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Licensing procedure for renewable energy producing devices in Hungary

EXECUTIVE SUMMARY

The following material of hundreds of pages attempts to introduce to the reader the licensing procedures for power plants and heating plants using renewable energy sources (biomass – solid, liquid and gaseous–, wind, solar, hydro and geothermal energy), and for factories producing biofuels. For a comprehensive assessment of the procedures Energia Klub and the subcontracted Dr. Lengyel Attila Attorney Office conducted 33 face-to-face and several telephone interviews with entities involved in the past two months as part of an intensive research. In the framework of this project face-to-face interviews were conducted with 9 authorities or specialised authorities, 21 investors and 3 distribution system operators (DSO); completed by 2-3 follow-up and supplemental telephone interviews. In the meantime, the relevant Hungarian regulations were also processed. Based on the accumulated experience we can safely say that all licensing procedures were adequately modelled.

These licensing procedures are complex, and in many cases they are not coherent from a legislative point of view. For example, an effective construction permit is not included in any law as a prerequisite of the grid connection agreement, whereas it is a requirement according to the Distribution Rules of the DSOs (which is not a law).

It is usually typical of the permission procedure that 3 to 6 main authorities and, upon inclusion by the main authorities, several additional specialised authorities are involved. The number of the latter may be quite high; there can be 8 specialised authorities involved the environmental protection permission procedure, while the Hungarian Trade Licensing Office (MKEH) may call in as many as 23 specialised authorities and utility providers for the construction permit procedure. This is the reason for the hint of "numerology" responsible for the mention of 20 to 40 "authorities" in relation to licensing procedures in the media and public presentations. For licensing geothermal power plants, for instance, 6 main authorities have authority, and up to 36 specialised authorities and utility providers can participate in the procedure.

The contradictions of the new law on administrative procedures and services (Ket)[1] and certain government decrees regulating the licensing of devices generating electricity using renewable energy technologies cause problems in that the Ket declares electronic contact as the primary rule effective from 1 October 2009, whereas the government decree 314/2006[2] and the VET Vhr.[3] contradictorily require the submission of electronic and printed documents as well.

The grid connection agreement is usually problematic for many investors. This basic contractual process is currently regulated by the Distribution Rules of the distribution licensees (i.e. outside legislation) without specific deadlines.

The relevant decree[4] assigns the authority to determine the fee of connection to the grid to the distribution licensee, which can lead to misuse.

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[1] Law CXL of 2004 on the general rules of administrative procedures and services

[2] Government decree 314/2006 (XII. 23.) on the organisation of the Hungarian Customs and Finance Guard and on the appointment of certain bodies

[3] Government decree 273/2007 (X. 19.) on the enforcement of certain provisions of the law LXXXVI of 2007 on electricity

[4] Ministry of Economy and Transport (GKM) decree 117/2007 (XII. 29.) on the financial and technical requirements for connecting to the public electricity grid

Authorities are often unable to keep procedural deadlines (especially regarding the environmental protection permission procedure), which can often be retraced to the involved specialised authorities not keeping their administrative deadlines, and the main authorities cannot make decisions in want of the approval(s) of specialised authorities.

Beside presenting the above mentioned general characteristics of the licensing procedure, the research report adverts to the fact that there are further anomalies, specific to the given licensing procedure, in almost every licensing procedure for renewable energy technology instalments. We give an example for each renewable energy source.

For biogas, the categorisation of fertilizer in the course of the environmental protection permission procedure is done differently by all regional Inspectorates of Environment, Nature and Water; therefore the types of the permit to be obtained can vary.

For wind power plant investments the KHEM decree 33/2009 (VI.30.)[5] contains key provisions that, in our opinion, contradict the VET.

In the case of hydro-electric power plants the source of problems is the fact that the procedure of the Hungarian State Holding Company is not limited by deadlines.

The establishment of power plants using geothermal energy is defined as an activity requiring concession according to the new mining regulations[6], but does not provide a comforting solution for advanced-phase licensing procedures.

In the case of bioethanol and biodiesel factories it is often difficult to determine which structures are under the licensing authority of the general construction authority and which under that of the Hungarian Trade Licensing Office.

And last, the fees of administrative procedures as defined by law often differ significantly from the actual costs arising in the course of licensing procedures.

This variegation is characteristic today of the licensing procedures regarding renewable energy technology, which reflects the high number of issues to be resolved including the implementation obligations of the Renewable Energy Directive[7]. We would like to emphasise that these tasks should be undertaken in the framework of a coherent, cooperative regulation – with regulatory solutions and alternatives prepared well in advance, and with industry harmonisation – in order to "streamline" the current licensing system and "weed out" the relevant laws and decrees. This would be a great help in freeing energy generation based on renewable energy sources from obstacles, as promoted by the Directive among the member states.

[5] Ministry of Transport, Telecommunication and Energy decree 33/2009. (VI. 30.) on the requirements of calling for tender for the establishment of wind power plant capacity, on the minimum content requirements of the tender, and on the rules of public procurement

[6] Law XLVIII of 1993 on mining

[7] 2009/28/EC Directive (23 April 2009) on the promotion of the use of energy from renewable sources, and on the modification and abatement of the 2001/77/EC and 2003/30/EC Directives

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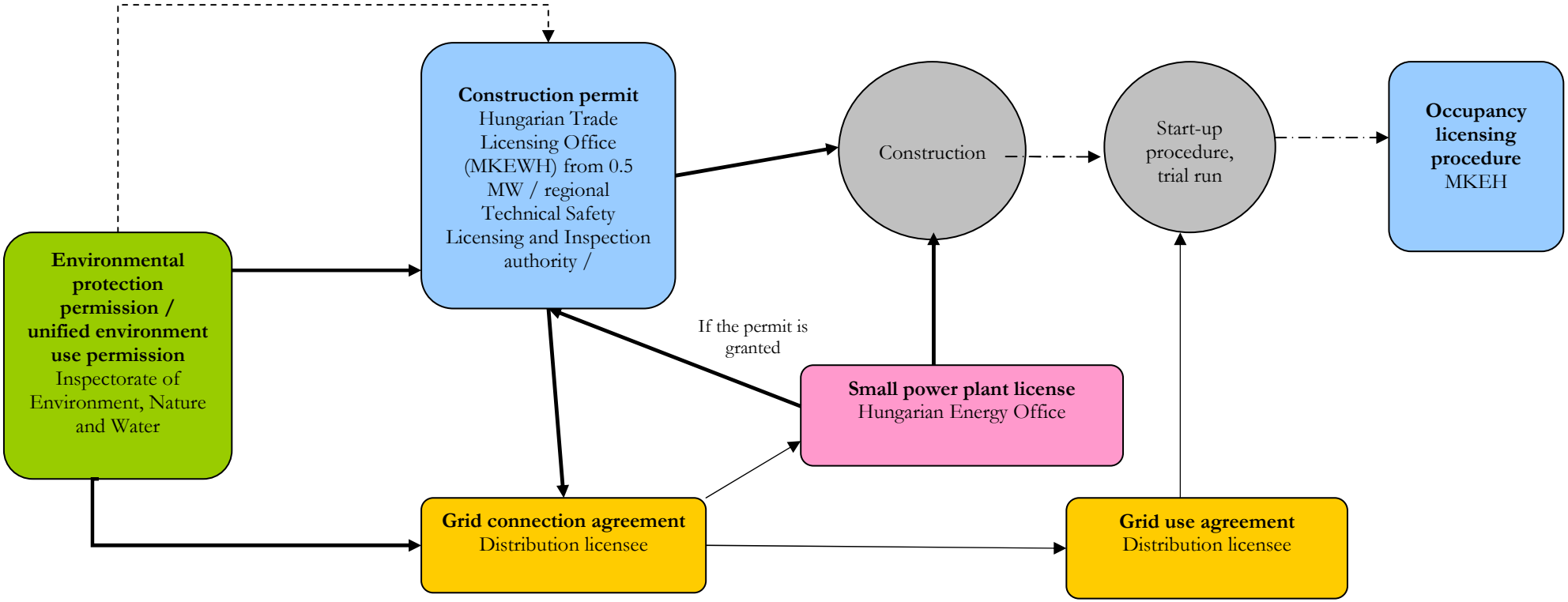
Biogas power plant (small power plant) licensing – flowchart



Legend

- required effective licence
- required agreement
- specialised authority relations
- consecutive procedures

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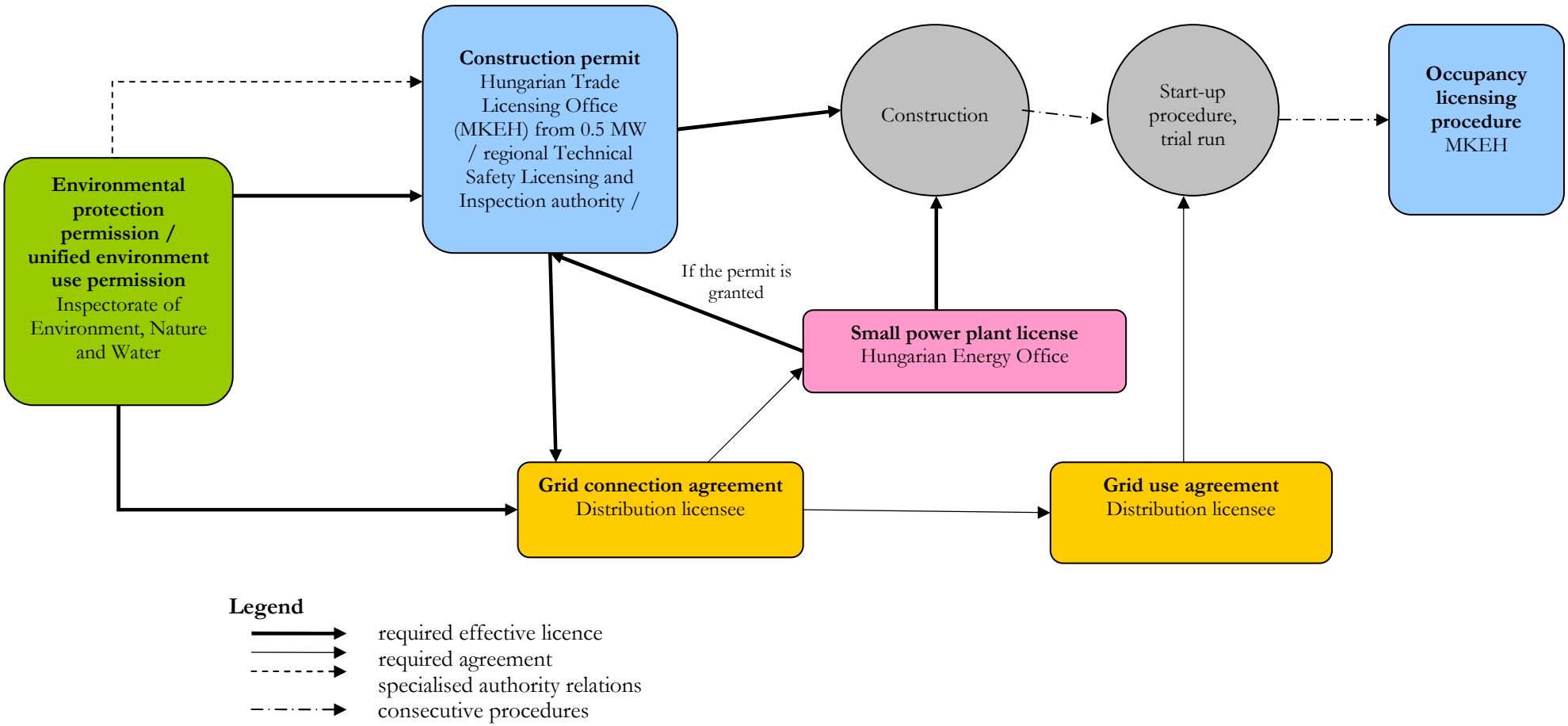
Solid biomass power plant (small power plant) licensing – flowchart



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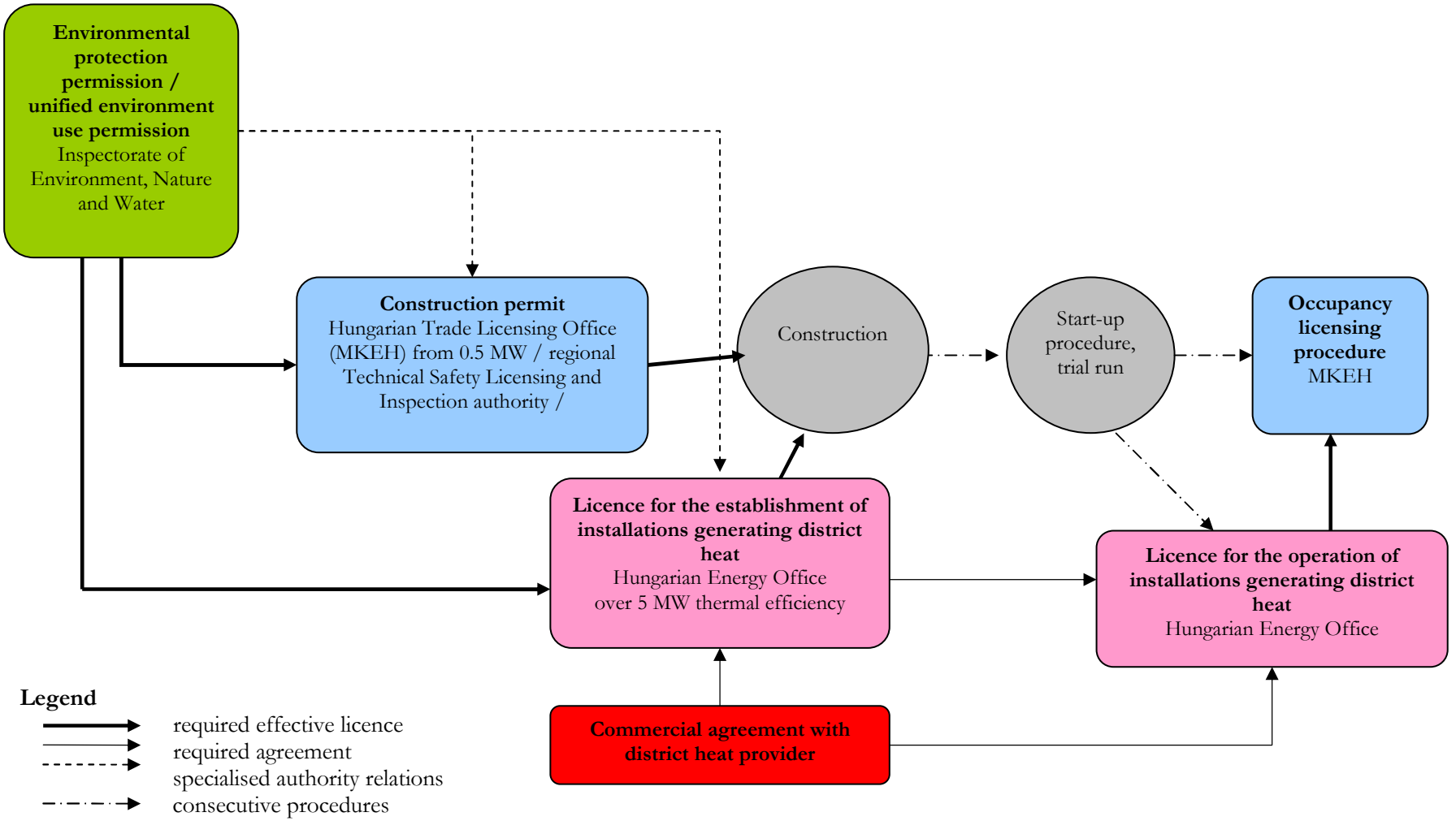
Biomass heat plant licensing – flowchart



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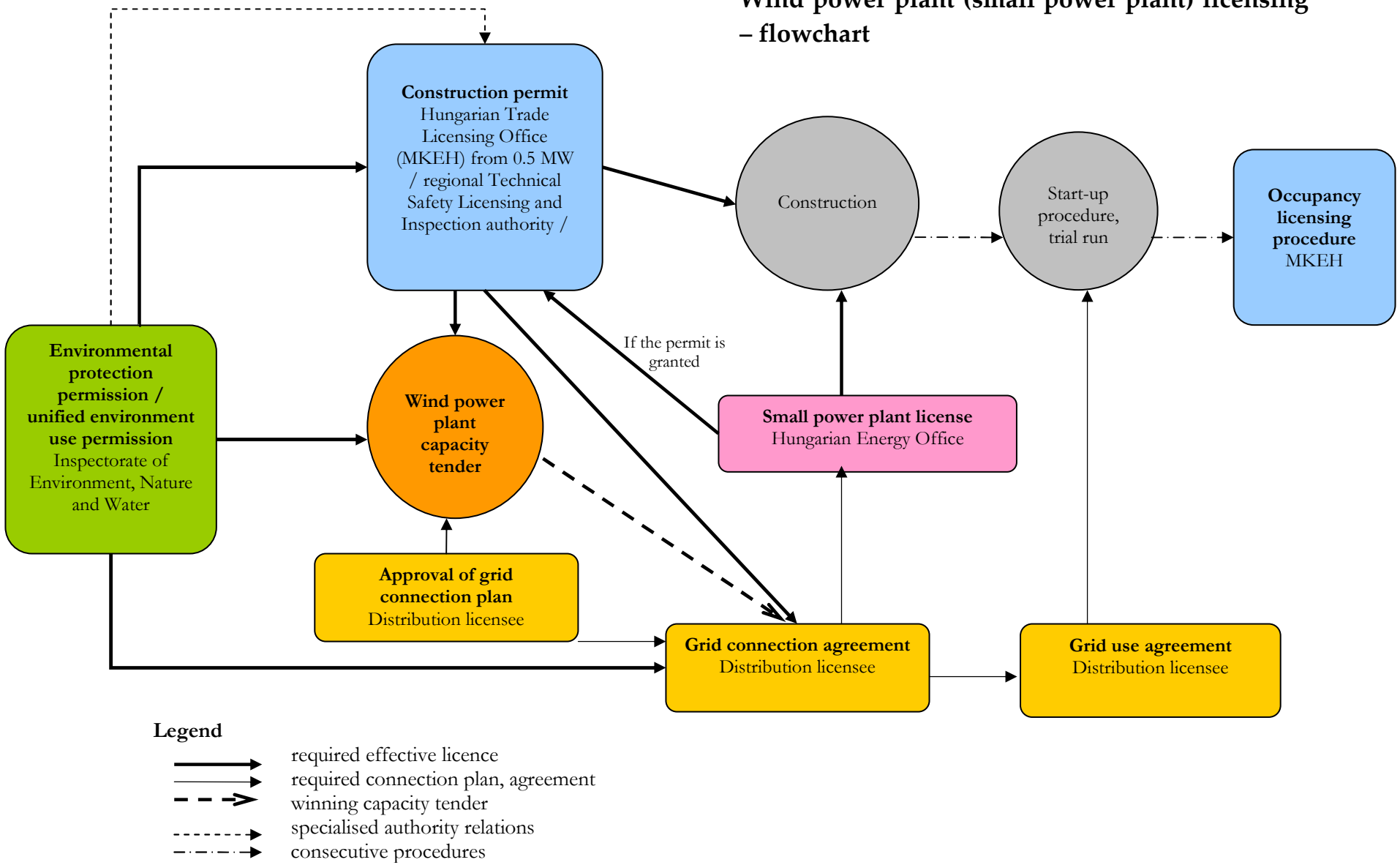
Wind power plant (small power plant) licensing – flowchart



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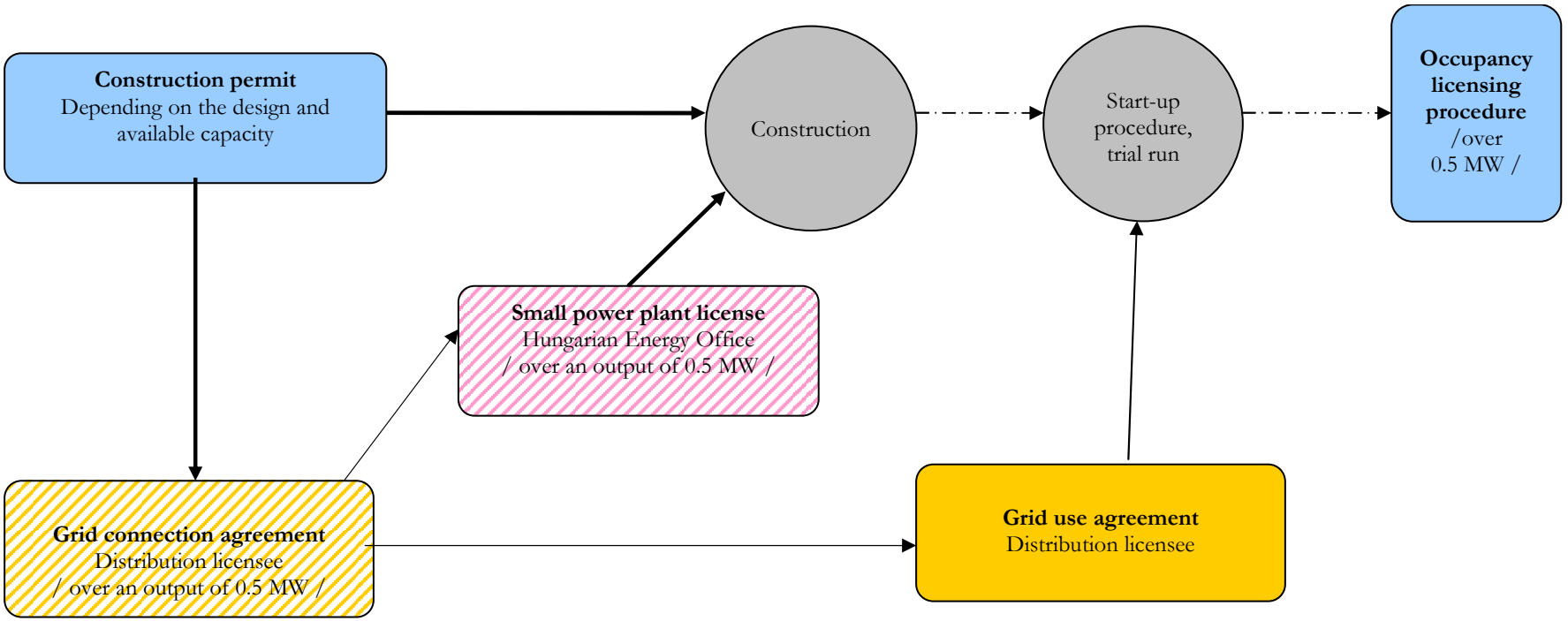
Photovoltaic cell system licensing procedure – flowchart



Legend

required effective licence
required agreement
specialised authority relations
consecutive procedures

only for small power plants with a capacity over 0.5 MW

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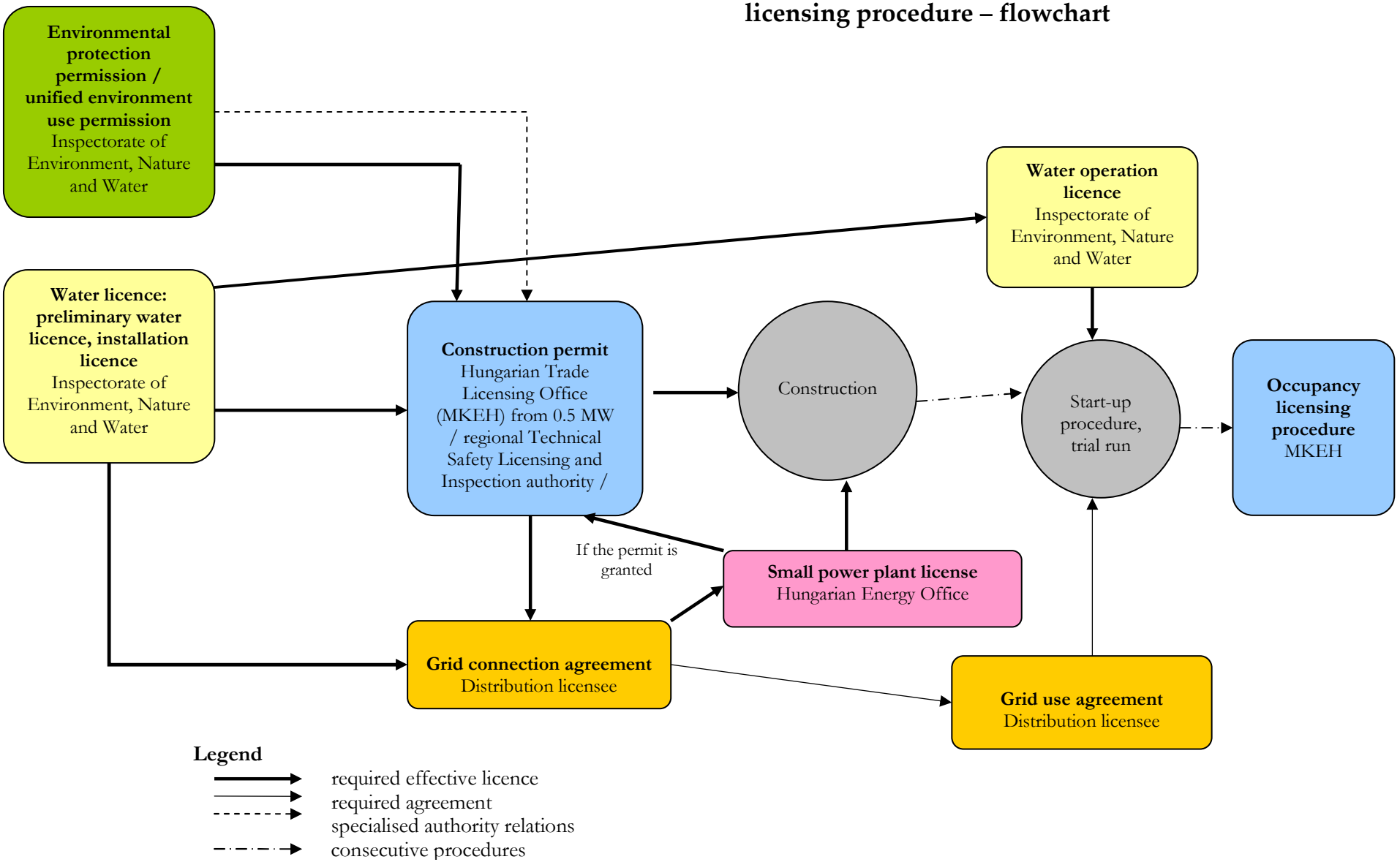
Hydroelectric power plant (small power plant) licensing procedure – flowchart



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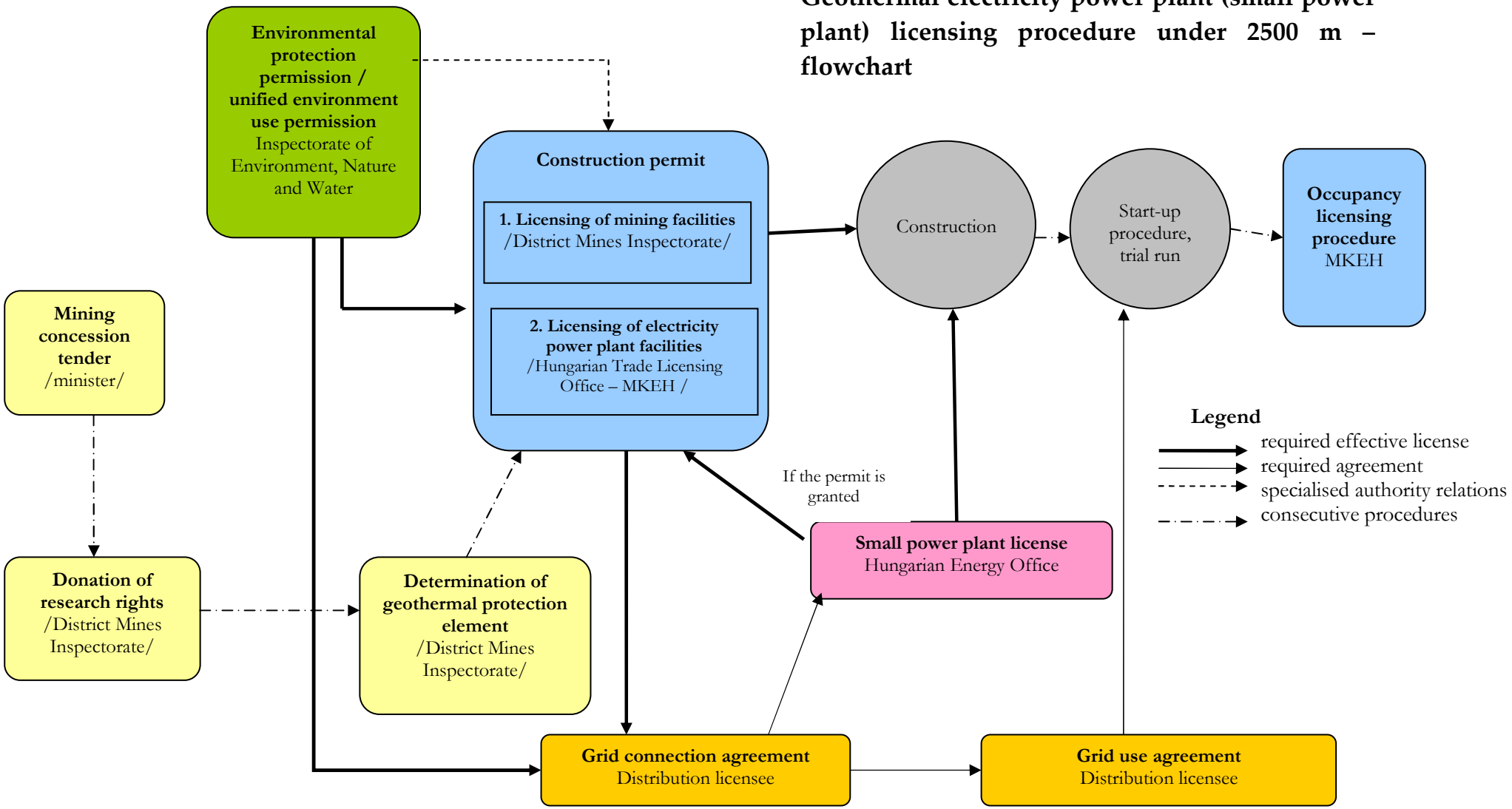
Geothermal electricity power plant (small power plant) licensing procedure under 2500 m – flowchart



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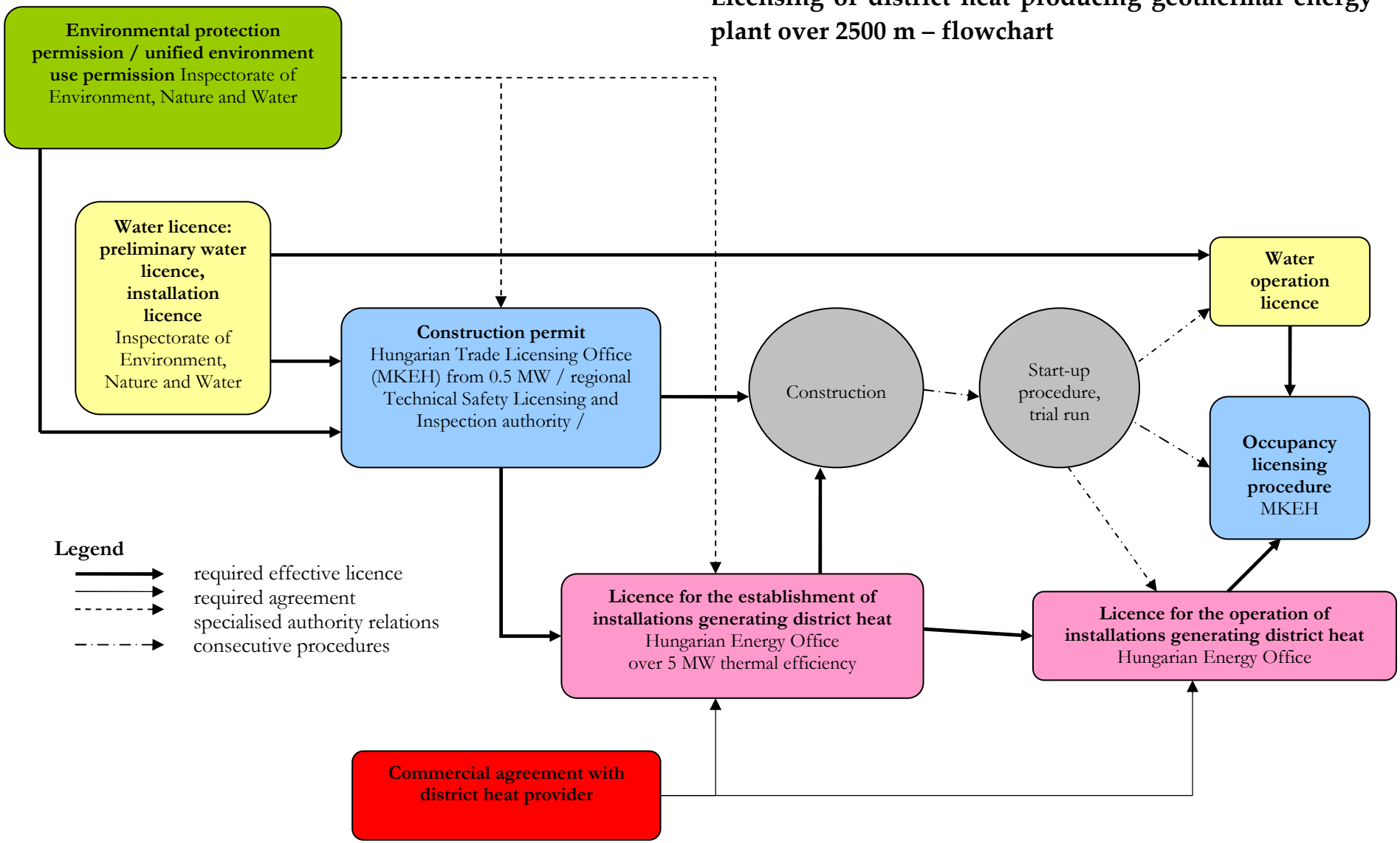
Licensing of district heat producing geothermal energy plant over 2500 m – flowchart



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Licensing of bioethanol and biodiesel factories – flowchart