

## Customer Information

### On public administration and administrative procedures relating to road and air transport

#### e-Papír included in the Information

Case groups:

- Public administration procedures related to road transport
- Administrative procedures related to aviation

The types of cases that can be submitted in both case groups are listed in the table below.

Identifier		Type of form
Road	Air	
100123	100132	Hiba! A hivatkozási forrás nem található.
100123	100132	<b>Application for a probate in an authority administrative matter</b>
100124	100133	Hiba! A hivatkozási forrás nem található.
100124	100133	<b>Application for access to the file in an administrative authority case</b>
100125	100134	Hiba! A hivatkozási forrás nem található.
100125	100134	<b>Certificate of delay of default in an administrative authority case</b>
100126	100135	Hiba! A hivatkozási forrás nem található.
100126	100135	<b>Appeal in an administrative authority case</b>
100127	100136	Hiba! A hivatkozási forrás nem található.

100127	100136	<b>Application for a discount in an administrative authority case</b>
100128	100137	Hiba! A hivatkozási forrás nem található.
100128	100137	<b>Application for reconsideration in an administrative authority case</b>
100129	100138	Hiba! A hivatkozási forrás nem található.
100129	100138	<b>Application to overturn the presumption of delivery in an administrative authority case</b>
100130	100139	Hiba! A hivatkozási forrás nem található.
100130	100139	<b>Application for exemption from costs in an administrative authority case</b>
100131	100140	Hiba! A hivatkozási forrás nem található.
100131	100140	<b>Compliance with the obligation to pay costs which are liable due to an administrative authority case</b>

**The information is effective as of 1 January, 2018.**

## General information

In accordance with the regulations of Act I of 1988 on the Road Traffic Act (hereinafter referred to as "the RTA."), a breach of the relevant regulations may **subject the perpetrators to the payment of a fine in breach** of the rule laid down by law and by a separate legal act and a Community legal act. No fine can be imposed if two years have elapsed since the offence was committed.

For conducting the first degree procedure, in compliance with the Government decree 329/2007 (XII. 13.), the police headquarters / county police headquarters are responsible in their respective jurisdiction in cases of breach. The county/national Police headquarters have the authority to conduct a second instance proceeding.

The category of administrative procedures relating to aviation fines can also be included here, which procedure can become effective in cases of breach referring to Section XCVII of 1995 on aviation, Act 66 / A. Article (1) (g) - aviation security rules - and the rules on unmanned aerial vehicles.

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Procedures initiated before 31. December 2017: based on the provisions of the Act CXL of 2004 on the general rules of administrative procedure and services; while the procedures that started in and have been repeated as of 1 January, 2018 are governed by the law CL. 2016 on General Administrative Ordinance. (hereinafter referred to as "GAO"). The procedures for fining must be conducted in both above mentioned cases.

In the case of violations of the law, the amount of the fine specified in the special law shall be imposed. There is no legal possibility for mitigation, remittance of the amount of fine, for converting it into working in the public interest, into confinement and for exerting equity.

The administrative authority procedure shall be conducted in the cases related to the following breaches:

- a) domestic or international road transport services (freight and passenger transport) bound to a specific licence and a specific document,
- b) passenger and freight transport based on the existence of a stipulated document with an account of one's own,
- c) social regulations on road transport, driving time, breaks, interruptions and rest periods,
- d) the use of the tachograph and tachograph disc used for road transport and the use of cards for digital tachographs,
- e) the transportation of dangerous goods, the carrier (s), the road vehicle and its personnel, the consignor, the temporary storage, the wrapper, the loader, the charger, the consignee and the appointment and qualification of the dangerous goods safety consultant,
- f) road transport of rapidly deteriorating foodstuffs and livestock,

- g) the transportation of goods by hired road vehicles,
- h) the prescribed technical, safety and environmental features required for the participation of road vehicles in road transport, the maximum permissible laden weight, axle loads and exceeded dimensions of vehicles in road transport, safely fastened cargo loading, bulk carriage,
- i) the advantages of promoting international combined transport,
- j) the limitation of the traffic of heavy goods vehicles,
- k) from the traffic rules:
  - maximum permitted speed ("speeding"),
  - the usage of the seat belt,
  - signals of the light-signaling device for traffic control,
  - in the driver's organization, the prohibition of alcoholic beverages ("drunk driving"),
  - crossing a railway passage,
  - the ban on entry, the restricted area (zone), the obligatory direction of travel,
  - the usage of the stopping track on the highway,
- l) the domestic operation or usage of a vehicle with a foreign authority mark by a person or organization resident in Hungary,
- m) the obligatory toll paid in proportion with the use of toll road sections,
- n) in violation of the provisions of Section 20 Paragraphs 7 - 7a and Section 44 para. (4) of the Road Traffic Act on the prohibition of further vehicle traffic.

If these violations are committed, the person liable for the breach of the regulation is liable to pay fines, and in the event of some breaches of the law several people may be held liable, during the proceedings the proportion of their share must be examined and the administrative fine imposed accordingly.

The authority contacts the client or its representative. If the matter is addressed to the authority by the legal representative, his eligibility must be verified by attaching the appropriate document.

To verify this eligibility, a mandate, a proxy authorization or an authentic private document representing conclusive evidence is required, which adequately contains data to support the right to represent the client (guardian, custodial decision, birth certificate in case of a child). In the case of a non-natural person client, if not represented as a creditor in the corporate information system, a mandate included in the private document with full probative value is required; in the case of a legal counsel, attachment of the employment contract and legal counsel certificate must be attached.

The notion of **private document of complete probative value** – regarding the proceedings based on Act (2004. Law CXL) – is stipulated by the 1952. Act III §. 196. of the Code of Civil Procedure. According to it, a private document of complete probative value will prove, by proof of proof to the contrary, that the client has made or accepted the declarations contained therein or recognized them as being mandatory for him, if the document fulfills the following conditions:

- a) has been written and signed by the client manually;
- b) the signature of two witnesses on a document signed by a non-self-handed client;

- c) (eg. on a typed document etc.), certifies that he has signed it in their presence, or recognizes his signature as made by himself. In this case, the address of the witnesses must also be indicated on the document;
- d) the signature of a document not written by the client himself is authenticated by a judge or notary (signing in their presence or committing himself to the authenticity of the signature in their presence);
- e) a lawyer (legal counsel) passes a signature on a non-handwritten document duly signed, confirming that the document which the client did not write was signed in front of him or that the signature was recognized as his own;
- f) a certificate that has been duly signed issued by a business organization;
- g) an electronically provided document with a qualified electronic signature or with a highly advanced secure electronic signature.

Regarding the procedure based on the General Administrative Ordinance, the concept of private document with full probative value is governed by Act CXXX of 2016 on Civil Procedure, Article § 325. A private document of complete probative value will prove, by proof of proof to the contrary, that the declarant of the document has made or has committed himself to the declaration contained therein if the document fulfills the following conditions:

- a) the declarant has written and signed the document manually,
- b) two witnesses certify that the signatory of the document has signed the document fully or partly not written by him, or has committed himself to his signature in their presence as his handwritten signature; for the certificate, both witnesses place their signature on the document, and manually and legibly indicate their name and residence, or place of residence,
- c) the signatory's signature or sign on the document is authenticated by the judge or the notary
- d) the document shall be duly signed by the person authorized to represent the legal person in accordance with the rules referring to him
- e) a lawyer or legal counsel will prove through a regular countersigning of the document that the signatory of the document has signed the document written by another person in front of him, or has acknowledged it as a self-handed signature.
- f) the electronic signature of the signatory is based on a qualified electronic certificate or a certified electronic signature or stamp and - where the law provides so - a time stamp is placed on it,
- g) the electronic document is authenticated by the document signing authentication service, or
- h) has been established in the framework of a service specified in a statute or a government decree, where the service provider assigns the document to the declarant through the identity of the declarant and verifies it authentically on the basis of the data that can be unambiguously traced back to the exhibitor's own signature; furthermore, the provider attaches an inseparable electronic clause of the certificate of assignment to a univocal person, and provides it with at least an advanced electronic stamp or a highly secure time stamp.

The first instance decision will become final on the 15th day of receipt of the decision if the customer does not initiate his right to appeal. The deadline of the payment of the fine is 30 days from when the decision becomes final.

If, due to the client's financial situation, the fine cannot be paid in one amount, he may be required to pay in instalments or to be allowed payment deferral in a procedure that is not duty free. This application may be filed before the payment deadline expires at the same time with the payment of the proceeding fee (HUF 3,000).

In the course of the procedure, the client may file a request without formal or substantive requirements, the legislature does not require a private document of complete probative value. The submission can be effectuated by the customer or his authorized representative. If the customer's representative addresses the authority, his right of representation shall be evidenced in an appropriate manner (attachment or other supporting documents).

In connection with the administrative procedures related to aviation fines, the customer is provided with electronic administration in the types of cases in the table at the beginning of the information brochure.

In the context of an administrative procedure, a case group corresponding to the decision taken by the authority must be selected and delivered to the client:

- Public administration procedures for road transport
- Public administration procedures related to aviation

In each case type, customer submissions can be sent to the relevant authority **on an e-Form**

A judicial review application or claim referring to a fine applied by an administrative decision or order, or on a fine applied with information, issued in either of the two types of cases, will require an **ÁNYK** (General Form Completion Framework) **TK-120101 form** to be submitted.

## **Information on specific types of cases**

### **Full probative value motion in an administrative authority case**

The customer or his representative may submit a motion free of charge to the authority at first instance in front of which the proceedings are pending. In this statement, he can present the circumstances that he considers prejudicial, for example, challenge the commission of a breach.

The customer or his representative may attach documents to the form that he considers necessary for supporting his statement. There is no need to pay a fee for the submission as it can be submitted free of charge.

### **Application for accessing the files in an administrative authority case**

The client may have access to the file at any stage of the procedure, in the course of which it is possible for him to get acquainted with the documents available to the authority. He can make excerpts and notes from the file. He can request a copy of the documents per a HUF 100 fee per page only while accessing the file. Access to the file may be made at the police station of his place of residence or at the authority in the first instance. Following the delivery of the notification on the opening of the procedure, the customer will have at his disposal the data based on which he may request access to the file from the first instance authority.

### **Certifying a deadline omission in an administrative authority case**

If the law sets a deadline for submitting a claim, it can be enforced until the expiry of that deadline. If the customer or his representative has failed to comply with the deadline, the authority will be able to examine his submission if the cause of the omission is justified at the time the submission is filed. This justification request must indicate the reason why the

deadline was omitted for reasons other than the client (eg hospital treatment, persistent illness, staying abroad, incarceration, etc.). He can prove these circumstances by attaching a suitable document. The request for verification is free of charge, but does not imply that there is no need to pay a fee for the supplementary submission or document.

#### **Appeal in an administrative authority case (in the case of proceedings started before 31 December, 2017)**

If the client considers the decision of the first instance authority to be prejudicial for any reason, he may appeal to the decision-making authority within 15 days of the decision being communicated. An appeal must be justified, otherwise it will be rejected without any substantive examination. The appeal cannot refer to a new fact which the client knew before making the decision. The fee on appeals against the decision - unless otherwise provided in this Act, and the value of the subject matter of the appeal can be established in cash – is HUF 400 after each inchoated HUF 10 000 of the appeal, initiated or contested, but at least HUF 5 000, and up to HUF 500 000. In administrative authority proceedings, the decision shall be deemed to have been communicated on the date of receipt, which is also the starting date of the 15-day time deadline limit for appeal. The appeal is a chargeable procedure that is to be paid with either a revenue stamp at the same time as the submission of the application or to the account number indicated in the decision.

#### **An appeal in an administrative authority case on objective liability (in the case of proceedings initiated and repeated after 1 January, 2018. on the basis of the General Administrative Ordinance)**

An appeal can only be requested with regard to the contested decision, or with reference to reasons directly related to its content, or claiming a violation of rights or interest directly arising from the decision.

The appeal must be justified. The appeal can only be relied on as a new fact which was not known to the client in the first instance proceedings or was not relied on for reasons beyond his control. An appeal shall be filed with the authority which has taken the decision, within 15 days from the date of notification of the decision.

The fee on appeals against the decision is - unless otherwise provided in this Act, and the value of the subject matter of the appeal can be established in cash – is 400 HUF after each inchoated HUF 10,000 of the appeal, initiated or contested, but at least HUF 5000, and up to HUF 500 000. The form will automatically indicate the amount of the appeal fee by providing the amount of the fine of breach. If it is the customer's representative who addresses the authority, the right to represent him must be justified in an appropriate manner (attachment or other supporting evidence).

#### **Application for payment allowance in an administrative authority case**

The administrative fine shall be paid within 30 days of the decision becoming final, by means of the attached cash transfer order (check) or a transfer to the account number in the decision. In the event that a lump sum payment of the fine imposed on the client is disproportionate in terms of the income and financial situation of the client, he may, in a fee procedure, request the first instance authority to be allowed to pay the fine in instalments or to defer the payment deadline. At the time of filing this application, the procedural fee (HUF 3 000) must be paid. If the customer requests instalment payment, the authority will grant the payment of the fine in equal instalments. In case of deferral, the deadline for the payment of the fine in a lump sum will be postponed. So in this case the fine will still be paid in one lump sum.

**Request for reclamation in an administrative authority case (Exclusively in connection with administrative proceedings launched under Act CXL. 2004 dated 31. December 2017 may be filed!)**

If, after the decision becomes final, information, facts or evidence come to the client's attention, that had existed before the decision was made, but has not yet been assessed by the authority, or if it was assessed, it would be more favourable to the client, then the client can file a request within 15 days of this realization. This procedure is subject to charge, which must be paid at the same time as the application is filed (HUF 3,000). The application shall be accompanied by any documents that the client intends to bring to the attention of the authority, but it is important that the data, facts and evidence be obtained by the client only after the decision has become final.

**Application to overturn the presumption of delivery in an administrative authority case**

The authority communicates the decision of the administrative authority to the client via return receipt postal communication in writing. The date of the communication is the day on which the consignee, his authorized representative or his deputy recipient has accepted the shipment or refused to accept the shipment. If the mail was returned by the mail with "no search" in this case, the date of the communication is the fifth working day after the second attempt to send the shipment, which is a rebuttable presumption. If the natural person certifies that the shipment could not be received for reasons beyond his control, such as hospitalization, staying abroad, incarceration, etc) or that the delivery was irregular, he can file this claim. A non-natural person may only use this claim if he proves that the delivery is irregular. The procedure is free of charge.

**Applicaton for exemption from fees in an administrative authority case**

The natural person client can be granted legal aid in administrative matters if his earnings, income and property situation do not allow payment of the procedural fee. Filing the claim also covers the entire length of the procedure and the enforcement procedure. In the application for legal aid, the client has to declare his income, property and circumstances that do not allow the payment of the procedural charge.

**Compliance with the obligation to pay costs which are liable in an administrative authority case**

If the application submitted by the client to the authority is incomplete and this deficiency can be remedied, the authority will call upon the customer to respect a deadline and comply with his addenda. (eg unpaid fees, the representative does not attach a document of eligibility, etc.).

The relevant document or declaration to which the authority has requested the addenda shall be attached to the form.