EAGF subsequent checks being carried out, the organ of NAV having the relevant functions and powers may conduct EAGF oversight checks

a) upon the instruction of the minister,

b) upon request by the President of the State Audit Office,

c) upon the instruction of the head of NAV,

d) where it becomes aware of such new facts, data or evidence having an impact on establishing regularity which were unknown at the time of the previous EAGF subsequent checks, and the head of NAV orders EAGF oversight checks to be carried out, or

e) upon request by the European Commission or the European Court of Auditors.

(2) In the framework of EAGF oversight checks commenced on the basis of paragraph (1) *c)*, the organ of NAV having the relevant functions and powers shall check the professionalism and legality of the examination carried out previously by the organ carrying out EAGF subsequent checks.

(3) EAGF oversight checks laid down in paragraph (1) *d)* may not be commenced beyond 6 months after becoming aware of the criteria for ordering them.

80. Associated scrutiny

Section 201 [*Associated scrutiny*]

(1) In connection with the EAGF subsequent checks, the authority may carry out checks of persons who are related to the party subject to EAGF subsequent checks, provided that such scrutiny (hereinafter “associated scrutiny”) is necessary to clarify the facts of the case of the subsequent checks completely. It shall be regarded as the same as an associated scrutiny where, for clarifying the facts of the case, it is necessary to know the results of checks in progress at another party or the evidence obtained.

(2) The authority shall inform the party subject to EAGF subsequent checks of the necessity to carry out associated scrutiny.

(3) The authority shall inform the party subject to EAGF subsequent checks of the time of concluding the associated scrutiny.

(4) Where the facts of the case of the main case have been clarified within the scope of the associated scrutiny on the basis of evidence obtained in the course of the associated scrutiny, the EAGF subsequent checks may be concluded irrespective of the conclusion of the associated scrutiny.

(5) The part of the minutes containing the data and evidence obtained in the course of the associated scrutiny and of the data and evidence revealed in the course of the associated scrutiny that concern the party shall be disclosed in detail to the party subject to EAGF subsequent checks.

(6) The time limit for the associated scrutiny shall be 30 days, including the date of commencement and conclusion of the checks.

(7) Otherwise, the rules governing EAGF subsequent checks shall apply to the associated scrutiny.

(8) Where the EAGF subsequent checks are concluded before the conclusion of the associated scrutiny on the basis of the data and evidence obtained in the course of the associated scrutiny then, for the purpose of this section, the date of posting the notification of the availability of the data and evidence obtained or, if postal service is disappplied, the date of its delivery shall be taken as the time of concluding the associated scrutiny.

81. Time limits in EAGF subsequent check procedures

Section 202 [*Time limits in EAGF subsequent check procedures*]

(1) The time limit for the EAGF subsequent checks shall be 120 days, including the dates of commencing and concluding the checks.

(2) Where justified, the head of the organ carrying out EAGF subsequent checks may extend the time limit for the checks once by a period of up to 60 days. Where justified by exceptional circumstances, upon a request from the organ carrying out EAGF subsequent checks, the superior organ may extend the extended time limit for the checks once, by a period of up to 60 days.

(3) The authority may not carry out control acts after the expiry of the time limit for the checks. In the absence of an extension of the time limit for the checks, the EAGF subsequent checks shall be concluded in the manner and within the time limit laid down in this Act.

(4) Where the party obstructs the EAGF subsequent checks by failing to comply with the obligation to appear, by infringing the obligation to cooperate or in another way, the time limit for the EAGF subsequent checks shall be extended by the period of time that the obstacle persists but for no more than 90 days. The authority may continue the EAGF subsequent checks during the persistence of the obstacle. When detecting the obstacle, the authority shall, without delay, oblige the party to eliminate the obstacle.

82. Rights and obligations of the authority in EAGF subsequent check procedures

Section 203 [*Rights and obligations of the authority in EAGF subsequent check procedures*]

(1) Before commencement of the EAGF subsequent checks, the auditor shall prove his identity and his entitlement to carry out the checks by means of a service card and a letter of authorisation.

(2) In the course of the EAGF subsequent checks, the auditor shall exercise his rights in such a way as to limit the economic activity of the party subject to checks to the smallest possible extent.

(3) In the course of the EAGF subsequent checks, the auditor shall evaluate the facts, the

circumstances and the data, and inform the party, his representative and the person authorised by him of his findings made in the course of the EAGF subsequent checks. Where the auditor rejects evidence proposed by the party, he shall provide a statement of the reasons for this; orally preliminarily, then also in writing in the minutes of the EAGF subsequent checks.

(4) The authority shall be entitled to use the data revealed in the course of the EAGF subsequent checks for the purpose of clarifying the facts of the case in the course of the EAGF subsequent checks of another party who was or is directly or indirectly related to the party subject to checks.

(5) The auditor may enter the business, service or other premises of the party subject to checks, examine documents, data-carrying media, objects, work and manufacturing processes, request information and statements, make an inventory, take samples or use any other method of taking evidence.

83. Rights and obligations of the party subject to checks in EAGF subsequent check procedures

Section 204 [*Rights and obligations of the party subject to checks in EAGF subsequent check procedures*]

(1) The party subject to checks shall cooperate with the authority in the course of the EAGF subsequent checks and ensure the conditions for subsequent checks on the occasion of on-the-spot checks.

(2) In the course of the EAGF subsequent checks, the party subject to checks shall, in particular, make available to the auditor the evidence, including, where required by the authority, a certified Hungarian translation thereof, by the time limit specified by the authority and shall ensure access to the facts, circumstances and other conditions necessary for the EAGF subsequent checks, provide information and explanation orally or in writing and grant access to the documentation.

(3) In the event of an infringement of the obligations laid down in paragraph (2), the authority may, in a procedural decision, oblige the party subject to EAGF subsequent checks to fulfil his obligations within a time limit. Where the party subject to checks fails to fulfil his obligations within the time limit, the organ carrying out the subsequent checks shall take action for imposing a fine, or may, simultaneously with imposing the fine, suspend the EAGF subsequent checks and may, at the expense of the party subject to checks, have the records and the accounts prepared by an expert.

(4) The party subject to checks shall be entitled to

- a) confirm the identity and authorisation of the auditor,
- b) be present at the acts of check,
- c) put in place appropriate representation.

(5) The party subject to checks shall have the right to access the files created in the course of the EAGF subsequent checks

(6) The party subject to checks shall have the right to request information in connection with the findings, make observations on them and make motions to produce evidence.

(7) In the course of the EAGF subsequent checks, the party subject to checks shall, upon a request from the authority, make a statement on the completeness of the data provided and the documentation made available.

84. Regarding Article 83 of Regulation (EU) No 1306/2013 of the European Parliament and of the Council

Section 205 [*Implementation of Article 83 of Regulation (EU) No 1306/2013 of the European Parliament and of the Council*]

(1) Where the authority seeks assistance from a foreign authority in order to clarify the facts of the case, the head of the organ carrying out EAGF subsequent checks may extend the time limit for the checks once, by a period of up to 180 days.

(2) In the subject matter covered by the request for assistance, the authority shall notify the party of the request for assistance from the foreign authority and of the arrival of the answer of the foreign authority to the organ carrying out EAGF subsequent checks within 5 days.

(3) Where the foreign authority does not answer within the time limit for the checks, the EAGF subsequent checks shall be concluded, even in respect of the subject matter covered by the request for assistance; and, in the event of the arrival of the answer from the foreign authority in the subject matter covered by the request for assistance after the conclusion of the EAGF subsequent checks, repeated checks may, where necessary, be carried out.

85. Fine

Section 206 [Fine]

(1) The proceeding organ shall impose a fine for failure to comply with any obligation under this Chapter and in particular with the following:

- a) obligation to hand over documentation, books, records and other documents, data-carrying media and other physical evidence,
- b) obligation specified in the call made by the authority to structure or rectify the documents or the records that are unsuitable for clarifying the facts of the case, or to remedy any deficiencies in respect of them,
- c) obligation to hand over a certified Hungarian translation of a foreign language document,
- d) obligation to provide information or make a statement,
- e) obligation to comply with the duty to provide true and reliable, authentic, transparent, accurate, complete data, and by the specific time limit,
- f) obligation to ensure an examination of the documents, data-carrying media, objects, work and manufacturing processes of the party subject to checks,
- g) obligation to ensure an examination of the business, operating or other premises of the party subject to checks,
- h) obligation to ensure the possibility to make an inventory or to take samples,
- i) obligation to ensure the conditions of other controls carried out by the authority on the basis of authorisation by law, and
- j) obligation providing for cooperation in the event of obstruction of the checks with the authority carrying out checks.

(2) The amount of the fine shall be at least HUF 50 000 in respect of natural persons, and at least HUF 100 000 in respect of all other persons, irrespective of the nature of the infringement, the number of transactions subject to checks and the amount of support used.

(3) The amount of the fine that may be imposed shall range to a maximum of HUF 1 million in respect of natural persons, and to a maximum of HUF 5 million in respect of all other persons. When imposing a fine, the authority shall, in accordance with the principle of graduation, assess all circumstances of the case, the gravity and frequency of the unlawful conduct (activity or omission) of the party, his acting representative, employee, member or agent, and whether the party, his acting representative, employee, member or agent acted with circumspection which can be expected under the circumstances.

(4) A fine may be imposed repeatedly in the course of a single procedure for repeated failure to comply with the same obligation or for failure to comply with another obligation.

(5) In the event of belated payment of the fine, a default surcharge at an amount corresponding to the central bank base rate for the time of charging divided by 365 for every calendar day of the delay shall be charged.

(6) In the event of failure to pay the fine laid down in this Chapter, it shall be enforced as taxes. The national tax and customs authority shall be entitled to carry out the enforcement procedure. The provisions of the Act on enforcement procedures applied by the tax authority shall apply to the enforcement procedure.

PART FOUR

CUSTOMS ADVISOR AND CUSTOMS AGENT

CHAPTER XXXIII

86. Customs advisor

Section 207 [*Customs advisor*]

(1) Any person intending to engage in customs advisory activities shall notify the organisation administering the register of customs advisors of this intention in accordance with the Act on the general rules on taking up and pursuit of service activities (hereinafter “Act on services”).

(2) On the basis of the notification, a natural person without a criminal record shall be entered in the register of customs advisors who

a) has a tax identification code (tax number for private entrepreneurs),

b) holds an academic degree (in law, economics or administration management) from a university or other higher educational institution, or a specialised bachelor's degree or master's degree (in a faculty pertaining to a field of training in law and administration or economic science),

c) declares that he complies with the criterion laid down in Article 39(a) of the Code, and

d) proves his professional qualifications in customs referred to in Article 39(d) of the Code by the certificate of the official exam for customs experts under section 83 (3).

(3) In the event of non-compliance with the criterion laid down in paragraph (2) *b)*, registration may be carried out where the applicant has 10 years' practical expertise in the customs professions. Section 83 (2) shall apply to proving practical expertise in the customs profession.

(4) A legal person or another organisation which is not a legal person may, after the notification under paragraph (1), engage in customs advisory activities where

a) at least one of its members or employees or permanent representatives is registered in the register of customs advisors, and

b) it complies with the criterion laid down in Article 39(a) of the Code.

(5) A service provider natural person who is entitled to provide service under the Act on services shall, also taking into account the provisions of the Act on the recognition of foreign certificates and degrees, notify the organisation administering the register of these service providers of his intention to provide customs advisory or customs agent services in the territory of Hungary in the framework of a transnational provision of services. The organisation administering the register shall register the person sending the notification entitled to provide customs advisory or customs agent services in the framework of a transnational provision of services, in the course of which it shall accept

a) for the purpose of fulfilling the criterion laid down in paragraph (2) *a)*, the Community tax number issued by the Member State of establishment instead of the Hungarian tax number,

b) for the purpose of fulfilling the criterion laid down in paragraph (2) *b)*, the proof corresponding to the provisions of the Act on the recognition of foreign certificates and degrees,

c) for the purpose of fulfilling the criterion laid down in paragraph (2) *c)*, an authorised

economic operator authorisation issued by the Member State of establishment, or a proof of compliance with the criterion laid down in Article 39(a) of the Code issued by the customs authority of the place of establishment,

d) for the purpose of fulfilling the criterion laid down in paragraph (2) *d)*, a proof of completion of the training under Article 27(1)(b) of the IA in accordance with the provisions of the Act on the recognition of foreign certificates and degrees.

(6) A service provider organisation having the freedom to provide services under the Act on services may provide customs advisory or customs agent services in the framework of a transnational provision of customs advisory or customs agent services where a member or employee entrusted with management and direction of the task complied with his obligation to send the notification referred to in paragraph (5).

(7) In respect of transnational provision of services, the organisation administering the register shall establish the temporary and occasional nature on a case-by-case basis, taking the duration, frequency, regularity and continuity of the service into account.

(8) The notifications referred to in paragraph (1) and (5) shall be sent to the organisation administering the register at the address specified in the information published on the single Government Website.

Section 208 [*Register of customs advisors and notification for the purpose of registration*]

(1) It shall be required to keep a register of the persons sending the notification and entitled to provide customs advisors services. The purpose of keeping the register shall be to credibly document that the natural person entitled to engage in customs advisory activities sent a notification referred to in section 207 (1) and has the knowledge and professional practice required by law for engaging in those activities. The publication of the publicly available data of the registered natural persons and any changes thereto serves the purposes of creating the possibility for controls and of timely information.

(2) The register of customs advisors shall qualify as a publicly certified official register, except for data deemed, as part of another register, publicly certified under law.

(3) The notification for the purpose of registration in the register of customs advisors may be sent to the organisation administering the register.

(4) The provisions of the Act on the Code of General Administrative Procedure shall apply to the procedure of the organisation administering the register and to issues not regulated in this Chapter.

(5) The register of customs advisors shall, in addition to the data specified in the Act on services, contain the following data of the natural person and the following facts:

- a)* the main personal identification data,
- b)* the address, correspondence address,
- c)* the phone number, electronic contact details,
- d)* the number and the date of issue of the customs advisor's card,
- e)* the number of the diploma proving a professional qualification, the name of the issuing institution and the date of issue,
- f)* the description of other professional qualifications, number of the diploma or certificate proving such qualifications, the name of the issuing institution and the date of issue,
- g)* any state-approved language certificate, type and degree of language proficiency examination.

(6) The name, correspondence address, customs advisor's card number and, subject to his consent, other registered data of the registered customs advisor shall be publicly available. The organisation administering the register shall, for each year by 31 March following the current year, publish the publicly available data of customs advisors registered during the current year and any changes to their publicly available registered data on the Government

Website, and shall publish the publicly available data of all registered persons on the Government Website.

(7) The organisation administering the register of customs advisors shall issue a card *ex officio* within 30 days of the registration. The customs advisor shall, without delay, notify the organisation administering the register in writing of any change to the conditions of the registration.

(8) The natural person registered in the register of customs advisors shall undergo further professional training, the proof of having passed that shall be submitted to the organisation administering the register within 30 days of the end of the period of further training.

(9) The person sending the notification shall notify the organisation administering the register of any change in his data referred to in paragraph (5) a) to c) within 30 days of the change, accompanied by the document proving the change in the data and, where the change concerns the data indicated in the customs advisor's card, also the card. After having recorded the changes in the data, the organisation administering the register shall, without delay, destroy the customs advisor's card sent in. Where the organisation administering the register becomes aware of a failure to notify the change in the data within 30 days, it shall call upon the registered person to send the omitted notification of the change in the data; the registered person shall have 8 days from receiving the call to comply.

(10) Where the customs advisor's card has been lost, destroyed or, due to a crime or an infraction, left the possession of the registered person, the registered person shall notify this fact within 8 days. In this case, the previously issued card shall become invalid upon the notification, and the organisation administering the register shall publish this fact on the Government Website.

(11) The person sending the notification referred to in paragraphs (9) and (10) may, simultaneously with the notification, lodge his application for the card to be replaced.

Section 209 [*Prohibition of customs advisory activities and de-registration from the register*]

(1) The organisation administering the register shall prohibit the natural person from engaging in customs advisory activities

- a) who communicated untrue data in the course of providing data related to the register,
- b) in respect of whom the conditions for registration are no longer fulfilled, and the person sending the notification does not remedy any deficiencies in respect of compliance with the conditions within the time limit set by the organisation administering the register for notification of any changes in compliance with the conditions without delay in accordance with section 208 (7),
- c) who commits, under section 82 (2) or (3), a repeated or serious infringement of his obligations laid down in the customs legislation and taxation rules,
- d) who does not comply with his obligations to undergo further training and to send the notification under section 208 (8) within the specific time limit,
- e) who did not notify the change in his data within the time limit specified in the call for remedy of deficiencies under section 208 (9), or who does not send the notification under section 208 (10),
- f) who was convicted of a criminal offence by a final and binding judgment of the court, and has not been relieved of the disadvantageous legal consequences of having a criminal record,
- g) who is subject to prohibition from practising a profession which excludes engaging in the activities under the card,
- h) who was placed under custodianship affecting capacity to act by a final and binding judgment of the court.

(2) A natural person shall be de-registered from the register of customs advisors

a) who the organisation administering the register prohibited from engaging in customs advisor activities in accordance with paragraph (1),

b) who has applied for de-registration from the register, or

c) who died.

(3) In the event of de-registration from the register, the registered person, the person entitled to act in his representation or the heir shall send the customs advisor's card issued in accordance with section 208 (7) to the organisation administering the register upon lodging the application for withdrawal, upon sending the notification referred to in section 208 (9) and (10) or upon sending the notification of the occurrence of the circumstance giving rise to de-registration referred to in paragraph (1) *f)* to *h)*.

(4) In the event of de-registration from the register, the customs advisor may not accept a new assignment for customs representation, but he shall decisively resolve all his pending customs clearances and the matters related to them within the required time, but no later than within 30 days.

(5) A natural person who has been de-registered from the register

a) in accordance with paragraph (1) *a)* to *e)* may, after the withdrawal,

b) in accordance with paragraph (1) *f)* may, after having been relieved of the disadvantageous legal consequences of having a criminal record,

c) in accordance with paragraph (1) *g)* may, after the prohibition which excluded engaging in the activities under the specific card loses effect,

d) in accordance with paragraph (1) *h)* may, after the termination of the placement under custodianship

again notify his intention to engage in the activities and simultaneously apply for repeated registration in the register, provided that he has complied with his obligation to undergo further training under section 208 (8) for the further training period preceding the withdrawal.

(6) An administrative service fee at an amount specified by law shall be paid for the procedure related to the notification, registration, de-registration, replacement or exchange of the official verification card, amendment of the data kept in the register and the notification of the commencement of and engagement in activities in the framework of a transnational provision of services, and for adjudication of applications for credit point classification of organisations applying for organising and carrying out further training programmes, and for adjudication of applications for credit point classification of customs professional publications.

Section 210 [*Legal effects of the customs advisor's card*]

(1) The customs authority shall accept the customs advisor's card as a proof of the recorded data and rights for the purpose of the customs administration procedure. Where, in the course of the procedure, the customs authority reveals evidence regarding the invalidity of the card or giving rise to de-registration, it shall seek assistance from the organisation administering the register.

(2) Until proven to the contrary, on the basis of the authenticity of the register of customs advisors, the good faith of a person who, relying on the data in such a register, acquires a right shall be presumed. Until proven to the contrary, the data recorded in this register shall be presumed to exist whereas data deleted from this register shall be presumed not to exist. No one may plead ignorance of data recorded in this register unless where data recorded in this register constitute personal data or a secret protected by an Act and the conditions of access to them as specified in an Act are not fulfilled.

CHAPTER XXXIV

87. Customs agent

Section 211 [*Customs agent*]

(1) Any person intending to engage in customs agent activities shall notify the organisation administering the register of customs agents of this intention in accordance with the Act on services.

(2) On the basis of the notification, a natural person without a criminal record shall be registered in the register of customs agents who

a) has a tax identification code (tax number for private entrepreneurs),

b) proves practical standards of competence or professional qualifications referred to in Article 39(d) of the Code.

(3) Fulfilment of the criterion of expertise in customs referred to in paragraph (2) *b)* by way of practical standards of competence shall be examined in respect of the period of a minimum 3 years before the submission of the application for registration, which period may nevertheless not start before 1 May 2004, and section 83 (2) shall apply to proving the practical standards of competence. Fulfilment of the criterion of expertise in customs referred to in paragraph (2) *b)* by way of official training and an official exam for customs experts referred to in section 83 (3) shall be proved by the certificate of the official exam.

(4) A legal person or another organisation which is not a legal person may engage in customs agent activities where at least one of its members, employees or permanent representatives is registered in the register of customs agents, and where his engagement in customs agent activities at the border post does not disturb cross-border traffic.

(5) The organisation administering the register shall issue a card *ex officio* within 30 days of the registration.

(6) Section 207 (5) to (8) and sections 208 to 210 shall apply to the register of customs agents, their registration, to the obligation to undergo further training and to send the notification, the content of the register of customs agents and de-registration from the register of customs agents.

PART FIVE

FINAL PROVISIONS

CHAPTER XXXV

88. Authorising provisions

Section 212 [*Authorising provisions to the Government*]

The Government shall be authorised to determine in a decree

a) the seat and territorial competence of customs offices in the territory of Hungary,

b) the customs organ authorising, in terms of customs control aspects, the establishment of a transit area,

c) the customs organ designated to carry out EAGF oversight checks,

d) the implementation of registration and de-registration in the register of customs advisors and customs agents, the rules on administering the register, the amount of administrative service fee payable for the procedure, the detailed rules on compulsory further training of registered persons, on the credit point classification procedure and on the administrative service fee payable for the procedure.

Section 213 [*Authorising provisions to the ministers*]

(1) The minister shall be authorised to determine in a decree

1. the detailed rules applicable in the event of a failure of the computerised system of the economic operator,

2. the rules on binding information,

3. the criteria for proving the practical standards of competence required for the authorised economic operator authorisation,
4. the detailed rules on charges and costs,
5. the detailed rules on tariff classification of goods,
6. the detailed rules on origin of goods,
7. the detailed rules on unique identification of a cash deposit as a customs guarantee,
8. the detailed rules on payment in instalments,
9. the detailed rules on charging credit interest,
10. the rules on identification of payment and settlement of overpayment,
11. the rules on lodging an entry summary declaration, exit summary declaration and re-export notification,
12. the specimen of the forms to be used in the course of post-release procedures and the guidelines for filling in them,
13. the conditions for filling in and submitting the single administrative document by means other than on a form,
14. the detailed rules on the use and the specimen of the customs docket to be issued against payment of a customs debt on import or export incurred for goods declared orally,
15. the rules related to the tax declaration,
16. the detailed rules on customs warehouses, establishment and operation of free zones,
17. the detailed rules on export refunds,
18. the scope of the particulars contained in the guarantee report to be sent by the operator of the temporary storage facility,
19. the detailed rules on the implementation of the customs procedure with relief from customs duties,
- 20.
21. the detailed rules on the official training and official exam for customs experts, and the rules on the procedure for the registration of training organisations carrying out official training procedures for customs experts, and of examiners who may be employed under an agency contract for carrying out official exam procedures, and the rules on the amount and the payment of the fee of the official exam and the exam board.

(2) The minister shall be authorised to determine in a decree, in agreement with the minister responsible for defence

a) the special provisions on the customs procedure applicable to military troop and goods movements,

b) the scope, use and the procedural rules on issuing NATO documents to be used in the course of the customs procedure.

(3) The minister responsible for foreign policy shall be authorised to determine in a decree, in agreement with the minister, the composition and the rules of procedure of the Customs Tariff Committee.

CHAPTER XXXVI

89. Provisions on entry into force

Section 214 [*Provisions on entry into force*]

(1) This Act shall enter into force on 1 January 2018, except as provided for in paragraphs (2) to (5).

(2) Section 217 (4) shall enter into force on 25 May 2018.

(3) Section 217 (5) shall enter into force on 30 June 2018.

(4) Section 212 *d)* shall enter into force on 1 July 2018.

(5) Section 34 (4) to (7) and section 186 (3) shall enter into force on 1 May 2019.

CHAPTER XXXVII

90. Transitional provisions

Section 215 [Transitional provisions]

(1) The provisions of this Act shall apply to procedures commenced after 1 January 2018.

(2) Procedures commenced before 1 January 2018 shall be carried out in accordance with the substantive and procedural law in force at the time of commencement of the procedure.

(3) A customs procedure in respect of which subsequent controls under section 7/C (1) *b*) or *c*) of Act CXXXVI of 2003 on the implementation of the community customs legislation gave rise to a customs procedure discharged with controls, or a period discharged with controls before 1 May 2016, may be subject to post-release controls or oversight controls commenced after 1 January 2018.

(4) The provisions on the authorised economic operator authorisation shall, except for the criteria for granting the authorisation, also apply to the authorised economic operators' certificates in effect at the time of the entry into force of this Act.

(5) As from 1 January 2018, the criterion regarding training laid down in Article 39(d) of the Code and referred to in Article 27(1)(b) of the IA shall be deemed to be fulfilled where the applicant proves that he undergoes official training for customs experts referred to in section 83 (3). Where, upon adjudicating the application for granting the authorisation or re-assessment of the authorisation, the time of the first official training for customs experts has not yet been published on the website of the ministry, the obligation to prove undergoing official training for customs experts shall become due on the 5th day following the publication of the time of the first training. The holder of the authorisation shall, without delay, prove that he has acquired professional qualifications by lodging the certificate of the official exam for customs experts to the customs authority. In the event of failure to acquire professional qualifications, the authorisation shall terminate retroactively to the date of granting the authorisation.

(6) Customs agent authorisations granted prior to entry into force of this Act shall remain valid until they are reassessed, but they may only be entered in the register in accordance with section 211 (2) after their reassessment.

(7) The provisions of this Act shall apply to applications for entry in the register of customs advisors or customs agents submitted to the customs authority and not processed before 1 January 2018.

(8) Where Commission Delegated Regulation (EU) 2016/341 provides for examining whether any serious infringement or repeated infringements of customs legislation or taxation rules have been committed, section 82 (2) and (3) shall also apply.

(9) In order to meet the objectives laid down in the customs legislation, the customs authority shall operate such a control system for the guarantees accepted by it until the date of deployment of the UCC Guarantee Management (GUM) system, which manages the process of provision and release of guarantees, referred to in Article 147 of the IA.

(10) Where, during the transitional period until 30 April 2019, a supplement or amendment is applied for in respect of authorisations remaining valid on the grounds of Article 251 of the DA and, following examination of the content of the supplement or amendment, the customs authority establishes that granting the application constitutes a significant amendment in respect of the whole activity covered by the authorisation, it shall, taking Article 345 of the IA into account, reassess authorisations which do not have a limited period of validity, while it shall reject the application in respect of authorisations having a limited period of validity.

(11) It shall constitute a significant amendment, as referred to in paragraph (10), where

- a) the person of the holder of the authorisation is changed in such a way that involves assigning an EORI number,
- b) granting the application requires disproportionately burdensome administrative measures from the customs authority,
- c) granting the application for supplement or amendment requires a full review of customs supervision in respect of the specific customs procedure or operation, or
- d) examination of the economic conditions referred to in Article 211(6) of the Code is required.

(12) Where, during the transitional period referred to in paragraph (10), application for extending the period of validity of authorisations having a limited period of validity is submitted, the customs authority shall reject the application having regard to Article 251(1)(a) of the DA.

(13) Bank guarantees and acknowledgements of obligation by insurance companies issued before the entry into force of Subtitles 26 and 26/A of Act XIII of 2016 on the implementation of the Union customs legislation shall remain valid until their expiry or revocation, or 30 April 2019, whichever is the earlier. Where the specific goods are in temporary storage or under a customs procedure on the basis of these guarantees after 30 April 2019, the person required to provide a guarantee shall be obliged to provide a new guarantee in accordance with this Act.

(14) The provisions in force at the commencement of the relevant procedure shall apply to the administrative fines imposed in customs administrative cases commenced before the entry into force of the Act XLI of 2018 amending certain tax laws and other related Acts and on a special immigration tax and to requests for subsequent verification of origin.

CHAPTER XXXVIII

91. Compliance with the law of the European Union

Section 216 [*Compliance with the law of the European Union*]

(1) This Act contains provisions for the implementation of the following acts of the European Union:

1. Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code,
2. Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty,
3. Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code,
4. Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code,
5. Commission Delegated Regulation (EU) 2016/341 of 17 December 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards transitional rules for certain provisions of the Union Customs Code where the relevant electronic systems are not yet operational and amending Delegated Regulation (EU) 2015/2446,
6. Chapter III of Title V of Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008.

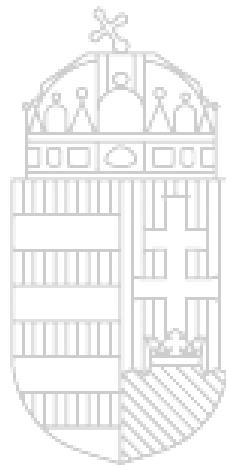
(2) Section 34 and Part Four serves the purpose of compliance with Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market.

CHAPTER XXXIX

92. Amending and repealing provisions

Section 217 *[Amending and repealing provisions]*

- (1) to (3)
- (4)
- (5)



MINISTRY OF JUSTICE
HUNGARY