

REGULATIONS ON EXECUTING AUTHORITY DECISIONS IN HUNGARY FROM WORLD WAR II TO THE CHANGE IN THE POLITICAL REGIME IN 1990*

ISTVÁN TURKOVICS

Senior lecturer, Department of Administrative Law

University of Miskolc

jogturko@uni-miskolc.hu

1. From World War II to the first Code of Procedures

During the times of World War II, legislations adopted in the era of pre-world war Hungary were effective with respect to administrative authority proceedings, except for extraordinary rules of law. There was no law regulating administrative authority proceedings in a general and complex manner, and the provisions of Act XXX of 1929 were applied as effective. Legislative development appeared to be halted in this area. However, this issue had a practical reason, because 1929 was the year marked as the year of the Great Depression, a global economic crisis, causing particularly severe consequences in Hungary. In this situation, it is not surprising that legislators were not very attentive to the issue of progressively regulating administrative authority proceedings. As a result of the Depression, changes were introduced with respect to authority proceeding regulations,¹ but the primary aim of such changes was not to develop the proceeding in legal terms, but to make public administration affairs cheaper.² Subsequently, upon Hungary barely having made its way out of the crisis and managing the crisis consequences, Europe already was getting close to the brink of World War II. Accordingly, the development of authority proceedings was hindered by new social, political and economic obstacles. In the course of the development of law, development had always gained momentum when a certain extent of stability could be witnessed in terms of the conditions influencing legislative procedures. It is an obvious reasoning that the attentions of legislators always focus on issues that have the

* “The work was created in commission of the National University of Public Service under the priority project KÖFOP-2.1.2-VEKOP-15-2016-00001 titled *Public Service Development Establishing Good Governance* in (the) *István Eged Postdoctoral Program*”.

¹ Act XVI of 1933, on the Amendment and Supplementation of Act XXX of 1929 on the Management of Public Administration.

² Corpus Iuris Hungarici, from the Ministerial justification of Act XVI: “The current status of the country cannot bear the costs of the current system; all our procedures and procedural systems must be simplified and made as cheap as possible.”

most definitive impacts on government operations and on the given society. After World War II, it became apparent – as a result of processes taking place in world politics – that the Hungarian government and social affairs would face a long, peaceful period, at least peaceful enough for the issue of regulating authority proceedings to be discussed. Even during the years following the war, it was still the provisions of the Act adopted in 1929 applicable on procedural affairs. Accordingly, there was no legislation that would provide regulations on each and every phase of administrative authority proceedings, providing regulations over such matters in a general way. However, significant changes took place in terms of academic legal theory experts, as – primarily due to the academic standpoint represented by Zoltán Magyary³ – the long-lasting belief, according to which administrative authority proceedings could not be regulated in a comprehensive manner, seemed to come to an end.⁴ As a result of this change of perspective, several attempts were made on the regulation of public administration proceedings; the first person to prepare a bill in the subject was József Valló, in 1937.⁵ In the course of preparing the bill, Valló took into consideration the rules of proceedings in civil procedural law, the Austrian administrative procedural law, as well as those of certain special proceedings. Later, in 1939, it was Jenő Szitás⁶ who prepared a bill, a simpler and shorter one than Valló's version, but more framework-like in its nature⁷. Subsequently, it was József Valló again who was asked to prepare the legislation in 1942. Nevertheless, none of these bills would ever become effective, because none of them were adopted by the national Parliament. The adverse fate of the above described bills was greatly influenced by the political situation of the country, as, apparently, they were actually made during the time of World War II. It is a rather unfortunate issue, as these bills, particularly Valló's 1937 draft could be considered as quite progressive works facilitating the development of law.

Furthermore, regulatory experiences also created favourable conditions for establishing general norms, as the system applied at that period stood the test of time, and, even if only partially, it could be considered as a basis. Regarding administrative proceedings, international legal developments were also significant further to Hungarian development. In Austria, the first act regulating public administration proceedings was adopted in 1925⁸. The best way to highlight its

³ “Magyary believed that both the legality and the effectiveness of public administration is, in a small extent, dependent on the unified (as possible), complex regulation of proceedings.” In: BERÉNYI–MARTONYI–SZAMEL, *Magyar államigazgatási jog* (Hungarian Administrative Law). General part, Tankönyvkiadó, Budapest, 1980, 363.

⁴ CONCHA Győző: *Politika* (Politics). Volume II, *Közigazgatástan* (Economics). Budapest, 1905, 105.

⁵ VALLÓ József: *Közigazgatási eljárás*. Budapest, 1937, 34.

⁶ SZITÁS Jenő: *Közigazgatási eljárás* (Administrative proceeding). *A korszerű közszoigazgatás útja*, 9. sz., Budapest, 1939.

⁷ BERÉNYI–MARTONYI–SZAMEL: *Magyar államigazgatási jog* (Hungarian Administrative Law). General part, Tankönyvkiadó, Budapest, 1980, 363.

⁸ *Verwaltungsverfahrensgesetz*

significance to state that Czechoslovakia⁹, Poland¹⁰, and Yugoslavia¹¹ all took over the Austrian law, naturally with some amendments here and there.¹² The development was rather slowly in Western European countries. There were some attempts for regulation in the provinces of Germany; Thuringia issued an act on the subject in 1926, Wurttemberg prepared a draft for the bill in 1931, but no unified German regulations could be adopted. In such a favourable situation, Hungarian law development was well supported, which resulted in practical results. After the War, several legislations were adopted in relation to administrative proceedings, which repealed different, still effective provisions of the Act XXX of 1929¹³. The first of such provisions was the Act I of 1950, the so-called Council Act, which mainly included regulations on legal remedies.¹⁴ Subsequently, the so-called Appeal Act was adopted in 1954, which had a similar effect on the procedural law of 1929.¹⁵ Further to legislations, certain procedural issues were regulated in a government level, in forms of decrees.¹⁶ However, the real breakthrough was the Act IV of 1957 on the General Rules of Administrative Proceedings becoming effective. This Act provided overall regulations over administrative proceedings,

⁹ Government Decree of 13 January 1928.

¹⁰ Act of 22 March 1928.

¹¹ Act of 9 November 1930.

¹² VALLÓ József: *Közigazgatási eljárás* (Administrative proceeding). Budapest, 1937, Foreword.

¹³ Naturally, together with its 1933 amendments.

¹⁴ Act I of 1950, Section 53 (1): *Regarding a first degree order made by an executive authority regarding local administrative issues, a first degree legal remedy shall be applicable.*
(2) *Regarding remedies, in line with their classifications, decisions shall be made by the local council or a superior executive authority, whereas remedies with respect to first degree orders of county executive authorities shall be judged by the given county council or the competent Minister.*

(3) *It is the decision of the Cabinet which listed body would judge a remedy of a particular case.*

Section 27: *The tasks of the local council shall be, in particular, the elimination and modification of provisions or orders of lower class councils in cases specified under Section 14 (Section 55), Section 55 (1) The Presidential Council of the People's Republic of Hungary, or the Cabinet may eliminate or modify any resolution, order or measure made or taken by local councils, which would be deemed unconstitutional or would be against the interests of the people.*

¹⁵ Act I of 1954 – On Managing reports of the population, Section 1 (1): *The leaders of administrative bodies, local government bodies and economic bodies (hereinafter: bodies) shall be personally responsible for ensuring that the bodies led by them as well as the bodies under their control would deal with reports of the population in a permanent manner and they shall ensure the regular supervision of such actions.*

(2) *The leaders of bodies shall ensure that each report would be immediately and thoroughly examined, the necessary measures would be taken as the result of evaluation processes and the execution of such measures would be carried out in a complete manner.*

¹⁶ Cabinet Decree 43/1955 (VIII. 20.) MT has such an effect, regulating the simplification of delivering official documents, Section 1. *In all cases when official documents are required to be delivered to parties affected in administrative and judicial matters, such delivery – except for cases stipulated in Section 11 – shall be ensured by means of regular post.,* or Cabinet Decree 46/1951 (II. 16.) MT, regulating the summoning rights of council executive authorities: Section 2. *Subpoenas shall be issued in written form and shall include the legal consequences of non-attendance. Subpoenas shall be signed by the chairman or vice chairman of the given executive authority, the head or deputy head of the executive authority department.*

which was unprecedented in the former Hungarian legislations. Accordingly, the first administrative Code of Procedures became effective.

2. The social and economic situation in Hungary at the time of the Code becoming effective

Before presenting the respective regulations on the execution of legislations, we need to analyse the changes taking place in the society, and even more importantly, in economics. The establishment of a one-party system resulted in such social and economic changes that were unprecedented before in the history of Hungary, at least in such long-term manner. As a result of nationalization, state ownership became dominant in economic affairs. Achieving the elimination of unemployment was set as a political and economic goal, and, as a result, a seemingly existentially firm social layer was established. Such issues need to be pointed out because they had direct, significant effects on the effectiveness of administrative proceedings, especially regarding to the execution of orders. The effectiveness of execution was largely influenced by financial circumstances, due to the fact that the decisions enforceable by administrative bodies are usually of financial nature. Typically, orders to be executed originate from failures to fulfil payment liabilities, which may be public charges or imposed fines. In case liabilities to be collected are generated as a result of failing to carry out an action, they result in financial obligations by the end of the execution procedure, which then results in the execution of collecting the financial obligation in case such fulfilment is not voluntarily ensured. If an authority orders the demolition of a building, and the owner of the building fails to follow this order, and if the building needs demolishing without delay, and its performance is of particular significance, another party must carry out the demolition in place of the obligated party. Obviously, this process entails costs, which are to be borne by the obligated party. In summary, it can be stated that there are two risk factors characteristic to the financial side of executing decisions. One risk is when execution is initiated in relation to a significant extent of financial liability that should be settled by the obligated party. In such cases, the obligated party is usually a major economic operator, as an average customer from an economic perspective usually cannot generate liabilities of such magnitude. In almost all cases, larger financial obligations are generated in the economic sector. In the discussed period, practically all the major economic operators were in state ownership, and, moreover, they were operating under strict centralised control.¹⁷ This economic environment practically resulted in the non-existence of the above described risk. The other risk factor is poverty. Without the need for detailed explanation, it is quite apparent that people with very little belongings would not be capable of fulfilling their financial obligations, and it is doubtful that collecting such

¹⁷ Act II of 1952 on State Control: This legislation stipulated the establishment of the State Control Centre (Állami Ellenőrző Központ – ÁEK), which practically controlled the complete financial aspects of state economic operators. Section 2 of this Act specified the tasks of ÁEK.

obligations would be successful regarding such people, as there are actually no assets to be collected. This statement is true even if the fact is considered that customers in such financial statuses would typically be incapable of generating significant financial obligations. As the initiative to eliminate unemployment resulted in everyone having an income, this risk factor was only slightly present as well. It can be concluded that the established conditions could be considered ideal in terms of the codification of execution regulations.

3. Execution rules in the Code of Procedures

Prior to the preparation of the Code, a principal issue to be considered – which still comes up time after time – is to state the starting and ending point as well as the phases of an administrative authority proceeding. Regarding this issue, the legislators of the given era had various standpoints. According to one of the standpoints, an administrative proceeding ends upon the issuance of a legally binding decision closing the proceeding. Accordingly, administrative authority procedures include only the basic proceeding and the remedy proceeding. The executive procedure was considered as an independent administrative procedure. According to another standpoint, execution, being the practical guarantee of validating the decision made, must be the part of the whole proceeding.¹⁸ In terms of choosing one of the above solutions, the determination of the definition of administrative authority proceedings may provide guidance. According to the concepts applied at that time, administrative procedures are required to be defined in their stricter and broader senses as well. In a stricter sense, “an administrative proceeding is the system of actions taken by administrative bodies, carried out for and during the issuance and execution of normative or specific acts”.¹⁹ However, in a broader sense, “an administrative proceeding covers all the means of actions carried out by administrative bodies”.²⁰ Apparently, it is clear that the administrative authority proceeding is included in the stricter interpretation of administrative procedures. However, it cannot be fully identified with this interpretation, as it also includes, among other issues, the internal executive rules of such bodies. To clarify this issue, the jurisprudence of the given period determined two categories within the stricter definition. One category was the so-called external procedure, including the administrative authority proceeding, where the administrative bodies apply their law enforcement activities externally, i.e. towards the society. The other category was the so-called internal proceeding, including procedures on the activities within the given organisation system.²¹ Understandably, certain phases of such procedures generated heated discussions, as a code of procedures (considered quite novel at that time) for civil proceedings

¹⁸ BERÉNYI–MARTONYI–SZAMEL, op. cit., 359.

¹⁹ BERÉNYI–MARTONYI–SZAMEL, op. cit., 356.

²⁰ BERÉNYI–MARTONYI–SZAMEL, op. cit., 356.

²¹ BERÉNYI–MARTONYI–SZAMEL, op. cit., 356.

already existed, which did not include the execution of court decisions.²² As the laws on civil procedures were more developed than administrative authority proceeding laws, they could point out certain guidelines with respect to the aspect of regulations. A separate legislation regulated the execution of court decisions, giving the power of execution enforcement to a separate body.²³ Civil procedural law and administrative authority proceedings – despite having similarities in certain acts, such as rules on proof or the rules of appealing, etc. – are procedures totally different in nature. Regarding civil proceedings, courts do not carry out the classical activity of enforcing legislations, as the aim of such proceedings is to make decisions on legal disputes. Accordingly, the decision resulting in a legally binding act fulfils its role by merely the fact of having been made. On the other hand, the aim of administrative authority proceedings is to realise a given legislation or a court order – i.e. the acute interpretation of the legislation – which does not fully fulfil its function upon the decision, as the execution of the decision is an integral part of the procedure. According to my viewpoint, which is the same as the point of the currently effective court practices, the execution of a court decision is an executive, regulating activity falling in the category of public administration. Nevertheless, the standpoint stated in the first Code of Procedures declared that the execution of decisions was part of administrative authority proceedings. Accordingly, the three specified phases of such proceedings were the basic procedure, the remedy procedure and the execution.

Regarding the regulation of execution, a set of conditions for enforceability was determined. According to the law, enforceability had two general and one specific conditions. A general condition was to ensure the final nature of the decision, related to the legal institution of appealing by the relevant act. Legislators were able to refer to academic and practical results regarding the issue of final decisions, which was a serious advantage regarding the regulatory process.²⁴ Accordingly, the legislator specified formal *res judicata* as one of the conditions for enforceability in administrative authority proceedings. This, due to the single-level nature of appeal proceedings, resulted in a clear regulatory framework. Another general condition on execution was set out by means of providing the definition of enforceability, which practically meant the failure of voluntary performance regarding the obligated party. The third special condition – more precisely, another set of cases – had to be applied in case execution had to be carried out without delay for any reason whatsoever. Such cases were named as “preliminary enforceability” cases in

²² Act III of 1952 on Civil Procedures, regulating: first degree procedures (Part 2), legal remedies (Part 3), and special proceedings (Part 4).

²³ Decree No 21 of 1955 on Court Decision Execution, Section 17 (1) *Execution is the competence of bailiffs working along local courts (municipal, district courts, hereunder altogether referred to as “local courts”) and county courts (or Budapest Metropolitan Court) (hereunder: bailiffs).* (2) *The executing party is employed by the state.*

²⁴ TOMCSÁNYI Móric: *Jogerő a közigazgatási jogban* [Res judicata in administrative legislations]. Budapest, 1916; BAUMGARTEN Nándor: *Jogerő a közigazgatási eljárásban* [Res judicata in administrative procedures]. Budapest, 1917.

the legislation. However, because this was a touchy procedural law issue in terms of legal certainty, and a guarantee rule, it could only be applied in specific cases. Such cases included life threatening situations or protecting public security. On the other hand, the Code did not exclude the applicability such issues in other cases, but it required the regulation of such cases as subjects to special legislations²⁵. In practice, public security protection was an undefined term requiring interpretation. Nevertheless the applied practices of the given period applied this term in a broad sense and did not narrow it down to the physical well-being of citizens, but also included the categories of threatening health or financial security.

The Code specified the different types of execution – although they were not regulated in a separate manner – as executions on pecuniary claims and executions in forms of specific acts. Such specific acts included the release of movable assets, transferring real properties, or the cessation or tolerance of a kind of conduct. Regarding the subject of executing a failed act, the legislation stipulated the imposing of fines, and it could order the execution of the act by another party in place of the obliged party, or determine a financial equivalent to the transferred movable asset, in case the obligated party requested so, in case the given movable asset was not in the ownership of the liable party. Such means of execution could be used by the given authority in its sole discretion, in consideration of ensuring efficiency. Upon the first reading, the system of potential execution enforcement means may seem to be rather limited according to the legislation stipulations. However, this issue has a rational reason. In the course of a more thorough review, it can be seen that in the execution processes of nearly any cases with failed performance, pecuniary claims will be presented, i.e. such processes refer to collecting money claims, which fall under separate rules. In consideration of the above described social conditions, this system of execution means can be considered as effective, as it provides sufficient guarantee on enforcing the decision. It was a progressive provision, the increased protection of the obligated party.

The legislation ensured that the enforcement of the execution could only be actually applied as “ultima ratio”. For this purpose, the given authority was specified as the party responsible for inducing the given client to fulfil their obligations in a voluntary manner, further to the issues stipulated in the effective decision.²⁶ In practice, this obligation was mostly performed by means of warnings and notifications. Although it was not regulated among the content elements of the legislation, it was clarified in the ministerial justification that the given body is

²⁵ Act IV of 1957, Section 46 *An appeal has a suspensive effect on the execution of the given decision, unless the immediate execution of the decision is deemed necessary due to any danger to human life or to public security, and in case a law, a government decree or a cabinet decree authorises the competent administrative body (acting with respect to the given range of cases) to order the immediate execution of the given decision for significant reasons. The immediate execution of a decision must be clearly stated and properly justified.*

²⁶ Act IV of 1957, Section 73 (3) *Prior to ordering execution, the administrative body must attempt to make the obligated party perform or tolerate the provisions of the given decision.*

obligated to provide notification to the obligated party in the decision generating the obligation about the following: the means of performance, the consequences of non-compliance, as well as the measures applied in the course of execution.²⁷ In general, the law made it possible that the given authority could order the performance to be completed in instalments, although this issue mainly referred to pecuniary claims.²⁸ Furthermore, the given authority was also entitled to change the performance deadline, which also included ordering the extension of the given deadline.²⁹ The power to suspend the execution also served as the protection of the rights of the obligated party, as the aim of such power was to ensure that the execution of the potentially law-infringing decision could not result in such an impairment of the obligated party's rights that could later be remedied in a very difficult way, or not remedied at all. Accordingly, in such cases, the reason for the suspension was the presumption of the infringing nature of the decision. It could also occur that such considerable circumstances with respect to the obligated party – permanent absence, illness – in relation to which the enforcement of the execution would put the obligated party in an unreasonably adverse situation. The legislation also allowed suspension in such cases. It must be noted that the legislators managed to balance out the protection of both counterparties affected in the execution process. The decision was made for the sake of protecting the obligated party could only take place in consideration of the rights of the other party, or other affected parties.³⁰ The legislation introduced a special option of legal remedy in the course of the execution process, under the name of enforcement objection. Typically, enforcement objections were meant to remedy infringements generated in the course of execution and did not affect the decision on which the enforcement was based.³¹

²⁷ Ministerial justification on Act IV of 1957, Section 73: *The basic assumption of the proposal is that execution – as a forcing act – should only be applied in case the obligated party fails to perform the provisions of the order despite being given a notice on the subject. In order to facilitate voluntary performance by the obligated party, the acting body must notify such party of the means of performing the decision, the respective adverse consequences of non-compliance, as well as the available measures in the course of execution.*

²⁸ Act IV of 1957, Section 40. §. *In case the decision contains any obligations, a performance deadline shall be stipulated in terms of days. The decision may also allow performance in instalments.*

²⁹ Act IV of 1957, Section 44 *The performance deadline stipulated in the order may be changed based on a significant reason by the administrative body making the given decision, unless the relevant deadline is stipulated by any legislation.*

³⁰ Act IV of 1957, Section 79 *The given administrative authority or its superior may order the suspension of the execution of the enforceable decision on one occasion, based on the official process or on request, in case the changing or cancellation of the decision can be assumed to take place based on the data available, or such act is justified by circumstances requiring special considerations. Execution cannot be suspended for a period longer than thirty days.*

³¹ Act IV of 1957, Section 78 (2) *People whose rights are infringed by the execution procedure may submit an appeal against such a procedure within three days upon learning about the infringement. The appeal cannot be submitted against the provisions of the decision the execution was based upon.*

4. Legislative background on tax execution

As I have mentioned it before, the regulations on pecuniary claims were practically the rules stipulating tax execution. That is why the provisions of the respective legislations need to be presented in a separate manner. At the time the Code of Procedures became effective, the Government Decree No. 4187/1949 (VIII. 9.) on Collecting Public Taxes was the effective legislation, including the rules of tax debt collection execution in details. Regarding the subject of the decree, the issue of the execution of public administration decisions was clarified, according to which all payment obligations set out by any authority decisions, were considered as public taxes from the perspective of collection.³² The decree determined the means of execution in a detailed way. As a first step, a payment notice was to be applied, which practically demanded the obligated party to settle their debt within a specified term of performance (8 days). In the case if this process was not successful, levying could be applied as the subsequent step. Levying was to be applied with respect to movable assets, although it must be emphasized that the decree did not interpret movable assets in the same way as they are considered according to the currently effective legislations. The movable assets at that time included, without limitation, liquid assets, incomes and other revenues as well.³³ Nevertheless, levying still had the legal effect of a safety measure, as the obligated party was still entitled to lawfully fulfil its liability within 15 days upon the act of levying. The protection of the obligated party was also indicated in the legislation. In light of this aspect, movable assets that could not be collected were defined.³⁴ Accordingly, levying could not be carried out with respect to movable assets classified in such categories. In case levying failed to be successful, – i.e. the obligated party failed to perform their obligation within the subsequent 15 days – the tax debt was the next step and the forced sale of movable assets took place. Such sales consisted of two parts; one was offered for sale and purchase, and the

³² Government Decree No. 4187/1949 (VIII. 9.), Section 1 (2) *The following shall be collected as public taxes and, accordingly, shall be considered as public taxes in terms of collection:*

1. services (claims, compensations, fines, civil fines, etc.) determined in the effective and final a public administration (or guardianship) authorities – or ones that can be executed without any appeal consideration –, in case there is no legislation ordering the execution of the given decision to be enforced by court.

³³ Government Decree No. 4187/1949 (VIII. 9.), Section 12 (1) *The movable assets (claim) regarding the person in arrears need to be taken under collection in the following order: 1. cash, securities, precious assets, 2. pecuniary or other claims; 3. service fee or care allowance, 4. assets not falling under point 1.*

(3) The handling of items, rights or operations that may generate revenues can be taken under collection, in case such an item, right or operation cannot be taken under collection according to the collection regulations of real properties.

³⁴ Government Decree No. 4187/1949 (VIII. 9.), Section 19: “The range of items in this category is quite broad. Practically, the range included working tools used for making a living, or movable assets used for everyday necessities, up to a certain value limit.”

other was auctioned.³⁵ The forfeited items – i.e. forfeited movable assets – were primarily offered to be sold for or purchased by state operating organisations or public institutions; if this was not possible, auctions had to be held for selling the items. In case the auctioning of movable assets was not successful or was only partly successful, the next step was to enforce the collection by means of a mortgage.³⁶ Prior to the enforcement by means of applying mortgage on a real property, the obligated party had the option of offering their property for buying to the state. If they failed to use this option, the collection process began with respect to the real property, primarily the benefits of the given property. In case such collection was not successful within 3 years, the real property was sold by means of auction. In the course of the collection process of pecuniary claims, there was a chance for the suspension of enforcement, thus protecting the interests of the obligated party.³⁷ As means of remedy, the submission of a collection complaint or a debt claim was provided for an obligated party, and also for all parties with infringed rights in the course of the enforcement of the collection. Accordingly, it can be seen that a detailed regulation on collecting pecuniary claims was available at the time of the Code of Procedures becoming effective. However, such norms could only be used in practice with respect to the ongoing cases under the effect of the Code of Procedures, as a Government decree also entered into force as of 1 October 1957, along the Code of Procedures, including regulations on the rules of tax collection.³⁸ This decree specified that public debts were the subjects to the decree, which practically also involved authority decisions determining payment obligations. In this respect, a provision stated that tax collection could only be enforced with respect to debts expressed in a financial sum, or debts the financial equivalents of which were specified. It is an important issue, as the execution of a decision on an act was often converted to a pecuniary claim. The new legislation did not bring any actual novelty in terms of the system of execution means; from a

³⁵ Government Decree No. 4187/1949 (VIII. 9.), Section 23 (2) *Means of selling: 1. to the state, county, town (settlement), the public institutions or plants thereof, industrial directorates, national, state, public companies or bodies carrying out public services based on government contracts; to farming or tenant farming producer collectives, or to small industry production or processing cooperatives (hereunder: acceptors) for purchasing, or hand-over for selling by offer; 2. auction (sell from free ownership).*

³⁶ Government Decree No. 4187/1949 (VIII. 9.), Section 35 *In case collection on movable assets turned out to be unsuccessful, or if the obligated party cannot provide coverage for the debt, but the obligated party has a real property, the given debt can be collected a) by ordering the blocking procedure on the tenancy of the real property; b) by applying mortgage on the real estate.*

³⁷ Government Decree No. 4187/1949 (VIII. 9.), Section 43 *The tax authority shall suspend the collection procedure upon the request of the obligated party; 1. up to the extent of the sum to be cancelled, in case the obligated party request the cancellation or partial cancellation of their debt, based on a legal title that justifies the complete or partial cancellation of the given debt; 2. up to the extent of the variance sum, in case the obligated party credibly certifies, or the tax authority undoubtedly declares, based on the data available, that the obligated party's tax debt shall be significantly lower than that of the previous year.*

³⁸ Government Decree 57/1957 (IX. 6.) on Imposing and Collecting Taxes.

structural point of view, it separately regulated the seizure of movable assets from the seizure of salaries or other revenues, or from the rules on collection of the obligated party's current claims. Accordingly, we can come to a conclusion that the Government Decree No. 4187/1949 (VIII. 9.) functioned as an effective legislation, as the new act did not introduce any material changes.

Regarding the area of tax enforcement, the subsequent change was brought by the Government Decree No. 39/1969 (XI. 25.) on the General rules of tax management and duty-related procedures of the public. This new norm did not cause any changes in the existing system, but it provided a transparent presentation of different means of collection. The applicable means of collection were listed individually, as well as their sequence of governance.³⁹ Legal remedies applicable in the course of the enforcement process were determined, as well as the regulations on limitation, tax relief, and on the cancellation of bad tax debts. In relation to such norms, it can be concluded that it provided sufficient balance in representing the interests of both the obligated party and the claimant – i.e. the state in this case. In public administration matters, the rules of enforcement did not result in any unreasonably radical means of intervention by the body representing the given authority that may have infringed the rights of the obligated party. On the other hand, the obligated party could not be exempted from fulfilling their obligations, except when a sufficient legal reasoning was provided. This balance was well reflected in the rules of cancellation due to irrecoverable (bad) debts. This legal institution could be applied when the collection of a debt was not successful, which was practically the case when the obligated party had no belongings. In such cases, it could be presumed that collection became necessary in the first place due to the adverse proprietary conditions of the obligated party, and not due to the fact that the obligated party willingly avoided the performance of their liabilities. Nevertheless, in case a change took place in the financial situation of the obligated party within the time of limitation that made the performance of the already cancelled debt possible, the tax debt was compulsory to be ordered. In such cases, collection could only be ordered upon the lack of voluntary performance. It is quite apparent that the interests of the claimant party were also vindicated, as the claimant was able to assert its right within the legal framework until the very last time possible. The obligated party was also properly protected against the state powers, as they had sufficient means for legal remedies⁴⁰, and they could also

³⁹ Section 12 (1) *In the framework of tax collection, the following enforcement actions can be implemented: a) enforcement sale, b) enforcement on salaries, other allowances and claims, c) collection of movable assets, d) collection of real property.*

(2) *Enforcement actions shall be carried out in the sequence stipulated under Section (1). If justified by the given circumstances, the implementation of other enforcement actions may be ordered by the leader of the tax authority, at the same time as notification is sent on such enforcement. Further to the actions stipulated under Section b), movable assets or real properties can only be collected in case the collectable salary, allowance or claim does not provide sufficient coverage for settling the public debt within one year.*

⁴⁰ Section 18 *In tax authority procedures, further to remedies provided by the provisions of Act IV of 1957 on the General Rules of Public Administration proceedings, the following remedies shall be*

request application of fairness, if such application was justified by the circumstances of the given party.⁴¹ Also, legal security was expressly present in the norm via the regulation of limitation.⁴²

5. The amendment of the Code of Procedures

In the regulations of administrative authority proceedings, the adoption of Act I of 1981 on Administrative Authority Procedures (AAP Act) amending the Code of Procedures in a general manner can be considered as a significant milestone. This amendment also affected the regulations on enforcement. Prior to the AAP Act, the legislation only included actual references on the rules of tax debt collection. However, the amendment brought changes in this field as well. It extended the rules on pecuniary claims, and in that framework, the regulation of collection by means of the obligated party's salary or any equivalent regular income. The reason for this issue was that the most characteristic source of income in the society of the given period was the work salary, or similar regular revenues, or old age pensions. It also has to be taken into consideration that nearly all the members in the society of that time had some forms of incomes. Accordingly, this form of regulation proved to be sufficient. Accordingly, there were very few collection procedures where collection from a person's income would not be enforceable. In this regard, the procedure was accelerated by the regulation as a result of which the authority ordering the collection no longer had to request the tax authority to enforce the collection, it could implement it itself.⁴³ In case such act turned out to be unsuccessful, the procedure of collecting movable assets or real property could take place, but such procedures were subject to the provisions of tax laws.⁴⁴ Typically, legislation on collecting tax debts regulated the enforcement of the so-called lien. It could take place when the obligated party had some sort of a lawful claim against a

available: tax adjustment, recovery, tax collection objection and disputed claim. The rules on such remedies and the application thereof shall be determined by the Minister of Finance. Rules of such nature were included in Ministry Decree 38/1969 (XII. 29.) PM, providing detailed regulations on tax adjustment, recovery, tax collection objection and disputed claims.

⁴¹ Section 17 (1) *In justified cases, the tax authority may decrease or cancel tax debts based on a fairness application of the taxpayer. In justified cases, the Minister of Finance may authorise or order no to impose the given tax. (2) In extraordinary cases (natural disasters, etc.), the Minister of Finance or the tax authority authorised by the Minister may allow the reduction or cancellation of tax debts registered with respect to a larger layer of taxpayers.*

⁴² Section 15 (1) *The right of collecting tax debts shall expire in five years upon the date of the tax liability becoming effective.*

⁴³ Act IV of 1957, as amended by Act I of 1981, Section 79 (1) *In case a given decision orders the payment of money, and the obligated private person fails to settle such payment, the administrative body acting on the first degree will request the employer of the obligated party (or the organisation granting the given allowance) to deduct the sum indicated in the decision from obligated party's salary, periodic allowance received from cooperatives or other sources, or from revenues, allowances or claims arising from work activities (hereunder: salaries), and to transfer or pay it to the claimant.*

⁴⁴ These regulations were included in Ministry Decree No. 58/1981 (XI. 19.) MT, as well as its executing Ministry Decree No. 54/1981 (XI. 19.) PM.

third party, typically a legal entity. Practically, the subject of collection in this case was such a claim to be borne by the third party as the obligated party.⁴⁵ Legislations adopted in the subject of tax debt collection only regulated partial issues regarding the collection of movable assets or real property, the basic norms were eventually stipulated in the Decree No. 18 of 1979 on Judicial Enforcement Proceedings. Accordingly, this legislation referred to the collection of a pecuniary claim by means of movable assets or real property.⁴⁶ In this case, the respective provisions of the legal norm were applied by public administration bodies, i.e. the tax authorities in this case.

Regulations on the enforcement of specific acts were also amended. Regarding the means of enforcement, the general introduction of collecting debts with the assistance of the police took place.⁴⁷ Prior to this amendment, the authority was only entitled to request the intervention of the police with respect to the protection of the official enforcing the collection. However, as a result of this amendment, the performance of the failed act could be enforced with police assistance as well. Such cases included the obligation of a person to leave the given real property, who did not voluntarily fulfil this obligation. Beforehand, the use of physical force by, for example, a council official had legal concerns. Through the new regulations, such concerns were eliminated, as the police had the legal entitlement to carry out such acts. The enforceability of an act not performed by a legal entity was also regulated, which was principally also considered as performing an unfulfilled obligation. In such cases, the authority typically attempted to enforce the fulfilment of such acts by means of imposing a fine, and the fine was imposed on the representative of the given legal entity, or the natural person member or employee of the obligated party. This way, sufficient forcing power could be presumed, i.e. the eventual realisation of prevention.

In summary, it can be concluded that the regulation of authority decisions in the specified period developed in a progressive and significant manner. A system was established with respect to the means of enforcement, and the legal remedies applicable in the course of the collection process were also established as a system. The key norms in relation to collection were stipulated. These regulations made it possible for enforcement to become an individual phase in administrative authority proceedings. Apparently, the state requirement in relation to enforcement, which

⁴⁵ Ministry Degree No. 58/1981 (XI. 19.) MT, Section 10 (1) *Regarding their effective pecuniary claims – claimed from them by private persons - exceeding the value of HUF 2,000, legal entities and other unincorporated organisations shall exercise the legal institute of lien. Such pecuniary claims can only be settled in case the claimant is able to certify by tax certification that they are without any overdue payments and they are exempted from the retention of the pecuniary claims by the tax authority.*

⁴⁶ Ministry Degree No. 58/1981 (XI. 19.) MT, Section 8 (4) *In the course of collection, legislations on judicial enforcement must be applied in accordance with the differences specified by the Minister of Finance.*

⁴⁷ Act I of 1981 *d*) may enforce the conduct of the given act with the involvement of the police; the police shall be entitled to apply forcing measures (tools) set out in the respective legislations.

primarily demanded efficiency, was realised. In parallel with this issue, the protection of defendant rights was also given sufficient guarantees. Furthermore, it must be noted that legislators were in a relatively easy situation, which is also reflected in the simplicity of regulations. In my view, the real challenges in this legal field arose in the subsequent period, i.e. the period after the change in the Hungarian political regime in 1990.