

Act LXVII of 2013

on distance-based tolls payable for the use of motorways, expressways and main roads¹

Whereas the operation, maintenance and development of the public road network, the periodic and local regulation of traffic, preference for environmentally friendly modes of transport, and the integration of social and environmental costs into tolls require that road users should contribute to the costs of the operation and development of public roads in proportion to their road use, and that a proportionate toll system should be established which also takes account of the environmental performance of vehicles. Whereas the rate of the toll payable for road use should be established using an electronic system which also complies with the requirements of the European Union for interoperability, the Hungarian National Assembly has adopted this Act.

CHAPTER I

GENERAL PROVISIONS

1. Subject and scope

Section 1 (1) The scope of this Act shall include contracted toll payers as well as the operators and users of tolled motor vehicles circulating on unit tolled sections, regardless of their nationality or country of registration, respectively.

(2) The scope of this Act shall not include motor vehicles using road sections subject to user charges in fulfilment of their obligation to pay such user charges.

2. Definitions

Section 2 For the purposes of this Act:

1. "toll declaration" means the reporting of data on the use of any unit tolled sections with a tolled motor vehicle, based on which the obligation of toll payment may be established;

2. "toll declaration operator" means a provider used for the fulfilment of the toll declaration obligation provided for in this Act;

3. "vehicle category" means the grouping applied in setting the toll rate based on specific motor vehicle properties;

4. "EETS" means the European Electronic Toll Collection Service, which enables persons subject to toll payment to use on-board units to pay, via the toll service provider, the consideration for using the unit tolled sections involved in the service;

5. "EETS user" means a road user entering into an agreement with an EETS provider in order to gain access to EETS;

6. "EETS provider" means a toll service provider registered in its home Member State within the EU, which is a legal person and enables EETS users to access EETS, and as part of that, to the UD Toll System;

7. "bound toll service provider": toll service provider which is obliged to grant any persons subject to toll payment the possibility to acquire a road use authorization in the UD Toll System;

8. "on-board unit" shall mean a device which is suitable to support electronic toll collection, comprised of hardware and software components which are suitable for the collection, storage, processing, as well as the remote receipt and transmission of the data required to carry out the operations involved in electronic toll collection.

9. "supervisory body" means the entity designated for the discharge of the duties specified under subheading 9 in the decree adopted pursuant to the powers conferred by this Act;

10. "user charge" means the charge (including VAT) payable on motor vehicles which belong to any of the toll categories specified by the Government in the relevant decree for the use of a toll section subject to such a user charge for the duration of the road use authorization;

11. "infrastructure charge" means the component of the toll which is levied in order to recover the costs incurred in respect of the construction, maintenance, operation and development of unit tolled sections;

12. "vehicle register" means the vehicle register as defined in the Road Transport Registration Act;

13. "external-cost charge" means the component of the toll which is levied in order to recover the costs incurred in respect of traffic-based air and noise pollution;

14. "weighted average infrastructure charge" means the total revenue of an infrastructure charge collected in a given vehicle category over a given period divided by the number of vehicle kilometers travelled on unit tolled sections during that period;

15. “contracted toll payer” means a natural or legal person or unincorporated business entering into an agreement for the payment of the toll in respect of one or more motor vehicles for the purpose of using any unit tolled sections;

16. “certification body” means a body certifying the conformity of the interoperability system constituents of the electronic toll collection system, which is responsible for the duties specified under subheading 12;

17. “UD Toll System” means the electronic system which enables the toll to be declared, levied and collected, while providing support for the verification of toll payment and the lawful use of unit tolled sections;

18. “toll” means the charge (including VAT) which is levied by the toll charger for the use of a unit tolled section in proportion to distance-based road use;

19. “person subject to toll payment” means primarily the contracted toll payer, or where there is none, the operator of the motor vehicle or the road user, regardless of their nationality or the country in which the motor vehicle which they drive, operate or own is registered;

20. “unit tolled section”: a part of the public roads within the toll domain bordered by two sections from the aspect of the determination of the toll;

21. “tolled motor vehicle” means a truck or a towing vehicle (including a semi-trailer towing vehicle) of a maximum permissible gross weight exceeding 3.5 tons, or an articulated vehicle combination consisting of such a motor vehicle and a towed trailer or semi-trailer;

22. “toll collection”: the entirety of actions taken for collecting toll;

23. “toll charger” means an entity which is authorized and designated for the operation of the UD Toll System, as well as for the establishment and levying of the toll by using that system, and the collection of the toll via toll service providers;

24. “toll service provider”: a company irrespective of the place of registration which grants road users access to the UD Toll System in the territory of Hungary;

25. “road use”: a use of any unit tolled section for the purpose of traffic;

26. “road user” means the person driving the motor vehicle in the course of road use;

27. “road section” means a part of the public road which is continuous in terms of transportation, and the beginning and end of which are delimited by kilometer markers;

28. “operator” means the owner of the vehicle as well as any person who is registered for the lawful operation of the vehicle in the register maintained pursuant to the Road Transport Registration Act, or the owner or operator indicated on the document (registration certificate) issued by the country of establishment;

29. “reseller” means a contracted operator engaged by the bound toll service provider for the discharge of its toll collection duties under standard terms;

30. “route ticket” means a pre-paid road use authorization for the use of at least one predetermined unit tolled section of the toll road network with a predetermined tolled motor vehicle.

31.² “register of vehicles authorized to use free of charge the unit tolled sections and public roads charged with a toll” means the vehicle register as defined in the Road Transport Registration Act;

CHAPTER II

ROAD USE AUTHORIZATION AND PAYMENT OBLIGATION

3. Road use authorization

Section 3 (1) The use of unit tolled sections with tolled motor vehicles requires road use authorization as specified in this Act.

(2) In consideration for the road use authorization under paragraph (1), persons subject to toll payment shall pay a toll as specified in the decree adopted pursuant to the powers conferred by this Act.

(3) The toll shall be paid in respect of specific groups of tolled motor vehicles according to the toll categories specified in the decree adopted pursuant to the powers conferred by this Act.

(4) The toll shall be paid on the basis of the unit tolled sections used by the road user.

(5) The use of a single road section by the same motor vehicle shall not give rise to concurrent obligations to pay a user charge and a toll.

(6) Except as provided for in paragraph (7), the operator of the motor vehicle shall be responsible for ensuring compliance with the requirements in paragraph (1) in respect of the motor vehicle which they operate.

(7) Where the identity of the driver is established at the scene in the course of a traffic check, the driver shall be responsible for compliance with the requirements in paragraph (1).

4. Principles of setting toll rates

Section 4 (1) The toll categories applicable to setting toll rates shall be established so that account is also taken of the environmental performance of the engines of the motor vehicles, with a preference for the road use of environmentally friendly motor vehicles.

(2) The toll shall include an infrastructure charge, and subject to the applicable policy decision, it may include an external-cost charge. Specifically, infrastructure charges shall be established on the basis of the costs involved in the construction, operation, maintenance and development of the infrastructure network concerned. Weighted average infrastructure charges may also include a return on capital or profit margin based on market conditions.

(3) In setting the rate of the infrastructure charge, periodic multipliers may also be applied subject to traffic regulation criteria in respect of a given road section depending on the time of day, the type of day, or the season; however, the variation in any infrastructure charge shall not exceed the highest amount of the weighted average infrastructure charge by more than 175%. The peak periods during which the higher infrastructure charges are levied for the purpose of reducing congestion shall not exceed five hours per day.

(4) The toll may also include a flat-rate charge set by quantifying the damage and costs resulting from traffic-based air pollution in the given road sections and, where the population of the area concerned is exposed to noise pollution, the damage and costs resulting from traffic-based noise pollution (external-cost charge).

Section 5 (1) For the purpose allowing underdeveloped regions to catch up, tolls may be established subject to regional variations.

(2) Toll rates shall be set without any unjustified discrimination, whether direct or indirect; in particular, the operators of motor vehicles, road users and contracted toll payers shall not be discriminated against on the grounds of their nationality or country of establishment, the country of registration of the vehicles, or the departure or destination of the transport operation.

(3) Regular road users may be granted a discount on the infrastructure charge of up to 13%. The rate and terms of such discounts shall apply as specified in the decree adopted pursuant to the powers conferred by this Act.

(4) The components to be considered in the establishment of the tolls, the cost calculation methods and the classification into motor vehicle categories shall be set out in the decree adopted pursuant to the powers conferred by this Act.

5. Toll payment options

Section 6 (1) Toll collection using the UD Toll System shall be performed so as to avoid disruption of the free flow of traffic.

(2) A road use authorization required for the use of unit tolled sections shall be deemed present—

a) on the grounds of a route ticket purchased prior to road use, under the terms of that ticket; or

*b)*² during the term of an agreement with a toll service provider for the submission of toll declarations under this Act to the toll charger and for toll payment, provided that the road user fulfils their obligations relating to toll declarations as specified in the decree adopted pursuant to the powers conferred by this Act.

(3) There shall be no grounds for road use authorization where the road user fails to use the on-board unit in accordance with the relevant rules, or submits a toll declaration by means of an on-board unit which has been invalidated, under the decree adopted pursuant to the powers conferred by this Act, by the toll service provider registering that unit.

(4) The toll charger shall establish the amount of the toll and shall collect that amount in respect of the given unit tolled section from the toll service provider which submits the toll declaration under this Act. Payment of the toll to the toll charger shall not be conditional on the corresponding amount having been received by the toll service provider from the person subject to toll payment.

(5) In the course of the operations relating to toll collection, the toll service provider shall, in respect of the circulation on unit tolled sections of the motor vehicles specified in the agreement with the contracted toll payer for access to the UD Toll System which are subject to this Act, submit toll declarations to the toll charger in the manner and at the intervals set out in its agreement with the toll charger; additionally, the toll service provider shall pay to the toll charger the toll established by the toll charger pursuant to paragraph (4). In accordance with the provisions of the agreement with the contracted toll payer as effective from time to time, as well as with applicable legislation, the toll service provider may collect the toll from the person subject to toll payment, or charge its amount to the toll balance previously paid by the person subject to toll payment. The toll charger shall pay toll service providers a flat-rate reimbursement corresponding to a share of the collected toll amount specified in the decree adopted pursuant to the powers conferred by this Act.

(6)² The toll charger shall

a) establish and maintain an organizational unit or a business entity in its sole ownership for the discharge of toll service providers' duties.

b) establish and maintain an organizational unit or a business entity in its sole ownership for the discharge of toll enforcement duties.

(7) In respect of the basic services to be provided by the toll service provider, and of the services required for the proper use of the UD Toll System in particular, the bound toll service provider shall be under an obligation to

enter into an agreement with the person subject to toll payment, where that person has given written notification to the bound toll service provider of their intention to do so. The bound toll service provider may also comply with that obligation via its resellers. The bound toll service provider shall pay resellers a flat-rate reimbursement corresponding to a share of the collected toll amount specified in the decree adopted pursuant to the powers conferred by this Act.

(8)⁵ The road user may engage a toll declaration operator in order to comply with their obligation to submit toll declarations to the toll service provider by means of that toll declaration operator. The toll declaration operator may engage in such activities subject to its compliance with the criteria set out in legislation, and shall enter into an agreement with the toll service provider in order that it may discharge its duties. The toll declaration operator shall transmit to the toll service provider the data collected by means of the on-board unit which is specified in the decree adopted pursuant to the powers conferred by this Act and is provided by the toll declaration operator, based on which the toll service provider shall submit the toll declaration to the toll charger, and shall, pursuant to the agreement between the toll service provider and the contracted toll payer, collect the toll from the road user directly on behalf of the toll charger. The toll declaration operator shall be liable to the road user for ensuring that the on-board unit which it provides is suitable for proper operation, and that the above data will be transmitted. Where the toll declaration operator is engaged by the bound toll service provider, the bound toll service provider shall pay the toll declaration operator a flat-rate reimbursement corresponding to a share of the collected toll amount specified in the decree adopted pursuant to the powers conferred by this Act.

(9) The bound toll service provider shall enter into an agreement under equal terms with each toll declaration operator which complies with the requirements set out in specific legislation.

(10)⁶ The bound toll service provider can ensure the acceptance of fuel cards from the road users for the payment of the countervalue of the road use authorization. The bound toll service provider shall be obliged to enter into agreements with the fuel card issuers, including the same conditions, in accordance with the provisions specified in the rules related to the enforcement of this law.

Section 7 (1) Route tickets shall be available from the bound toll service provider. The consideration for the route ticket shall be paid upon purchase.

(2) A toll declaration submitted in the form of a route ticket shall, following its purchase but within its validity period, be transmitted to the toll charger by the bound toll service provider which issued the route ticket, where the contents of the transmission shall correspond to that of the route ticket.

(3) The toll levied by the toll charger shall be refunded by the toll charger in the cases set out in legislation.

Section 8 Other than the toll amount set in accordance with the decree adopted pursuant to the powers conferred by this Act, neither the toll charger, nor the toll service provider or the toll declaration operator shall charge the person subject to toll payment any additional fees or unjustified expenses for access to the UD Toll System. In determining the consideration for road use authorization, no deviation shall be made from the toll rate specified in legislation.

Section 8/A² (1)⁸ The government – complying with the conditions specified in the relevant laws and regulations – shall, as guarantor, be liable for the full performance of the payment obligation arising from the loans received from financial institutions by KAVOSZ Vállalkozásfejlesztési Zrt. in accordance with the credit agreements for the purpose of the provision of loans for the payment of tolls.

(2) The year-end sum of the government guarantee specified in Paragraph (1) shall be specified in the Budget Act.

(3) With regard to the credit agreement of KAVOSZ Vállalkozásfejlesztési Zrt. specified in Paragraph (1), the creditor shall not be obliged to specify further guarantee on top of the guarantee provided by the government.

Section 8/B² (1)¹⁰ The government – complying with the conditions specified in the relevant laws and regulations – shall, as guarantor, be liable for the KAVOSZ Vállalkozásfejlesztési Zrt.'s performance of 80% the payment obligation arising from the loans received by the debtors specified in Paragraph (2), in accordance with the credit agreements related to the payment of tolls.

(2)¹¹ The government guarantee specified in Paragraph (1) shall only be applicable to the loans of small and medium enterprises obliged to pay road tolls.

(3) The full year-end sum of government guarantee included in Paragraph (1) shall be specified in the Budget Act.

(4) With regard to the loans specified in Paragraph (1), KAVOSZ Vállalkozásfejlesztési Zrt. shall not be obliged to specify further guarantee on top of the guarantee provided by the government.

(5) Guarantees not exceeding 20% of the contractual loan, and the joint sum of 3-month transactional interest applicable upon signature of the loan agreement, specified by KAVOSZ Vállalkozásfejlesztési Zrt. related to the credit agreement specified in Paragraph (1) shall not be transferred to the government in case of the redemption of the guarantee specified in Paragraph (1).

6. Exemption from toll payment

Section 9 (1) The obligations of toll payment and toll declaration shall not apply to—

a) Hungarian Defense Force, National Security Service, as well as law enforcement bodies specified in the act on national defense and the Hungarian Defense Force, as well as measures that can be taken in special law and order, with regard to the motor vehicles operated by the same;

b) foreign armed forces deployed to or transiting Hungary, and international military headquarters established in Hungary, for their official or service motor vehicles, as well as other organizations for their motor vehicles which are exempt under international treaties, international conventions or on grounds of reciprocity;

c)¹² entities performing operational duties on unit tolled sections:

ca) motor vehicles operated by a concession company performing operational duties on concession public roads or business organizations commissioned by the same for the performance of operational duties;

cb) in case of national public roads not falling under the category specified in point ca), motor vehicles operated by the public road management used for the performance of road manager commissioned by the minister responsible for the operation of the national road network and traffic (hereinafter referred to as: minister), and in the winter, in accordance with agreement made with the national public road management, the authorized representative of the national public road management, the motor vehicles used for road cleaning and maintenance;

d) the toll charger, for the motor vehicles used for the discharge of its duties;

e) persons or entities authorized to use distinctive warning signals, for motor vehicles with registration numbers issued in Hungary, regardless of whether such distinctive warning signals are in actual use while circulating on a unit tolled section;

f) operators of motor vehicles involved in the prevention or control of damage caused by disasters as specified within the meaning of the Disaster Relief Act, during the discharge of such duties, as well as members of volunteer fire brigades, municipal and institutional fire departments, and voluntary or mandatory civil protection units, for the motor vehicles used in the course of the exercise ordered;

g) the transport authority, for the motor vehicles which it operates and uses to discharge its duties as a transport authority;

h) vehicles subject to international treaties, international conventions (NATO, Schengen Agreement) and reciprocity;

i) operators of motor vehicles transporting humanitarian aid, during the discharge of such duties;

j)¹³ For the motor vehicle operated by the entity established to operate the public road network of the country neighboring Hungary in order to fulfil its public road operation tasks, if it uses the two unit tolled sections nearest to the state border of the two affected states;

k)¹⁴ the motor vehicles operated by those fulfilling transportation tasks ordered in crisis situation caused by mass migration as set out in the Act on the country border – during the performance of such transportation tasks.

(2) No toll shall be payable for the duration of closing a public road or limiting (diverting) the traffic thereon in any unit tolled section otherwise subject to toll that is designated as a diversion route by the bodies authorized to close public roads, or to limit or divert the traffic thereon.

(3)¹⁵ For tolled motor vehicles, the minister may, in the ministerial decree on the rules for the removal of stranded motor vehicles posing a hazard to the safety of road traffic, establish rules in derogation of paragraph (1) in respect of cars transported to rest areas to ensure the safety of traffic.

(4)–(6)¹⁶

Section 10 The vehicles specified in subsections 9(1)(h) and (i) shall be eligible for toll-free road use pursuant to being reported to the authority authorized for international communications, and those specified in subsection (f) pursuant to being reported to the disaster relief authority, following acknowledgement of such reporting and registration in the exemptions register.

Section 10/A¹⁷ Following the registration of vehicles by the entity authorized to order the transportation task defined in subsection 9(1)(k) into the register of exemption – as set out by the Act on the Registration of Public Road Transport –, they become exempt from the toll declaration obligation and may use the toll roads free of charge.

Section 11 (1)¹⁸

(2) In the case of vehicles subject to international treaties, international conventions and reciprocity, vehicles transporting international humanitarian aid, and motor vehicles involved in the prevention or control of damage caused by disasters as specified within the meaning of the Disaster Relief Act, temporary authorizations for toll-free use shall be entered in the register by the authority authorized for international communications, as well as the disaster relief authority pursuant to paragraph (1).

Section 12¹⁹

CHAPTER III

USE OF TOLL REVENUES

7. Principles of the use of toll revenues

Section 13 (1) Toll revenues shall be posted as budget revenue to the heading under subsection 14(4)(d) of Act CXCIV of 2011 on Public Finances.

(2) Toll revenues, excepting revenues from external-cost charges under paragraph (3), shall be used by taking account of the following order of priority, in accordance with the policy decisions as adopted from time to time, for the purposes of—

a) operation and maintenance of the systems for toll collection, the bound toll service provider, toll enforcement and toll enforcement support, and provision of funds for related activities, particularly in the fields of technology, finance, accounting and law;

b) operation and maintenance of the national toll domain, and provision of funds for related activities, particularly in the fields of technology, finance, accounting and law;

c) operation and maintenance of other components of the national road network, and provision of funds for related activities, particularly in the fields of technology, finance, accounting and law;

d) other government duties relating to road traffic infrastructure, and provision of funds for related activities, particularly in the fields of technology, finance, accounting and law;

e) payment of availability fees for road sections operated under concession contracts;

f) enhancement of the capacity of existing components of the national public road network, and the development of new network components.

(3) Within toll revenues, revenues from external-cost charges under shall be used by taking account of the following order of priority, in accordance with the policy decisions as adopted from time to time, for the purposes of—

a) facilitating efficient pricing;

b) reducing road transport pollution at source;

c) mitigating the effects of road transport pollution at source;

d) improving and controlling the carbon-dioxide and energy performance of vehicles;

e) improving road safety;

f) developing alternative infrastructure for transport users and/or expanding current capacity;

g) supporting the trans-European transport network;

h) optimizing logistics; and

i) providing secure parking places.

CHAPTER IV

ADMINISTRATIVE DUTIES RELATING TO THE DISTANCE-BASED TOLL COLLECTION SYSTEM

8. Verification of compliance with the obligation of toll payment, penalties for non-compliance

Section 14²⁰ Except for the cases of exemption provided for in Section 9, road use shall be deemed unauthorized if—

a) prior to the use of the unit tolled section by the given tolled motor vehicle – excluding the content of subsection (c) – no road use authorization was established in accordance with paragraph 6(2);

b) the person subject to toll payment uses a unit tolled section under a toll or environment protection declaration for a lower toll or environment protection category than their own; or

c) the person subject to toll payment has an effective agreement with the toll service provider for the submission of toll declarations under this Act to the toll charger and for toll payment in respect of the unit tolled section and the motor vehicle concerned, and as part of that agreement, in order to perform its reporting obligation set out in this Act, he/she is entitled to use an on-board unit, but the on-board unit is on the list of invalidated on-board units at the time of the road use, or its proper operation as set out in specific legislation is not ensured, and no road use authorization as set out in paragraph 6(2) was established in any other way prior to use of the unit tolled sections.

Section 15 (1) The rate of the fine shall be established so that it encourages payment of the toll prescribed by the persons subject to toll payment.

(2) The fines imposed shall be posted as central budget revenue to the heading under subsection 14(4)(d) of Act CXCV of 2011 on Public Finances. The amount of the fine imposed shall be paid in Hungarian forints into the bank account designated in legislation adopted pursuant to the powers conferred by this Act.

Section 16 Unauthorized road use under this Act shall qualify as an offence, for which a fine may be imposed pursuant to the Public Roads Act.

Section 17²¹ (1) The toll enforcement tasks shall be fulfilled by

a) the agency in charge of general law enforcement tasks (hereinafter: the “Police”);

b) the transport authority; and

c) and the organizational unit established pursuant to subsection 6(6)(b)

(hereinafter jointly referred to as authorized entities for the toll enforcement).

(2)²² The police, in cases of presumed offences based on data under subsection (1)(c), shall *ex officio* initiate administrative proceedings as set out in specific legislation.

(3) Based on the data under subsection (2)(c) the authorized entity for toll enforcement in subsections (1)(a) and (b), in cases of presumed offences, shall *ex officio* initiate administrative proceedings in its scope of competence as set out in specific legislation.

(4) As part of their toll enforcement activity authorized entities for toll enforcement may use recorded registration number data to retrieve, by means of direct data access, such motor vehicle data as are required for verification from the register which is maintained by the toll charger on authorized road users.

(5) Using a tailored IT application, the full scope of the data processed in the UD Toll System may be retrieved by means of direct data access by—

a) courts in order to conduct proceedings concerning the judicial review of administrative fines;

b) prosecutors’ offices in order to carry out their duties relating to prosecutors’ participation in administrative proceedings;

c) investigating authorities in order to carry out their duties relating to investigations into crimes within their competence;

d) national security services in order to carry out their duties specified in legislation;

e) the body in charge of coordinating the fight against organized crime for the purpose of analysis and evaluation;

f) the National Tax and Customs Administration in order to conduct the audits relating to its duties in the capacity of the national tax and customs authority as set out in the National Tax and Customs Administration Act.

(6) In addition to the entities listed in paragraph (5), data may also be requested from the electronic enforcement system by persons who, in order to carry out the duties within their competence, are authorized by law to access the data processed in the electronic toll enforcement system.

(7) The authorized entity for toll enforcement under subsection (1)(c) as part of the authority inspection during the on-spot control of rules on the distance-based road toll payable for the use of road toll sections is entitled:

a) to stop the motor vehicle, document the position and the state of the motor vehicle and take the motor vehicle’s documents in hand;

b) to examine and document the ID documents of the road user and the motor vehicle in order to perform their task;

c) to request a Police intervention, and until the Police arrives – but to a maximum period of 2 hours – hold up the person who does not hand over the documents of the motor vehicle, or does not present their identification documents, or impedes the measure in any other way;

d) to record the minutes of the inspection in case an unauthorized road use was established, and request the intervention of the entity authorized for toll enforcement in subsections (1)(a) and (b), and until their arrival – but to a maximum period of 2 hours – hold up the motor vehicle.

(8) For persons conducting the toll enforcement with regard to the authorized entity for the toll enforcement in accordance with subsection (1)(c) the provisions of the Public Roads Act regarding controlling operators shall be applicable, whereby the controlling operators are the persons conducting the toll enforcement.

(9) No instructions can be given to the authorized entity under subsection (1)(c) to control the road tolls in its scope of inspection.

(10) The Transport Authority is entitled to decide about the legal remedy in connection with the procedure of the authorized entity under subsection (1)(c) to control the road tolls in its scope of inspection, with the exception set out in paragraph (11).

(11) If based on the action of the authorized entity to conduct toll enforcement as set out under subsection (1)(c) a public administrative procedure is launched, the legal remedy reported in accordance with paragraph (10) will be decided in a decision by the authority entitled to conduct the procedure.

9. Supervision over the activity of the toll charger and toll service providers

Section 18 The supervisory body designated under the decree adopted pursuant to the powers conferred by this Act shall carry out audits to review the lawfulness of the activity of the toll charger and toll service providers which is subject to this Act and to any legislation adopted pursuant to the powers conferred by this Act.

Section 19 (1) As part of its audit, the supervisory body may examine the databases pertaining to the toll charger's and toll service providers' activities which are subject to this Act, and may produce copies or notes of the data and lists stored therein. One year after terminating its audit, the supervisory body shall delete any and all personal data which has come to its knowledge as part of the audit.

(2) The toll charger and the toll service providers shall establish and operate their databases so that the supervisory body may discharge its audit duties at any time without any disruptions to the operation of the databases.

(3) The supervisory body may disclose the findings of its audit, provided that no personal data is disclosed on persons subject to toll payment and road users.

(4) Where the supervisory body requests data within its audit powers, the requested toll charger and toll service provider shall fulfill that request within the time limit set by the supervisory body unless otherwise provided for in this Act.

Section 20 (1) Where, on the basis of the audit conducted, the supervisory body establishes that the toll charger or the toll service provider fails to comply with the law in the course of activity, it may apply the sanctions of—

a) reminding the toll charger or toll service provider concerned to fulfil its obligations, demanding cessation of the infringement within the time limit set;

b) imposing a supervisory fine in the range of HUF 1–100 million, which shall be collected as revenue of the central subsystem of public finances;

c) suspending the toll service provider, or in the case of an EETS provider, the Hungarian operations of that provider, and recording the fact of the suspension in a register which it maintains, where the time limit set pursuant to subsection (a) expires without any action being taken.

(2) In imposing the supervisory fine, the supervisory body shall consider—

a) the severity of the infringement;

b) the severity and frequency of previous infringements;

c) the volume of the toll charger or toll service provider's annual sales;

d) the extent of the damage caused by the infringement and the number of injured parties.

10. Registration of the entities involved in toll collection

Section 21 (1) In Hungary, only entities registered by the supervisory body may act as the toll charger, toll service providers or EETS providers. For the purpose set out in Article 19 of Commission Decision 2009/750/EC of 6 October 2009 on the definition of the European Electronic Toll Collection Service and its technical elements, the supervisory body shall register the toll charger and any toll service provider which it contracts, where they meet the criteria specified in the decree adopted pursuant to the powers conferred by this Act.

(2) In order to maintain the register under paragraph (1), the supervisory body shall process the following data:

a) for a sole trader, their name, residence, mother's name, place and date of birth, e-mail address, telephone number, payment account number, the number of their personal identification document, sole trader's license number or other identifier issued by the licensing authority, and VAT number or other similar identifier issued by the tax authority of its home country;

b) for a legal person or unincorporated business (collectively "entity"), its name, registered office, company registration number or other identifier issued by the licensing authority, its VAT number or other similar identifier issued by the tax authority of its home country, its payment account number, the names and positions of its authorized representatives, and the e-mail address and telephone number of the entity.

(3) In addition to what is provided for in paragraph (2), the supervisory body shall, for the purposes set out in subsection (1), maintain a register of the following:

a) the unit tolled sections, indicating which of those are subject to EETS;

b) the names of the entities acting as toll chargers on the unit tolled sections;

c) the tolling technology employed on the unit tolled sections;

d) toll context data in respect of the unit tolled sections (in particular the toll categories and other properties which influence toll payment, and the tariffs);

e) the full text of the domain statement as set out by the toll charger in specific legislation.

(4) In the event of any changes to the data of a registered person or entity, the person or entity concerned shall report such changes to the supervisory body within 15 days. The supervisory body shall update the register with the changes by indicating the date of each change. Where the supervisory body is informed of a change *ex officio*, it shall also update the register *ex officio*, and notify the registered person or entity within 15 days. Where the person required to report changes fails to fulfil its reporting obligation and the supervisory body is not

informed of a change *ex officio* within 15 days of its occurrence, the supervisory body may apply the sanctions set out in sections 20(1)(a) and (b).

(5) Where the supervisory body suspends the operations of a toll service provider or EETS provider in application of section 20(1)(c), its decision shall also provide for the registration of this fact in the register under section 21(1). Following a waiting period of at least three months after the decision on the suspension of operations has become final, the toll service provider or EETS provider may request the supervisory body to conduct an audit of the toll service provider or EETS provider to determine whether there are reasonable grounds for the operations to remain suspended. Where, as a result of its audit, the supervisory body finds that the toll service provider or EETS provider concerned has eliminated the circumstances on grounds of which its operations were suspended, and has provided the conditions under which it may lawfully pursue its operations, the supervisory body shall permit the operations to be pursued, and shall procure for the removal of suspension from its register.

Section 22 (1) At least once a year, the supervisory body shall verify that the toll service provider complies with the legal provisions which govern its operations. In the event of any non-compliance, the supervisory body shall remind the toll service provider to ensure legal compliance within a time limit of 30 days, failing which it shall remove the toll service provider from the register.

(2) In the interest of the public, the data in the register shall be publicly available except for sole traders' residence and the numbers of their personal identification documents.

(3) At the end of each calendar year, the supervisory body shall submit data on the road network covered by the EETS service and on EETS providers to the European Commission and to the entity responsible for the maintenance of the register in each EU Member State.

(4) The supervisory body shall notify the Member State of the EETS provider's registration and the European Commission where it finds any difference between the data submitted by the entity responsible for the maintenance of the register in that EU Member State and the actual domestic situation which it has observed.

11. The conciliation body

Section 23 (1)²³ Regarding any disputes arising between the toll service provider and the toll charger related to toll collection – especially in connection with their contract negotiations or their existing contractual relationship –, the parties shall, before taking legal action, make attempts for the amicable resolution of such disputes by means of the conciliation body designated in the decree adopted pursuant to the powers conferred by this Act.

(2) Before taking legal action, the parties involved in the dispute shall request the conciliation body to examine and provide an opinion on their dispute. The opinion of the conciliation body shall not be binding on the parties.

(3) The Government shall adopt a decree to specify the rules for the organization, operation and procedures of the conciliation body.

12. Certification body

Section 24 (1)²⁴ The certification body shall draw up declarations of conformity and suitability for use certificates for the interoperability system constituents of the electronic toll collection system (including road side equipment and interfaces) in the form of examination certificates. The designation of the certification is set out in the decree adopted pursuant to the powers conferred by this Act.

(2) The certification body shall—

a) take into consideration the declaration of conformity to specifications prepared by the manufacturer of EETS equipment, the EETS provider or its authorized representative;

b) verify the technical documentation and the program for validation by in-service experience;

c) approve the monitoring procedure of the in-service behavior and carry out specific surveillance;

d) assess the in-service interoperability with the systems and operational processes maintained by the toll charger for the discharge of its duties;

e) issue a suitability for use certificate in case of a successful interoperability test of the interoperability system constituents;

f) issue a report in case of unsuccessful behavior of the interoperability constituents, which shall consider the problems which may arise as a result of non-compliance of a toll charger's systems and processes with relevant standards and technical specifications, and, if appropriate, make recommendations in view to resolve the problems.

13. Obligation of cooperation

Section 25 In the course of the implementation and operation of the electronic toll collection and toll enforcement system, the entities operating unit tolled sections shall cooperate with the entities designated for specific tasks, and in the course of the assessment, design, development and operation of the system, with the agents engaged by such entities, and the supplier of the electronic toll collection and toll enforcement system (collectively "authorized entities"), and shall in particular—

- a) allow access by the authorized entities to the road sections which they operate and enable them to carry out their work;
- b) issue the approvals and statements requested for work to be carried out within 15 days of being requested to do so;
- c) carry out any tasks required in relation to safety and protection on the public roads which they operate;
- d) consult and inform other authorized entities upon request.

CHAPTER V

DATA PROCESSING

Section 26 (1)²⁵ Acting within its supervisory powers, in order to ensure the efficiency of toll collection, until expiry of the limitation period of the relevant claim for the payment of tolls or fines, the supervisory body may process the following properties of tolled motor vehicles relating to the obligation of toll payment and to the obligation of data provision required to fulfil tasks set out in the Act on National Tax and Customs Administration, and the following personal data of road users, operators and contracted toll payers:

- a) for a road user, operator or contracted toll payer who is a natural person, their name, residence, mother's name, place and date of birth, e-mail address, telephone number, payment account number, and the data of their personal identification document;
 - b) for a road user, operator or contracted toll payer which is a legal person, its name, registered office, company registration number or other identifier issued by the licensing authority, its e-mail address, telephone number and payment account number;
 - c) the rate of the tolls and fines to be paid;
 - d) the place and time of road use;
 - e) the place and time of toll payment;
 - f) the registration number of the motor vehicle or vehicle train;
 - g) the properties of the motor vehicle or vehicle train required for the establishment of the vehicle category;
 - h) identification data of registered on-board units;
 - i) the recorded image of the motor vehicle and its registration number;
 - j) where unit tolled sections are used pursuant to a route ticket, the route, the period permitted to cover that route, and the document number.
 - k) the total weight, axle load and size of the motor vehicle or vehicle train;
- (2) In order to discharge its duties under sections 6(5) and 7, the toll service provider may process the data under subsection (1), excepting those in subsection (1)(i), until expiry of the limitation period of the relevant claim for toll payment.

(3)²⁶ (3) In order to discharge its duties under sections 6(4) and 17 and in order to performs its data provision tasks set out in the Act on National Tax and Customs Administration, the toll charger may process the data under subsections (1)(c)–(k) for 7 years following the generation thereof.

(4) In order to verify toll collection and the fulfilment of the obligation of toll payment, and in order to collect the tolls and the fines imposed, until expiry of the limitation period of the relevant claims, the police may process the following properties of motor vehicles exempted from toll payment, and the following personal data of the persons subject to toll payment, without their specific consent:

- a) the recorded image of the motor vehicle and its registration number;
- b) in the event of an offence, the name of each natural person concerned as well as their residence, mother's name, place and date of birth, the data of their personal identification document, and payment account number;
- c) in the event of an offence, the name of each legal person concerned as well as its registered office, company registration number or other registration data, and payment account number;
- d) the place and time of road use;
- e) the registration number of the motor vehicle or vehicle train;
- f) the properties of the motor vehicle or vehicle train required for the establishment of the vehicle category.

(5)²⁷ The Police may compare the register maintained by the toll charger on authorized road users and invalidated on-board units and the data of the persons and entities eligible for the toll-free use of unit tolled sections with the data under paragraph (4). As part of performing its duties relating to toll enforcement, the Police may retrieve the data specified in paragraph 9(1) and (1a) and subsections (2)(a), (b), (d) and (e) and (3) of Act LXXXIV of 1999 on the Registration of Public Road Transport; subsection 17(2)(b) and paragraph (6) of Act LXVI of 1992 on the Registration of the Personal Data and Addresses of Citizens; Title 1 of Chapter III of Act V of 2006 on Public Company Information, Company Registration and Winding-up Proceedings; paragraph

21/D(1) of Act I of 1988 on Road Transport; as well as the data recorded in the register of persons and entities eligible for the toll-free use of unit tolled sections.

(6)²⁸ Where no on-spot inspection is conducted or the identity of an offending operator of a vehicle with a foreign registration number could not be established by means of a check or an automated query, the Police may retain the registration number of the vehicle and the identification data of its on-board unit where installed, the place and time of committing the offence, other positioning specifications, and recorded images of the check, for 2 years after the check.

(7) As part of proceedings for the assessment of fines, the police may, by means of direct data access, query the vehicle register of the Member State concerned to retrieve the registration number data required in evidence that an offence has been committed, as well as the personal and residence data of operators who are natural persons, and the identification data of operators which are legal persons.

(8) The toll service provider shall provide the toll charger, the authorized entities for toll enforcement, and the supervisory body with such data in its register of persons and motor vehicles subject to a services contract for road use as are required for toll collection and toll enforcement, taking account of the data processing rights specified in this section.

(9)²⁹ The toll charger and the toll service provider shall, as set out in the cooperation agreement between the toll charger, the toll service provider and the supervisory body, cooperate with the authorized entities for the secret collection and acquisition of data under the National Security Services Act and the Act on the Protection Program for Participants of Criminal Procedures and Persons Co-operating with the Criminal Justice. The toll charger, the toll service provider and the authorized entity for toll enforcement shall pursue their activities under this Act so that it does not prevent or make impossible the secret collection or acquisition of data.

(10) The investigating authorities under the Criminal Procedures Act, the body in charge of internal crime prevention and crime detection and anti-terrorism, the national security services as provided for in legislation, and the National Tax and Customs Administration in order to discharge its duties under law, may observe the toll collection properties of vehicles circulating on unit tolled sections (in particular the place and time of road use, the registration number of the motor vehicle or vehicle train and other properties relevant for the establishment of the toll rate) by means of using the UD Toll System, and may retain the data obtained from such use.

(11) The toll charger and the toll service provider shall, except in cases of data reporting and data examination as provided for in the National Security Services Act, notify the national security service concerned about any request for data reporting on its motor vehicles which constitutes qualified data. The electronic implementation and procedures of the notification shall be set out in the cooperation agreement between the toll charger, the toll service provider and the supervisory body.

Section 27 The manager of the budget appropriation which finances the objectives specified in paragraph 13(2) shall publish the revenues from tolls and from the fines imposed for failure of toll payment as well as the data concerning the use of those revenues on its webpage, and submit such data upon request to the Social Consultation Organization established under the decree adopted pursuant to the powers conferred by this Act.

CHAPTER VI

FINAL PROVISIONS

14. Enabling provisions

Section 28 (1) Powers shall be conferred upon the Government to adopt a decree to—

- a) establish toll categories, the methodology of setting toll rates, and provisions on discounts;³⁰
- b) designate on behalf of the Hungarian State the budgetary agency authorized to enter into agreements for duties of toll chargers, bound toll service providers and toll enforcement supporters, the authorized entity to act as a toll charger and bound toll service provider, as well as the entity acting as a toll enforcement supporter;³¹
- c) establish the requirements for the registration of toll service providers under paragraph 21(1);³²
- d) designate the supervisory body and establish its powers and responsibilities, jurisdiction, operations and procedures;³³
- e) designate the entity to act as the conciliation body under subheading 11, and specify the rules for the organization, operation and procedures of the conciliation body;³⁴
- f) specify the rules for toll payment and the settlement of toll claims between the toll charger and the toll service providers;³⁵
- g) specify the rules for the toll collection activities of the entities involved in toll collection, particularly in respect of their agreements and customer relations with one another and the persons subject to toll payment;³⁶

h) establish the scope of data required for toll enforcement, the inclusion of which shall be mandatory in agreements between the toll charger and toll service providers, and between toll service providers and road users;³⁷

i) specify the detailed rules for the EETS service;³⁸

j) specify the rules for the establishment and operation of the Social Consultation Organization;³⁹

k) establish the procedural, registration and data reporting rules for the maintenance of the register of the persons and entities eligible for the toll-free use of unit tolled sections;⁴⁰

l) establish the rules to enable all road users to access the toll collection service of a toll service provider as of the toll provisions becoming effective;⁴¹

m) specify the procedures and rules applicable to making the collected toll and fines available for the central budget and the accounting rules applicable to the settlement of toll transactions;⁴²

n) specify the rules for the transportation of vehicles to rest areas and for related funding;

o) establish road users' obligations in respect of toll declarations, including the detailed rules for the operation, use and invalidation of on-board units;⁴³

p) establish the requirements for toll declaration operators and the required contents of the agreements to be drawn up with toll declaration operators;⁴⁴

q) specify the rules for granting exemptions from toll payment on farmers' motor vehicles which are used for the transportation of livestock and, during the harvest of agricultural produce, the transportation of agricultural produce;⁴⁵

*r)*⁴⁶ specify the specific details of the rules related to the government guarantee provided for in Section 8/A and 8/B as well as the state interest subsidy related to the loans provided for in Section 8/B.

(2) Powers shall be conferred upon the Minister to adopt a decree to—

a) specify the toll roads and unit tolled sections subject to this Act;

b) establish the environmental performance of motor vehicles for the purposes of toll collection in each vehicle category specified by the Government;

c) set the rate of the toll due for the use of unit tolled sections including infrastructure charges and external-cost charges, in agreement with the Minister in charge of tax policy, pursuant to the principles of charge policy set out in the applicable Government decree;

d) establish the procedural rules as well as the rights and obligations of the supervisory body in respect of the maintenance of the register;

*e)*⁴⁷ designate the certification body;⁴⁸

f) specify the flat-rate reimbursement payable by the toll charger to toll service providers and the calculation method for such reimbursement, as well as flat-rate reimbursement payable by the bound toll service provider to toll declaration operators and resellers, and the calculation method for such reimbursement.⁴⁹

Section 28/A⁵⁰ The Minister responsible for transportation shall be entrusted to set the detailed rules for operating drive-through weight measuring points in the road pavement in a ministerial decree.

15. Entry into force

Section 29 (1) This Act shall enter into force, with the exception of the provisions in paragraph (2), on the day following its promulgation.

(2) Sections 3–14, 15(2), 16–20, 21(3) and (4), 22, 26(5)–(7) and (9)–(11), 27, 32–33, 35, 37(2), and 38–40 of this Act shall enter into force on 1 July 2013.

Section 15/A

51 Transitional provisions

Section 29/A⁵² (1) If paragraphs (2)–(4) are applicable, the Applicant is eligible for the waiver of his/her penalty for unauthorized road use set out in subsection (14)(a), committed between 1 July 2013 and 31 March 2014, on the basis of his/her application (hereinafter: Application) submitted to the entity appointed with road toll collection (hereinafter: “toll charger”) as set out under paragraphs (6)–(7) in accordance with this Act.

(2) Upon breach of subsection 14(a) the Applicant is eligible for the waiver of his/her penalty on the basis of his/her Application in accordance with paragraph (7), only if the route ticket was purchased for the unit tolled sections used without authorization within max. eight hours following notice by the organization designated to conduct the toll enforcement support tasks about the unauthorized road use, and the purchased authorization was not used in another instance, whereof the Applicant makes a Declaration in a full probative private document to the toll charger.

(3) Applicant is eligible for the waiver of the penalty levied for violation of subsection (14)(a) on the basis of his/her application in accordance to paragraph (7), if the said fine was levied at a unit tolled section being part of a main road that shares an intersection with the motorway and the driver subjected to the fine payment had valid road use authorization at the time of the unauthorized road use for the unit tolled road sections being part of the given motorway and sharing the intersection.

(4) Applicant is eligible for the waiver of the penalty levied for violation of Section (14)(a) on the basis of his/her application in accordance with paragraph (7) if the said fine was levied – within the validity period of the route ticket, at a given control point maximum one time per each direction – at a unit tolled section being part of

a main route or the road leading to it that is functionally parallel from a road network aspect with the road for which the concerned vehicle had road use authorization at that time that had not been used for road use during its validity period.

(5) If Applicant is exempted from the payment of the penalty in accordance with paragraphs (2)–(4), no further fine can be charged for unauthorized road use within 8 hours following the observation of the unauthorized road use forming that basis of the penalty.

(6) In addition to those contained in paragraph (2)–(4), another condition of the penalty waiver is that the Applicant has paid the service fee in the amount of HUF 12,000 for each fine instance to the toll charger prior to the submission of his/her application and can verify such payment at the time of the submission of his/her application. An additional condition of the penalty waiver in the case described in paragraph (3) and (4) is that prior to the submission of his/her application the Applicant has paid the toll difference, if applicable, between the toll relevant for the road for which the Applicant had road use authorization and the toll for the route which the Applicant actually used and can verify such payment at the time of the submission of his/her application. The Applicant must make a declaration related to his/her actually travelled route in his/her Application. If a toll difference payable by the Applicant has occurred but its amount cannot be determined based on the Application, or it cannot be verified by the Applicant, then he/she is obligated to pay a lump sum in the amount of HUF 10,000.

(7) The application can be submitted within 60 days from the date when Act LIV of 2014 on the amendment of Act LXVII of 2013 on distance-based toll payable for the use of motorways, expressways and main roads enters into effect. Based on the Applicant's Application, the toll charger will issue a statement – if the content of the application is in compliance with the relevant statutes, and are not in conflict with the data included in the toll charger's data base – to the effect that the Applicant's penalty payment can be waived, in consideration of paragraphs (2)–(4). If data in the toll chargers database differ from the content of the Application, no certificate can be issued. The toll charger issues the certificate within 120 days following the receipt of the Application. The submission of the Application on the Applicant's part shall be considered to be a consent that the Application and the certification issued by the toll charger based thereon or – if the content of the database does not enable the issuance thereof – the written notification addressed to Applicant on the rejection of the Application to be forwarded by the toll charger to the authority levying the penalty. In addition to what is provided for in paragraph (6) a copy of the decision establishing the penalty, the grounds for the Application, shall be attached to the Application.

(8) within 2 working days following the receipt of the Application the toll charger informs the authority issuing the decision (hereinafter: the Authority) that is attached to the Application about the content thereof, which suspends the procedure related to the decision attached to the application until the delivery of the written notification addressed to the Applicant about the certification of toll charger in accordance with paragraph (7), or – if the database content of toll charger does not support the issuance of such certification – about the rejection of the application. If the toll charger does not find the content of the Application grounded, the authority, following the receipt of the notification thereof, will continue the suspended procedure concerning the ungrounded Application based on the information previously provided by the toll charger. If based on the certification issued by the toll charge the legislative conditions contained therein apply, the authority charging the penalty withdraws the decision concerned and terminates the procedure. If the court held the decision affected by the Application in force, then based on the Application the authority responsible for implementing the decision will terminated the implementation on the day following the receipt of the toll charger's certificate.

(9) No damages can be claimed for any damage caused by an authority procedure implemented based on a decision revoked or cancelled in accordance with paragraph (8) – if the penalty was established in the decision lawfully.

(10) Regarding the already paid penalty under paragraph (1) the provisions herein shall be applicable, with the condition that in the Application under paragraph (6) the Applicant indicates the bank account number in he/she requests the repayment of the paid penalty. There is no interest paid upon the repayment of a penalty.

16. Compliance with the requirement of the Fundamental Law for cardinality

Section 30 (1) Pursuant to Section 40 of the Fundamental Law, paragraph 36(2) of this Act shall be considered cardinal.

(2) Pursuant to paragraph 46(6) of the Fundamental Law, section 39 of this Act shall be considered cardinal.

17. Compliance with the law of the European Union

Section 31 (1) This Act has been adopted to ensure compliance with—

1. Directive 1999/62/EC (17 June 1999) of the European Parliament and of the Council on the charging of cargo vehicles for the use of certain infrastructures;

2. Directive 2004/52/EC (29 April 2004) of the European Parliament and of the Council on the interoperability of electronic toll systems in the Community;

3. Directive 2006/38/EC (17 May 2006) of the European Parliament and of the Council amending Directive 1999/62/EC on the charging of cargo vehicles for the use of certain infrastructures;

4. Directive 2011/76/EU (27 September 2011) of the European Parliament and of the Council amending Directive 1999/62/EC on the charging of cargo vehicles for the use of certain infrastructures.

(2) This Act sets out provisions which are necessary for the implementation of Commission Decision 2009/750/EC of 6 October 2009 on the definition of the European Electronic Toll Collection Service and its technical elements.

18. Amendments

Sections 32–33⁵³

Section 34⁵⁴

Section 35⁵⁵

Section 36⁵⁶

Section 37 (1)⁵⁷

(2)⁵⁸

(3) The following provisions shall not enter into force

a) paragraph 26(1) of Act CXIX of 2012 amending certain acts relating to transport;

b) the phrase “and from tolls” in paragraph 33/A(4a) of Act I of 1988 on Road Transport, as amended by paragraph 26(2) of Act CXIX of 2012 amending certain acts relating to transport.

(4) Section 20/A(1) of Act I of 1988 on Road Transport, as inserted by section 252 of Act CCXXIII of 2012 on transitional provisions for the enactment of Act C of 2012 on the Criminal Code and amending certain acts shall enter into force without the phrase “and checks under section 33/C(1)”.

Sections 38–40⁵⁹