

## Act CLXXXIV of 2005

### on the technical investigation of aviation, railway and marine accidents and incidents

In order to improve aviation, railway and marine safety and to conduct prompt technical investigations into accidents as well as to prevent future accidents – in accordance with international agreements on the investigation of transport accidents – Parliament hereby enacts the following Act:

#### Chapter 1

#### GENERAL PROVISIONS

##### Scope

1. § (1) This Act shall apply to technical investigations into transport accidents and other transport occurrences which have occurred in the territory of the Republic of Hungary or in the Hungarian airspace.
  - (2) Unless international agreement stipulates otherwise, the provisions of this Act shall be applied to technical investigations into transport accidents and other transport occurrences which have occurred outside the territory or airspace of the Republic of Hungary involving aircraft, vessels or railway vehicles registered in Hungary.
  - (3) The technical investigation into the following transport accidents and other transport occurrences fall out of the scope of this Act:
    - a)
    - b) transport accidents and other transport occurrences involving vessels of the Hungarian Armed Forces and that of the police.
- 1/A. § section (4) of 3. §, and sections (3) and (4) of 7. §, 14. § as well as sections (5) and (9) of 16. § of this Act shall not be applied in case of occurrences involving state aircraft.

##### Interpretation

2. § For the purposes of this Act:
- a) *transport accident*: aviation accident, serious railway accident and serious marine casualty;
  - b) *other transport occurrence*: aviation incident, aviation irregularity, railway accident, railway incident and marine incident;
  - c) *fatal accident*: means an accident in the consequence of which a person sustains fatal injury;
  - d) *fatal injury*: means an injury which is sustained by a person in an accident and which results in his/her death within 30 days of the date of the accident;
  - e) *serious injury*: means an injury which is sustained by a person in an accident and which:
    - ea) requires hospitalization for more than 48 hours, commencing within seven days from the date the injury was received; or
    - eb) results in a fracture of any bone (except simple fractures of fingers, toes, or nose); or
    - ec) involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage; or
    - ed) involves injury to any internal organ; or
    - ee) involves second or third degree burns, or any burns affecting more than 5% of the body surface;or
    - ef) involves verified exposure to infectious substances or harmful radiation;
  - f) *aviation accident*: means an occurrence which takes place during the flight, in course of which:
    - fa) a person is fatally or seriously injured as a result of:
      - faa) being in the aircraft, or

- fab* direct contact with any part of the aircraft, including parts which have become detached from the aircraft, weaponry and other attachment carried by or attached to the aircraft, or
  - fac*) direct exposure to jet blast, except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew or
  - fb*) the aircraft sustains damage or structural failure which:
    - fba*) adversely affects the structural strength, performance or flight characteristics of the aircraft, and
    - fbb*) would normally require major repair or replacement of the affected component, except for engine failure or damage, when the damage is limited to the engine, its cowlings or accessories; or for damage limited to propellers, wing tips, antennas, tyres, brakes, fairings, small dents or puncture holes in the aircraft skin, or
    - fc*) the aircraft is missing or is completely inaccessible;
- g*) *serious aviation incident*: means an incident involving circumstances indicating that an aviation accident indicated in *f*) nearly occurred;
- h*) *aviation incident*: means an occurrence, other than an accident, taking place during the flight and associated with the operation of an aircraft which affects or would affect the safety of operation;
- i*) *aviation irregularity*: means an operational interruption, fault, deficiency or other irregular circumstance - not taking place during the flight - which may affect or may have affected flight safety but have not caused accident or serious incident;
- j*) *serious railway accident*: means any train collision or derailment of trains, resulting in the death of at least one person or serious injuries to five or more persons or extensive damage to rolling stock, the infrastructure or the environment (that can immediately be assessed by the investigating body to cost at least HUF 500 million in total), and any other similar accident with an obvious impact on railway safety regulation or the management of safety;
- k*) *railway accident*: means an occurrence taking place during railway transport involving railways – except for local railways – as a guided land transport system for passenger transport and forwarding and their accessories, the railway line and its accessories, operations establishments and railway vehicles, which:
  - ka*) causes injuries to persons,
  - kb*) causes significant damage to property,
  - kc*) causes significant damage to the environment,
  - kd*) endangers railway safety, or
  - ke*) significantly interrupts the operation of the railway system  
(e. g.: collision, derailment, level-crossing accident, accident to persons caused by rolling stock in motion, fire);
- l*) *railway incident*: means any occurrence, other than accident or serious accident, which has harmful effects on the operation of trains and the safety of operation;
- m*) *serious marine casualty*: means collision, fire or other occurrence taking place during marine transport as a result of which a vessel becomes unserviceable, loses its stability or seaworthiness partly or entirely, and which involves any of the following:
  - ma*) partial or entire blockage of the navigable water,
  - mb*) loss of a vessel,
  - mc*) fatal accident or fatal injury,
  - md*) damage by vessel to historic monuments or bridges of the waterway, or those crossing the waterway, and partial or entire loss of their serviceableness;
- n*) *marine incident*: means any occurrence other than serious marine casualty with an impact on marine transport safety;
- o*) *investigating committee*: means a committee or technical investigator appointed to investigate the given occurrence;
- p*) *duration of the flight*: means the period of time between
  - pa*) any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, except for parachutes, gas/hot air balloons and aircraft launched from foot,
  - pb*) for parachutes: the moment the jumper dons the parachute gear and the moment the jumper removes the parachute gear after landing,
  - pc*) for gas/hot air balloons: the start of filling of the balloon with gas or hot air and the moment the last person leaves the gondola/basket after landing,

- pd)* for aircraft launched from foot: the moment the pilot readies the aircraft for takeoff and the moment the pilot removes the aircraft from this stand-by state.
  - pe)* for unmanned aerial vehicles: the moment the flight control system is activated with the intention of flying and the moment the flight control system is intentionally deactivated after completing the planned task;
  - q)* *safety recommendation*: means any proposal by the transport safety body, based on information derived from the technical investigation, made with the intention of preventing transport accidents and incidents;
  - r)* *operator*: means any person, body or legal entity operating transport vehicles or the infrastructure; in case of military aircraft, the direct superior of the unit responsible for the operation of the aircraft.
- For the purposes of the Act, provisions for operators shall be also applied for persons whose activities are not subject to operators' licence or the validity of which has expired, or who acted unlawfully or without permission.

## **Chapter 2**

### **THE TRANSPORT SAFETY BODY**

#### The legal status and organisation of the transport safety body

- 3. § (1)** The transport safety body – pursuant to the provisions of this Act – shall conduct independent technical investigations into transport accidents and other transport occurrences, shall gather and analyse information concerning transport accidents and other transport occurrences as well as making safety recommendations in order to prevent future accidents.
- (2) The transport safety body shall be supervised by the minister responsible for transportation (hereinafter referred to as minister). No appeal shall lie against the decisions and orders of the transport safety body within the scope of an administrative procedure; nor shall they be altered or repealed within the sphere of supervisory jurisdiction. The minister shall not give single orders to the transport safety body to undertake tasks or compensate defaults.
  - (3) The transport safety body shall use its revenue to cover the expenses of its operation. They shall not be withheld for other purposes.
  - (4) The transport safety body shall report annually to the Government on the experiences gained during the revelation of causes of the investigated accidents of the previous year, on the processes concerning transport safety as well as on the state of transport safety. Subsequently, the transport safety body shall make its report public on its website - not later than 30<sup>th</sup> September - , containing the investigations and safety recommendations of the previous year as well as the measures taken in accordance with safety recommendations issued earlier, then it shall send the report to the European Commission and to the European Railway Agency.
  - (5) The head of the transport safety body and the civil servant authorised to substitute him or her may be dismissed if he or she has not terminated an incompatibility standing against his or her position within 30 days, or if he or she has become permanently incapable of serving his or her duties.
  - (6)
  - (7) The transport safety body shall be independent of any person or body whose interest conflict with the functions of the investigating body, in particular:
    - a)* aviation, marine and railway transport authorities responsible for granting permission for the launching, operation and maintenance of vehicles, and for their control,
    - b)* authorities issuing driving licences for aerial, marine and railway vehicles,
    - c)* organisations responsible for air and water navigation,
    - d)* organisations operating the transport infrastructure,
    - e)* transport companies,
    - f)* charging bodies and allocating bodies,
    - g)* notified bodies in accordance with the Railway Transport Act,
    - h)* safety authorities,
    - i)* other regulators of railways.

- (8) A person establishing contractual relationship for public service with the transport safety body (hereinafter referred to as civil servant) shall not be a civil servant, senior officer, owner, staff or other employee of the bodies and economic organisations defined in section (7) of this Act.
- (9) Notwithstanding the provisions of section (8), the head of the transport safety body and the person authorised to substitute him or her shall not be a close relative of a civil servant, senior officer, owner, staff or other employee of the bodies and economic organisations defined in section (7) of this Act. [in accordance with subsection b) of Article 685 of Act IV of 1959 on the Civil Code].
- 4. § (1)** The transport safety body shall maintain a 24/7 duty services department entrusted with the task of receiving notifications of transport accidents and other transport occurrences as well as of reporting and taking other necessary actions.
- (2) If and when public proceedings, proceedings concerning petty offences or criminal proceedings are also commenced in connection with an occurrence, the investigation may be conducted in parallel with these proceedings. Proceedings concerning petty offences or public proceedings shall not hinder the technical investigation.
- (3) The technical investigation shall not hinder the institution of criminal proceedings.
- (4) In the course of the technical investigation and other public proceedings, proceedings concerning petty offences or criminal proceedings in relation to transport accidents and other transport occurrences, the transport safety body, the authorities and the bodies instituting the proceedings may appeal to one another for the purpose of cooperation.
- 5. § (1)** In the absence of contrary provisions of this Act, the provisions of Act CXL of 2004 on the general rules of administrative public proceedings and services (hereinafter referred to as Ket.) shall be applied to investigations which are not qualified as public cases.
- (2) Persons concerned in the technical investigation are not qualified as clients; they shall be regarded as having the same legal status as other participants of the proceedings.
- (3) The transport safety body shall conclude the technical investigation with a final report. The final report shall not be binding, nor shall an appeal be lodged against it. Chapter 8 of Ket. shall not be applied to final reports.
- (4) No appeal shall lie against the decisions and orders made in the course of the technical investigation, they may be impugned directly before court.
- (5)
- 6. §**

## The scope of authority and the functions of the transport safety body

- 7. § (1)** The transport safety body:
- a) shall investigate
- aa) aviation accidents and serious incidents occurred in the territory of Hungary,
  - ab) serious marine casualties,
  - ac) serious railway accidents,
  - ad) aviation accidents and serious incidents referred to in section (2) of 1. §, if the competent investigating body – based on the location of the aviation accident and serious incident – does not conduct investigation;
- b) may investigate other transport occurrences, if – in the judgement of the transport safety body –
- ba) they could have resulted in transport accident in other circumstances,
  - bb) they constitute a part of a series of events of importance to the whole of the transport system,
  - bc) they have an impact on transport safety at a European Community level,
  - bd) the investigation is requested by operators of the infrastructure, transport companies, safety authorities as well as investigating bodies of other Member States of the European Union if they request it within the frame of an international agreement;
- c) shall compile a final report in the appropriate form according to the seriousness and nature of the transport accident and other transport occurrence;
- d) in order to prevent transport accidents and other transport occurrences
- da) shall make a proposal to the body preparing laws, and
  - db) shall make safety recommendations addressed to
    - dba) transport companies,
    - dbb) organisations operating the transport infrastructure,

- dbc*) organisations operating the vehicles, in case of state aircraft, the commander of the unit responsible for the operation (hereinafter referred to together as operator),
  - dbd*) other authorities;
  - e*) shall establish a database to keep record of, evaluate and process aviation accidents, incidents and irregularities;
  - f*) shall continuously exchange its views and experiences with bodies of other countries and with international organisations in order to elaborate common investigation methods, to define common principles for monitoring the implementation of safety recommendations as well as to conform them to the technical and scientific developments.
- (2) the transport safety body shall keep a record of the data – in accordance with this Act – it obtained in the course of the technical investigation conducted on the basis of notifications on aviation accidents, serious incidents and irregularities in the database referred to in subsection *e*) of section (1). Furthermore, the transport safety body shall also keep records of data on occurrences endangering aviation safety and - defined in a separate act - which are collected and evaluated by the civil aviation authority. The data kept in this database shall solely used for the purposes defined in this Act.
- (3) The transport safety body shall establish another database based on the database referred to in section (2) excluding personal and special data for the purpose of data exchange between the European Commission and the countries defined in the agreement on the European Economic Area (hereinafter referred to as EEA states) inasmuch as it is prescribed in international agreements.
- (4) The transport safety body shall put the data kept in the database referred to in section (3) at the disposal of the European Commission and of EEA states as well as meeting other obligations regarding international data supply.

### **Chapter 3**

#### **THE INVESTIGATION**

##### The fundamental principles of the technical investigation

- 8. § (1)** The sole objective of the technical investigation is to reveal the causes of transport accidents and other transport occurrences in order to prevent similar cases in the future. The technical investigation shall in no case be concerned with apportioning blame or liability, or determining rights or obligations.
- (2) The technical investigation shall not be concerned with the scope of authority and functions of other authorities participating in the investigation into transport accidents and other transport occurrences.

##### The general rules of the technical investigation

- 9. § (1)** In the course of the establishment of the facts – harmonising them with the findings of the other administrative authorities if required and not hindering criminal proceedings – the transport safety body shall be authorised particularly to
- a) have immediate and unhampered access (pursuant to 57. § of Ket.) to the site of the transport accident, aviation incident, aviation irregularity and railway incident as well as to the vehicles, their cargo or their wreckage, to the infrastructure and to the navigation or signalling facilities - in parallel with other authorities authorised to investigate the given occurrence under the provisions of a separate law;
  - b) commence, without delay, the controlled removal of remains, wreckages, components, and parts of the infrastructure parallel with the listing of evidences found at the site for examination or analysis purposes;
  - c) have immediate access and use of the contents of data recorders and other recordings for the technical investigation, furthermore to have access and use of verbal messages and devices recording the operation of the navigation and signalling systems;
  - d) have access to the results of examination of the bodies of victims or of tests made on samples taken from the bodies of victims;
  - e) have immediate access to the results of medical examinations of the people involved in the operation of the vehicles or of tests made on samples taken from such people;

- f) have unhampered access to any relevant information or records held by the owner, the operator or the manufacturer of the vehicles and by the authorities responsible for the supervision of transportation or of the operation of the transport infrastructure;
  - g) have access to any relevant information or records held by the operator of the transport infrastructure, the transport companies concerned, the safety organisation of the operator and the transport authorities;
  - h) interview the witnesses in any phase of the investigation – witnesses present at the site may be interviewed immediately;
  - i) look into, make or request a copy of all documents concerning the vehicles involved in the transport accident or other transport occurrence, their operator as well as the transport infrastructure and its operator.
- (2) the transport safety body shall exercise its authority referred to in section (1) through its investigating committee or technical investigator.
  - (3) The damages caused by the technical investigation shall be recompensed.
  - (4) At the proposal of the investigating committee, the head of the transport safety body is authorised to issue safety recommendations at any phase of the technical investigation.

### The commencement of the technical investigation

- 10. § (1)** Any person observing a transport accident shall report it to the police. The police shall forthwith inform the bodies whose scope of duties includes giving assistance to persons in danger as a result of a transport accident, protection of personal safety and security of property as well as technical investigation of transport accidents.
- (2) The staff of the vehicle involved in a transport accident, the operators of the vehicles, the operators of the transport infrastructure concerned and other authorities conducting investigations into transport accidents shall forthwith report the occurred transport accident or other transport occurrence to the transport safety body with the data stipulated in a separate act. The obligation to report includes aviation accidents, incidents or irregularities occurred abroad, involving Hungarian aircraft as well as marine casualties occurred abroad, involving a vessel.
  - (3) The technical investigation shall solely commence ex officio. The report shall not be qualified as a request. The person reporting the accident – also in the case when an authority reports the accident – shall be qualified as another participant of the proceedings.
  - (4) If and when
    - a) the operator of the aircraft or the airport,
    - b) the air traffic controller or the ground handling personnel,
    - c) the crew of the aircraft,
    - d) the person responsible for the design, manufacturing, maintenance or modification of any equipment or component of the aircraft,
    - e) the person signing the certificate on the inspection of the aircraft conducted for maintenance purpose, or on putting the aircraft into operation,
    - f) the person responsible for the installation, modification, maintenance, repair, overhaul, in-flight test or control of air navigation devices,
 while performing his or her duties obtain knowledge of an aviation accident, incident or irregularity, he or she shall report it, without delay, to the transport safety body.
  - (5) The listing of aviation irregularities – for information purpose – to be reported as of section (4) is stipulated in a separate act. The person reporting the occurrence shall not be put at a disadvantage by his or her employer on account of his or her report.
  - (6) The duty services department shall receive the reports on accidents electronically, via telephone or letters at the telephone number and address published on the website of the transport safety body and in the Aeronautical Information Publication (AIP) of the Republic of Hungary. The transport safety body shall make a record of the reports and without delay, take the necessary actions - by the assistance of its duty services department - required for the commencement of the investigation. If the report does not come from the operator, the transport safety body shall notify the operator forthwith.
  - (7) If and when the transport accident or railway accident concerns the territory of a neighbouring state, the transport safety body shall notify, without delay, the competent police authority according to the location of the occurrence.

- (8) The investigating committee shall consist of at least two members. The members of the committee are appointed by the head of the transport safety body – in a written appointment – to conduct the investigation. At the same time, he or she shall appoint the investigator-in-charge to organise, conduct and supervise the investigation. Experts – defined in a separate act – who are not the civil servants of the transport safety body may be requested to participate in the work of the committee to conduct the technical investigation. The investigator-in-charge is the civil servant of the transport safety body. Among the civil servants of the transport safety body, a technical investigator – instead of an investigating committee – may be appointed to investigate aviation incidents, aviation irregularities and railway incidents. The technical investigator shall perform the duties and exercise the rights of the investigating committee.
- (9) When receiving the report, the head of the transport safety body shall, without delay, appoint the members of the investigating committee and hereby the investigation shall commence. After the appointment, the investigating committee shall start the technical investigation forthwith. If and when more than one vehicle is involved in the transport accident or other transport occurrence, it shall be considered as one occurrence. Such occurrence shall be qualified according to the most serious consequence.
- (10) In case of serious railway accident – and when the transport safety body decides to conduct an investigation into railway accident or railway incident – the head of the transport safety body shall notify the European Railway Agency about the commencement of the technical investigation within one week. The notification shall contain the date, time, location and nature of the occurrence as well as its consequences regarding fatalities, injuries to persons and damages to property.
- (11) If and when the transport accident or other transport occurrence involves military consignment, the head of the transport safety body shall notify the Hungarian Armed Forces. A representative of the Hungarian Armed Forces may participate in the technical investigation as an observer.
- (12) Based on the report of the head of the site survey, the head of the transport safety body shall notify the minister for defence, the chief of the Hungarian Armed Forces and if the police is concerned, the competent minister about the aviation accident involving military aircraft within 24 hours from the time of the report of the accident.
- (13) The observer referred to in section (11) may be present at the investigation together with the investigating committee or the technical investigator, he or she may exercise its rights to look into documents, to propose questions to witnesses or experts and to make a statement.
- (14) In case of transport accidents or other transport occurrences taking place within the territory of Hungary involving a foreign vehicle, the transport safety body shall notify the investigating body of the State of Registry, State of the Operator, State of Design, State of Manufacture as well as the state defined in an international agreement within the shortest possible time. The notification shall be sent in the official working language defined in the international agreements. The contents of the notification are stipulated in a separate act. The notification shall contain the information available at the given time; the notification shall not be delayed on account for lack of certain information. The missing data and other related information shall be supplied following their collection, without delay.

## Securing of the site

11. § (1)
  - a) in case of aviation accident, the police, in case of aviation incident, the commander of the aircraft – if prevented, the crew of the aircraft or the operator of the aircraft,
  - b) in case of serious marine casualty, the captain of the vessel – if prevented the crew or the police following their arrival at the site of the occurrence,
  - c) in case of serious railway accident, the policeshall ensure that the site is secured and left unchanged (pursuant to section (7)).
- (2) Having come to the knowledge that a transport accident, aviation incident or railway incident has occurred, the duty services of the transport safety body may initiate the securing of the site if required – having regard to the actions already taken at the site.
- (3) Until the competent bodies have arrived at the site,
  - a) the commander or the crew of the aircraft or the head of the airport services,
  - b) in case of railway accident, the owner (tender, user) of the area where the accident occurred, or its employee and the personnel of the train,
  - c) the captain or officer of the vessel

shall ensure that the site is secured – if his or her injury does not prevent him or her from doing so.

- (4) In case of serious marine casualty, if it results in the partial or entire blockage of the navigable water or the vessel involved in the occurrence is in the danger of sinking, the navigable water shall be freed without delay, insomuch as transport on the water can be restored as soon as possible. Furthermore, the vessel shall be secured in an appropriate way.
- (5) The permission of the investigator-in-charge is required to disunite the site of the aviation accident, serious aviation incident, aviation incident or serious railway accident unless it is of urgent necessity for the investigation or in certain cases defined in a separate act.
- (6) The site of the aviation accident and serious aviation incident shall be secured by the police until the arrival of the investigator-in-charge – for the period defined in an agreement made with the police, but at least for four hours from the arrival of the police to the site.
- (7) In order to leave the site unchanged and to preserve the traces and wreckages, every effort shall be made to avoid damages may be done by the weather or by other circumstances. Furthermore, unauthorised persons shall be kept off the site. Exceptions shall solely be made if indispensable immediate actions are required in the interest of personal safety, safety of life or elimination of a catastrophe, or if they are justified by urgent proceedings. In such cases, solely changes directly connected to these actions or proceedings shall be made. The committee recording the traces shall be informed, without delay, about the changes made, and if there is a possibility, the changes shall be entered on record or in pictures.
- (8) If and when the site is the territory of a military or police establishment, or it is a guarded consignment, the competent military organisation or police shall ensure that they are left unchanged or are guarded respectively.
- (9) The investigator-in-charge shall agree with the competent military or police organisations on the guarding of the site and the period of time while it is guarded.
- (10) In order to restore the order of transport as soon as possible, the transport safety body or the investigating committee shall conclude the site survey in the shortest time possible.
- (11) In case of transport accident and other transport occurrence, it is the duty of the operator to gather and make a record of the property of the crew/personnel and the passengers as well as of the special instruments, the accessories and the cargo. The investigator-in-charge shall give a permission to remove and transport them from the site – following an agreement with the authorities concerned.

**11/A. §** (1) The investigating committee shall conduct a survey at the site, of which it shall make a survey report.

- (2) The transport safety body may also use for its technical investigation the survey report made by other authorities or by the operator.
- (3) The leader of the rescue shall provide the required assistance with the equipment available to gather the evidences, record the traces and to take measures which may alter in the course of averting damages.
- (4) Unless other act stipulates otherwise, the investigator-in-charge is authorised – in connection with the investigation, for the duration of the investigation and in agreement with authorities concerned in the investigation – to restrict or suspend any activity or traffic on the infrastructure in the surroundings of the site as long as and insomuch as it is required.
- (5) Having concluded the field investigation, the operator or in the absence of whom, the owner shall arrange for the removal of non-impounded vehicles and devices.
- (6) The persons participating in the field investigation shall be provided with appropriate protecting clothing, compulsory vaccinations stipulated in a separate act and with a sign facilitating identification as well as with adequate technical equipment for conducting the site survey.
- (7) At the request of the transport safety body, the responsible leader of the operator shall arrange for the gathering of documents in relation with the transportation activity and shall put them at the disposal of the committee recording the traces against a receipt.
- (8) If and when – pursuant to international agreement – the accredited representative of other state is authorised to participate in the investigation, it shall be provided that he or she may survey the site in its original state if possible. The arrival of the accredited representatives to the site shall not delay the commencement and conduct of the site survey.



## Data recorders

- 11/B. § (1)** The recovery, read-out and handling of data and information recorded on the data recorders of vehicles or those connected to the infrastructure shall solely be executed by trained and authorised persons.
- (2) The investigating committee shall arrange for the recovery and read-out of data and information recorded on the data recorders. Should the investigating committee not be in possession of the equipment or devices for this task, it may appeal to other domestic or foreign organisation which can provide the facilities for the investigation.
  - (3) The data and information referred to in section (1) shall be put at the disposal of the investigating authority upon its request.
  - (4) In the interest of the successful investigation, the transport safety body may impound the data recorders of the vehicles – including voice recorders – and may order its data content to be downloaded notwithstanding that it may delay the re-putting of the vehicle into service.

## Safekeeping of evidences

- 12. § (1)** If and when further investigation is required, on the basis of the decision of the investigator-in-charge – in agreement with the competent authority –, the transport safety body in cooperation with the operator – in the absence of whom with the owner – and at the expense of the operator, shall transport the vehicles, the installations, the wreckage and its accessories and other evidences to a place suitable for conducting the investigation and shall arrange for their further safekeeping. The investigator-in-charge and the authorities participating in the investigation shall jointly decide on the termination of the safekeeping.
- (2) The transport safety body shall keep the evidences at a separated, suitably equipped place closed for unauthorised persons. In the course of the safekeeping, the transport safety body shall ensure that the evidences remain identifiable and unalterable.
  - (3) The investigator-in-charge shall arrange for the investigation of evidences impounded by the investigating authorities and the authorities acting in petty offences, in a manner agreed by the competent authorities.
  - (4) Following the agreement with the competent authorities, the vehicles, installations and other objects taken over or impounded in the course of the technical investigation – if they are no longer needed for the investigation – shall be handed over to their owner, operator or to the body or person assigned by them. Should the entitled person not remove or transport the object within the specified time on demand, the transport safety body shall act pursuant to the rules of responsible safekeeping regarding the marketing and use of the object (197 §. of Act IV of 1959 on the Civil Code) – with the exception of state aircraft, railway vehicles and vessels of the Hungarian Armed Forces or that of the police. Regarding the latter vehicles, the operator shall arrange for the reception of such vehicles, installations and other objects.

## Persons participating in the technical investigation

- 13. § (1)** The member of the investigating committee or the technical investigator shall not be
- a)* a person involved in the transport accident or other transport occurrence or his or her close relative [pursuant to *b)* of 685. § of the Civil Code],
  - b)* a person who has acted in public proceedings, proceedings concerning petty offences or criminal proceedings regarding the same transport accident or other transport occurrence, and
  - c)* a person who has been initiated as an expert by other authorities in public proceedings, proceedings concerning petty offences or criminal proceedings regarding the same transport accident or other transport occurrence,
  - d)* a person who cannot be expected to investigate the transport accident or other transport occurrence impartially for other reasons,
  - e)* the close relative of the senior officer or owner of the body (economic organisation) concerned in the investigation.
- (2) The investigator-in-charge and the civil servant members of the investigating committee shall be in possession of the following qualifications and certificates:
- a)* third-level degree in the professional field of the vehicle involved in the occurrence and at least five years of work experience in this field, and

- b) a document certifying the completion of a transport accident investigation course done at the transport safety body or at other transport safety body, other educational institution or international organisation and which is accepted by the transport safety body.
- 14. §** The relatives of the deceased and the persons injured in the transport accident or other transport occurrence shall be informed about the investigation and its process and they shall be given the possibility to express their views regarding the investigation and to comment on the data in the draft report.
- 15. §** (1) In the course of the investigation into transport accident or other transport occurrence, Hungarian citizens, the operator (registered in Hungary) – in the absence of whom the owner –, the manufacturer, the repair and maintenance organisation and the representatives of those shall be entitled to make a statement.
- (2) The investigating body of the
- a) State of Design,
  - b) State of Manufacture,
  - c) State of the Operator,
  - d) State of Registry,
  - e) State issuing licences to the service personnel
- regarding the infrastructure or vehicle involved in the transport accident or other transport occurrence may delegate accredited representatives to the investigating body.
- (3) The investigating body of the State of the Operator and the State of Registry may appoint one or more advisers recommended by the operator to assist the accredited representative. If and when the states do not appoint their accredited representative, the investigator-in-charge may invite the representative of the operator to the technical investigation as an adviser.
- (4) The state according to the citizenship of the person deceased or suffered a fatal injury in the transport accident may delegate an accredited representative to the investigating committee.
- (5) Any state – which provides information, equipment or expert to the technical investigation on request – shall be entitled to delegate accredited representative to the technical investigation.
- (6) The accredited representative and the adviser shall put all available relevant information at the disposal of the investigating committee.
- (7) The accredited representative and the adviser shall not give out any information on the progress of the investigation or on the data revealed in the course of the investigation without the consent of the investigator-in-charge.
- 15/A. §** The inspection of weaponry, encrypting and reconnaissance devices and of their documents shall be performed by the person authorised for this task and appointed by the investigator-in-charge.

## Draft report

- 15/B. §** (1) The investigator-in-charge shall compile the draft report on the basis of the technical investigation, and – if required – he or she shall prepare safety recommendations as part of the draft report and shall present it to the head of the transport safety body.
- (2) The head of the transport safety body shall send the draft report to
- a) the transport safety authorities, the specialised staff concerned in the transport accident, aviation incident and railway incident, and the head of the organisation concerned,
  - b) the recipients of the safety recommendations,
  - c) the investigating bodies of the states having participated in the investigation,
- to which they may make reflections within 60 days from the date of receipt/delivery.
- (3) If and when the investigating bodies of the states having participated in the technical investigation have made reflections, the draft report shall be revised. Should the reflections not be taken into consideration, they shall be annexed to the final report as enclosures with the reasons of having left them out of consideration.
- (4) On the basis of the documents of the technical investigation and of the available data, the head of the transport safety body shall review the draft report, during which he or she shall check whether the investigation was conducted in compliance with the regulations.
- (5) The investigating body shall – taking the reflections into consideration – finalise the text of the draft report.
- (6) The draft report shall not be published.

## Final report

- 16. §** (1) On the basis of the draft report, the transport safety body shall compile a final report on the findings of the technical investigation, which shall be issued by the head of the transport safety body.
- (2) The final report shall state the objectives of the conducted investigation, shall contain the time and the location of the transport accident or other transport occurrence, as well as its nature and the consequences regarding fatalities, injuries to persons and damages to property. The final report shall also contain the reason of the accident and may contain safety recommendations. The final report shall not be binding.
- (3) The final report and the safety recommendation shall in no case contain statement or assumption of delinquency or liability and rights or obligations regarding the transport accident, serious aviation incident or other transport occurrence.
- (4) In the final report, the protection of the data of persons concerned in the transport accident or other transport occurrence shall be arranged for in all cases. The final report and the safety recommendation shall in no case contain personal data.
- (5)-(7)
- (8) The names of the investigator-in-charge, the members of the investigating committee, the delegated accredited representative, the adviser and other participants shall be indicated in the final report. The final report shall be signed by the members of the investigating committee. The possible differences of views shall be referred to when signing the final report and the different view shall be appended to the final report.
- (9) The transport safety body shall send the final report to the persons concerned in the transport accident or other transport occurrence, to the recipients of the safety recommendations and to all organisations which might draw useful conclusions from it concerning safety. Furthermore, the transport safety body shall publish the final report – with the exception of aviation irregularities – on its website. The final report shall be sent to the international organisations defined in a separate act, to the European Commission and to the European Railway Agency.
- (10) The recipients of the safety recommendations shall inform – in writing and within 30 days from the date of receipt/delivery – the transport safety body about the acceptance and the deadline of the implementation of the safety recommendations or about its rejection with explanation.
- (11) The final report shall be published within one year from the commencement of the technical investigation, unless the investigation cannot be completed within this period of time due to reasons beyond the control of the transport safety body.
- (12) For the correction and exchange of the final report, 122. § of Ket. is applicable.
- (13) If and when – after the closing of the technical investigation – the transport safety body obtains knowledge of new facts or evidences which require the new judgement of the circumstances or causes of the transport accident, serious aviation incident or other transport occurrence, the head of the transport safety body shall order the commencement of a new technical investigation.
- (14) The transport safety body shall send the final report on aviation accident, aviation incident or aviation irregularity involving solely state aircraft to the operator concerned. Furthermore, the safety recommendation in this case shall be sent to the aviation safety organisations of NATO member states if they are concerned.

## Chapter 4

### **THE DATA MANAGEMENT OF THE TRANSPORT SAFETY BODY**

- 17. §** In order to accomplish its task referred to in section (1) of 7. §, the transport safety body shall be authorised to manage the following data insomuch as it is required for the technical investigation into transport accident, serious aviation incident or other transport occurrence:
- aa)* the name, citizenship, place and date of birth, permanent and temporary address,
  - ab)* qualification, work experience, professional licence, position at the time of the occurrence,
  - ac)* special data regarding the health condition
  - ad)* data regarding the pathological addictions (which may be related to the occurrence)
  - ae)* other physical or mental characteristics (which may have contributed to the occurrence)
- of the personnel of the vehicles involved in the transport accident or other transport occurrence, and of persons navigating or directing traffic as well as those participating in the operation, maintenance and

service of the vehicles involved. Furthermore, the data of the telecommunication of the above mentioned persons having taken place directly prior to or at the time of the occurrence;

- a) the recorded communication of the personnel of the vehicles involved in the transport accident or other transport occurrence and of persons participating in the navigation or direction of traffic, in the operation, maintenance and service of the vehicles involved, furthermore, the recordings of data recorders of the vehicles or the transcripts made on the basis of these recordings;
- b) the name, citizenship, place and date of birth, permanent and temporary address of other persons participating in the technical investigation into transport accident, serious aviation incident or other transport occurrence.

- 18. § (1)** The transport safety body shall handle the data referred to in *aa)* of 17. § separately from the other personal and special data of the person concerned. In the documents of the investigation, the persons concerned shall be indicated according to their role in the transport accident or other transport occurrence. The transport safety body may use the names and addresses of persons concerned in order to communicate with them and to obtain further data.
- (2) After one year – three years in case of fatal injury – from the issuing of the final report, but three years from the time of the transport accident or other transport occurrence at most – unless an act stipulates it otherwise –, the transport safety body shall delete all personal and special data regarding the occurrence in a non-restorable way.
  - (3) The personal or special data handled by and kept among the records of the transport safety body may be forwarded on the basis of international covenant or cooperation, for the purpose of foreign investigation of the transport accident or other transport occurrence, or pursuant to reporting obligation stipulated by international agreement – with the exception of forwarding the data to the person concerned. In case of non-EEA states, the above mentioned data may solely be forwarded if the protection of personal data is ensured in the third country pursuant to act on the protection of personal data. Identifiable data from the data management system of the transport safety body shall not be forwarded to any other organisation or person.
  - (4) In order to ensure the protection of personal data, the head of the transport safety body shall arrange for the following:
    - a) the person concerned shall have an access to his or her personal and special data handled by the transport safety body and shall be able to exercise his or her right to correct or delete the data,
    - b) the handled data shall be deleted – pursuant to the provisions of act – when the right to handle them has terminated or if court has prescribed to do so in the course of data protection proceedings.
  - (5) The civil servant or other employee of the transport safety body and those having contract of agency or other contractual relationship for employment with the transport safety body as well as the observer referred to in section (11) of 10. § shall keep the personal data having come to his or her knowledge in the course of the technical investigation. This obligation shall subsist following the termination of the above mentioned legal relations.
  - (6) The civil servant of the transport safety body and other members of the investigating committee shall safe keep the data having come to his or her knowledge in the course of the technical investigation. Furthermore, he or she shall not be obliged to make the data – regarding which the owner of the data could have refused the disclosure of data pursuant to act – available to other authorities.
- 18/A. §** In case of aviation accident or aviation incident involving state aircraft, the transport safety body shall provide information to the press with consideration to the interest of national security and national defence.
- 18/B. §** With regard to aviation accident and aviation incident involving state aircraft, the head of the transport safety body shall be entitled – in his or her scope of authority and function – to qualify any data as state secret or official secret.

## **Chapter 5**

### **INTERNATIONAL COOPERATION**

- 19. § (1)** If and when it is not possible to establish in which Member State the serious railway accident, railway accident or railway incident occurred, or if it occurred on or close to a border installation between two Member States, the appointed investigating committees of the member States concerned shall agree which one of them will conduct the technical investigation or shall agree to conduct it in cooperation. If according to the agreement of the two investigating committees, the investigating committee of one Member State

- conducts the investigation, the investigating committee of the other Member State shall be entitled to participate in the investigation and to have an access to its result.
- (2) On the initiation of the investigating committee, the head of the transport safety body may invite investigating bodies of other states or international organisations, in particular the European Railway Agency, to:
    - a) provide appropriate expertise, facilities, equipment and devices, perform technical controls, analyses or evaluations as well as giving assistance with the technical inspection of objects relevant to the investigation, with the evaluation of information obtained from data recorders and with the storage and evaluation of the data of occurrences,
    - b) provide accident investigation experts to the investigations following the occurrences.
  - (3) If and when foreign aircraft, vessel or railway vehicle is involved in the transport accident, serious aviation incident or other transport occurrence, the transport safety body shall initiate the investigating body of the state concerned into the investigation, pursuant to the provisions of 15. §, unless the foreign investigating body does not wish to participate in the investigation. In this case, the transport safety body shall inform the investigating body of the state concerned about the result of the investigation by sending the final report.
  - (4) In accordance with international agreement, the transport safety body may entrust the investigating body of another state with the investigation into aviation accidents occurred abroad.
  - (5) In cases referred to in section (2) of 1. §, the transport safety body may delegate the technical investigation into aviation accident or serious aviation incident or any part of the investigation to a third country or to the International Civil Aviation Organisation (ICAO) if it is justified.
  - (6) If – pursuant to sections (4) and (6) of 43 §. of Ket. – the proceedings of the transport safety body is excluded, the head of the transport safety body shall entrust the investigating body of another EEA state with the investigation into transport accident or serious aviation incident.
  - (7) The transport safety body may make a cooperation agreement with foreign bodies authorised to investigate transport accidents and other transport occurrences.
- 19/A. §** (1) Upon the invitation of the foreign investigating body, the transport safety body may participate in the investigation conducted by the foreign investigating body, or it may send an accredited representative or an adviser.
- (2) Following the notification, the foreign investigating body shall be informed, without delay, about the intention of the transport safety body to participate in the investigation as well as about the accredited representative or adviser and their expected arrival.
  - (3) For the investigation conducted by a foreign investigating body, the transport safety body shall forward the available information with consideration to the provisions of this and other acts regarding data protection.
  - (4) For the foreign investigation into transport accident and other transport occurrence taking place abroad and involving Hungarian vehicle, the transport safety body and the operator may appoint one or more advisers to assist the accredited representative appointed by the transport safety body. Should the transport safety body not appoint an accredited representative, the operator may participate in the technical investigation upon the invitation of the foreign investigating committee.
  - (5) The accredited representative and the adviser – with consideration to the provisions of this Act – shall put all available relevant information regarding the investigation at the disposal of the foreign investigating committee.

## **Chapter 6**

### **INVESTIGATION BY THE OPERATOR**

- 20. §** (1) Regarding other transport occurrences not indicated in *aa*) of *a*) of section (1) of 7. §, if the transport safety body does not conduct technical investigation, it shall invite the operator of the aircraft or the airport, or the air traffic services to investigate the occurrence (investigation by the operator).
- (2) The operator of the aircraft or the airport and the air traffic services shall have an aviation accident investigating body approved by the transport safety body – or in the absence of such body, it shall join an investigating body – which shall conduct the investigation by the operator.
  - (3) The operator of the air traffic services shall inform the transport safety body about the results of the investigation.
  - (4) The investigation by the operator shall be conducted pursuant to the provisions of a separate act.

## Chapter 7

### FINAL PROVISIONS

- 21. § (1)** This act – with the exceptions in the provisions of sections (2) and (3) – shall enter into force on 1<sup>st</sup> January 2006.
- (2) With regard to technical investigations into serious railway accidents, railway accidents and railway incidents as well as serious marine casualties and marine incidents, the provisions of this act shall be applied from 1<sup>st</sup> March 2006.
- (3) *b)* of section (4) of 21. § of this act establishing the new text of 62. § of Act XLII of 2000 on marine transport as well as *c)* of 23. § of this act shall enter into force on 1<sup>st</sup> March 2006.
- (4)
- (5) The provisions of this Act shall be applied to proceedings which have commenced following the entry of this Act into force.
- (6) Proceedings having commenced by the civil investigating body (Civil Aviation Safety Bureau) stipulated in a separate act and being in progress at the time of the entry of this Act into force shall be conducted by the transport safety body.
- 22. § (1)** The minister shall be authorised to stipulate
- a) the detailed rules of the technical investigation into serious railway accidents, railway accidents and railway incidents,
- b) the detailed rules of the technical investigation into aviation accidents, aviation incidents and aviation irregularities,
- c) the detailed rules of the technical investigation into serious marine casualties and marine incidents,
- d) the rules of the investigation conducted by the operator
- in a decree.
- (2) The minister as well as the ministers responsible for national defence and for the maintenance of law and order shall be authorised to stipulate in a joint decree the detailed rules of the technical investigation into aviation accidents, aviation incidents and aviation irregularities involving solely state aircraft as well as the detailed rules of the investigation conducted by the operator, involving solely state aircraft.
- (3) The minister for national defence, the minister for the maintenance of law and order and the minister for tax policy shall be authorised to stipulate – in agreement with the minister – in a joint decree the detailed rules of the technical investigation into serious marine casualties and marine incidents involving solely vessels of the Hungarian Armed Forces and that of the police.
- (4) The Government shall be authorised to appoint a transport safety body or bodies in a decree.
- 23. §** This Act shall serve the compliance with the following legal acts of the European Union:
- a) Council Directive 94/56/EC of 21 November 1994 establishing the fundamental principles governing the investigation of civil aviation accidents and incidents, with the exception of its Annex;
- b) Directive 2003/42/EC of the European Parliament and of the Council of 13 June 2003 on occurrence reporting in civil aviation, with the exception of its Annex I and Annex II;
- c) Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive) points j) - o) of Article 3 and Articles 19-25.

*NOTE: This present document is the translation of the Hungarian version of Act CLXXXIV of 2005.*

*Although efforts have been made to translate it as accurately as possible, discrepancies may occur.*

*In this case, the Hungarian is the authentic, official version.*