

***Government Decree 217/1998. (XII. 30)***  
***on the system of operation of the system of public finance***

On the basis of the authorisation received in article 124, section (2), subsections *a)-d), f)-g), l), p)-s) and u)-v)* of Act XXXVIII of 1992 (hereinafter: *Áht.*) on public finance the Government issues the following decree

**Chapter I.**

**THE SCOPE OF THE DECREE**

**Article 1**

(1) This decree regulates the estate and financial position of public finances and contains the provisions on the financial- economic events, decision making procedures affecting their operation and specialised activities.

(2) The effect of the decree covers:

- a) the ministries, the ministers without portfolio, the organs of state power and national competence which have independent chapter in the budget and other organs and persons with chapter type licenses - including the Hungarian Academy of Sciences as a public board- and the budgetary organs under their control.
  - b) the local governments and the local autonomous governments of minorities as well as the budgetary organs under their control;
  - c) the separate state funds and their managers;
  - d) the financial funds of social insurance and the budgetary organs of social insurance;
  - e) the property management organs;
  - f) the national local governments of national minorities and the budgetary organs of national local governments of national minorities;
  - g) (hereinafter together: the organs of public finances)
  - h) for the purpose of articles 70-77 all economic organisations which implement investment projects partly or fully out of the appropriations included in the range of programme financing;
  - i) for the purpose of articles 128-132 the credit institute selected through tender procedure for the establishment and operation of the treasury card system (hereinafter the credit institute operating the treasury card system);
  - j) for the purposes of articles 150-152 the treasury commissioner
  - k) for the purpose of article 153 the local government commissioner.
- l) Interpretation provisions

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**Chapter VIII**

**SPECIAL RULES ON THE UTILISATION OF APPROPRIATIONS MANAGED BY CHAPTERS AND SERVING THE SAME OBJECTIVE TO BE SUPPORTED AND OF FINANCIAL ASSET OF SEPARATE STATE FUNDS**

## Article 78

The provisions of this decree- unless the law specifies otherwise- shall apply also for the regulation of the utilisation titles of the appropriations, partial appropriations of the central budget and the funds specified in *Appendix No. 1. of this decree (hereinafter together: appropriations of similar objectives)* for taking decisions affecting the appropriations, the utilisation of subsidies and the control of their utilisation.

General rules of co-ordination

## Article 79

(1) The head of the organ supervising the chapter and with governmental responsibility over the given appropriation as well as the minister with the right of disposal over the fund, the head of the organ authorised by legislation to manage the appropriation ( hereinafter together: the manager of appropriation) shall, within the frameworks of preparing the annual budget

- a) shall prepare proposal on the determination of the system of objectives, purposes of the appropriations, for the ratio of utilisation for the purpose of subsidy, for the ratios of subsidies which can be made available, and
- b) develop the method, system of procedures for the co-ordinated utilisation of appropriations, shall prepare the invitations for application.

(2) In relation to the appropriations of the same purpose the manager of the appropriations - in co-ordination with the manager of the affected connected appropriations- shall see to it that the detailed regulations on the utilisation of appropriations, financial funds - based on the general provisions and requirements as for their contents as stated by law or this decree -, the contents of the tenders and their publication take place in a co-ordinated way.

(3) The tenders shall be published- to the extent possible- concurrently and annually, by the 28<sup>th</sup> of current year after having learned the opinion of the managers of appropriations serving similar objectives and the organ - regional development councils of the county and the region- authorised to issue the tender .

(4) The regional development councils shall co-ordinate the tenders - related to the use of the appropriations which form part of the central budget and are allocated under their disposal competence - with the tenders published by the central organs from the appropriations with linked objectives, purposes.

(5) In the case of applications submitted for joint subsidies from several appropriations the requests, applications prepared as required by the regulations of the individual appropriations applied to - in the necessary number of copies- concurrently and exclusively to the manager of the appropriation from which the highest volume of grant is requested. In case of several applications for the biggest - identical- volume of grant the application for subsidy can be submitted to the manager of any affected appropriation. The prompt forwarding to the manager of the source of subsidy - as stated in the request, application for subsidy- shall be the responsibility of the manager of the appropriation to which the request was submitted.

(6) In relation to the provisions of section (5) the provisions of a separate piece of legislation shall apply on tied and earmarked subsidies.

(7) In case applications are submitted to several appropriations the decisions on the individual subsidies shall be taken jointly and/or separately by the managers of the affected appropriations also on the basis of the rules applying to the utilisation of the given appropriation. In that latter case they shall mutually inform one another on the decisions taken by them.

(8) In case applications are submitted to several appropriations the manager of the affected appropriation or the organ authorised by it to conclude contract shall conclude contract one by one with the applicant for the subsidy. The managers of the appropriations shall monitor

in a co-ordinated the implementation of the programme, project stated in the contract and the utilisation of the subsidies.

## **Article 80**

(1) When the appropriations are used for the purpose of development subsidy- in relation to which appropriations it can be rationally achieved- the co-ordination should be promoted also by the operation of joint tendering systems.

(2) In relation to research and development issues intended to be supported from appropriations the following year and to research and development projects currently also going on the managers of appropriations financial and supporting such issues shall advise one another in writing by November 30 of the current year. Should two or more appropriations want to support - on the basis of information- the same subject, the affected parties should organise separate reconciliation. The support to research and development programmes to be launched should be co-ordinated - apart from adhering to the relevant legal regulations- by the managers of appropriations financing research and development programmes, in the form of co-ordinating the subjects.

General rules on the subsidies which can be made available from the appropriations

## **Article 81**

(1) For the same programme, project, subsidy can be made available from one appropriation only on one occasion. The regulation issued as per Article 79, section (2) can, exceptionally permit different rule in cases when unforeseen conditions emerge after the conclusion of the contract.

(2) With the exceptions stated in Article 87, sections (2) and (8) those who are in arrears of over 60 days in paying taxes/ levies and with organisations under liquidation- even if the other conditions for the provision of subsidy are available- no subsidy contract can be concluded, or if the tax arrears or liquidation procedure emerge after the contract date, subsidy cannot be advanced.

(3) In the absence of the necessary official permits application for subsidy to government funds cannot be submitted and cannot be made available.

(4) In case the regulations on the utilisation of the appropriation demand the availability of own resource of the applicant, the subsidy obtained from the sub-systems of public finances cannot be regarded as own resource, except in the case of budgetary organ belonging to the sub-system of public finances and applying for subsidy the sum appropriated for the given objective in the budget of the supervisory organ of the applying budgetary organ.

(5) Foreign subsidy obtained on the basis of subsidies allocated under the competence of regional development councils and inter-governmental agreements- unless the relevant inter-government agreement states otherwise- can also not be regarded as own resource.

(6) If the applicant for subsidy marks several appropriations - coming under the effect of this decree - in the application- with the exception of the provision of section (7)- the applicant must meet the subsidy conditions demanded by all the sources specified.

(7) In regions selected as beneficiary from the aspects of regional development, in the cases of programmes, projects referred to in section (6) the smallest own resource specified in the rules of the utilisation of subsidy funds of the affected resources.

(8) The decision makers shall pass decisions minimum once every three months.

## **Further rules on development subsidies**

### **Article 82**

- (1) Of the appropriations coming under the effect of this decree development subsidy can be made available exclusively on application. Exceptions from under this rule are limited to beneficiaries for which legislation establishes earmarked or specific development subsidy appropriation.
- (2) From the purposes of allocation preference is given to development projects implemented with the co-operation, association of several settlements, the integration of final beneficiaries (hereinafter: association), if the objective for the establishment of the association coincides with the objective of the tender.
- (3) No subsidy can be given to an investment, development project launched before the application was submitted, except for developments entitled to tied or earmarked subsidy, the decentralised subsidies serving regional equalisation and targets.
- (4) Unless legislation states otherwise the date when the contract is concluded with building company or the date of order shall be regarded as the starting date of the investment project.

## **The requirements in relation to the contents of the application**

### **Article 83**

- (1) The followings should be stated in the application:
  - a) The identification data of applicant;
  - b) On the programme, project specified in the application:
    1. its objective, name, place of implementation;
    2. the total cost (expenditure), including VAT also;
    3. the sum of reclaimable CAT;
    4. the sum of own fund as certified by the main bank or credit institute and the form in which the own fund is available;
    5. the sum of resource applied for;
    6. the subsidies applied for, received from the appropriations coming under the effect of this decree and those applied for and received based on legislative provisions (including subsidies decided on by regional development councils) as well as the sum of subsidy received on the basis of intergovernmental agreement,
    7. sums and forms of subsidies applied for and received from funds, public funds, public boards, non-profit companies established and supported by Parliament, the Government, the minister or budgetary organ, listed as per these organisations for the programme, project stated in the application;
    8. the time schedule of implementation and financing (the resources planned to be used in the various periods should be stated in the details as per subsections 4-7)
- (2) As precondition for accepting the application the applicant shall be asked to issue a written statement specifying the followings:
  - a) The data, information and documents contained in the application are comprehensive, true and authentic; what application the applicant had earlier submitted and where in the same subject;
  - b) acknowledging that in case applicant is or will be in over 60-day delay in paying its debt to the state (taxes, levies) the applicant shall not be entitled to draw subsidy, or - on the basis of article 13/A, section (6) of Áht the subsidy that would be due to be advanced, will be retained - without affecting the liabilities undertaken to receive the subsidy - to have the debts due to the state paid.

- c) consent that in order to monitor debt to the state - in conformity to the provisions of Áht. Article 13/A, section 4 and Article 92, section (4) of this decree- the Treasury and the organ advancing the grant shall use the tax number of tax identification sign, social security identification number, social security current account number to learn whether taxes/levies had been paid, or the fact of arrears and the sum of arrears.
- d) acknowledgement that the name of the beneficiary of the subsidy, the subject of subsidy, the sum of subsidy, the place of the execution of the programme can be disclosed as specified in this decree.
- e) certificates on the availability, market value and marketability of the securities required according to the tender,
- f) the issuance of immediate collect commission in the cases specified in Article 87, section (4)
- g) that it has overdue and outstanding debt in relation to subsidies drawn from the subsystems of public finances.
- h) that it agrees to have the organs specified in legal regulation control the standard character of the application and the use for the specified purpose of the subsidy,
- i) that it shall report before the application is approved, or before the end of the term of the subsidy contract if liquidation procedure is launched against it.

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e) the data sheet specified in *Appendix No, 8* of this decree, and rationally completed.

Further requirements in relation to the applications for subsidies submitted for development grants

## Article 84

(1) In the case of development subsidies the followings are to be attached to the to the application in addition to the statements/ documents listed in Article 83:

- a) statement by the local government of the settlement where the project is to be executed, declaring that the objective, task stated in the application meets the requirements of the general and detailed regulation plan of the settlement as approved by the local assembly, or in the absence of such general and detailed regulation plan on the fact that the project would fit the existing environment of the settlement;
- b) depending on the contents of the application absolute official permit, or in the case of operation linked to effect study as listed in the tender, the environmental authorisation;
- c) in the case of property investments the statement of the regional development councils competent for the given area on the fact that the proposed project fits into the approved development programmes of the county or region, whether it is being supported by the council and provides grant to it, and if so, in what volume;
- d) statement by the applicant on the resources it proposes to use for the facility established with the help of subsidy, thus, whether
- e) out of own resources and/or
- f) it will be operated with the fund of the maintainer and/or
- g) 3 OEP;
- h) statement by the maintainer or OEP that it shall accept the additional cost requirement needed for the operation of the facility.

(2) The application can be submitted also without the statement referred to in section (I), subsections *a)* and *c)* if applicant can prove that it has asked for the statement referred to in

section (I), subsections *a*) and *c*) in time but the organ competent to issue them failed to do so within 15 working days after the request was submitted.

## **Judging the applications**

### **Article 85**

(1) The manager of the appropriation or the organ or board which has the right of approval, the right to take decision over the appropriation has the task and responsibility to prepare the judgement over the applications, taking also into consideration the requirements as specified in Article 79, section (2).

(2) In the case of subsidy requirements of over HUF 1 million the Treasury must be get involved in the procedure of preparing for the decision, by forwarding the application to it. Within 10 working days after the receipt of the application the Treasury must declare if - according to the relevant information available, taking also into consideration the actual use of subsidies from other appropriations decided on earlier and stated in the application as sources of subsidy- the data on subsidy in the application are incorrect.

(3) If the organs or persons involved in the judgement of the application have no observation to make within 15 working days, that will be considered as if agreeing to the disbursement of the subsidy.

(4) The preparation for decision making should be documented in writing. The document thus prepared should state the comments made during the evaluation, the statement as per section (2), the evaluation of the applications, the proposals of those authorised to make comments to the decision makers.

(5) The person or board (hereinafter: decision maker) - authorised to take decision on the regulation on the use of the appropriation- shall decide on the proposal referred to in section (4) within the deadline specified in the regulations on the use of the appropriation, by defining the conditions of the subsidy.

(6) The decision maker shall prepare an aide memoire on the evaluation of the applications; the aide memoire shall specify the key considerations of the evaluation. The applicants can inspect the aide memoire.

(7) The decision maker shall within 10 working days after the decision was taken supply data to the Treasury on the approved subsidy decisions on the data supply sheet specified in Appendix No. 8 of this decree, and in the case of application submitted to several sources of subsidy, to the manager of the other affected appropriations.

(8) The organs authorised to take decision or with the right of disposal over the appropriations shall forward the data- specified in Article 83., section (2), subsection *d*) - to the organ supervising the chapter responsible for the appropriation, and these data must be published in the official paper of the given chapter.

(9) For the purposes of the application of this decree the decision on the subsidy shall be considered as liability undertaking.

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### **Article 86**

(1) The regionally competent regional development councils shall be involved in the preparation of decision taking in relation to the decisions related to the use of partial appropriations which had not been decentralised from the appropriations allocated for development subsidy- except when it concerns their own application or applications to be executed with their participation

(2) In the case of decisions delegated to the right of disposal of the regional development councils these councils shall have the ministries competent for the sources of subsidy stated in the applications involved into the preparation of their decisions.

(3) The regional development councils shall inform the affected ministers and the Treasury - within 10 working days- on the decisions they took on the use of appropriations delegated under their competence.

## **The conclusion of contract**

### **Article 87**

(1) In the case the request for subsidy, the application is approved, the decision maker or the organisation authorised to conclude the contract shall conclude the contract with the beneficiary in conformity with the statement referred to in Article 83, section (2) and Article 84, section (1) subsection *d*) under conditions specified in section (4) and Articles 88-90.

(2) With the beneficiary obtaining subsidy for development of over 1 million forints the precondition for concluding the contract (in case the rules on the utilisation of the given subsidy do not demand as a precondition for the application for subsidy and the submission of subsidy)

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(7) The manager of the appropriation or the organ authorised to conclude the contract shall advise the Treasury on the conclusion, modification, cancellation of the contract within 5 working days after the given action , attaching the documents carrying the necessary data, on the data sheet specified in Appendix 8 of this decree and rationally completed.

(8) To have public debt monitored the Treasury shall forward to the regionally competent Levy Directorates of the Tax and Financial Control Office, the National Headquarters of the Customs and Revenue Administration. OEP and ONYF the data on the name , residence (seat), tax number, tax identification sign, social security identification sign and social insurance current account on the beneficiary of subsidies surpassing HUF 1 million.

(9) If the total cost (expenditure) of the programme, project drops compared to the planned figure the sum of subsidy must also be proportionately reduced - with the modification of the contract- , in the case of several sources of subsidy , in the original proportions. If in the given application system for the execution of the programme the largest possible sum of subsidy was approved, the manager of the given appropriation is authorised to set the rate of reduction.

(10) The change in the entitlement to reduce tax shall be reported in writing by the beneficiary without delay to the manager of the appropriation. The sum of CAT utilised in the subsidy- by the date the change is reported- shall have to be repaid by the beneficiary the way stated when the subsidy contract was modified.

(11) In case payment is made easier (deferment, instalment payment) thus the organs nominated for performance in Article 92, section (4) shall establish in their resolution new deadlines, until the new date the sum stated in the resolution shall be considered for the purpose of this decree as not overdue public debt.

### **Article 88**

(1) If the beneficiary- for reasons not under its control- meets its obligations only partly, but in the case of liabilities established numerically by minimum 75 % , the non-utilised subsidy - unless the act or government decree stipulate otherwise- shall be blocked, withdrawn. If the beneficiary does not perform the obligations undertaken in the contract for reasons under its

control, it shall have to repay the entire subsidy utilised or its proportionate part with interest as stated in section (3).

(2) In addition to the sanctions listed in section (2) the beneficiary can be excluded for a specified period- but maximum 5 years- from the subsidy system of the affected appropriations, if at least one of the following conditions emerges:

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- a) the obligation stated in the contract is not implemented or is implemented only partly, in numerically established obligation by a percentage below 75 %;
  - b) the beneficiary performs a task different from the approved objective,
  - c) the beneficiary failed to meet its reporting obligation specified in Article 87, section

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(3) The interest - unless the act specifies otherwise- is twice the basic rate charged by the central bank at the time the contract is cancelled and the subsidy is withdrawn on the basis of sections (1)-(2).

(4) In the case the subsidy is withdrawn on the basis of sections (1)-(2) and the contract is cancelled the interest shall be collected in the form of immediate collect commission to the benefit of the appropriation stated in the subsidy contract which disbursed the subsidy according to the regulations applying on the appropriation.

(5) In case subsidy was advanced from several appropriations the withdrawn subsidy and the interest shall be distributed among them in proportion to the subsidies they advanced.

(6) The manager of the appropriation has the right to determine additional sanctions and if the contractual obligations are not met, to realise them.

## **Article 89**

(1) The estate established by the subsidised investment- if landing into the ownership of beneficiary- can be sold, leased only with the advance approval of the decision maker on the subsidy and with the transfer of the service and other obligations.

(2) Unless legislation stipulates otherwise, if an investment implemented with non-refundable grant, of the sales revenue a sum identical to the sum of grant shall be repaid to the appropriation named in Article 88, sections (4)-(5) and the way stated there within 5 working days after the seller received the sale price.

## **The disbursement of the subsidies**

### **Article 90**

(1) The subsidising organ shall have the right to withhold the due subsidy as per Article 13/A, section (6) if the suspension of disbursement referred to in Article 92, section (5) took place minimum three times. The fact that the subsidy was withheld shall not affect the obligations of the beneficiary as undertaken in the subsidy contract.

(2) As appendix to the transfer commissions the data sheet specified in *Appendix No 9* of this decree on the disbursement shall be submitted to the Treasury.

### **Article 91**

(1) Subsidy can be applied for the gross total cost - VAT included- net of own fund only if the beneficiary has not right to deduct VAT from the procurement financed from the subsidy- on the basis of separate piece of legislation. If the beneficiary has the right to deduct VAT, the subsidy can be applied for net of the sum stated in Article 83, section (1), subsection *b*) paragraphs 3-4. The subsidy can be drawn in the financial and time schedule

specified in the subsidy contract, and in the composition of resources specified in the application or tender.

(2) Unless the government decree specifies otherwise the subsidy can be drawn - with the exception of interest subsidy- in proportion to implementation and resources.

(3) Advance subsidy can be made available only in especially justified cases in the smallest possible sum needed to launch the programme, project, and such advance cannot surpass 25 % of the subsidy, or, in the case of research and development maximum 50 %, if the relevant request has been submitted by the application already in the application, specifying the sum and detailing the reason, and the subsidy was approved with consideration of that request and the relevant provision is stated in the contract. No advance subsidy can be given for appropriations involved in programme financing.

(4) In case advance payment was made the rest of the subsidy can be disbursed only if the beneficiary has already used- in a certified way and as regulated in Article 79, section (2) - its own fund in the given annual schedule and made settlement with the advance payment.

## **Article 92**

(1) The facility with the right of disposal over the appropriation shall have the right to disburse the subsidies - with the exception of interest subsidy- or on the basis special provision of legislation the facility authorised by it shall perform the remission and transfer commission from the affected appropriation in any of the following ways:

- a) by paying the submitted invoices, directly,
- b) through the credit institute participating in financing, and managing the account of the beneficiary
- c) directly to the benefit of the bank account of the beneficiary.

(2) To subsidy can be advanced in a sum greater than the accumulation specified in the subsidy contract due to some part of the subsidy which was not utilised the previous year; the Treasury shall not disburse such subsidy until the contract is modified.

(3) Should in the course of disbursement the Treasury observe that the subsidies or the actual level of the accumulation of the subsidy surpasses the level specified in the affected subsidy contracts it shall promptly advise the organs managing the affected appropriations, and after reconciliation with them - if necessary employing the provision of Article 88- they shall take the measures needed to adhere to the provisions of the contract.

(4) The Levy Directorates of the Tax and Financial control Office, the National Headquarters of the Customs' and Revenue Administration and its organs, the county administrative organs of OEP and ONF shall supply numerical data- on the basis of the information obtained from the Treasury as per Article 8, section (8) to the remitting agent and the Treasury if the beneficiary has public debt overdue by more than 60 days , of if it paid such debt or received permit for easier payment terms ( deferment, instalment).

(5) On the basis of data supply as per section (4) , should the beneficiary have public debt overdue by more than 60 days - until the debt is outstanding- the remitter shall be obliged to suspend the disbursement of the sue subsidies.

## **The closing of the programme**

### **Article 93**

A programme, project shall be considered completed, implemented if the task specified and subsidised has been performed, the objective has been reached as stated in the contract and specified in the permits of the authorities and with the approval of all the affected parties a closing aide memoire has been recorded.

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