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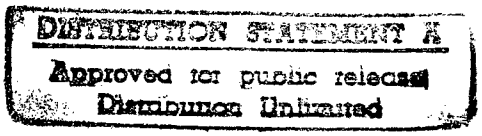
East Europe

Recent Legislation



East Europe
Recent Legislation

JPRS-EER-92-065-S *22 May 1992*

CONTENTS

Regulation on Organization, Activity of Constitutional Court

92BA0344A Sofia DURZHAVEN VESTNIK in Bulgarian No 106, 20 Dec 91 pp 3-6

[Regulation on the Organization of the Activities of the Constitutional Court, adopted by the Constitutional Court on 6 December 1991 and signed by Asen Manov, chairman; for the text of the Law on the Constitutional Court see JPRS-EER-91-158-S, 22 October 1991, Recent Legislation, pages 1-4]

[Text]

Chapter 1

General Stipulations

Article 1. The present regulation deals with the organization of the activities of the Constitutional Court of the Republic of Bulgaria.

Article 2. The Constitutional Court ensures the supremacy of the Constitution.

Article 3. The Constitutional Court is independent of the legislative, executive, and judiciary branches and is guided in its activity exclusively by the Constitution and the Law on the Constitutional Court.

Chapter 2

Rights and Obligations of Constitutional Court Justices

Article 4. (1) The status of a Constitutional Court justice is incompatible:

1. With a mandate as a national representative;

2. With holding a state or public office;

3. With membership in a political party or a trade union;

4. With exercising liberal, commercial, or other paid professional activities.

(2) Within seven days of his election or appointment, a Constitutional Court justice must resign from the position he has held and terminate his current activities as per Paragraph 1, which he certifies with a written declaration.

(3) A Constitutional Court justice assumes his position after he has given the legally stipulated oath of office, which he certifies in writing.

Article 5. All Constitutional Court justices have equal status and hold equal positions.

Article 6. (1) The chairman of the Constitutional Court is also its administrative head. His rights are as follows:

1. He represents the Court;

2. He chairs the Court sessions;

3. He manages the budget;

4. He issues justices their assignments;

5. He appoints the chief secretary and the Court personnel;

6. He manages the Court's administrative activities;

7. He promulgates the Court's legal acts.

(2) In his absence, the chairman is replaced by the oldest justice.

Article 7. (1) The Constitutional Court justices have:

1. The immunity of national representatives;

2. The status of the National Assembly chairman.

(2) The justices have access to all state agencies and economic and public organizations and the right to obtain requested information from them.

(3) The state agencies in the country must give full cooperation to the Constitutional Court justices in the exercise of their rights.

(4) The justices must conscientiously implement their obligations, maintain the confidentiality of their discussions in trying cases, as well as state and official secrets to which they have become privy in the implementation of their functions.

Article 8. The Constitutional Court officially informs the mass information media of its activities.

Chapter 3

Constitutional Court Services and Personnel

Article 9. (1) Constitutional Court personnel must conscientiously implement their obligations and keep state and official secrets to which they have become privy in the course of the implementation of their functions, which they must certify in writing before assuming their positions.

(2) Constitutional Court personnel may not participate in the management of political parties, trade union organizations, or associations.

(3) Constitutional Court personnel may not engage in commercial or other full-time paid professional activities.

(4) Constitutional Court personnel may not make statements to the information media concerning Constitutional Court activities.

Article 10. Constitutional Court personnel have the same status as the respective officials in the National Assembly.

Article 11. The chief secretary executes the orders of the Constitutional Court chairman and manages the daily activities of the Court's services.

Article 12. (1) The Constitutional Court includes the following structural units:

1. "Court Activities and Legal Information";

2. "International Cooperation";

3. "Finances and Accounting."

(2) Other units may be created as needed.

(3) The rights and obligations of the managers and personnel are based on their job descriptions as provided by the Constitutional Court chairman.

Article 13. The Constitutional Court justices have the right to be assisted by associates, in accordance with their status, as defined in Article 10, Paragraph 3 of the Law on the Constitutional Court.

Article 14. (1) The Constitutional Court has its separate budget, which must be approved by the National Assembly.

(2) The draft budget is submitted to the National Assembly for its consideration by the Constitutional Court chairman.

(3) Changes, if required, may be made to the budget within the limits approved by the National Assembly.

Article 15. The chairman must inform the Constitutional Court periodically on the implementation of the budget and changes to it.

Chapter 4

Formation and Consideration of Constitutional Cases

Article 16. (1) The Constitutional Court:

1. Issues binding interpretations of the Constitution;

2. On demand, rules on determining the anticonstitutionality of laws or other legal acts passed by the National Assembly, as well as presidential acts;

3. Resolves jurisdictional disputes among the National Assembly, the president, and the Council of Ministers, as well as between local self-government authorities and central executive authorities;

4. Rules on the consistency of the international treaties signed by the Republic of Bulgaria with the Constitution, prior to their ratification, as well as the consistency of the laws with the universally accepted standards of international law and international treaties to which Bulgaria is a signatory;

5. Rules on arguments on the constitutionality of political parties and associations;

6. Rules on arguments on the legality of the election of a president and a vice president;

7. Determines the circumstances as per Article 97, Paragraph 1, Items 1 and 2, and Paragraph 2 of the Constitution;

8. Rules on arguments on the legality of the election of a national representative;

9. Determines the nonelectability or incompatibility of a national representative with the exercise of other functions;

10. Rules on charges formulated by the National Assembly against the president and the vice president;

11. Strips of immunity and establishes the actual unacceptability and incompatibility of a Constitutional Court justice.

(2) The Constitutional Court determines by itself whether an issue submitted to it is within its competence.

Article 17. The Constitutional Court acts on the initiative of:

1. No fewer than one-fifth of national representatives;

2. The president of the Republic;

3. The Council of Ministers;

4. The Supreme Court of Appeals;

5. The Supreme Administrative Court;

6. The prosecutor general;

7. Parties to arguments on matters of jurisdiction as per Article 149, Paragraph 1, Item 3 of the Constitution, including issues pertaining to township councils.

Article 18. (1) A petition addressed to the Constitutional Court must be submitted in writing and contain supporting justification. (2) The petition must be written in the Bulgarian language and include the following:

1. Identification of the court;

2. The name and location (address) of petitioning authorities and individuals. If the petition is submitted by a group of national representatives, the individual who must receive the required information must be named;

3. The name and location (address) of interested institutions and individuals who, based on the petitioner's request, should be parties to the case;

4. Presentation of the circumstances on which the petition is based;

5. The nature of the petition;

6. The outgoing number and seal of the petitioning authority;

7. The signature of the petitioner.

(3) The petition must indicate and offer proof of the circumstances on which it is based.

(4) In arguments as per Article 149, Paragraph 1, Item 3 of the Constitution, the petition must mandatorily be accompanied by written proof to the effect that the stipulations of Article 17, Paragraph 3 of the Law on the Constitutional Court have been met.

(5) The petition is submitted to the office of the Court or sent by mail, with transcripts and addenda in accordance with the indicated number of affected institutions and individuals.

Article 19. (1) If a petition does not meet the requirements of Article 18, the chairman of the Court sets a deadline for correcting its faults.

(2) If the affected authority or individual does not correct the faults within the stipulated time, the chairman submits the petition for consideration by the Constitutional Court, which must decide whether it is to be rejected.

(3) The Constitutional Court may request the correction of faults in a petition throughout the Court's proceedings.

Article 20. (1) The Constitutional Court chairman orders the opening of a constitutional case and assigns one or several justices as reporters, and sets the date of the trial.

(2) The reporting judge submits the case for consideration at a Court meeting and drafts a resolution, a ruling, and justificaiton.

Article 21. (1) The interested institutions and individuals are identified by the Court. They are informed in accordance with the Civil Procedure Code.

(2) Information and announcements that have been returned are considered by the reporting justice, who may order irregularities to be corrected. Should this prove to be impossible, the reporting justice shall inform the Constitutional Court chairman of that fact.

Article 22. (1) The Constitutional Court issues resolutions, rulings, and orders.

(2) With a resolution, the Court issues an instruction on the essence of the case.

(3) With a ruling, the Court instructs on the admissibility of the petition and other procedural matters.

(4) With an order, the chairman of the Court issues an instruction in the cases stipulated by the law and the regulation, whereas the reporting justice instructs on the procedure and preparations of the case for trial.

Article 23. (1) The resolutions and rulings of the Constitutional Court must include the following:

1. The date and place of the ruling;

2. The names of the Court, the judges, the reporting judge, and the secretary-keeper of the records;

3. The parties to the case;

4. The number of the case subject to a legal act;

5. The ruling of the Court.

(2) Acts as per Paragraph 1 must include supporting justification.

(3) A Constitutional Court act must be signed by all judges who have participated in the ruling. If any one of the justices is unable to sign it, the chairman must note the reason.

Article 24. The Constitutional Court meets in session with a quorum of no fewer than two-thirds of the justices; in the cases stipulated in Article 23 of the Law on the Constitutional Court, it meets with a quorum of no fewer than three-quarters of all members of the Court.

Article 25. (1) A Constitutional case is tried in two stages:

1. The first stage deals with determining the admissibility of the petition;

2. The second stage deals with the resolution of the case in its substance.

(2) The Court may rule on the admissibility of a petition at any stage in the process of a constitutional case.

Article 26. (1) Should the Constitutional Court determine that a petition has been submitted by authorities or individuals other than those stipulated in Article 11 of the regulation or has received a petition that is outside its jurisdiction, or should other procedural obstacles exist, the Court may reject the petition, with motivations, and terminate the procedure. In that case, the petition is returned to the sender.

(2) Interested institutions and individuals to whom the opening of a case has been reported must be informed of this judicial act in writing.

Article 27. (1) The sessions of the Constitutional Court take place without the participation of interested institutions and individuals, with the exception of those stipulated in Articles 23 and 26 of the Law on the Constitutional Court.

(2) The Constitutional Court may resolve to consider a case in open session and informs the interested parties to this effect.

Article 28. Interested institutions and individuals may be present through their representatives, authorized in writing to this effect.

Article 29. (1) The Constitutional Court accepts only written proof in trying a case, with the exception of the cases stipulated in Article 23 of the Law on the Constitutional Court.

(2) No one may deny access to requested information or written or material proof, regardless of whether it constitutes state or official secrets.

(3) The Court may assign to institutions or individuals the drafting of expert conclusions.

(4) The Court provides the interested institutions and individuals with the possibility of studying the collected proof.

(5) The Constitutional Court warns the participants in the proceedings of a constitutional case of the criminal liability they may be charged with, if so stipulated in the Penal Code.

Article 30. (1) If in the opinion of the Court the gathered proof is sufficient and the issue has been established, the Court issues a resolution within two months.

(2) The conference at which a resolution on the admissibility of a petition and its resolution are determined in their essence is closed.

Article 31. (1) The Constitutional Court issues its resolutions by a simple majority of all justices.

(2) In cases of denying immunity and determining the actual impossibility of the Constitutional Court justices to perform their duties, resolutions must be passed by a majority of no fewer than two-thirds.

(3) No abstention in voting is allowed.

Article 32. (1) The Constitutional Court adopts its resolutions by open vote.

(2) The resolutions of the Constitutional Court as per Article 148, Paragraph 2 and Article 149, Paragraph 1, Item 8 of the Constitution are adopted by secret balloting.

(3) Justices who disagree with the resolution or with the definition on the basis of which a petition is denied may add their separate opinions and mandatorily present their views in writing.

(4) The presentation of a separate opinion is not allowed if a resolution has been adopted by secret balloting.

(5) All justices have the right to submit in writing their own views, appended to the Constitutional Court act.

Article 33. (1) A resolution of the Constitutional Court, together with the motivations and separate views and opinions, is published in DURZHAVEN VESTNIK within 15 days of its adoption.

(2) A resolution becomes effective three days after its publication.

(3) Resolutions become effective on the day of a ruling in the case of arguments on the legality of the election of a president, a vice president, or a national representative; on determining the nonelectability or incompatibility of a national representative; and on the incompatibility or impossibility of a Constitutional Court justice to carry out his obligations.

(4) The Court acts are final.

Article 34. (1) Minutes are kept at sessions of the Constitutional Court, which include the place and time of the session, the composition of the Court, the participants in the proceedings, and the procedural actions.

(2) The minutes must be drafted within seven days of a session. If the minutes cannot be drafted within that time, the chairman sets a new deadline.

(3) The minutes must be signed by the chairman and the secretary-recorder.

(4) Every justice and participant in the session may demand a correction or an addition to the minutes within seven days of their preparation. Such a request is considered by the Constitutional Court, which must rule on it by open vote.

Article 35. (1) The Court's resolutions are binding to all state authorities, juridical persons, and private citizens.

(2) If a Constitutional Court has not issued a resolution or a ruling on the inadmissibility of a petition, no second petition on the same issue may be submitted.

Chapter 5

Court Secretarial Work

Article 36. The purpose of the secretarial work is to support the activities of the Constitutional Court.

Article 37. An official file is opened for every justice and Court official, which contains the documents related to his appointment, changes in official status, leaves, and other circumstances related to his labor-legal relations.

Article 38. (1) The following records are kept by the Constitutional Court:

1. Record of incoming and outgoing documents;
2. Alphabetical indicator of initiated cases;
3. Docket record of cases;
4. Record on Court sessions;
5. Record on secret materials;
6. Record on fines;
7. Records on material proofs;
8. Archive receipt documenting the submission of a completed case by the Court clerk to the archives;

9. Library record.

(2) All records must be numbered, sealed with the Court seal, and signed by the Court chairman.

Article 39. (1) Incoming documents are entered in the incoming record book on the day of their reception and issued an incoming number and dated.

(2) The envelope with the stamps and the post office seal is filed for documents received by mail.

(3) In the case of correspondence dealing with the same matter, it is only the first letter that is recorded in the register of incoming documents; the date subsequent documents are received is noted in the proper column of the register.

Article 40. Documents that do not pertain to constitutional matters are added to the office files.

Article 41. The outgoing register includes all documents issued by the Court.

Article 42. (1) The constitutional cases are entered in a docket record and an alphabetical reference book.

(2) Documents on Court cases are placed in files organized in accordance with a system approved by the Constitutional Court chairman.

Article 43. (1) If a file is removed from the room in which it is kept, the official must note the name of the recipient in his record.

(2) Constitutional case files may be issued only to Constitutional Court justices.

(3) By order of the Constitutional Court chairman, files may be delivered to the Court office for reference requirements of other individuals as well.

(4) Notes, marks, and underlinings on case documents are not allowed.

Article 44. Written or material proof related to a case may be returned only on the basis of a Constitutional Court ruling.

Article 45. (1) Constitutional files may not be issued to other authorities or institutions.

(2) In exceptional cases, such files may be issued to high state authorities by ruling of the Constitutional Court.

Article 46. (1) If a file is lost or destroyed, the Court chairman instructs that it be rebuilt. To this effect, an act is drawn up by the chief secretary, and all documents pertaining to the case that are at the disposal of the Court or located in other institutions or held by individual parties are used.

(2) After having gathered all of the materials and drawn up a record on the restored documents, the Constitutional Court shall issue in open session a ruling on the restoration of the file, after informing the parties of this fact.

(3) If the file has not been rebuilt and the Court has ruled to this effect, a new file may be opened, with the understanding that the petition was submitted before the deadline, if such a deadline was required by law.

Article 47. (1) The existence of the files used in Court proceedings is checked every year.

(2) The Constitutional Court chairman must be informed of missing files whenever such investigations are conducted.

Article 48. Material proof received by the Court must be entered in the material proof register and kept in a way set by the Court.

Article 49. Documents submitted as proof in cases may, by a ruling of the chairman, be kept in the Court's safe.

Article 50. If material proof, valuables, or cash are part of a case, in accordance with a decision of the Constitutional Court, the Court rules which of them may be returned to the parties, which are considered state budget income and are to be retained, and which are to be destroyed; a record of their disposition is kept.

Article 51. The Constitutional cases and transcripts for the current year must be delivered to the archives by no later than the end of the month of March of the following year.

Article 52. (1) In delivering Constitutional cases to the archives, documents and office files are recorded in the archives register. An archive number and file number are assigned to each file.

(2) The inventory record includes the number issued to the filed case.

Article 53. (1) Archive materials are stored in a special area.

(2) Outsiders are denied access to the storage area.

(3) Removing files, transcripts, or other papers from the archive for official use is allowed with the permission of the Constitutional Court chairman.

Article 54. (1) Completed Constitutional cases are stored in the Constitutional Court archives.

(2) Constitutional files may be submitted to the Central State Archives only with the express permission of the Constitutional Court.

Concluding Stipulations

1. The present regulation is issued on the basis of Item 1 of the transitional and concluding stipulations of the Law on the Constitutional Court (DURZHAVEN VESTNIK No. 67, 1991).

2. The present regulation becomes effective three days after its publication in DURZHAVEN VESTNIK.

Law on Standards for Atmospheric Emissions

92BA0331A Sofia DURZHAVEN VESTNIK in Bulgarian No 81, 1 Oct 91 pp 4-11

[Standards for Allowable Emissions (Concentrations in Waste Gases) of Harmful Substances Released Into the Atmosphere, issued by the Ministry of Environment and signed by Minister D. Vodenicharov; coordinated with the Ministry of Public Health by letter No. 04-09-9 of 13 May 1991]

[Text]

Ministry of Environment

Standards for Allowable Emissions (Concentrations in Waste Gases) of Harmful Substances Released Into the Atmosphere

Article 1. (1) The standards for allowable emissions shall apply to existing production processes and activities as well as to the planning and erection of new industrial and other facilities that are emission sources.

(2) The standards for new facilities shall apply to the renovation and modernization of production processes in current operation.

Article 2. (1) In the research study and workup of projects, apart from the observance of these standards, the investor and designer must make clear for each specific facility the air pollution in the region of the site and provide for measures (degree of purification and dispersal height) so that, on completion of the project, the air content of harmful substances at the breathing level shall not exceed the maximum allowable concentrations (emissions).

(2) Regardless of the calculations, the height of the production facility's stack must exceed by at least 5 m the highest inhabited building situated within a 50 m radius of it.

(3) When the facility is situated on open unbuilt-up terrain (asphalt bases, crushing and screening installations and other production processes), stack height must be at least 12 m above the terrain elevation unless the calculations require a greater height.

(4) In the planning of new facilities the investor and designer must be guided by the breakthroughs and state of the art in equipment and technologies at the time of the research study and ensure any possible lower emissions than the standards set by this document.

Article 3. The quantity of production and ventilation gases and the content of harmful substances therein shall be reduced to standard conditions (760 mm Hg and °C) and dry gas. Everywhere in this text, the standards in mg/cu m and quantities of gases in cu m shall be understood under these conditions.

Article 4. (1) The standards shall apply to production and ventilation gases measured after the purification plants, the gas producer plant, or before the stack without their being diluted by fresh air.

(2) For processes and activities not indicated in Articles 20-38, the quantity of gases in cu m/h and the measured concentrations of harmful substances therein shall be determined under the following conditions:

1. For processes in which fuel systems are used, the measured concentrations shall be reduced to the oxygen content in volume percents:

a) Production of asphalt mixtures—17 percent;

b) Glass production—8 percent in the case of continuous-process crucible and bath furnaces and 13 percent in the case of periodically operating (daytime) furnaces;

c) Direct drying of products and materials with hot gases produced in a combustion chamber—17 percent;

d) Melting of mineral matter like basalt, slags, and so forth—8 percent;

e) Heating of metals for rolling and other working—5 percent;

f) Production of expanded pearlite, schists, or clays—14 percent;

g) Burning of wood and vegetable wastes, paper, straw—11 percent;

h) Burning of white liquor from the production of paper pulp—5 percent;

2. The emissions with gases from technological processes shall be determined in relation to the composition and quantity thereof, after the final technological apparatus from which they are conducted to the purifier or are released into the atmosphere. When for technological reasons or for considerations of safety dilution with fresh air is necessitated or penetration of air through a duct to the purifier is possible, the measured concentrations after purification are to be regarded as one and the same as the quantity after the production line. For this purpose, the oxygen content after the production line and after purification is measured, and, on the basis of the results, the emission shall be recalculated excluding the extra air that has been introduced.

(3) When the measured oxygen content differs from that set for the process in question or is larger owing to

dilution of the gases, the measured emission is corrected by multiplying it times coefficient K, determined according to the formula

$K = 21\text{-}O_n/21\text{-}O_i$,

Key: O_n = norma, "standard"; O_i = izmereno, "measured."

where:

O_n is the oxygen content in volume percent for the process in question or at the exit from the production line;

O_i is the measured oxygen content in volume percent after the purifier or before release of the gases into the atmosphere.

Article 5. The measurement of the emissions shall be made during normal operation of the production and under a load of 70 to 100 percent.

Article 6. For substances that may be found in the gases in a varying state of aggregation (particles, vapor and gas), the standards shall refer to the total content thereof.

Article 7. The total emission of dustlike substances as per Article 13, Paragraph 1 shall include nontoxic dust and the dustlike substances contained therein as per Articles 14 and 18, the content of which must not exceed the values set for the class in question.

Article 8. Everywhere in these standards the emission of sulfur oxides shall be the sum total of sulfur dioxide and sulfur trioxide, defined as sulfur dioxide, while the emission of nitrogen oxides shall be the sum total of nitrogen dioxide and nitrogen oxide, defined as nitrogen dioxide.

Article 9. By capacity of a production line (multistation machine system), fuel system, and so forth shall be understood the rated output per hour of a specified unit or group of units included in a common stack. The capacity of fuel systems shall be determined by the calorific value of the quantity of fuel fed under a rated load.

Article 10. The standards for facilities put into operation before the end of 1992 shall be in force until 31 December 1995. During this period, economic supervisors must take measures to reduce the emissions to the values set for new facilities.

Article 11. "Mass flow" per hour is the quantity in kilograms or grams of a given substance that is released with the gases into the atmosphere per hour.

Article 12. The measurement of emissions by monitoring authorities and other organizations shall be made in accordance with methodologies prescribed by the BDS [Bulgarian State Standards] and, when there is no Bulgarian State Standard, in accordance with methodologies approved by the minister of environment.

Article 13. (1) The total emission of dustlike substances must not exceed the following:

1. For facilities put into operation before the end of 1992 with a gas yield as follows:

a) Up to and including 20 xm^3/h—300 mg/cu m;

b) From 21 to 100 xm^3/h—200 mg/cu m;

c) Over 100 xm^3/h—150 mg/cu m;

2. For new facilities put into operation after 1992 with a gas yield as follows:

a) Up to and including 20 xm^3/h—150 mg/cu m;

b) From 21 to 60 xm^3/h—130 mg/cu m;

c) Over 60 xm^3/h—80 mg/cu m.

(2) The emission of soot, regardless of the quantity of gases, must not exceed 50 mg/cu m.

Article 14. (1) The emissions of dustlike inorganic substances, indicated in Appendix No. 1, must not exceed the following values:

1. Substances from class I:

a) For facilities put into operation before the end of 1992 with a mass flow of 0.1 g/h or more—0.2 mg/cu m;

b) For new facilities with a mass flow of 1 g/h or more—1 mg/cu m;

2. Substances from class II:

a) For facilities put into operation before the end of 1992 with a mass flow of 1 kg/h or more—5 mg/cu m;

b) For new facilities with a mass flow of 5 g/h or more—1 mg/cu m;

3. Substances from class III:

a) For facilities put into operation before the end of 1992 with a mass flow of 3 kg/h or more—15 mg/cu m;

b) For new facilities with a mass flow of 25 g/h or more—5 mg/cu m.

(2) If several substances of the selfsame class are present, the total emission thereof must not exceed the standard set for the class in question.

(3) Present substances from different classes, the emission of each of them must not exceed the standard for the respective class; the total emission, present substances from classes I and II, must not exceed the standard for class II, while, present substances from classes I and II, II and III, or I, II and III, it must not exceed the standard for class III.

Article 15. (1) Limitation of emissions during the processing, production, and conveyance of dust-producing materials:

1. Devices and equipment for the processing (e.g., crushing, sorting, mixing, pelletizing, briquette making, and so forth) or production of dust-producing materials must be encapsulated, while dust-containing gases must be caught and conducted to the dust separator;

2. For the conveyance of dust-producing materials, enclosed equipment must be used—conveyor belts, screw conveyors, redlers, pneumatic conveyors, and so forth. When encapsulation is partially impossible, the dust-containing gases are caught and conducted to the purification plant;

3. In loading and unloading dust-producing materials, vacuum-cleaning and dust-collecting equipment must be placed as follows:

a) At permanent loading and unloading points with grab buckets, shovel loaders, and so forth;

b) At the initial tube (spout) of the loading systems;

c) For expander systems, at the beginning of the pneumatic conveyor and at the mechanical unloader;

4. When suction (collection) of dusty air is not possible, for these operations (for example, the loading of railroad cars and trucks), spouts with variable heights (telescope spouts) are used and regulating valves are placed on the spout outlets in order to reduce the velocity of the material coming out, and so forth;

5. In filling enclosed spaces (grain elevators, cement trucks, and so forth), the air coming out of them is caught (collected) and conducted to the purification plant;

6. Loading and unloading sites and transport communications must be paved with asphalt or other equivalent covering and be kept constantly clean.

(2) To reduce emissions during the storage or deposit of dust-producing materials, the following measures must be applied:

1. Storage in grain elevators;

2. Covering and enclosure of all sides of storage places and of the auxiliary equipment servicing the storage place;

3. Covering the surface of the stored material with a tarpaulin, and so forth;

4. Enclosure of the deposited material;

5. Protection of the depot with embankments, the planting of windbreaks, or the placement of windbreak fences;

6. Keeping the surface of the depot constantly moistened.

Article 16. The emissions of inorganic gaseous and vaporous substances, indicated in Appendix No. 2, must not exceed the following values:

1. Substances from class I:

a) For facilities put into operation before the end of 1992 with a mass flow of 100 g/h or more—3 mg/cu m;

b) For new facilities of a mass flow of 10 g/h or more—1 mg/cu m;

2. Substances from class II:

a) For facilities put into operation before the end of 1992 with a mass flow of 150 g/h or more—15 mg/cu m;

b) For new facilities with a mass flow of 50 g/h or more—5 mg/cu m;

3. Substances from class III:

a) For facilities put into operation before the end of 1992 with a mass flow of 1000 g/h or more—100 mg/cu m;

b) For new facilities with a mass flow of 300 g/h or more—30 mg/cu m.

4. Substances from class IV:

a) For facilities put into operation before the end of 1992 with a mass flow of 10 kg/h or more—1000 mg/cu m;

b) For new facilities with a mass flow of 5 kg/h or more—500 kg/cu m.

Article 17. (1) The emissions of organic substances, indicated in Appendix No. 3, must not exceed the following values:

1. Substances from class I:

a) For facilities put into operation before the end of 1992 with a mass flow of 0.1 kg/h or more—20 mg/cu m;

b) For new facilities with a mass flow of 0.1 kg/h or more—20 mg/cu m;

2. Substances from class II:

a) For facilities put into operation before the end of 1992 with a mass flow of 3 kg/h or more—150 mg/cu m;

b) For new facilities with a mass flow of 2 kg or more—100 mg/cu m;

3. Substances from class III:

a) For facilities put into operation before the end of 1992 with a mass flow of 6 kg/h—300 mg/cu;

b) For new facilities with a mass flow of 3 kg/h or more—200 mg/cu m.

(2) Present organic substances from various classes in the gases with a mass flow of 3 kg/h or more, the total emission identified as hydrocarbons must not exceed 200 mg/cu m, and 300 mg/cu m for enterprises put into operation before the end of 1992.

(3) In the case of installations from which intensely odoriferous substances (organic and inorganic) may be released, measures such as encapsulation, operation under vacuum-gauge pressure, and so forth must be taken, and the gases must be caught and led off for purification (deodorization). When the olfactory number exceeds 100,000, purification (deodorization) must be over 99 percent.

Article 18. (1) The emission of substances with delayed genotoxic effects must not exceed the following values:

1. Class I:

a) Asbestos as fine dust;

b) Benz (a) pyrene;

c) Beryllium and compounds thereof identified as beryllium;

d) Dibenz (a, h) anthracene;

e) 2-Naphthylamine: With a mass flow of 0.5 g/h or more, the emission must not exceed 0.1 mg/cu m;

2. Class II:

a) Arsenic trioxide and arsenic pentoxide, arsenic acid and salts thereof, identified as arsenic;

b) Chromium hexavalent and compounds thereof (for example, calcium chromate), chromium trivalent, strontium chromate and zinc chromate, identified as chromium;

c) Cobalt—aerosols and difficultly soluble cobalt salts, identified as cobalt;

d) 3.3-Dichlorobenzidine;

e) Dimethyl sulfate;

f) Ethyleneimine;

g) Nickel, nickel sulfide, nickel oxide, nickel carbonate, identified as nickel; with a mass flow of 5 g/h or more, the emission must not exceed 1 mg/cu m;

3. Class III:

a) Acrylonitrile;

b) Benzene;

c) 1.3-butadiene;

d) Epichlorohydrin;

e) 1.2-Dibromoethane;

f) 1.2-Epoxypropane;

g) Ethylene oxide;

h) Hydrazine;

i) Vinyl chloride: With a mass flow of 25 g/h, the emission must not exceed 5 mg/cu m.

(2) Present substances from classes I and II, the total emission must not exceed 1 mg/cu m, and present classes I and III, II and III, or I, II, and III, must not exceed 5 mg/cu m, while, for each separate substance, the standard for its respective class must be observed.

Article 19. Allowable surface load on outdoor areas of harmful substances deposited (precipitated) on the earth's surface—arithmetic mean value per year:

1. Total dust—350 mg/sq m in a 24-hour period;

2. Lead and inorganic compounds thereof in deposited dust, identified as lead—0.25 mg/sq m in a 24-hour period;

3. Cadmium and inorganic compounds thereof in deposited dust, identified as cadmium—0.005 mg/sq m in a 24-hour period;

4. Thallium and inorganic compounds thereof in deposited dust, identified as thallium—0.01 mg/sq m in a 24-hour period;

5. Hydrogen fluoride and gaseous inorganic fluorine compounds in deposited dust, identified as fluorine—0.001 mg/sq m in a 24-hour period;

6. Zinc in deposited dust—0.4 mg/sq m in a 24-hour period.

Article 20. (1) The gas emissions from power-generating and heating boilers with thermal capacity over 50 MW must not exceed the values in mg/cu m given in Appendix No. 4.

(2) The emissions in combustion processes with thermal capacity from 5 to 50 MW inclusive in mg/cu m must not exceed the values given in Appendix No. 5.

(3) The emissions in combustion processes with thermal capacity from 500 kW to 5 MW in mg/cu m must not exceed the values indicated in Appendix No. 6.

(4) The standards shall apply to the oxygen content of the smoky gases as per Paragraphs 1 and 2:

1. For grate burning—7-volume percent;

2. For powder burning and dry removal of ashes—6-volume percent;

3. For powder and wet slag removal—5-volume percent;

4. For liquid fuels—3-volume percent;

5. For gaseous fuels—3-volume percent.

Article 21. Cement production:

1. Dust emissions—as per Article 13, Paragraph 1;

2. The emission of nitrogen oxides from clinker furnaces must not exceed 1500 mg/cu m;

3. The emission of sulfur oxides from clinker furnaces must not exceed 750 mg/cu m;

4. The emissions with the gases from the clinker furnaces are for an oxygen content of 9-volume percent.

Article 22. Production of pottery and materials from clay:

1. The emissions are to be determined for an 18-volume-percent oxygen content of the gas;

2. Dust emissions are to be determined in accordance with Article 13, Paragraph 1;

3. Given a sulfur content of 0.12-volume percent or more of the constituent raw materials, the emission of sulfur oxides for a mass flow of 10 kg/h or more must not exceed 1500 mg/cu m.

Article 23. Roasting of dolomite, gypsum, limestone, bauxite, kieselguhr, magnesite, quartzite, and fireclay:

1. Dust emissions as per Article 13, Paragraph 1, but when the raw materials contain chromium, the emissions of chromium and of compounds thereof, identified as chromium, must not exceed 10 mg/cu m;

2. The emission of nitrogen oxides must not exceed, as follows:

a) For rotary furnaces—1800 mg/cu m;

b) For other furnaces—1500 mg/cu m;

3. The emission of inorganic fluorine compounds, identified as hydrogen fluoride, must not exceed 10 mg/cu m;

4. The emissions are for a 9-volume-percent oxygen content of the gases.

Article 24. Nonferrous-metal-producing installations:

1. Dust emissions of currently operating enterprises shall, until the end of 1993, be limited to 40 mg/cu m, but, for new enterprises and those operating after 1993, they shall be limited to 20 mg/cu m, except for the production of lead, the emission of which shall be limited to 10 mg/cu m;

2. The emission of sulfur oxides for currently operating enterprises shall, up to the end of 1995, be limited to 3,000 mg/cu m, but, for new enterprises and those operating after 1995 with a mass flow of 5 kg/h or more, it shall be limited to 800 mg/cu m.

Article 25. Pig iron, steel, and ferroalloy production and foundry activities:

1. Dust—Dust concentration in waste gases from the heating plants must not exceed 30 mg/cu m, and, for nonferrous metals, 20 mg/cu m;

2. Organic compounds in foundry processes—The concentration of organic compounds in the gases must not exceed the standards set in Article 17, and, for amines, must not exceed 5 mg/cu m;

3. Dust emissions in sand drying and other processes for preparation or processing of founder's mixtures and the cleaning of castings—as per Article 13, Paragraph 1.

Article 26. Aluminum melting:

1. Dust emissions, given a mass flow of 0.5 kg/h or more, must not exceed 20 mg/cu m;

2. The emission of chlorine with the gases in the refining of aluminum must not exceed 3 mg/cu m;

3. The emission of organic compounds, identified generally as hydrocarbons, must not exceed 50 mg/cu m.

Article 27. Production of lead storage batteries:

1. Dust emissions, with a mass flow of 5 g/h or more, must not exceed 0.5 mg/cu m;

2. The concentration of sulfuric acid in the gases must not exceed 1 mg/cu m.

Article 28. Production and packaging of plant protectants—Dust emissions, given a mass flow of 25 g/h or more, must not exceed 5 mg/cu m.

Article 29. Production of sulfur dioxide, sulfur trioxide, sulfuric acid, and oleum:

1. The emission of sulfur dioxide must not exceed 2.6 kg per ton of 100-percent sulfuric acid produced;

2. The emission of sulfur trioxide must not exceed, as follows:

a) For installations currently in operation—0.6 kg per ton of sulfuric acid;

b) For new installations—120 mg/cu m.

Article 30. Production of sulfur products with use of the Claus process:

1. The emission of sulfur compounds, identified as sulfur, as a weight percent of the quantity of sulfur manufactured per day, must not exceed, as follows:

a) Up to 20 tons per day inclusive—3 percent;

b) From 21 to 50 tons per day inclusive—2 percent;

c) Over 50 tons per day—0.5 percent.

2. After combustion of the waste gas or after other treatment, the emission of hydrogen sulfide must not exceed 10 mg/cu m.

Article 31. Production of 1.2-dichloroethane and vinyl chloride—The emission of 1.2-dichloroethane, as well as that of vinyl chloride must not exceed 5 mg/cu m.

Article 32. Production of polyvinyl chloride (PVC)—The emission of vinyl chloride must be maximally limited and, on average per month, must not exceed 200 mg per kilogram of polyvinyl chloride produced.

Article 33. Production of polyacrylonitrile:

1. When the process gases are combustible, the emission of acrylonitrile must not exceed 0.2 mg/cu m;

2. When the process gases are treated by scrubbing, the emission of acrylonitrile must not exceed 5 mg/cu m.

Article 34. Petroleum refining and production of petroleum products:

1. Fuel systems:

a) The emission of sulfur oxides shall be determined according to the formula

$$E = E_g T_g/T_o + E_t T_t/T_o,$$

Key to Cyrillic subscripts:

g = gaz, "gas"; t = techni (gorivi), "liquid (fuels)"; o = obshto, "total"

where:

E_g is the boundary value in gas combustion—35 mg/cu m;

E_t is the boundary value for liquid fuels: for thermal capacity up to 300 MW—1,700 mg/cu m; for thermal capacity over 2-0 MW—400 mg/cu m;

T_g is the thermal capacity of the quantity of gaseous fuel fed per hour;

T_t is the thermal capacity of the quantity of liquid fuel fed per hour;

T_o is the sum of T_g and T_t;

b) The emission of nitrogen oxides must not exceed 300 mg/cu m for new installations, but, for installations put into operation before the end of 1992, it must not exceed 700 mg/cu m;

c) The emissions apply for a 3-volume-percent oxygen content of the gases;

2. Depots for petroleum and petroleum products:

a) Petroleum and petroleum products that at a temperature of 20° C have a vapor pressure over 13 mbar must be stored in tanks with floating covers or tanks with immobile covers that are connected with the enterprise's gas system;

b) The gases from the breathing of the tanks with immobile covers must be conducted into the enterprise's gas system when the stored products may emit substances from class I under Article 17 and from any class under Article 18, or when the expected emissions exceed the mass flows given for the other classes under Article 17;

3. Other emission sources:

a) The emitted organic gases and vapors must be caught and conducted into the enterprise's gas system, from which they pass on for burning, to a flare or for other treatment. These requirements apply to: safety (safety valves) and drainage equipment; regeneration of catalysts; repair and cleaning of installations; startup and stopping of production lines; filling up of crude oil and intermediate and final petroleum products that, at a temperature of 20° C, has a vapor pressure over 13 mbar;

b) Emission of hydrogen sulfide—The gases from desulfurizing installations and other sources are to be treated when the hydrogen sulfide content by volume exceeds 0.4 percent and the mass flow of hydrogen sulfide is more than 2 tons/24-hour period. The emission of the treated and untreated gases must not exceed 10 mg/cu m.

c) Treatment of process and ballast waters: Process and ballast waters before being discharged into open systems shall be degasified with the resultant gases drawn off for treatment or burning.

Article 35. Production of wooden surfaces:

1. Dust emission must not exceed:

a) After polishing machines—10 mg/cu m;

b) After drying—50 mg/cu m.

2. The emission of vaporous and gaseous substances of class I under Article 17—in gases after the presses must not exceed 0.12 kg/cm of surfaces produced.

Article 36. Painting and varnishing of machines, metals and other products:

1. The gases from the painting chambers must not contain more particles (varnish particles) than 3 mg/cu m. For these gases, the requirements under Article 17—classes I and III—do not apply;

2. The emission of organic substances in the gases from the drying chambers, identified generally as hydrocarbons, must not exceed 50 mg/cu m.

Article 37. Installations for the application of coatings and the stamping of textiles with organic dyes, lacquers, and synthetic materials:

1. Dust emissions must not exceed 5 mg/cu m during spray application and 15 mg/cu m during the pulverization of powders;

2. The emission of organic compounds, identified generally as hydrocarbons, during the use of more than 10 kg/h of solvents must not exceed 150 mg/cu m;

3. When up to 25 percent of water and ethanol are used as a solvent, the emission of ethanol must not exceed 500 mg/cu m;

4. The emission of organic compounds with the gases from the drying installations, generally identified as hydrocarbons, must not exceed 50 mg/cu m.

Article 38. Waste-gas treatment installations: Concentrations of harmful substances in the gases released from the installations in which solid household wastes and other wastes are used for fuel must not exceed the values in mg/cu m indicated in Appendix No. 7.

Article 39. When emissions of harmful substances not indicated in these standards are expected from certain processes and activities, the interested juridical and natural persons shall make an investigation and submit to the Ministry of Environment for approval emission standards for specific cases.

Final Standards

Section 1. The standards are issued on the basis of Article 4, Paragraph 3 of the Regulations on the Application of the Law for Protection of the Air, Water, and Soil against Pollution (published in DURZHAVEN VESTNIK No. 80/1964, changed and supplemented in No. 9/1978), and rescind Order No. 1 on Allowable Content of Harmful Substances in the Gases Released Into the Atmosphere (DURZHAVEN VESTNIK No. 7/1986).

Section 2. The standards were coordinated with the Ministry of Public Health by letter No. 04-09-9 of 13 May 1991.

Appendix No. 1 to Article 14, Paragraph 1

Serial No.	Substance	Identified as	Class
1	2	3	4
1.	Antimony and compounds thereof	Sb	III
2.	Arsenic and compounds thereof	As	II
3.	Vanadium and compounds thereof	V	III
4.	Mercury and compounds thereof	Hg	I
5.	Cadmium and compounds thereof	Cd	I
6.	Cobalt and compounds thereof	Co	II
7.	Tin and compounds thereof	Sn	III
8	Copper and compounds thereof	Cu	III
9.	Manganese and compounds thereof	Mn	III
10.	Nickel and compounds thereof	Ni	II
11.	Lead and compounds thereof	Pb	III
12.	Palladium and compounds thereof	Pd	III
13.	Platinum and compounds thereof	Pt	III
14.	Quartz powder, fine <5 μm	SiO_2	III
15.	Rhodium and compounds thereof	Rh	III
16.	Selenium and compounds thereof	Se	II
17.	Tellurium and compounds thereof	Te	II
18.	Thallium and compounds thereof	Tl	I
19.	Fluorides	F_2	III
20.	Chromium and compounds thereof	Cr	III
21.	Cyanides, readily soluble	CN	III

Appendix No. 2 to Article 16

Serial No.	Substance	Identified as	Class
1.	Ammonia	NH_3	III
2.	Arsenic hydride	AsH_3	I
3.	Nitrogen oxides (nitrogen oxide and nitrogen dioxide)	NO_2	IV
4.	Bromine and vaporous and gaseous compounds thereof	HBr	II
5.	Sulfur oxides (sulfur dioxide and sulfur trioxide)	SO_2	IV
6.	Hydrogen sulfide	H_2S	II
7.	Fluorine and vaporous and gaseous compounds thereof	HF	II
8.	Phosgene	$COCl_2$	I
9.	Phosphine	PH_3	I
10.	Chlorine	Cl_2	II
11.	Cyanogen chloride	ClCN	I
12.	Chlorine compounds, vaporous and gaseous inorganic	HCl	II
13.	Hydrogen cyanide	HCN	II
14.	Aerosols of sulfuric acid	H_2SO_4	II

Appendix No. 3 to Article 17, Paragraph 1—Organic Substances

Serial No.	Name	Chemical Formula	Class
1	2	3	4
1.	Acetaldehyde	C_2H_4O	I
2.	Acetone	C_3H_6O	III
3.	Acrylic acid	$C_3H_4O_2$	I
4.	Alkyl alcohols		III
5.	Aniline	C_6H_7N	I
6.	Vinyl acetate	$C_4H_6O_2$	II
7.	Butyl acetate	$C_6H_{12}O_2$	III
8.	Dibutyl ether	$C_8H_{18}O$	III
9.	Dichlorodifluoromethane	CCl_2F_2	III
10.	1.1-Dichloroethane	CH_4Cl_2	II
11.	1.2-Dichloroethane	CH_4Cl_2	I
12.	Diethylamine	$C_4H_{11}N$	I
13.	Dimethylamine	C_2H_7N	I
14.	Dioctyl phthalate	$C_{24}H_{38}O_4$	II
15.	Ethanol	C_2H_5OH	III
16.	Ethyl acetate	$C_4H_8O_2$	III
17.	Ethylamine	C_2H_7N	I
18.	Ethylbenzene	C_8H_{10}	II
19.	Ethylene glycol	$C_2H_6O_2$	III
20.	Isopropylbenzene	C_9H_{10}	II
21.	Cresol	C_2H_8O	I
22.	Xylenes	C_8H_{10}	II
23.	Formic acid	CH_2O_2	I

Appendix No. 3 to Article 17, Paragraph 1—Organic Substances (Continued)

Serial No.	Name	Chemical Formula	Class
1	2	3	4
24.	Maleic anhydride	$C_2H_2O_3$	I
25.	Mercaptans		I
26.	Methanol	CH_3OH	III
27.	Methyl acetate	$C_3H_6O_2$	II
28.	Methyl acrylate	$C_4H_6O_2$	I
29.	Methylamine	CH_5N	I
30.	Naphthalene	$C_{10}H_8$	II
31.	Nitrobenzene	$C_6H_5NO_2$	I
32.	Nitrotoluene	$C_7H_7NO_2$	I
33.	Acetic acid	$C_2H_4O_2$	II
34.	Olefinic hydrocarbons (less 1.3-butadiene)		III
35.	Paraffin hydrocarbons (less methane)		III
36.	Perchloroethylene	CCl_2CHCl	II
37.	Propynoic acid	$C_3H_6O_2$	II
38.	Pyridine	C_5H_5N	I
39.	Carbon disulfide	CS_2	II
40.	Styrene	C_8H_8	II
41.	Carbon tetrachloride	CCl_4	I
42.	Toluene	C_7H_8	II
43.	Trichloroethylene	C_2HCl_3	II
44.	Phenol	C_6H_6O	I
45.	Formaldehyde	CH_2O	I
46.	Phthalic anhydride	$C_8H_4O_3$	I
47.	Furfural	C_4H_3OCHO	I
48.	Fine sawdust <10 μm		I
49.	Chlorobenzene	C_6H_5Cl	II
50.	Ethyl chloride	C_2H_5Cl	III
51.	Methyl chloride	CH_3Cl	I
52.	Chloroform	$CHCl_3$	I

Appendix No. 4 to Article 20, Paragraph 1

		Facilities Put Into Operation Up to and Including 1992				New Facilities			
Serial No.	Type of Fuel	Dust	Sulfur Oxides	Nitrogen Oxides	Carbon Monoxide	Dust	Sulfur Oxides	Nitrogen Oxides	Carbon Monoxide
1.	Bulgarian coal	200	3,500	1,000	250	100	650	600	250
2.	Imported coal	150	2,000	1,300	250	80	650	600	250
3.	Liquid fuels	50	1,700	700	170	50	650	450	170
4.	Gaseous fuels	10	—	500	100	10	—	300	100

Appendix No. 5 to Article 20, Paragraph 2

Serial No.	Type of Fuel	Dust	Sulfur Oxides	Nitrogen Oxides	Carbon Monoxide
1.	Solid fuels	120	2,000	500	250
2.	Liquid fuels	50	1,000	450	170
3.	Gaseous fuels	10	—	200	100

Appendix 6 to Article 20, Paragraph 3

Serial No.	Type of Fuel	Dust	Sulfur Oxides	Nitrogen Oxides	Carbon Monoxide
1.	Solid fuels	150	2,000	500	400
2.	Liquid fuels	80	1,000	450	170
3.	Gaseous fuels	—	—	200	100

The standards apply given a 12-volume-percent oxygen content of the smoky gases.

Appendix No. 7 to Article 18

Serial No.	Indicator	Installations Burning Up to 750 g/h of Wastes	Installations Burning Over 750 kg/h of Wastes
1.	Dusty substances	100	30
2.	Gaseous substances		
a)	Hydrogen chloride, identified as chlorine	100	50
b)	Hydrogen fluoride, identified as fluorine	4	2
c)	Sulfur oxides	—	300
d)	Carbon monoxide	100	100
3.	Dusty substances and aerosols		
a)	Lead, zinc, chromium, copper, manganese, including compounds thereof—together	—	5
b)	Arsenic, cobalt, nickel and compounds thereof—together	—	1
c)	Cadmium and soluble compounds thereof	—	0.2
d)	Mercury and compounds thereof	—	0.2
4.	Dioxines (2, 3, 7, 8-tetrachlorodibenzodioxines)	0.1 ng/m^3	0.1 ng/m^3
5.	Organic compounds, identified generally as hydrocarbons	20	20

The norms apply given an 11-volume-percent oxygen content of the smoky gases.

Law on Wages, Remuneration

92CH0357A Prague HOSPODARSKE NOVINY in Czech 29 Jan 92 p 8

["Text" of decree implementing Law No. 1/1992 on Wages, Remuneration Resulting From Employment, and Average Earnings]

[Text] The Government of the Czech and Slovak Federal Republic decrees the following in accordance with Section 111, Paragraph 3, of the Labor Code, Decree No. 65/1965, as amended by Law No. 3/1991, and according to Section 4, Paragraph 4, of Law No. 1/1992 on wages, remuneration resulting from employment, and average earnings:

Section 1

Extent of Applicability

This decree regulates the provision of the minimum wage to employees (workers) who are in an employee or similar work status (hereinafter referred to as "employees").

Size of Minimum Wage

Section 2

(1) The minimum wage shall be as follows:

a) Twelve korunas [Kcs] for every hour worked by an employee, and Kcs10.20 if the employee is remunerated for his work in an agricultural cooperative on a tax-free basis.

b) Kcs2,200 per month for an employee paid monthly, and Kcs1,900 where an employee is paid for work in an agricultural cooperative on a monthly basis not subject to income tax.

c) Seventy-five percent of the amounts listed under letters a) and b) above in the event the employee is the recipient of a partial disability pension and in the event the employee is a minor employee who is older than 16 years of age.

d) Fifty percent of the amounts listed under letters a) and b) above in the event the employee is the recipient of a disability pension, a disabled employee who is younger than 18 years of age, and a minor employee who is less than 16 years of age.

(2) The minimum wage listed in Paragraph 1, Letter a), is established for a workweek of 42 and ½ hours; in the event the established workweek is longer, the minimum wage is appropriately adjusted.

(3) An employee paid a monthly wage (remuneration) which has been agreed upon or which permits a shorter workweek,[1] or an employee who has not worked on all of his workdays, is entitled to a minimum wage which reflects the amount of time worked.

Section 3

(1) In the event the wages (remuneration) of an employee[2] fall short of the amount of the minimum wage to which he is entitled in accordance with Section 2, the employer shall make up the difference (hereinafter referred to as the "supplemental payment").

(2) For an employee whose wages (remuneration) or any part thereof are payable for a period exceeding one month, the supplemental payment is made on a set-aside basis[3] and an accounting is rendered at the time the above wages (remuneration) are paid or when any part thereof is paid, to include the three months preceding the date of payment. The collective agreement, or any possible internal regulations issued in accordance with the appropriate trade union organization, may contain an agreement covering the method of accounting for supplemental payments which is different; with respect to members of cooperatives, it is possible to establish such a modification by resolution of the membership meeting.[4]

Common, Transitory, and Concluding Provisions

Section 4

For purposes of this decree, cottage industry employees working at home are considered to have worked one hour for every hour worked in accordance with the standards for labor consumption set by the employer.[5]

Section 5

Wages (remuneration), according to Section 3, Paragraph 1, do not include the following:

a) Wages (remuneration) paid for overtime work.

b) Loyalty stabilization payments for 1992 made to employees in selected okreses and locations in the Czech Republic, in accordance with special regulations.

Section 6

Supplemental payments to bring the level of wages paid to the minimum, according to this decree, are made for the first time for the month of January 1992; minor employees, with the exception of those who are disabled, shall receive the supplemental payment for the first time for the month of February 1992.

Section 7

Decree No. 99/1991 on the minimum wage, issued by the Government of the Czech and Slovak Federal Republic, is rescinded.

Section 8

This decree becomes effective on the date of its publication.

Footnotes

1. According to Section 86 of the Labor Code.
2. Section 111, Paragraph 2, of the Labor Code and Section 4, Paragraph 2, of Law No. 1/1992 on wages, remuneration resulting from employment, and average earnings.
3. Section 121, Paragraph 1, Letter b), and Section 12, Paragraph 1, Letter b), of Law No. 1/1992.
4. Section 21 of Law No. 1/1992
.5. Section 114 of the Labor Code and Section 16 of Law No. 1/1992.

Amendment on Employment Law Explained

92CH0369B Prague HOSPODARSKE NOVINY in Czech 25 Feb 92 p 11

[Unattributed article: "Commentary on the Employment Law Amendment"]

[Text] Toward the end of last year, the Federal Assembly approved Law No. 578/1991 Sb. [Collection of Laws] on the state budget of the Federation for the year 1992 and on changes in the tax laws and some other laws. This action also amended Law No. 1/1991 Sb. on employment, as presented by the language of Law No. 305/1991 Sb.

The amendment of the employment law addresses two important groups of questions: the duty to employ citizens on the basis of labor law relationships in the fulfillment of current tasks stemming from the objective of the activity involved; the conditions, the time, and the level of material security granted to job applicants.

The Ministry of Labor and Social Affairs of the Czech Republic, in collaboration with the Federal Ministry of Labor and Social Affairs and the Ministry of Labor and Social Affairs of the Slovak Republic, has worked out a detailed commentary on the individual amended paragraphs and the changes resulting from them. The commentary is intended primarily for the use of labor offices and will surely also serve to broaden the information at the disposal of all individuals to whom the mentioned legal modifications apply.

I. Employment in a Labor Law Relationship

Commentary on Section 1, Paragraph 4

The purpose of the legal modification contained in this provision is to safeguard the rights of citizens to employment, primarily by providing them with the opportunity of asserting their work efforts on the basis of labor law relationships. The provisions of Section 1 were augmented on the basis of findings regarding the procedures used by some private entrepreneurs, but also by state enterprises, which were not concluding work agreements covering the work of sales personnel, warehouse personnel, or various production or service activities. They were making the implementation of this work conditional upon registering the citizen as a private entrepreneur and were then assigning such work to him in the form of orders within the framework of his business activities. This method leads to extensive tax losses and losses of payments to the state budget; particularly, however, the employer uses this device to obtain relief from having to fulfill the obligations which result for him on the basis of the Labor Code with respect to employees and eliminates protection of the citizen in labor law relationships insofar as provisions which guarantee any labor law entitlements connected with the execution of work.

The legal modification which was valid until 31 December 1991 did not contain any provisions which could be utilized by the appropriate state organs (labor offices, the Ministry of Labor and Social Affairs of the republics) to resist the above-listed incorrect procedures.

In order to be able to utilize Section 1, Paragraph 4, it is primarily necessary to assure, in each individual case, that an administrative (objective) determination of the facts is made, that is to say, a finding as to whether the legal entity or individual who is or is supposed to be the employer according to Law No. 1/1991 Sb. on employment as modified by subsequent regulations is assuring the fulfillment of current tasks stemming from the object of his activities through his employees, whom he employs in work relationships in accordance with the Labor Code. The following comments apply to the concepts used:

The concept of a private individual is defined in Sections 7 through 10 of the Civil Code, as modified by Law No. 509/1991 Sb.

According to Section 18, Paragraph 2, of the Civil Code, the following are defined as legal entities:

- Associations of private or legal persons;
- Special-purpose property associations;
- Units of territorial self-administration;
- Other entities so defined by law.

For purposes of the finding pertaining to the actual situation, the object of activities will have to be derived particularly from the following:

- From the Commercial Register (Section 28, Paragraph 1, Letter c), of Commercial Code No. 513/1991 Sb.);
- From presented proof of the small business authorization—represented by the small business permit and the concession list, Section 10, Paragraph 2, of Law No. 455/1991 Sb. on small business activities (Small Business Law); existing registrations issued in accordance with Law No. 105/1990 Sb. will have to be evaluated, taking Section 74 of the small business law into account;
- On the basis of a special law, for example, Section 1, Paragraph 1, of CNR [Czech National Council] Law No. 128/1990 Sb. on the legal profession, Section 1,

Paragraphs 1 and 2, of SNR [Slovak National Council] Law No. 132/1990 Sb. on the legal profession, or Section 2, Paragraph 1, of CNR Law No. 209/1990 Sb. on commercial attorneys and the activities provided by them, and Section 2, Paragraph 1, of SNR Law No. 129/1991 Sb. on commercial attorneys.

The object of activities may also be derived for legal entities which are considered to be budgetary organizations according to valid laws (see Law No. 563/1990 Sb. on budgetary regulations of the federation as modified by Law No. 562/1991 Sb., CNR Law No. 576/1990 Sb. on rules for managing budgetary resources of the Czech Republic and of the communities in the Czech Republic [budgetary regulations of the republic], as modified by CNR Law No. 579/1991 Sb. and SNR Law No. 592/1990 Sb. on budgetary regulations of the Slovak Republic). Budgetary organizations are, for example, the federal central organs of state administration, central organs of state administration of the republics, and okres offices. The object of activities can also be derived for organs of self-administration.

For purposes of making the finding regarding the actual situation, the object of activities of state administration and self-administration organs needs to be derived from the appropriate laws, for example:

- Law No. 194/1988 Sb. on the jurisdiction of federal central organs of state administration, as modified by Law No. 297/1990 Sb.;
- CNR Law No. 2/1960 Sb. on the establishment of ministries and other central organs of state administration for the Czech Socialist Republic, as modified by subsequent regulations (complete text in Law No. 105/1991 Sb.), the augmented CNR Law No. 173/1991 Sb., Law No. 283/1991 Sb., Law No. 19/1992 Sb., and Law No. 23/1992 Sb.;
- SNR Law No. 347/1990 Sb. on the organization of ministries and other central organs of state administration;
- CNR Law No. 425/1990 Sb. on okres offices, the modification of their jurisdictions, and some other measures connected therewith, as modified by CNR Law No. 266/1991 Sb.;
- SNR Law No. 472/1990 Sb. on the organization of local administration and Government of the Slovak Republic Decree No. 548/1990 Sb. which establishes the seats for okres offices;
- CNR Law No. 367/1990 Sb. on communities (community installations), as modified by CNR Law No. 439/1991 Sb., Law No. 485/1991 Sb., and Law No. 553/1991 Sb.;
- SNR Law No. 369/1990 Sb. on community installations;
- CNR Law No. 418/1990 Sb. on the capital city of Prague, as modified by CNR Law No. 439/1991 Sb.;
- SNR Law No. 377/1990 Sb. on the capital city of Bratislava.

It is also necessary to derive the object of activities of legal entities (budgetary organizations or contributory organizations) from the appropriate establishing list (see Section 31, Paragraph 2, Letter c), of CNR Law No. 576/1990 Sb., Section 28 of SNR Law No. 592/1990 Sb., and Section 24, Paragraph 2, Letter c), of Law No. 563/1990 Sb.).

The labor office will be comparing the current tasks, the demonstrative listing of which is evident from Section 1, Paragraph 4, sentence 3, with the determined object of activities.

Current tasks need not be supported by employees in working relationships according to the labor code by the following:

- A private individual, if he is supporting such tasks himself with the aid of his spouse or children;
- A legal entity, through its partners or members.

To judge the question whether, in a specific case, there has been a violation of Section 1, Paragraph 4, by a circumvention of labor law relationships, it will be appropriate to take into account the provisions of Section 2 of the Commercial Code and the provisions of Section 2 of the small business law.

Both of these provisions define entrepreneurial activities or small business activities as the consistent activity carried out independently, in one's own name, at one's own responsibility and for purposes of achieving a gain.

What is particularly important is that this must be:

- Independent activity; such activity cannot be understood to be an activity which is organized and directly controlled by the person for whom it is undertaken;
- An activity carried out in one's own name; such an activity cannot be understood to be an activity during which a certain person does not act in his own name, but in the name of another person;
- An activity carried out on one's own responsibility; such an activity cannot be understood to be an activity during which the relevant person does not bear property consequences resulting from carrying out an activity on behalf of third parties.

According to Section 1, Paragraph 4, sentence 3, current tasks must be understood to be tasks which represent the actual object of activity engaged in by a legal or physical entity, as well as the following particular activities:

- Tasks which are directly connected with supporting production;
- Tasks which are directly connected with the rendering of services;
- Tasks which are directly connected with similar activities undertaken in accordance with special regulations;
- Where a legal entity or private individual carries out such activities under their own name and upon their own responsibility;
- In facilities intended for such purposes;
- At locations which are customary for the execution of such activities.

The legal modifications of Section 1, Paragraph 4, do not impact on the modification of commercial binding relationships regulated by the Commercial Code. From this, it is necessary to deduce that it is not out of the question to make partial deliveries when entrepreneurial activities involve individuals.

For purposes of explaining Section 1, Paragraph 4, partial deliveries may be understood to be a certain achievement (unit of work), part of which, in addition to the invoiced price of embodied labor, is also the value of property delivered as a result of this work which was realized in the name of, and at the responsibility of, the supplying entrepreneur. Partial delivery may also be interpreted as an achievement (a unit of work) which is mental in character, for example, a design, as well as material which is the object of property relationships arising as a result of mental creative activity, for example, as defined in the copyright law.

In contrast, it will not be possible to consider a partial delivery (a binding commercial relationship) to be the mere delivery of embodied labor in return for a contract price without delivering the actual item (unit). Thus, for example, if a private individual, who is acting as an entrepreneur, sells merchandise in a commercial establishment—merchandise which is the property of another person—in accordance with instructions from that person and at prices set by that person, or if a private individual engages in the performance of brick mason work for another person, using materials which were purchased by another person to whom it belongs, there is a conflict with respect to Section 1, Paragraph 4. This illegal relationship will occur at the expense of the person who is incorrectly engaging in the activity which has been ascertained as a result of a verification check.

It will be necessary to judge the question as to whether a certain activity conducted on behalf of a legal entity or a private individual is directly connected with supporting production or rendering services or with similar activities engaged in according to special regulations on a case-by-case basis and to determine whether this activity is an employee relationship according to the Labor Code. In the above case, a direct connection can be considered to be a situation in which, absent this activity, support of production or the rendering of services or similar activities according to special regulations would not be possible, for example, the warehousing of goods in commercial establishments.

For example, the obligation to keep accounts, which accrues to legal entities or private individuals on the basis of Section 1, Paragraph 1, of Law No. 563/1991 Sb. on accounting, will not have such a character and it will, therefore, not be possible to consider it as a current task according to Section 1, Paragraph 4, sentence 3, of this provision. (Moreover, in the given case, Section 5, Paragraph 1, of Law No. 563/1991 Sb. indicates that legal entities or private individuals may entrust the keeping of their accounts to another legal entity or private individual). A situation in which a legal entity draws up a commercial contract to assure that provisions of Section 140, Paragraph 1, of the Labor Code are met, that is to say, to assure, in all shifts, that enterprise catering, which is responsive to the principles of correct nutrition, is assured, as well as the provision of suitable beverages directly at the work site, will need to be clearly judged in a similar manner, where the person involved is not ipso facto engaged in an activity whose objective is public catering. Similarly, it will not be possible to consider a concession-type small business activity, as defined in Section 26 of the small business law, and having to do with providing guard services for property and persons as being the current task with respect to the object of activity of an entrepreneur.

On the other hand, if, for example, in the offices of a lawyer or commercial attorney, clerical and secretarial work as a free small business activity according to Section 25, Paragraph 1, of the small business law was being provided on the basis of small business authorization under terms of commercially binding relationships, this would clearly not be in harmony with the provisions of Section 1, Paragraph 4.

The following additional comments are made with respect to concepts used in this connection:

The following are considered to be entrepreneurs according to the Commercial Code (see Section 2, Paragraph 2, of that code):

- An individual recorded in the Commercial Register (for example, all types of commercial corporations [see Section 56, Paragraph 1, of the Commercial Code]);
- A person who engages in business activities on the basis of a small business permit, that is to say, in accordance with the small business law;
- A person who engages in business activities on a basis other than a small business permit according to special regulations (for example, in accordance with CNR Law No. 128/1990 Sb. on the legal system, on the basis of CNR Law No. 209/1990 Sb. on commercial attorneys and legal assistance provided by them, on the basis of SNR Law No. 129/1991 Sb. on commercial attorneys);
- A private individual engaged in agricultural production and who is entered in the records according to special regulations (see Section 12a through 12e of Law No. 105/1990 Sb. on private entrepreneurial activities of citizens, as modified by Law No. 219/1991 Sb.).

According to Section 27, Paragraph 1, of the Commercial Code, the Commercial Register is a public listing for the recordation of data stipulated by law and having to do with entrepreneurs or other individuals required to do so by law. According to Section 3 of the Commercial Code, the following are recorded in the Commercial Register:

- Commercial corporations (see Section 56, Paragraph 1, of the Commercial Code);

- Other legal entities required to do so by law (for example, Section 12 of Law No. 111/1990 Sb. on state enterprises);
- Foreign entities, according to Section 21, Paragraph 4, of the Commercial Code.

A private individual with a domicile on the territory of the CSFR who engages in entrepreneurial activities as defined in the Commercial Code (Section 2, Paragraph 2, letters b) through d) of the Commercial Code) is recorded in the Commercial Register at his own application or if a special law so requires.

The labor office is obligated to verify the fulfillment of Section 1, Paragraph 4, on the basis of Section 26, Paragraph 1, of the law on employment and Sections 8 and 9 of CNR Law No. 9/1991 Sb. on employment and the jurisdiction of organs of the Czech Republic in the area of employment (Sections 8 and 9 of SNR Law No. 83/1991 Sb. on the jurisdiction of organs of the Slovak Republic in supporting employment policy).

The provisions of Section 1, Paragraph 4, became effective 1 January 1992. Therefore, as of that date, they impact both upon legal relationships not newly realized until 1992, as well as on those legal relationships which came into being according to existing regulations in 1991. Therefore, in implementing the verification procedures, the labor office cannot grant the objections raised by the subject of the verification that the provisions of Section 1, Paragraph 4, do not apply to him because he is guided by existing regulations, that is to say, that he is proceeding in accordance with economic contracts which have already been concluded. Similarly, it is not possible to accept the legal opinion according to which economic contracts which were concluded in accordance with existing regulations could, effective 1 January 1992, conclusively act as a basis for employment status or for an agreement on work performed outside of any employment status.

In the event of a violation of Section 1, Paragraph 4, it is the duty of the labor office, according to Section 8, Paragraph 3, of CNR Law No. 9/1991 Sb. (Section 8, Paragraph 3, of SNR Law No. 83/1991 Sb.) to demand the elimination of the determined shortcomings and, for that purpose, set an appropriate deadline for this elimination.

The labor office is authorized (not obligated) to impose a fine on the employer for violating his obligations as set out in Section 1, Paragraph 4, in accordance with Section 9 of CNR Law No. 9/1991 Sb. (Section 9 of SNR Law No. 83/1991 Sb.).

The inspection activities of the labor office must be conducted in accordance with provisions on fundamental rules for inspection activities (see Sections 8 through 26 of CNR Law No. 552/1991 Sb. on state inspections and Sections 16 through 22 of SNR Law No. 418/1991 Sb. on state inspections).

The proceedings regarding the imposition of a fine according to Section 9 of CNR Law No. 9/1991 Sb. (Section 9 of SNR Law No. 83/1991 Sb.) are subject to general legal regulations governing administrative proceedings, that is to say, Law No. 71/1967 Sb. on administrative proceedings (the Administrative Code). This is clear from the provisions of Section 16 of CNR Law No. 9/1991 Sb. (Section 17 of SNR Law No. 83/1991 Sb.).

Similarly, attention is drawn to the fact that the imposition of a fine according to Section 9 of CNR Law No. 9/1991 Sb. (Section 9 of SNR Law No. 83/1991 Sb.) can be examined in accordance with Part Five of Law No. 99/1963 Sb., which is the Civil Code, as amended by Law No. 519/1991 Sb. (Sections 244 through 250k) upon the proposal of the employer who is a private individual or a legal entity.

However, the court reexamination according to the specifics of Section 248, Paragraph 1, Letter e), of the Civil Code does not apply to the imposition of a disciplinary penalty according to Section 8, Paragraph 4, of CNR Law No. 9/1991 Sb. (Section 8, Paragraph 4, of SNR Law No. 83/1991 Sb.). With regard to auditing inspections conducted by the labor offices during the months of January through March, the labor offices shall establish an appropriate one- to three-month deadline for the elimination of the determined shortcomings according to Section 1, Paragraph 4, of the cited law, in view of the scope and nature of these shortcomings, without imposing a fine.

II. Material Provisions for Job Seekers

As a result of the amendment of Law No. 1/1991 Sb., there are substantial changes in the conditions, the time, and level of material provisions made available to job seekers, effective 1 January 1992.

Primarily, these involve the following:

- Setting of the level of material provisions on the basis of another percentage rate (60 percent, 50 percent) tied exclusively only to the earnings or assumed earnings or to the assessment basis;
- The elimination of any guaranteed minimum material support at the level equal to a pension which is granted to the individual according to regulations on social security as the sole source of income;
- Introduction of the concept referred to as "supporting period" and its curtailment from one year to six months;
- Setting the maximum level of material support at 1.5 times the assumed earnings (and, for the duration of requalification training, at 1.8 times) for some groups of citizens in accordance with regulations on social security;
- Doing away with replacement employment time, with the exception of the time required for study and preparation for a profession, including preparation for a profession by citizens whose ability to work has changed;
- Eliminating the opportunity to earn up to 400

korunas [Kcs] or possibly Kcs800 per month;
- Stricter conditions for the repeated granting of material support after the expiration of the supporting period and as a result of the termination of employment for unsatisfactory work results or for violating work obligations;
- Changes in and the level of material support made available to job applicants whose last employment was as self-employed earners or who were engaged in their last employment abroad;
- Making the provision of material support payments impossible on a concurrent basis with termination pay and separation pay.

As a result of the amendment of Law No. 1/1991 Sb. on employment, the conditions and level of material support payments are regulated in a unified manner and comprehensively for all of the Czech and Slovak Federal Republic. At the same time, implementing regulations of the various republics (in the Czech Republic, the Proclamation of the Ministry of Labor and Social Affairs of the Czech Republic No. 20/1991 Sb., in the Slovak Republic, Proclamation of the Ministry of Labor and Social Affairs of the Slovak Republic No. 50/1991 Sb.), which stipulated the details of conditions for granting material support payments to the unemployed on the territory of the Czech Republic and the Slovak Republic, are rescinded.

Commentary on Section 7

The law now clearly states that a citizen who is consistently preparing for a profession may not become a job applicant. This time is understood to also include vacation time, because, according to Section 38, Paragraph 1, of Law No. 29/1984 Sb., the school year begins on 1 September of the current year and ends on 31 August of the following year. From this, it is clear that it is impossible to include a citizen who is continuing in his studies as of the new school year, including studies at advanced schools, in the record of job seekers.

Consistent preparation for a profession can only be considered to be a program of study which is connected with certain claims in the area of social security and hospitalization insurance (for the duration of such studies, the citizen is entitled to family supplements). If a citizen is studying, but the listed studies are not connected with entitlements in the area of social security and hospitalization insurance, he cannot be considered as a citizen who is systematically preparing himself for a profession. Such a citizen can, provided he fulfills the remaining stipulated conditions, be categorized among job seekers.

The working relationships which are involved here in this provision also include labor law relationships based on agreements regarding work performed outside of an employee relationship, that is to say, that even a citizen who has concluded an oral contract regarding the performance of work cannot become a job seeker.

A relationship similar to employee status is considered to be, for example, a membership status in a cooperative, provided a condition of membership is a work relationship, a service relationship, labor law relationships of prosecutors and prosecuting investigators, members of the armed forces on active duty; the performance of a function by officials who have long since been released, but who draw regular remuneration which is granted in the form of a wage.

The performance of work on the basis of a contract which has been concluded for performance of a certain job in accordance with the Civil Code or the Commercial Code must be considered to be an independent earning activity.

Commentary on Section 13

Material support payments are made to a job seeker who, in the last three years prior to submitting his application to have a job found for him, had been employed for at least 12 months.

Law on Environmental Protection

92CH0357C Prague SBIRKA ZAKONU in Czech 16 Jan 92 pp 81-89

["Text" of Law No. 17, dated 5 December 1991, on the environment]

[Text] The Federal Assembly of the Czech and Slovak Federal Republic, beginning with the fact that man, together with the organisms, mindful of the natural mutual interdependence between man and the other organisms, taking into account the rights of man to reshape nature in harmony with the principle of permanently sustainable development, aware of its responsibility for preserving a favorable environment for future generations, and stressing the right to a favorable environment as being one of the fundamental human rights, has agreed upon the following law:

Section 1. Purpose of the Law

The law outlines the fundamental concepts and establishes the fundamental principles for protecting the environment and the duties of legal and physical entities in protecting and improving the status of the environment and in utilizing natural resources; in so doing, the law adheres to the principle of permanently sustainable development.

BASIC CONCEPTS

Section 2. Environment

The environment is defined as everything which shapes the natural conditions, the existence of organisms, including man, and which is the prerequisite for their further development. Components of the environment are, particularly, the atmosphere, water, minerals, the soil, organisms, ecosystems, and energy.

Section 3. Ecosystem

The ecosystem is the functioning set of living and nonliving components of the environment which are mutually interconnected by metabolism, by the flow of energy, and by the transmission of information and which exert a mutual influence upon each other and develop in a certain space and time.

Section 4. Ecologic Stability

Ecologic stability is the capability of the ecosystem to balance the changes caused by external factors and to preserve its natural characteristics and functions.

Section 5. Tolerable Burdening of the Territory

Tolerable burdening of the territory is such a degree of burdening of the territory as a result of human activities which does not result in damaging the environment, particularly its components, the functions of the ecosystems, or ecologic stability.

Section 6. Permanently Sustainable Development

Permanently sustainable development of society is such development which preserves the opportunity for current as well as future generations to satisfy their basic living requirements and which, at the same time, does not reduce the diversity of nature and preserves the natural functions of the ecosystems involved.

Section 7. Natural Resources

(1) Natural resources are those components of living and nonliving nature which man utilizes or can utilize to satisfy his needs.

(2) Renewable natural resources have the capability of partially or completely renewing themselves despite their gradual consumption, either by themselves or as a result of contributions made by man. Nonrenewable natural resources are destroyed as a result of being consumed.

Section 8. Contamination and Damage to Environment

(1) Contamination of the environment is defined as the introduction of such physical, chemical, or biological factors into the environment as a consequence of human activities which, as a result of their character or quantity, are alien to the given environment.

(2) Damage to the environment is the exacerbation of its status through contamination or other human activity over and above the degree stipulated by special regulations.

Section 9. Protection of Environment

Protection of the environment encompasses activities designed to prevent contamination or damage to the environment or activities designed to limit and eliminate such contamination of damage. It includes protection of its individual components, types of organisms, or specific ecosystems, and their mutual ties, as well as protection of the environment as a whole.

Section 10. Ecological Deterioration

Ecological deterioration is defined as a loss or weakening of the natural functions of ecosystems, resulting from damage to their components or as a result of the violation of internal ties and processes as a consequence of human activity.

PRINCIPLES OF ENVIRONMENTAL PROTECTION

Section 11

The territory must not be burdened as a result of human activities over and above the measure of tolerable burdening.

Section 12

(1) The permissible level of environmental contamination is determined by the limit values established in special regulations; these values are established in conjunction with the attained status of knowledge in such a manner so as not to pose a threat to human health and not to threaten other living organisms and other components of the environment.

(2) Limit values must be established in consideration of the possible cumulative effects or combination effects of contaminating substances and activities.

Section 13

If, in view of all circumstances, it is possible to anticipate that there is the threatening danger of irreversible or serious damage to the environment, there must be no doubt with regard to the fact that such damage will actually occur as a consequence of the reasons why measures which are designed to prevent such damage are deferred.

Section 14

Everyone has the right to truthful and appropriate information regarding the status and development of the environment, regarding reasons for and consequences of this status, to information on activities which are being prepared and which could lead to changing the status of the environment, and to information on measures which are being undertaken by organs responsible for protecting the environment in the prevention or rectification of environmental damage. A special regulation can stipulate cases in which the provision of information may be restricted or withheld.

Section 15

Everyone may use specified methods to assert their rights based on this law and on other regulations modifying environmental matters before appropriate organs.

Section 16

Education, enlightenment, and training are conducted in such a manner that they lead toward thoughts and actions which are in harmony with the principles of permanently sustainable development, to an awareness of responsibility for maintaining the quality of the environment and its individual components, and to respect for life in all of its forms.

DUTIES IN PROTECTING THE ENVIRONMENT

Section 17

(1) Everyone has the duty, primarily through measures taken directly at the source, to prevent the environment from being contaminated or damaged and to minimize the unfavorable consequences of his activities upon the environment.

(2) Everyone who utilizes the territory or its natural resources, who designs, builds, or removes structures, is obligated to conduct such activities only after evaluating their influence upon the environment and determining the extent of territorial burdening and is obligated to do so to the extent stipulated by this law and by special regulations.

(3) Everyone who intends to introduce technologies, products, and materials into production, circulation, or consumption, or anyone who intends to import such materials, is obligated to make sure that they fulfill the conditions of protecting the environment and that, in cases stipulated by this law and by special regulations, these materials are evaluated from the standpoint of their possible influence upon the environment.

Section 18

(1) Anyone who, on the basis of his activities, contaminates or damages the environment or utilizes natural resources is obligated, at his own expense, to assure that the effects of this activity are monitored and must be familiar with any possible consequences.

(2) Legal entities and private individuals who are authorized to engage in entrepreneurial activities are obligated, within the scope and under the conditions stipulated by special regulations, to provide information on their effect upon the environment.

Section 19

Everyone who ascertains that there is a threat of environmental damage, or that such damage has already occurred, is obligated to take all essential measures, within the boundaries of his possibilities, to avert such a threat or to minimize its consequences and to report these facts to organs of state administration without delay; the obligation to make any incursions is not applicable to anyone who, by taking such actions, would threaten his own life or health or that of his next of kin. (As defined in Section 116 of the Civil Code.)

JUDGING INFLUENCE OF ACTIVITIES UPON ENVIRONMENT

Section 20

(1) The intentions to engage in activities listed in Section 17, Paragraphs 2 and 3 (hereinafter referred to as "intentions"), are subject to evaluations from the standpoint of their possible influence upon the environment (hereinafter referred to as "evaluation of intentions"), prior to issuance of a decision in accordance with special regulations. (For example, Law No. 50/1976 SB. (Collection of Laws) on territorial planning and the building code—the construction law.)

(2) The principles of environment protection and of evaluating the influence of activities and their consequences upon the environment are appropriately applied also in the preparation of developmental concepts and programs and in the proposals of legal regulations.

Section 21

(1) The evaluation of intentions listed in attachment No. 1 to this law is carried out by the appropriate organs of state administration, which are designated by the Czech National Council and by the Slovak National Council (hereinafter referred to as "evaluating organs"), following discussion with the remaining impacted organs of state administration, with the communities involved in the territorial influence of the intentions, and with the general public. Evaluation of the influence of the intentions involved upon the environment is processed in accordance with attachment No. 2 of this law.

(2) Details are to be regulated by laws of the Czech National Council and the Slovak National Council which may also expand and render specific the listing of activities contained in attachment No. 1 of this law (particularly, they may designate the scope of such activities) and levy stricter requirements with regard to the content of documentation covering the evaluation of the influences of intentions upon the environment, as listed in attachment No. 2 of this law.

Section 22

Evaluating organs shall examine the intentions in accordance with the nature of things, particularly from the following standpoints:

a) The ecologic capacity of the impacted territory;

b) The consequences of current activities and possible disasters;

c) The cumulative and synergistic manifestations, in various time frames and considering any irreversible manifestations;

d) The prevention, minimizing, possible compensation of the effects brought about by the intentions upon the environment;

e) The methods of handling the realized results of the intentions after termination of their useful life or after they have been used up (possibilities of rendering them harmless, recycling, etc.);

f) The utilized methods of evaluation and the completeness of the information involved;

g) Comparison with the best available technologies.

Section 23

(1) In the event that a proposed intention, which is to be realized on the territory of one republic, can result in unfavorable influences upon the environment in the other republic, the evaluating organ shall ask the appropriate central organ of the republic to take a position. Any possible conflicts are to be resolved by the central organs of the republics by agreement.

(2) In the event an agreement does not come about, an arbitration commission shall resolve the conflict; the commission is composed of representatives of the Czech and Slovak organs responsible for environmental protection and representatives of the Federal Committee for the Environment. In the event the commission fails to reach an agreeable conclusion, the intention may not be realized.

EVALUATION OF INFLUENCE OF ACTIVITIES AND THEIR CONSEQUENCES UPON ENVIRONMENT WHERE THEY EXTEND BEYOND STATE BORDER

Section 24

(1) The proposers of intentions listed in attachment No. 3 to this law are obligated to submit an evaluation of the influences of their intentions upon the environment to the evaluating organ for a position (Section 21, Paragraph 1), prior to issuance of a territorial decision regarding the location of the structure or a territorial decision regarding utilization of the territory.

(2) The evaluation of influences of the intentions upon the environment when they impact on areas beyond the state border must particularly contain data listed in attachment No. 4 to this law.

Section 25

The extent of evaluating the influences of the intentions upon the environment are to be discussed by the evaluating organs with the appropriate organs of state administration, with the communities impacted by the influence of the intentions, and with the general public. The processed final evaluation of influences is to be discussed in a similar manner.

Section 26

(1) The evaluating organ with jurisdiction to issue a position in accordance with Section 21, Paragraph 1, above in cases listed in attachment No. 3 to this law shall submit the proposed position to the Federal Committee for the Environment. The Federal Committee for the Environment, in cases where the consequences of the proposed measures can reach beyond the state border, shall assure, in agreement with the organs authorized to issue positions, that interstate discussions are held in accordance with adopted interstate obligations. (The Convention of the European Economic Commission of the United Nations on evaluating influences upon the environment which cross state borders.)

(2) The appropriate central organs of state administration of the republics may, upon the request of the Federal Committee on the Environment, which is based on interstate obligations, stipulate that any intentions which are otherwise not subject to evaluation of their influences upon the environment will be judged in accordance with this law.

(3) The Federal Committee for the Environment shall, on the basis of information on intentions which are prepared on the territory of other states and the consequences of which could damage the environment on the territory of the Czech and Slovak Federal Republic, which has been provided by the appropriate organs of those states, organize the evaluation of such intentions, together with the responsible organs of the republics, in harmony with adopted interstate obligations.

RESPONSIBILITY FOR VIOLATING OBLIGATIONS INVOLVED IN PROTECTING ENVIRONMENT

Section 27

(1) Anyone who, by damaging the environment or by engaging in other illegal activities, has caused any ecologic deterioration is obligated to renew the natural functions of the violated ecosystem or its components. If this is not possible or not purposeful for serious reasons, he is obligated to provide compensation for the ecologic deterioration in some other way (compensatory fulfillment); if that proves not to be possible, he is obligated to provide monetary compensation for this deterioration. The possibility that these types of compensation may be assessed concurrently is not excluded. The method of computing ecologic deterioration and other details are stipulated by special regulation.

(2) The decision regarding the imposition of the obligation listed in Paragraph 1 above is made by the appropriate organ of state administration.

(3) The state is the authorized party in terms of ecologic deterioration which has been caused; details are stipulated by laws of the Czech National Council and the Slovak National Council.

(4) For purposes of ecologic deterioration, use is made of general regulations regarding responsibility for damage and compensation for damages, insofar as Paragraphs 1 through 3 do not stipulate otherwise.

(5) The provisions of Paragraphs 1 through 3 do not impact on general regulations covering responsibility for damage and compensation for damages.

Section 28. Sanctions for Damaging the Environment

(1) Environmental organs shall impose fines as follows:

a) Up to 1 million korunas [Kcs] for legal or physical entities authorized to engage in entrepreneurial activities which cause environmental deterioration as a result of violating legal regulations during their activities;

b) Up to Kcs500,000 for legal or physical entities authorized to engage in entrepreneurial activities who fail to take measures to rectify the status of things or who fail to notify the organs of state administration (Section 19).

(2) Fines can be levied up to one year from the day the environmental organ has determined that a violation of duties has occurred, but no later than three years from the day of the actual violation.

(3) The imposition of a fine has no effect upon the general regulations covering compensation for damages.

Section 29

The violation of obligations stipulated in special regulations on environmental protection is subject to a fine or other measures according to these regulations; this does not impact on any possible criminal responsibility, nor responsibility for damage as defined in general legal regulations.

Section 30

When there is danger of serious damage to the environment or if such damage has already occurred, the appropriate organs of state administration responsible for the environment are authorized to make a decision regarding the temporary halting or restricting of an activity which can cause such damage or which has already caused such damage for a period not to exceed 30 days (preliminary measures) and to, simultaneously, propose rectification measures to the appropriate organs of state administration. Details are to be specified in special regulations.

ECONOMIC INSTRUMENTS

Section 31

Physical or legal entities pay taxes, fees, and other payments for contaminating the environment or possibly its components and for the economic utilization of natural resources, if special regulations so specify.

Section 32

Special regulations stipulate when legal and physical entities which protect the environment or which utilize natural resources in harmony with the principles of permanently sustainable development can be advantaged by having their taxes and payments adjusted or by making credits and subsidies available to them.

Section 33

Environmental funds are also considered to be instruments for the protection of the environment; details to be stipulated in special regulations.

TRANSITORY AND CONCLUDING PROVISIONS

Section 34

(1) The utilization of territory, of natural resources, structures, technologies, products, and materials which do not correspond to the provisions of this law and to the conditions stemming from special regulations on protecting the individual components of the environment must be brought into compliance with these regulations within the time limits stated in them.

(2) If, within the time limits stipulated in special regulations, compliance according to Paragraph 1 above is not achieved, the activity must be restricted or halted. The appropriate decision is to be handed down by the appropriate organs of state administration.

Section 35

This law becomes effective on the day it is published.

[Signed] Havel [Signed] Dubcek [Signed] Calfa

Attachment No. 1. Activities Subject To Having the Influence Upon the Environment Evaluated Within the Framework of the Czech and Slovak Federal Republic

1. Agriculture and Forestry

1.1. Large-capacity facilities for livestock production, including waste depositories

1.2. Large-capacity facilities for the storage of agricultural products

1.3. Land improvement operations (drainage operations, irrigation operations, soil protection measures, land parcel modifications, forestry-technical improvements)

1.4. Incursions into the landscape which can bring about substantial changes in biological variety and in the structure and function of ecosystems

2. Food Industry

2.1. Breweries and malt production facilities 2.2. Slaughterhouses and meat combines

2.3. Starch factories

2.4. Sugar refineries

2.5. Food-freezing establishments

2.6. Distilleries

2.7. Fats industry and the production of saponaceous products

2.8. Production of dairy products

2.9. Canneries

3. Extractive Industry

3.1. Deep and surface mining of coal and lignite

3.2. Extraction of petroleum and natural gas

3.3. Extraction of peat

3.4. Extraction and dressing of uranium ore, waste dumps, and settlement ponds, including reclamation facilities

3.5. Mining, extraction, and beneficiation of metallic ores

3.6. Mining of bituminous shale

3.7. Extraction of industrial minerals

3.8. Surface industrial facilities for the dressing and processing of coal, natural gas, bituminous shales, and industrial minerals

3.9. Refineries for raw petroleum, including enterprises for the regeneration of used mineral oils and facilities for the thermal and chemical processing of coal

4. Energy Industry

4.1. Power plants and other facilities burning fossil fuels

4.2. Other industrial facilities for the production of electric energy, steam, and hot water

4.3. Nuclear power plants and other facilities having nuclear reactors

4.4. Facilities for the conversion, enrichment, and production of nuclear fuel

4.5. Interim storage facilities for burned-out nuclear fuel

4.6. Processing and final storage of highly active radioactive waste products

4.7. Processing and storage of low-radioactive and medium-radioactive waste products from other operations, the utilization of radioisotopes and the deactivation of nuclear power plants

4.8. Gas pipelines, steam pipelines, and hot-water pipelines and their facilities (pumping and heat exchange stations), the transmission of electric energy by aboveground lines

4.9. Long-distance petroleum pipelines, pipelines for petroleum products, and gas pipelines, including all appropriate operating facilities

4.10. Surface depositories for natural gas

4.11. Underground depositories for flammable gases, petroleum, petroleum products, and chemical products

4.12. Briquetting plants and coking plants

4.13. Hydroelectric power plants

5. Metals Industry

5.1. Ironworks and steel mills, including foundries, rolling mills, and forging facilities

5.2. Nonferrous metallurgy plants

5.3. Surface dressing of metals

5.4. Production and assembly of motor vehicles, freight cars, and tanker trucks

5.5. Shipyards

5.6. Facilities for the construction and repair of aircraft

6. Wood Processing and Paper Industry

6.1. Impregnation of wood using toxic chemicals

6.2. Production of wood-fiber sheets and plywood

6.3. Manufacture of cellulose and paper

6.4. Manufacture of furniture

7. Other Branches

7.1. Processing of asbestos and manufacture of asbestos products

7.2. Textile modification plans, dye works

7.3. Tanneries

7.4. Glassmaking facilities

7.5. Chemical and pharmaceutical industry

7.6. Use or regeneration of chlorinated hydrocarbons

7.7. Manufacture and storage of poisons, pesticides, liquid fertilizers, pharmaceutical products, paints, lacquers, and chemicals

7.8. Storage, processing, decontamination, and depositing of dangerous waste materials

7.9. Long-distance transportation of radioactive and dangerous waste materials

7.10. Storing of petroleum and petroleum products

7.11. Cement plants and lime kilns

7.12. Polygraphic operations

8. Infrastructure

8.1. Offtakes of underground water

8.2. Wastewater cleaning facilities and sewage treatment plants

8.3. Sludge ponds and sludge-drying beds

8.4. Facilities for handling municipal waste

8.5. Rending plants, veterinary sanitation institutes

8.6. Dams and water reservoirs, where the height of the dam wall is higher than three meters above the footing bottom or facilities which have a volume of more than 500,000 cubic meters

8.7. Modification of waterways

8.8. Construction and reconstruction of highways and roads

8.9. Railroad

8.10. Cable railways

8.11. Waterways and ports for inland navigation

8.12. Airfields

8.13. Commercial complexes exceeding 3,000 square meters of built-up area

8.14. Campgrounds having more than 200 accommodation places

8.15. Structures and activities, the influences of which would impact upon the interests protected by special regulations

Attachment No. 2. Contents of Documentation and Evaluations of Influences of Intentions Upon the Environment Within the Framework of the Czech and Slovak Federal Republic

I. Description of the planned activity and its goals

II. Description of suitable and justified variations of the intention, including reference variations (a variation without the activity, a zero activity variation) and a variation of the optimum ecological solution for the intention and their mutual comparison

III. Description of the environment which is most likely to be significantly influenced by the proposed intention (by the proposed variations)

A. Basic characteristics (atmosphere, water, soil, geologic situation, geomorphology characteristics, climatic factors, fauna, flora, ecosystems)

B. Remaining characteristics (the method of utilizing the countryside, the territory having an extraordinary civilizational burden, territory with special protective regime, significant landscape elements, elements of the system of ecologic stability, architectonic and historic monuments, archeological sites, material values, concordance between the intention and valid territorial planning documentation)

IV. Description of the transposed influences of the intention (proposed variations) upon the environment and an estimate of their significance (not only anticipated direct influences, but also indirect, secondary, cumulative, synergistic, not only short-term and temporary influences, but also long-term and permanent influences)

A. Influences affecting the population (health risks, social consequences, economic consequences)

B. Influences affecting the ecosystems, its components, and its functions (geologic, geomorphologic, and hydrogeologic conditions, climatic conditions, the existing hydrology, flora, fauna, processes, important landscape elements, ecologic stability)

C. Influences affecting the anthropogenic systems, their components and ties (structures, monuments and other important human creations, cultural values of a nonmaterial nature—ethnic and local traditions, etc.)

D. Influences affecting the structure and function involved in utilizing the territory (including the influence exerted upon the esthetic quality of the landscape area)

E. Large-area influences of the intention within the landscape—evaluation of the ecologic capacity of the territory, the suitability of the localization of individual variations from the standpoint of the ecologic capacity of the territory, the contemporary and potential resulting status of ecological capacity of the territory (cumulative effects of all area manifestations and factors)

V. Description of measures proposed to prevent, eliminate, minimize, possibly compensate for the influences of the proposed variations of the intention upon the environment. Territorial planning measures. Technical measures (for example, those involving the capture and deposit of contaminating substances, the recycling of waste products, the protective exploration of archeological sites, measures to protect cultural monuments, other measures)

Attachment No. 3. Intentions Subject to Interstate Negotiations From the Standpoint of Influences They Exert Upon the Environment

1. Refineries of raw petroleum (with the exception of enterprises manufacturing only lubricants from raw petroleum) and facilities for the gasification and combustion of coal and bituminous shales with a capacity of 500 tons or more per day

2. Thermal electric power plants and other combustion facilities classified in the category of large sources of contamination of the atmosphere according to special regulations [Section 3, Letter a), of Law No. 309/1991 SB. on the protection of the atmosphere against contaminating substances (the law on the atmosphere)]

3. Nuclear power plant and other facilities having nuclear reactors (with the exception of research facilities

for the production and conversion of nuclear fuels and nuclear fuel raw materials, the maximum capacity of which does not exceed 1 kilowatt-hour of constant thermal load)

4. Facilities intended for the manufacture or enrichment of nuclear fuel, for the reprocessing of radioactive nuclear fuel, or for the collection, deposit, and processing of nuclear waste

5. Facilities for the primary production of alloys and steel and for the production of nonferrous metals with a capacity which exceeds 30,000 tons per year

6. Facilities for the extraction, processing, and reprocessing of asbestos and products made of asbestos; facilities for the annual production of asbestos-cement products in excess of 20,000 tons; facilities for friction materials with an annual production exceeding 50 tons; facilities for other types of asbestos use exceeding 200 tons per year

7. Comprehensive chemical facilities where two or more combined chemical or physical processes are utilized in the manufacture of olefins from petroleum products, of sulfuric acid, nitric acid, hydrofluoric acid, chlorides, or fluorides

8. First-class roads, highways, national railways, and airfields where the main take-off and landing runway is longer than 2,100 meters

9. Long-distance petroleum pipelines with a pipeline diameter in excess of 500 mm and gas pipelines with a pipeline diameter in excess of 300 mm

10. Facilities for rendering toxic and dangerous waste materials harmless, subterranean depositories, and surface warehouses of toxic and dangerous waste materials

11. Dams and reservoirs where the height of the dam is more than 10 meters above the footing bottom or where the total volume of the reservoir area is in excess of 10 million cubic meters

12. Facilities for the offtake of underground water in cases where the annual volume of water is equal to or in excess of 10 million cubic meters

13. Production of cellulose and paper at a rate of 200 tons per day and where the product is dried in the open air

14. Inland waterways and ports for inland navigation, facilitating the navigation of vessels displacing more than 1,350 tons

15. Mining, dressing, and beneficiation in situ of ores, magnesite, and all types of coal, where the capacity is in excess of 100,000 tons per year

16. Large-scale storage facilities for depositing petroleum (in excess of 200,000 cubic meters), petroleum products (in excess of 50,000 cubic meters), and chemicals (in excess of 2,000 tons)

17. Changes in the use of the territory connected with the clear cutting of forests in excess of 5 hectares

Attachment No. 4. Content of Documentation Regarding the Evaluation of Influences of Intentions Upon the Environment Subject to International Negotiations

Information which is to be included in documentation regarding the evaluation of the influence upon the environment must contain the following, at a minimum:

a) Description of the planned activity and its goals;

b) In case of need, a description of the sensible alternatives (for example, those of a geographic or technological character) for the planned activity, including variations involving abandoning the activity;

c) Description of those elements of the environment which are most likely to be substantially impacted by the planned activity or by its alternative variations;

d) Description of the possible types of influence exerted by the planned activity and its alternative variations upon the environment and evaluation of their magnitudes;

e) Description of means to minimize the extent of the harmful effects upon the environment;

f) Listing of specific methods of forecasting and the expectations upon which they are based, as well as the listing of corresponding data on the environment which was used;

g) Listing of shortcomings involved in the knowledge and uncertainties which have been determined in preparing the required information;

h) In case of need, the brief content of the monitoring and control program and all of the plans of the post-project analysis;

i) A resume of a nontechnical character, in the event of need, using visual means of presenting material (maps, graphs, etc.).

Planned types of activities which can have significantly harmful influences extending beyond the state border are evaluated on the basis of one or several of the criteria listed below:

a) Dimension: planned types of activities whose dimensions are excessive for the given type of activity;

b) Region: planned types of activities which are being realized in particularly sensitive or ecologically important regions or in their immediate vicinity (for example, heavily saturated soils, as defined by the Ramsar convention, national parks, protected national regions, regions which are particularly of interest scientifically or archeologically, cultural or historical monuments); and planned types of activities in regions where the characteristics of the planned economic activities could exert a significant influence upon the population;

c) Consequences: planned types of activities which have a particularly complex and potentially harmful influence, including those types of influences which have serious consequences for the population and for important types of the flora, fauna, and organisms, and which constitute a threat to the present or possible utilization of the impacted region and cause a burdening which exceeds the level of stability of the environment with respect to the current influence.

With this goal in mind, planned types of activities implemented in the immediate vicinity of the international borders are judged, as are types of planned activities carried out in more remote regions which can have a significant influence extending across state borders at a great distance from the location where the economic activities are located.

Law Establishes Supreme Audit Office

92CH0357B Prague HOSPODARSKE NOVINY in Czech 7 Feb 92 p 9

["Text" of Constitutional Law No. 481 of the Czech National Council, dated 7 November 1991, establishing the Supreme Audit Office of the Czech Republic, as well as the law spelling out the details pertaining to that office]

[Text]

Constitutional Law of the Czech National Council, 7 November 1991, Which Establishes the Supreme Audit Office of the Czech Republic

The Czech National Council has passed the following constitutional law:

Article I

The Supreme Audit Office of the Czech Republic is established as an auditing organ which is independent of the government, its organs, and the central organs of state administration.

Details regarding its operation are contained in the law.

Article II

This constitutional law becomes effective on 1 January 1992.

Law of the Czech National Council, Dated 22 January 1992, on the Supreme Audit Office of the Czech Republic

The Czech National Council has adopted the following law:

PART ONE

Introductory Provisions

Section 1

This law regulates:

a) The standing, jurisdiction, and organization of the Supreme Audit Office of the Czech Republic (hereinafter referred to as the "Supreme Audit Office");

b) The authorities and duties of the Supreme Audit Office, the duties and rights of audited entities.

PART TWO

Standing and Jurisdiction of the Supreme Audit Office

Section 2

The Supreme Audit Office, as an independent audit organ, is guided in its activities only by the laws.

Section 3

The Supreme Audit Office monitors the following:

a) Creation and utilization of resources of the state budget of the Czech Republic;

b) Final state balance sheet for the Czech Republic;

c) Management and disposition of financial as well as material resources of the Czech Republic, as well as the sources of these resources, including debts and the management of the Czech Republic's credits, accounts receivable, and property rights;

d) Adherence to the obligations and rights based on generally binding legal regulations or of obligations imposed on their basis, to the extent to which they regulate fiscal economic relationships;

e) Execution of state administration.

Section 4

The Supreme Audit Office takes a position with regard to the final state budget report of the Czech Republic.

Section 5

The auditing jurisdiction of the Supreme Audit Office, as outlined in Section 3 of this law, is applicable to the following:

a) The government, the organs of state administration, and other organs of the Czech Republic, with the exception of the Czech National Council;

b) State enterprises, budgetary and contributory organizations of the Czech Republic;

c) Legal and physical entities, to the extent to which they manage subsidies or other funds from the state budget of the Czech Republic, including funds administered by organs of the Czech Republic;

d) Legal entities enjoying property or financial participation by the state;

e) Legal entities established by law;

f) Other legal entities, to the extent stipulated by law.

Section 6

In executing its monitoring functions, the Supreme Audit Office verifies whether the monitored operations are in agreement with generally binding legal regulations, it examines their substantive and formal correctness, and judges whether they are purposeful and economical.

Section 7

The Supreme Audit Office is obligated to work out a position with respect to proposals of generally binding legal regulations having to do with budgetary management, accounting, state statistics, and the conduct of monitoring, oversight, and inspection activities at the request of the proposer of such regulations, and shall do so within the time limit requested by the processing authority, which time limit, however, must not be shorter than one month.

PART THREE

Organization of the Supreme Audit Office

Section 8

(1) The activities of the Supreme Audit Office shall be carried out by its directing organs and by employees who engage in auditing activities, as well as by other specialized employees who share in the conduct of auditing activities (hereinafter referred to as "auditing employees").

(2) The directing organs of the Supreme Audit Office are:

a) The president of the Supreme Audit Office (hereinafter referred to as the "president");

b) The vice president of the Supreme Audit Office (hereinafter referred to as the "vice president");

c) The presidential council of the Supreme Audit Office (hereinafter referred to as the "Council");

d) Members of the Council.

Section 9

(1) The Supreme Audit Office is directed by the president. The president is represented by the vice president.

(2) The term of office for the president and vice president is seven years.

Section 10

(1) The president is elected and recalled by the Czech National Council.

(2) The president may be chosen repeatedly, but, at a maximum, for no more than two successive terms.

Section 11

(1) The vice president is elected and recalled by the Czech National Council upon the proposal of the president.

(2) The vice president may be chosen repeatedly, but, at a maximum, for no more than two successive terms.

Section 12

Any citizen of the Czech and Slovak Federal Republic can be elected to the office of president or vice president provided:

a) He is competent to take legal actions, has a spotless record, and provided his experiences and moral characteristics provide a guarantee that he will perform this function properly;

b) He is at least 35 years of age;

c) He has a complete advanced school education.

Section 13

(1) The function of president and vice president is incompatible with the function of a delegate of the legislative body, any office in an organ of state administration, and in organs of communities, as well as with functions within political parties or political movements.

(2) Neither the president nor the vice president may continue to hold any other paid office, nor may they engage in any other income-producing activity with the exception of administering their own property and scientific, pedagogic, literary, publicistic, and artistic activities, provided that such activities do not violate the dignity of these individuals, nor threaten the confidence in the independence and impartiality of the Supreme Audit Office.

Section 14

(1) Execution of the function of president and vice president terminates:

a) At the expiration of the term of office;

b) As a result of resignation from the office;

c) As a result of being recalled from the office;

d) As a result of a loss or restriction of the capability to engage in legal actions;

e) As a result of death.

(2) The Czech National Council shall recall the president or vice president from office:

a) If the prerequisites for engaging in the functions of the office as listed in Sections 12 and 13 of this law become extinguished;

b) If the individual was legally sentenced for a deliberate criminal act;

c) If the individual does not fulfill his function for a period longer than six months;

d) If the individual fails to fulfill the obligations stipulated by this law.

(3) The president may be temporarily suspended from executing his function if criminal proceedings have been initiated against him or if circumstances have developed, as a result of which he could be recalled from office.

Section 15

(1) The Council is composed of a president, vice president, and seven members.

(2) Members of the Council are elected and recalled by the Czech National Council upon the proposal of the president.

Section 16

Provisions of Sections 12, 13, and 14, Paragraph 1, Letters b) through e), of this law are also applicable to conditions governing election to membership on the Council and to the extinguishment of membership on the Council.

Section 17

The Council discusses and approves the following:

a) The position to be taken to the final budget report of the Czech Republic and the verification findings immediately connected therewith;

b) The proposed fundamental directions of monitoring activities engaged in by the Supreme Audit Office for the appropriate year;

c) The cumulative annual report on the monitoring activities of the Supreme Audit Office;

d) Verification activities, as ordered by the president.

Section 18

Auditing employees must:

a) Fulfill the prerequisites listed in Section 12, Letter a), of this law;

b) Be at least 30 years of age.

Section 19

On the basis of a contractual arrangement, the Supreme Audit Office may involve external employees in its audit functions.

Section 20

The seat, activities, and organization of the Supreme Audit Office, particularly the method of action by the Council, the discussion of verification projects, and any discussion of partiality will be regulated by statute, which will be approved by the Czech National Council.

PART FOUR

Authorities and Obligations of the Supreme Audit Office, Obligations and Rights of Monitored Entities

Section 21

(1) The president shall submit the following to the Czech National Council:

a) The position with regard to the final budget report of the Czech Republic;

b) The cumulative report on auditing activities for the past year.

(2) The president shall submit the following to the appropriate organ of the Czech National Council:

a) Reports on the results of auditing activities (audit findings), the submission of which will be agreed upon with the appropriate organ of the Czech National Council in advance;

b) The position adopted by the Supreme Audit Office with respect to proposals for generally binding legal regulations listed under Section 7 of this law, in the event that this is requested by the Czech National Council;

c) Information on the fundamental directions of audit activities planned by the Supreme Audit Office for the appropriate year for purposes of discussion.

Section 22

(1) When engaging in auditing activities, auditing employees are obligated to do the following:

a) Notify the organs to be audited, the legal and physical entities listed in Section 5 of this law (hereinafter referred to as the "monitored entities"), at the latest by the time the audit is initiated, and, depending on the nature of the substance, notify the appropriate employees of the object and purpose of the audit and identify themselves by displaying a written authorization;

b) Proceed in such a manner that the audit will reveal the actual status of things;

c) Observe the rights and take into account any legally protected interests of the monitored entities and their employees;

d) Prepare an audit finding covering the auditing project, which particularly contains an accurate description of the facts found to exist which have been demonstrably documented and contains an evaluation portion which clearly identifies the shortcomings, including the designation of generally binding legal regulations, their provisions, and measures issued on their basis which have been violated;

e) Discuss the results of the audit with the monitored entities;

g) Make it possible for the monitored entities to lodge an appeal against the truthfulness, completeness, or conclusive evidence of the audit findings discussed in accordance with Letter e) above within a period of five days from the discussion of the results of the audit, provided the auditor does not stipulate a longer time limit, verify these objections, and notify the audited entities in writing accordingly.

(2) The Supreme Audit Office is obligated to provide the audited entities with the audit findings.

Section 23

The president, vice president, members of the Council, and employees of the Supreme Audit Office are obligated to maintain secrecy with regard to any facts which come to their attention as a result of their activities and which constitute state, economic, or official secrets, and with respect to facts which could impact upon third parties. This obligation to maintain secrecy persists even after termination of the audit function or after termination of employment. The president makes decisions regarding relieving individuals of this obligation; in the event that the president is to be relieved of this duty, the appropriate decision is made by the Czech National Council.

Section 24

According to the requirements of the Supreme Audit Office and its auditing employees, the monitored entities and their employees are obligated to create conditions which would facilitate the conduct of the audit, to wit,

a) Provide access to buildings and land, to the extent to which these are connected with the object of the audit;

b) Make available material and technical equipment necessary to the conduct of the audit;

c) Assure the necessary cooperation on the part of their employees, where their participation is necessary to the audit;

d) Within stipulated deadlines, submit accounting documents and other documents, irrespective of the degree of their classification, provide information and submit data stored in memory portions of computer equipment which have a relationship with the facts being audited;

e) Refrain from taking actions which could result in frustrating the purpose of the audit;

f) Submit, within stipulated deadlines, a written report on those measures which should lead to elimination of any defects which were found, as well as a report on the results of these measures.

Section 25

(1) Audits may not be conducted by auditing employees if there is any doubt regarding their impartiality in view of their relationship with the object of the audit or a relationship with the monitored entities and their employees.

(2) If the monitored entity files an objection regarding the partiality of an auditing employee, the latter may only engage in actions which cannot be deferred until such times that a decision is rendered regarding the reasonableness of the objection.

(3) Objections based on alleged partiality are decided by the president or by a member of the Council who has been entrusted to make such a decision, without undue delay.

(4) Proceedings dealing with such objections are not subject to general regulations covering administrative proceedings; no appeal can be filed against a decision regarding partiality.

Section 26

(1) The Supreme Audit Office can:

a) Impose a fine of up to 50,000 korunas [Kcs] upon employees of monitored entities who make it more difficult for the Supreme Audit Office and its auditors to perform an audit by failing to fulfill the necessary conditions to facilitate the audit within the stipulate reasonable deadline or by failing to provide the necessary cooperation, when requested to do so, according to Section 24 of this law;

b) Impose a fine of up to Kcs500,000 upon monitored entities which fail to submit written reports as called for in Section 24, Paragraph f), of this law within the stipulated time limit.

(2) A disciplinary fine may be imposed even repeatedly, if such an obligation was not fulfilled even after a newly assigned deadline; these proceedings are then subject to the regulations on administrative proceedings.

(3) The cumulative total of disciplinary fines imposed in accordance with Paragraph 2 above must not exceed Kcs200,000.

(4) Decisions regarding the imposition of disciplinary fines are made by the auditing employee who is empowered by the president. The president makes decisions with regard to any appeals against imposition of a disciplinary fine; in making such a decision, the Supreme Audit Office acts as the central organ of state administration.

(5) Disciplinary fines and other fines constitute revenue for the state budget of the Czech Republic.

PART FIVE

Common Provisions

Section 27

Damage caused to monitored entities by auditing employees and by the activities of the Supreme Audit Office are compensated for by the state.

Section 28

The president has the right to participate in meetings of the Czech National Council and all of its organs and in meetings of the government of the Czech Republic; if he should request the right to speak, it will be granted him.

Section 29

If several auditing employees are conducting an audit involving the same monitored entity, these individuals are obligated to collaborate mutually and to act in such a manner that would provide maximum protection of the rights and the legally protected interests of the monitored entities involved.

Section 30

The government, the organs of state administration, and other organs of the Czech Republic are obligated to provide an explanation, upon request of the Supreme Audit Office, pertaining to the facts which are involved in conducting the audit.

PART SIX

Final Provisions

Section 31

This law becomes effective on 1 March 1992.

List of Price Controls Effective 1 Jan

92CH0262B Prague HOSPODARSKE NOVINY in Czech 23 Dec 91 pp 20-22

[Unattributed article detailing price controls approved on 13 December 1991: "List of Goods With Controlled Prices Effective 1 January 1992"]

[Text] The Federal Finance Ministry [FMF], together with the Finance Ministries of the Czech and Slovak Republics [MF CR and MF SR, respectively], is issuing an amended list of goods with controlled prices effective as of 1 January 1992—FMF, MF CR, and MF SR Notice of Assessment No. 01/92, which publishes the list of goods with controlled prices.

The above-mentioned notice of assessment does not substantially change the price controls. It contains minor amendments of a formal type (e.g., supplements containing the rates for electric power and the tariffs and rate schedules for communications are now given directly in the text), it clearly arranges the status of price controls and annuls notices of assessment issued during 1991 (FMF, MF CR, and MF SR Notice of Assessment No. 01/91 and its amendments No. 02/91 to No. 016/91).

The List of Goods With Controlled Prices effective as of 1 January 1992 introduces a new rate for small customers with direct electric heating. This rate is the result of the requests by private entrepreneurs and companies to enable the installation of such direct electric heating, which can easily be realized both from the aspect of acquisition costs and from the aspect of simple and quick implementation and, at the same time, due to its regulatory flexibility, it enables a lower consumption of electric power than accumulation heating under the same thermal conditions.

Notice of Assessment No. 01/92 excludes branches 156-158—drawn wire—from the material adjustment. In this context, we would like to point out that liberation from controls does not relieve sellers with privileged (dominant) status from the obligation to observe the prohibition to misuse their economic status as defined by Section 2, Paragraph 3 of Law No. 526/1990 Sb. [Collection of Czechoslovak Laws] on Prices.

Notice of Assessment No. 01/92 includes a new solution for price controls in the health service based on the creation of a Universal Health Insurance. An independent Notice of Assessment by the MF CR and MF SR No. 1/1992 (see page 26), in connection with the List of Goods with Controlled Prices, sets the maximum prices for health products and preparations, wholesale trade surcharges on the prices of health products and preparations, occasional rates (for the preparation of medicines), and maximum prices for health care. A ruling by the CR [Czech Republic] Ministry of Health will publish a list of health care services.

FMF, MF CR, and MF SR Notice of Assessment No. 01/92 of 13 December 1991 Publishing the List of Goods With Controlled Prices

The Federal Finance Ministry in accordance with Section 60a of Law No. 194/1988 Sb. [Collection of Czechoslovak Laws] in the version of Law No. 297/1990 Sb., the Finance Ministry of the Czech Republic in accordance with Section 2, Paragraph 2 (c) of CNR [Czech National Council] Law No. 265/1991 Sb., and the Finance Ministry of the Slovak Republic in accordance with Section 2, Paragraph 2 (c) of SNR [Slovak National Council] Law No. 127/1991 Sb., are issuing a list of goods with controlled prices in accordance with Section 10 of Law No. 526/1990 Sb. on prices, applicable to physical and legal entities engaged in the domestic sale and purchase of goods stipulated in it, with the exception of goods designated for export.

Part I

List of Domestic and Imported Goods That Are Subject to Officially Fixed Maximum Prices

a) Maximum Prices Set by Price Offices

Item Group 1			
		Kcs/m^3	
		In the CR	In the SR
081 1	Surface water		
	For the consumption of surface water designated exclusively for cooling steam power plants, heating plants, and enterprises mentioned in Part A II 7 of price list VC [wholesale price]-17/1/89	0.27	0.92
	For other consumption of surface water	0.54	0.92

For the purpose of price controls, the delivery conditions stipulated in price list VC-17/1/89 (Price Bulletin Section 51/1988) are applicable. Prices according to this Item Group do not apply to the delivery of water from industrial water mains or artificial conduits in the group 081 135, as long as the costs are not included in the surface water price.

082 1 and 2	Drinking and utility water for households	1.50	1.50
	Drinking and utility water for other customers	4.50	5.25
082 3 and 4	Waste water from households	1.50	1.50
	Waste water from other customers	3.50	4.25

For the purpose of price controls, the delivery conditions stipulated in price list VC-17/9/89 and in FMF Notice of Assessment No. 7422/XV/90 (Price Bulletin Section 4/1991) are applicable.

Monthly deposits for drinking and utility water for households and for waste water from households for the annual billing period will be calculated in the amount of one-twelfth of the real consumption during the previous annual billing period, however not exceeding one-twelfth of the supply in accordance with the annual guidelines for water consumption stipulated in the supplement to MLVH CSR [Ministry of Forestry and Water Management of the Czech Socialist Republic] Ruling No. 144/1978 Sb. and MLVH SSR [Ministry of Forestry and Water Management of the Slovak Socialist Republic] No. 154/78 Sb., multiplied by the maximum prices in accordance with this Item Group, unless the owner of the house concludes a different agreement with the tenants.

Item Group 2

101 1 Bituminous coal for power
101 2 Bituminous coking coal
102 Brown coal and lignite
106 Briquets

a) For the purpose of price controls, excluding solid fuels in accordance with Item Group No. 1 in Part II, imported solid fuels, subgroups 101 17—sludges and shales, other products in branches 101 1, 102, and 106 stipulated on pages 19 and 20 of price list VC-1/2/90 (Price Bulletin Section 45/1989), products from branch 101 18, products from branch 102 rated with the symbol 8 (eight) in position 5 of JKPOV [Standard Classification of Industrial Sectors and Products], and excluding prices in accordance with letter (b), the prices stipulated in price list VC-1/2/90 are applicable, increased in parity A by the coefficient 1.75 and in parity B by the coefficient 1.65. The prices stipulated in price list VC-1/1/89 (available for inspection at OKD Ostrava) [Ostrava-Karina Coal Mines], increased by the coefficient 1.6, are applicable to bituminous coking coal.

b) For the purpose of price controls for sales to households and producers of heat supplied to households from sources with a capacity under 6 mW and over 6 mW, excluding imported solid fuels and subgroup 101 17-sludges and shales, the prices stipulated in price list VC-1/2/90 (Price Bulletin Section 45/1989) are applicable, increased in parity A by the coefficient 1.5 and in parity B by the coefficient 1.4.

Commercial service surcharges on prices by the producer (adjusted by the transportation costs in parity A) for sales to households or producers of heat supplied to households from sources with a capacity under 6 mW amount to a maximum of Ksc40.-/t. This amount does not include the price of further transportation or the depositing of fuel in a place agreed with the purchaser, which are not subject to price controls.

The amended general conditions published in the Price Bulletin Section 1/1992 apply to price list VC-2/90.

Item Group 3

107 Coke

a) For the purpose of price controls, with the exception of imported coke and with the exception of prices in accordance with (b), the prices stipulated in price list VC-1/3/89 (available for inspection at OKD Ostrava and authorized distributors) are applicable, increased by the coefficient 1.7.

b) For the purpose of price controls for sales to households and producers of heat supplied to households from sources with a capacity under 6 mW, excluding imported coke, the prices stipulated in price list VC-1/3/89 (available for inspection at OKD Ostrava) are applicable, increased by the coefficient 1.47, adjusted by the transportation costs and furthermore by the surcharge for commercial services to the maximum amount stipulated in preceding item group 2.

Item Group 4

108 Gaseous fuels for households

For the purposes of price control for natural gas and town gas sold to households and producers of heat supplied to households from sources with a capacity under 6 mW, the following prices are applicable:

Maximum Price in Kcs		
	Fixed Monthly Payment	Per m^3
a) Prices for Households		
Natural gas		
—Simple price	—	2.80
—Compound price	88	1.65
Town gas		
—Simple price	—	1.25
—Compound price	61.50	0.75
b) Prices for Producers of Heat Supplied to Households From Sources Under 6 mW		
Natural gas	88	1.65
Town gas	61.50	0.75

The relevant provisions of the general conditions in price list No. 9/2/91 (available for inspection in the Czech Gas Enterprise, Prague, and the Slovak Gas Industry, Bratislava, and their local plants) are applicable for the above-mentioned prices. Prices in accordance with (a) apply to the following consumption:

—Up to 6,000 m^3 per year in relation to the supply of natural gas in the CR and the SR with the exception of supply in accordance with the second section.

—Up to 8,000 m^3 per year in relation to the supply of natural gas in the SR exclusively in the Povazska Bystrica, Cadca, Zilina, Dolny Kubin, Liptovsky Mikulas, Poprad, Martin, Prievidza, Stara Lubovna, Bardejov, Spisska Nova Ves, Svidnik, and Banska Bystrica okreses.

—Up to 10,000 m^3 per year in relation to the supply of town gas.

Consumption above these limits will be assessed using prices controlled in accordance with Item Group No. 2 of Part II of this Notice of Assessment.

If more than one household is connected to one tank, which is registered as a single supply location, the limit of consumption of natural gas or town gas will be raised by a multiple equal to the number of households.

If the supply of heat from a source with a capacity under 6 mW is provided to a combination of households and the enterprise sector, the supply of gas will be assessed according to the percentage share of the individual sectors in the supply of heat.

Item Group 5

111 511 Light heating oil
111 521 Heavy heating oil

For the purpose of price controls in sales to producers of heat supplied to households from sources with a capacity under 6 mW, the following prices are applicable.

Light Heating Oil	
Railroad tank in parity A (ZCA [Railroad Tank A])	2,140 Kcs/t
Railroad tank in parity B (ZCB [Railroad Tank B])	2,240 Kcs/t
Automobile tank in parity B (CAB [Automobile Tank B])	2,500 Ksc/t
Barrels in parity B (SB [Barrels B])	2,550 Ksc/t
Heavy heating Oil	
Railroad tank in parity A (ZCA)	1,700 Kcs/t
Railroad tank in parity B (ZCB)	1,800 Kcs/t
Automobile tank in parity B (CAB)	2,000 Ksc/t

Item Group 6

116 Heat for households (heating and hot water)

1) For the purpose of price controls for heat supplied by the owner of the house to the tenants of the apartments (households) from sources under 6 mW, prices are applicable that include no more than the following items:

—Costs for fuel consumed including costs for its transportation and storage.

—Costs for servicing the facilities that produce the heat.

—Costs for the removal and storage of ash, clinker, and flue ash from the facilities in order to clean combustion products unless they are reimbursed separately by the tenants.

—Costs for electric power used for the production and supply of heat.

—Costs for the use of cold water unless they are billed together with the costs for the supply of cold water for other purposes.

—Costs for testing, inspection, measurement, and adjustment of the facilities in accordance with special regulations.

—Costs for cleaning the facilities and regulating the water, executed in accordance with special regulations.

—Costs for measuring the consumption of heat (the acquisition costs of the measuring devices are calculated according to relevant write-off regulations).

The fuel consumed will be assessed using the prices for which it was purchased in accordance with Item Groups No. 2 (b), No. 3 (b), No. 4 (b), and No. 5.

2) For the purpose of price controls for heat designated for households from sources over 6 mW, the maximum

price of 89 Kcs/GJ at the inflow to the transfer station is applicable (if the heat is not supplied via a transfer station, this price will be applicable to the inflow side of the customer's heating connection).

If the customers operates the primary distribution, the supplier of the heat will agree on a price with the customer that is decreased by the costs of the primary distribution.

3) For the purpose of price controls for heat supplied by the owner of the house to the tenants of apartments (households) from sources over 6 mW, prices in accordance with paragraph 2 are applicable; to these prices one can add costs similar to those specified in paragraph 1 for the operation of the transfer station, if they are expended, and the costs for measuring the consumption of heat in the further part of the distribution main (the acquisition costs of the measuring devices will be included in accordance with the appropriate write-off regulations).

4) For the purposes of price controls for heat designated for households and supplied within the framework of relations other than those mentioned in paragraphs 1 and 3, other production and distribution costs for the heat may be billed separately along with prices in accordance with paragraph 1 (possibly adjusted according to paragraph 8), and other costs for the transfer station and secondary heat network can be billed separately along with prices in accordance with paragraph 3 (possibly adjusted according to paragraph 8). In relation to supplies to construction housing cooperatives, only prices in accordance with paragraphs 1, 2, or 3 (possibly adjusted according to paragraph 8) may be used.

5) Prices in accordance with this item apply to the real consumption determined in accordance with special regulations.[1]

6) Monthly deposits for the supply of heat and hot water for the billing period from 1 May 1991 to 30 April 1992 will be calculated in the amount of one-twelfth of the billed price (payments) for the billing period from 1 May 1990 to 30 April 1991 increased by no more than 80 percent of the difference between the prices for heat valid up to 30 April 1990 and the maximum prices according to this Item Group, unless the owner concludes a different agreement with the tenants.

7) Section 10 of Ruling No. 197/1957 U.l. [Official Gazette of the Czechoslovak Republic] will not be used to calculate the deposits for the above-mentioned billing period.

8) For the purposes of price controls for heat measured at the inflow to the house, technically justified losses in the secondary network (that is, in a single-circuit system of heat distribution) can be added to the prices in accordance with paragraphs 1 to 3 in an amount agreed upon between the supplier and the customer, but not exceeding 5 percent of the supply of heat to the customers.

To Item Groups 2-6:

Price controls in accordance with Item Groups Nos. 2-4 in relation to sales to households refer exclusively to the sale to citizens for personal end consumption. Price controls in accordance with Item Groups Nos. 2-5 in relation to the sale to producers of heat supplied to households from sources under 6 mW and, in regard to Item Group No. 2 (b) also over 6 mW, and price controls in accordance with Item Group No. 6 refer exclusively to heat consumed in apartments and common areas designated for use by all tenants. The sale to households and producers of heat supplied to households in accordance with Item Groups No. 2 (b) and No. 3 (b) is understood to include the sale to companies that ensure sales to households or producers of heat for households to the full amount to which they realize this sale.

Item Group 7

117 1 to 3 Electric Power

a) For the purpose of price controls (excluding prices according to b), price list VC-3/2/91 (Price Bulletin Section 3/1991) is applicable

aa) Adjusted as follows:

Subsection 12 (b)

In relation to rate A2....Kcs550.
In relation to rate A4....Kcs700.
In relation to rate A5....Kcs640.

Subsection 12 (d) price surcharge Kcs0.27

Subsection 12 (e) price Kcs0.22

Subsection 14 (a) monthly payment in the amount of Kcs67.

Subsection 14 (aa)

In relation to rate A2....Kcs11.10
In relation to rate A4....Kcs13.70
In relation to rate A5....Kcs12.40

Rates stipulated in Parts II, III, and IV of the price list

Rate	ST Kcs/kWh	VT [High Rate] Kcs/kWh	NT [Low Rate] Kcs/kWh	Per 1 kW contr. ¼ hr monthly maximum Kcs	Per 1 kVA poss. transf. monthly Kcs	Fixed monthly payment per supply location Kcs
A2	0.83	0.66	0.61	254	—	—
A3	—	1.10	1.10	—	—	—
A4	—	0.74	0.66	302	—	—
A5	0.93	0.74	0.66	272	—	—
A6	—	1.19	1.19	—	—	—
B1	—	0.74	0.66	—	139	—
B2	3	1.03	0.66	—	—	—
SM	—	2.97	—	—	—	70
SV	—	2.05	—	—	—	3,400
NM	—	—	0.66	—	—	100
VS	—	1.26	—	—	—	—

In Part V/A of the Price List Subsection 2 price surcharge 0.36 Kcs/kVArh

ab) Supplemented in part IV by the SMP [fixed monthly payment] rate for small customers with direct electric heating. The price of electricity measured using a single double-tariff electricity meter is composed of:

—The fixed monthly payment per supply location according to the connected value of the main circuit breaker (in front of the electricity meter)

circuit breaker 3 x 10A (1 x 25A)....320.- Ksc/mo. circuit breaker 3 x 16A....540.- Kcs/mo. circuit breaker 3 x 25A....800.- Kcs/mo. circuit breaker 3 x 35A....1,120.- Kcs/mo.

—The payment for electric power measured at the low rate (NT)—20 h/day....0.66 Kcs/kWh

—The payment for electric power measured at the high rate (VT)—4 h/day....2.97 Kcs/kWh

(1) The SMP rate is determined for total electric supply locations with a low consumption of electric power at the high rate (during the day). A total electric supply location is considered to be a supply location where exclusively electric power is used for heat, heating utility water, and for other purposes.

The SMP rate is differentiated according to the size of the main (sealed) circuit breaker, and if the annual consumption of electric power at the NT exceeds the below-mentioned values, the customer will pay anything above this limit at the high rate (i.e., 2.97 Kcs/kWh). The following are the limits for the annual consumption for individual sizes of the main circuit breakers:

3 x 10A (or 1 x 25A)....7,000 kWh/year 3 x 16A....13,000 kWh/year 3 x 25A....20,000 kWh/year 3 x 35A....28,000 kWh/year

(2) The period during which the low rate is in effect will be regulated by the HDO [central remote control] system according to the needs of the supplier (20 hours per day) taking into consideration the course of the ES [Electric Power Supply Service] daily loading chart.

(3) The period during which the VT is in effect will not exceed four hours per day, at most after two consecutive hours and the breaks between the periods when the VT is in effect may not be shorter than one hour.

(4) The supplier will block direct heating electric appliances with the help of HDO as follows:

—During periods when VT is in effect (i.e., a maximum of four hours per day)

—During periods when NT is in effect, not to exceed two hours per day (in case of a negative ES output balance or in order to regulate the pattern of the daily loading chart) with the proviso that the blackout may not last longer than one hour and the breaks between blackouts must be no less than one hour.

(5) A technical condition for permitting the "SMP" rate is the connection of electric direct heating appliances to an independent electrical circuit with an HDO connector (or possibly a switchover clock after agreement with the supplier). The power supply to the heaters in this circuit must be firmly installed (without sockets).

b) For the purpose of price controls for electric power sold to households, the conditions stipulated in the price list for electric power to households MC [retail price]-9/3/91 (Price Bulletin Section 45-47/1991) and the following prices are applicable:

Rate	—	Fixed monthly payment	—	Kcs/kWh
BS		5		1.56
B		32		0.83
N		25		0.35
	1-2 living rooms	81	in time zones	
BV	3-4 living rooms	111	for low rate	0.24
	5 or more living rooms	141	at other times	0.76
	1-2 living rooms	70	in time zones	
BH	3-4 living rooms	92	for low rate	0.24
	5 or more living rooms	114	at other times	0.69
	circuit breaker up to 3 x 25A	80	for power measured	
BP	circuit breaker up to 3 x 35A	120	at the low rate	0.35
	circuit breaker up to 3 x 50A	180	for power measured at the high rate	1.56

(1) If there is a common measuring device (double tariff electricity meter), rate N may be combined with rate B or BS. In such combinations, the fixed monthly payments of the two rates will be added.

(2) Electric power readings during the transition period will be made at regular intervals. The total consumption of power during period between readings will be divided into two parts in proportion with the billed fixed payments using the original and the new prices. Due to unequal consumption during the year and differences during the cycle, the new prices will be billed to the customers as of 1 November 1991.

Item Group 8	
264	Pharmaceutical Preparations
265	Immunobiological preparations, blood derivatives, and other biological preparations (exclusively human)
793 1	Orthopedic and prosthetic products
793 2	Dioptric lenses for eye glasses, dioptric elements for eye glasses, contact lenses and eye glasses (only on doctor's prescription)
793 3	Frames for eye glasses (only on doctor's prescription)
799 973	Special optical services (only on doctor's prescription)
926 942 793	Repairs and maintenance of optical products for eyes (only on doctor's prescription)
945	Wholesale surcharges on prices of products in branches 264, 265, 793 1, 793 2 (only on doctor's prescription), and 793 3 (only on doctor's prescription)
—	Laboratory fee rates
964 59	Applications for contact lenses (only on doctor's prescription)

For the purpose of price controls, the maximum prices for sales by the producer and for the end consumer stipulated in MF CR and MF SR Notice of Assessment No. 1/1992 (Price Bulletin Section 1/1992) are applicable.

The price for sales by the producer is understood to be the price excluding sales tax; the price when selling for sales to the end consumer is understood to be the price including sales tax.

Item Group 9

932 11 Public domestic railroad transportation of freight

For the purpose of price controls, the prices stipulated in the CSD [Czechoslovak National Railroads] Tariff for Transportation of Vehicular Shipments TVZ TR 1 VC-21/11/90, Tables of transportation tariff classes 1-3, Sections 2, 3, 4, 5, 7, 8, 9, 11, 12, 14, and 15, increased in accordance with FMF Notice of Assessment No. 3/XIV/91 (Price Bulletin Section 22/1991) are applicable.

The MFD [International Transportation Federation] published the tariffs and price lists in the Publishing House for Literature on Transportation and Communications; amendments of and supplements to them are published in the Transportation and Tariff Bulletin.[2]

Item Group 10

933 Domestic communications services, only the following:

a) 933 1 Services by domestic post offices

For the purpose of price controls, the prices stipulated in the Tariffs for Post Office Services—domestic communications VC, MC-21/71/86, Articles A, B, and D (Communications Bulletin Section 29-30/1989) are applicable.

b) 933 2 Domestic telecommunications services

For the purpose of price controls, those prices are applicable that are stipulated in

—The telephone rate schedule VC, MC 21/81/81 in the version of the following Notices of Assessment: FCU [Federal Price Office] No. 6570/09/D2/82, FCU No. 6592/09/D3/82, FCU No. 6295/09/D4/83, FCU No. 6597/VI/1/88, FMF No. 8182/XVI/90 (published in the Price Bulletin Section 2/1992), FMF No. 4/XIV/91 (Price Bulletin Section 22/1991), FMF No. 9/XIV/91 (Price Bulletin Section 45-47/1991);

—The cablegram rate schedule VC, MC 21/82/81 in the version of the following Notices of Assessment: FCU No. 6480/09/84, FCU No. 6368/411/86, FCU No. 6077/411/88, FCU No. 6597/VI/1/88 (published in the Price Bulletin Section 2/1992);

—The rate schedule for data communication VC-21/83/83 in the version of the following Notices of Assessment: FCU No. 6352/411/88, FCU No. 6597/VI/1/88 (published in the Price Bulletin Section 2/1992);

—The Tariff for Wire Broadcasting Service VC, MC-21/84/86;

—The Tariff for Telefax Communications Service VC, MC-21/86/88 in the version of FMF Notice of Assessment No., 401/14.2/91 (Price Bulletin Section 9/1991);

—The Tariff for Public Facsimile Postfax Services VC, MC-21/87/88 in the version of FMF Notice of Assessment No. 427/XVI.2/1990 (Price Bulletin Section 5/1991);

—FCU Notice of Assessment No. 6456/411/85 (Price Bulletin Section 2/1992);

—FCU Notice of Assessment No. 8086/8.2/90 (Price Bulletin Section 2/1992);

including their amendments and supplements.

These tariffs and rate schedules, their amendments and supplements are available for inspection at post offices.

c) 933 241; 933 251
Domestic operation of radio and television transmitters, receivers, and converters only for operators of radio and television broadcasting services according to the law.

For the purpose of price controls, those prices apply that are stipulated in the Tariff for Radio-communications Services-domestic communications VC-21/88/90, Part II—Domestic Radio-communications Bulletin Section 29-30/1989).

d) 933 216; 933 242; 933 243; 933 252; 933 253
Granting of radio-communications broadcasting analog channels (circuits) only for domestic operations.

For the purpose of price controls, those prices apply that are stipulated in the Tariff for Radio-communications Services-domestic communications VC-21/88/90, Part III. The granting of broadcasting channels (Communications Bulletin Section 29-30/1989) in the version of FMF Notice of Assessment No. 8/XIV/91 (Price Bulletin Section 45-47/1991).

Item Group 11

951 Transportation of persons, only the following:

a) 951 1 Domestic railroad transportation of persons

For the purpose of price controls, those prices apply that are stipulated in the CSD Tariff for the Transportation of Travellers and Luggage—TR 10 price list MC-21/110/1991 and TR 10b the price list of fares and the price list for transportation fees in connection with TR 10—excluding prices stipulated in the Summary of Prices, Payments, and Surcharges stipulated under serial numbers 1 to 12 and 16 to 54 in the version of FMF Notice of Assessment No. 10/XIV/91 (Price Bulletin Section 45-47/1991). Amendments of and supplements to TR 10 and TR 10b are published in the Transportation and Tariff Bulletin Section 3-4/1991, 9-10/1991, 19-20/1991, 21-22/1991, 35-36/1991, 41-42/1991, 43-44/1991, and 45-46/1991.

b) 951 2 Regular domestic transportation of persons by road (excluding city transportation).

For the purpose of price controls, those prices apply that are stipulated in the Tariff for Regular Bus Transportation of Travellers, Luggage, and Bus Shipments—TOP MC-21/1988 (Transportation and Tariff Bulletin Section 51-52/1987 in the version of subsequent amendments and supplements published in the Transportation and Tariff Bulletin Sections 13-14/1988, 47-48/1988, 31-32/1990, 41-42/1990, 1-2/1991, 11-12/1991, 13-14/1991, 19-20/1991, 33-34/1991, 35-36/1991) and in the version of FMF Notice of Assessment No. 402/14.2/91 (Price Bulletin Section 10/1991).

Item Group 12

962 5 Payment for radio concessions 962 6 Payment for television concessions

For the purpose of price controls, FMF, MF CR, and MF SR Notice of Assessment No. 018/1990 (available at the MF CR and MF SR) are applicable.

Item Group 13

964 Health care (excluding 964 7 and 964 59)

For the purpose of price controls, the value of one point in the amount of Kcs 0.60 applies for evaluating the services, a list of which, including point evaluation, will be published in a CR Ministry of Health Ruling.

Item Group 14

Services provided to physical or legal entities, which these entities are obligated to bear or request and pay in accordance with special regulations (e.g., metrological services, state testing services, obligatory inspections of the technical condition of vehicles, transportation of persons to detoxification centers and their stay in them, determination of alcohol level in the blood, etc.).

For the purpose of price controls for these services, those prices apply that are valid up to 31 December 1991, increased by no more that 40 percent. For the purpose of price controls for compulsory towing of vehicles, the maximum prices in accordance with FMF Notice of Assessment No. 2/XIV/1991 (Price Bulletin Section 22/1991) are applicable, and/or the price set in accordance with the decision of a local agency. The prices for the services in accordance with this Item Group are prices created for other purposes in accordance with Section 1, Paragraph 2, of Law No. 526/1990 Sb., though they are not identical, they will be determined in accordance with this decision by entities entitled to provide these services.

b) Maximum Prices That May Be Set by Local Agencies (Okres Offices and Communities in the CR and Okres and Obvod Offices in the SR)

Item No.	
1. 082 1 and 2	Drinking and utility water for households
082 3 and 4	Waste water from households
	Price controls may be implemented only in regard to the price for water from public water plants and to the price of waste water removed through public sewer systems, if they are administered by the local agency
2. 116	Heat for households (heating and hot water)
3. 932 995	Towing service—only the compulsory towing of vehicles
4. 951 71 to 4 and 76	Municipal and local transportation of persons
5. 955 24 to 6 and 29	External upkeep of towns and communities
6. 955 32	Parking area services
7. 968 9	Funeral services

If maximum prices have been set for the mentioned items by price offices, the local agencies may only set lower prices.

If, in the CR, the Okres office and the community set different prices for the same item, the price set by the community will apply in the territory of the community. If, in the SR, the Okres and the Obvod offices set different prices for the same item, the price set by the obvod office will apply in the territory of the obvod office.

c) Prices Set by Special Regulations, Which Are Considered To Be Maximum Prices Unless Stipulated Otherwise

Item No.		
1.	952 1	Payment for the use of an apartment and for services connected with the use of an apartment[3]
2.	952	Sale of apartments into private ownership[4]
3.	974 77	Rent for nonresidential areas and services connected with it[5]
4.	—	Evaluation of immovable assets[6]

Part II

List of Goods Where the Principle of Acceptable Inclusion of Costs in Prices Applies (Material Adjustment of Prices)

Domestic Goods

Unless stated otherwise, exclusively economically justified costs for acquisition, processing, and circulation of goods, commensurate profit, and/or sales tax in accordance with the relevant regulations may be included in the prices of extant or new products included in the following groups of goods.

Item No.		
1.	102	Brown coal and lignite from SUB [Slovak Coal Mines] Prievidza, unless it is a matter of supplies designated for households and producers of heat supplied to households from sources with a capacity under 6 mW and over 6 mW, in which case prices in accordance with Item Group 2 (b) of Part I (a) will be used.
2.	108	Gaseous fuels (with the exception of prices for gaseous fuels in accordance with Item Group 4 of Part I).
3.	111	Only automobile gasolines, diesel oil, and heating oils (with the exception of prices for heating oils mentioned in Item Group No. 5 of Part I).
4.	116	Heat (with the exception of prices for heat in accordance with Item Group No. 6 of Part I).
5.	Ferrous metals	
	123	Pig iron and blast-furnace ferroalloys
	124	Electrothermally or metalothermally produced ferroalloys
	125	Crude steel
	126	Semifinished products for rolling sections and sheets
	131 to 5	Sections
	136 to 9	Sheets
	141 to 3	Cold rolled steel strips
	154	Sections
	155	Drawn and peeled steel
6.	262	Pharmaceutical chemicals
	265	Immunobiological preparations, blood derivatives, and other biological preparations (exclusively veterinary)
	926 94	Repairs and maintenance of orthopedic and prosthetic products
	964 7	Spa treatment and other care and services paid from public services consumption
7.	753 321	Crystalline sugar
	753 331	Granulated sugar
8.	933 216	Domestic radio-communications services—only granting of digital broadcasting channels
	933 242	
	933 243	
	933 252	
	933 253	
9.	951 71	
	to 74	Municipal and local transportation of persons
	For the purpose of price controls, MF CR Notice of Assessment No. 1109/163/90-MF SR No. 1250/16/90 is applicable, which sets the basic MHD rate conditions—the transportation of children and students, disabled persons, and pensioners, etc. (available for inspection at the CR and SR Finance Ministries).	
	951 75	Municipal and local cable transportation of persons—valid only in the SR
	For the purpose of price controls, MF SR Notice of Assessment No. 1248/90 is applicable—Uniform Rate Conditions (available for inspection at the MF SR).	
10.	952 2	Payment for using small apartment buildings
	For the purpose of price controls, FMF, MF CR, and MF SR Notice of Assessment No. 016/90 (Price Bulletin Section 54/1990) is applicable.	

List of Goods Where the Principle of Acceptable Inclusion of Costs in Prices Applies (Material Adjustment of Prices)

11.	Structures, construction projects, operation systems, construction and installation work, delivery of machines and facilities, and design work financed with contributions from the federal and republican budgets and with contributions from resources provided by these budgets to local agencies.

For the purpose of price controls, the following will be applicable:

A. Prices in accordance with agreements concluded before 1 January 1991 may only be adjusted by the amount of economically justified costs for acquisition, processing and circulation of goods, and commensurate profit, and/or in accordance with relevant regulations on the sales tax; the seller and purchaser must agree on the proof of the included effects, and in the absence of any agreement, the requirements of the purchaser will apply;

B. Prices in accordance with agreements concluded after 1 September 1991 will be agreed on the basis of the evaluation of competition according to the Construction Permits Code published by the FMH [Federal Ministry of Economics], the MP CR [Czech Republic of the Ministry of Industry], and the MVS SR [Slovak Republic Ministry of General Engineering] dated 24 July 1991 (hereinafter called "ZRS"), which is binding for the purpose of price controls in accordance with this paragraph (Price Bulletin Section 40-42/1991), and furthermore in accordance with the following provisions:

(1) Supporting documents for the permit:

a) Determine the conditions[7] for processing bids that are essential for the granting of a permit

b) Must be supplemented by the following to process of the price bids:

ba) In regard to granting a permit for structures, construction projects, construction and installation work

—A description that is divided according to construction works (the first and second positions of the TSKP [Classification of Structures and Construction Work] in regard to primary construction production, and the first and third positions of TSKP in regard to associated construction production) at least into the relevant specific units in accordance with the Classification of Structures and Construction Work—(TSKP, 1988 edition—MS CSR [Ministry of Construction of the Czech Socialist Republic] and MS SSR [Ministry of Construction of the Slovak Socialist Republic]) and providing the numbers of the specific units according to the structure of the projects and dependent on the Unified Classification[s] of Construction Projects (JKSO—FSU, 1987 edition),

—In case of a request for an independent evaluation of the direct material, the supporting documents for the permit must contain the name, quantity per relevant specific unit, and the number in the Unified Classification of Industrial Branches and Products, at least in the range of the first 4 positions (JKPOV—FSU, 1991 edition),

—If services are the subject of the permit, their name, quantity per relevant specific unit, and their number in the Unified Classification of Services, must be provided at least in the first three positions (JKV—FSU, 1991 edition);

bb) In regard to granting a permit for operation systems and the delivery of machines and facilities:

—The name, the quantity and the relevant specific unit, divided in accordance with the Unified Classification of Industrial Branches and Products in at least the first four positions (JKPOV—FSU, 1991 edition) and within this division, the applicant must also provide data on the price for delivery and installation;

bc) In regard to granting a permit for design work, the requirement of the number of hours needed to perform the work, aggregated time units may also be used

c) Determine a uniform method for estimating price bids through one of the following alternatives:

—Price bids divided in accordance with (b)

—Only direct costs from the calculation of the price bid divided in accordance with (b), and indirect costs and profits taken together for the total bid

—Only direct and indirect costs from the calculation of the price bid divided in accordance with (b), and the profit taken independently for the total bid

—A combination of the above-mentioned methods or other methods.

In each of these alternatives, it is possible separately to exclude the direct material including delivery conditions, and, if necessary, other direct costs may also be excluded.

(2) In case of closer competition in accordance with ZRS Article 5, Paragraph 2 (b), and granting a permit by private contract in accordance with Article 6, paras. 2 (d) and (f), the consent of the agency providing the financial resources is also required; this agency will decide on the possibility to grant a permit by private contract (small-scale work) in special cases.

(3) In case of granting a permit by private contract in accordance with Article 6, Paragraph

—2 (d) It must be a matter of work that will prevent endangerment of lives and other damages, and will insure the safety of the area;

—2 (e) Additional work in regard to the job will not lead to growth in capacity

(4) The conditions of competition in accordance with Article 7 of the ZRS will determine the statutory office or representative of the grantor of the permit in accordance with the nature of the competition.

(5) The deadline for the permit according to Article 12 of the ZRS will be extended up to the signing of the contract for the supplier (in accordance with Article 2 of the ZRS).

(6) The grantor of the permit will announce a public competition in accordance with Article 15 of the ZRS and will do the same obligatorily in the Price Bulletin.

(7) If, in accordance with Article 16 of the ZRS, at least two of the invited applicants do not confirm their participation in the competition within the set time limit, the competition must be canceled and the applicants must be invited to take part in a new competition.

(8) After bids have been opened in accordance with Article 20 of the ZRS, the statutory office or the representative of the grantor of the permit will establish a commission composed of at least three members. When bids are opened, authorized employees of the relevant finance ministry, of the offices for the protection of economic competition, and of the relevant agencies that supply the financial resources are entitled to be present.

(9) After choosing the most advantageous bid in accordance with Article 24 of the ZRS, the grantor of the permit will determine the rank in expedience of the remaining bids.

(10) After the competition has ended the grantor of the permit is obligated to draft a "Report on the results of the competition," that must contain at least the information stipulated in Articles 7, 18, and 24 of the ZRS. Within 30 days of the end of the competition he must send the report to the agency from whose budgetary resources the structure will be partly or totally financed and to the relevant office for the protection of economic competition if it so requests. This report must be submitted even in regard to granting the permit by private contract.

(11) This procedure will not be implemented in those cases when the grantor of the permit opened the competition prior to 1 September 1991, unless the financing agency decided otherwise.

C. The prices for work on and supplies for construction in selected integration actions in the USSR will be agreed in accordance with FMF Notice of Assessment No. 5214/16.3/90 (Price Bulletin Section 4/1991) in the version of FMF Notice of Assessment No. 5/XVI.3/91 (Price Bulletin Section 33-34/1991) and in the version of FMF Notice of Assessment No. 11/XVI.5/91 (Price Bulletin Section 1/1992).

Part III

General and Annulment Provisions

1. The seller is obligated to change the agreed price from the date of effectiveness of the decision on officially set maximum price or the implemented method of material adjustment of prices if this price conflicts with the decision and the earlier concluded agreement on this price or on the method in which it was formed was not in writing, or if it is a matter of a price, the payment of which is considered to constitute an agreement.

2. FMF Notice of Assessment No. 7428/XV/90 of 1 January 1991 (Price Bulletin Section 4/1991) in the version of FMF Notice of Assessment No. 7430/XV/91 (Price Bulletin Section 11/1991), FMF Notice of Assessment No. 7431/XV/91 (Price Bulletin Section 37/1991), and Notice of Assessment No. 7432/XV/91 (Price Bulletin Section 38-39/1991) set the purchase prices for agricultural products purchased for state intervention purchases in accordance with special regulations.

3. A seller who increased the price of goods subject to time adjustment of prices on the basis of a notification within the appropriate time period is obligated to observe a six-month time period in accordance with Section 8, Paragraph 6, of the Law on Prices before increasing the prices again; he must do so even if the goods have meanwhile been removed from the time adjustment. On the request of the seller, the price office may shorten this time period in justified cases.

4. FMF, MF CR, and MF SR Notice of Assessment No. 01/91, No. 02/91, No. 03/91, No. 04/91, No. 05/91, No. 06/91, No. 07/91, No. 08/91, No. 09/91, No. 010/91, No. 011/91, No. 012/91, No. 013/91, and No. 014/91 will be annulled.

5. This Notice of Assessment goes into force on 1 January 1992.

Footnotes

1. MMH Notice of Assessment No. 197/1957 U.l., or No. 197/1957 U.v.[Official Gazette] on Payment for Central (Distance) Heating and for the Supply of Hot Water. MV SR Notice of Assessment No. 440/1991 Sb., which amends and completes Notice of Assessment No. 197/1957 U.v. MHPR CR Notice of Assessment No. 186/1991 on the Management of Heat, Control of Centralized Heat Supply Systems and on Safety Zones. MH SR Notice of Assessment No. 206/1991 on the Management of Heat, Control of Centralized Heat Supply Systems and on Safety Zones.

2. The distribution of tariffs and rate schedules is ensured by the Central Business Office of the railroads, Prague and Martin-Vrutky. TVZ TR 1 amendments and supplements are published in the Transport and Tariff

Bulletin Sections 1-2, 7-8, 33-34, 37-38, 41-42, and 47-48/1990, and in Sections 5-6, 7-8, 13-14, 15-16, 17-18, and 21-22/1991.

3. Ruling of the Central Administration for the Development of the Local Economy No. 60/1964 Sb., amended by the Ruling effective as of 1 January 1992 on Payment for the Use of Apartments and for Services Connected with the Use of Apartments in the version of Rulings No. 96/1976 Sb. and No. 77/1988 Sb.

4. FMF, MF CSR, and MF SSR, CCU, and SCU Ruling No. 47/1978 Sb. on the Sale of Apartments from the National Assets to Citizens and on Financial Aid for Modernizing Purchased Apartments in the version of Rulings No. 2/1982 Sb. and No. 160/1983 Sb.

5. FMF, MF CR, and MF SR Ruling No. 585/1990 Sb. on the Price Controls for the Rent of Nonresidential Areas.

6. MF CR Ruling No. 393/1991 Sb., and MF SR Ruling No. 465/1991 Sb. on the Price of Structures, Lots, Permanent Growths, Payments for Establishing the Right of Personal Use of Lots and Compensation for Temporary Use of Lots.

7. Section 2, Paragraph 1 of Law No. 526/1990 Sb., on Prices.

Constitutional Court Decision on Zetenyi Law

92CH0469A Budapest MAGYAR KOZLONY in Hungarian No 23, 5 Mar 92 pp 933-940

["Text" of Constitutional Court Decision No. 11 of 5 March 1992]

[Text]

For the Hungarian Republic!

Based on a proposal submitted by the president of the republic for the preliminary examination of the unconstitutionality of a law adopted by the National Assembly but not proclaimed, the Constitutional Court announces the following decision:

The Constitutional Court finds that the law adopted by the National Assembly at its 4 November 1991 session concerning "the possibility to prosecute grave crimes committed between 21 December 1944 and 2 May 1990 which have not been prosecuted because of political reasons," is unconstitutional.

The vague and uncertain wording of the law violates the requirement to prevent arbitrary enforcement of the law.

The law violates a constitutional requirement contained in criminal law, according to which laws in force at the time of the commission of the crime must be applied with respect to the statute of limitations, including the interruption and the expiration of the statute of limitations, except if, from the standpoint of the offender, more favorable rules have been adopted before the statute of limitations ran out.

In regard to the unconstitutionality of specific provisions of the law the Constitutional Court determines the following:

1. Declaring crimes punishable whose statute of limitations has already run out is unconstitutional.

2. Extending the statute of limitations to crimes whose limitations have not run out is unconstitutional.

3. Interrupting the running of the statute of limitations by law regarding crimes whose limitations have not run out is unconstitutional.

4. Retroactive laws establishing causes for tolling [suspending] or interrupting the force of the statute of limitations are unconstitutional.

5. No constitutionally valid distinction can be made concerning the reason for the state's neglect to perform its responsibility under criminal law, irrespective of whether such neglect occurred for political or other reasons.

6. Declaring that "the state neglected to perform its responsibility under criminal law for political reasons" as a cause for tolling the statute of limitations is vague and therefore unconstitutional.

7. Establishing criminal jurisdiction over the crime of treason while disregarding the several changes the legal objective protected by the criminal provision underwent during the various political systems is unconstitutional.

8. Restricting the power to grant clemency by providing for an unlimited reduction of punishment due based on the enforcement of the law is unconstitutional.

The Constitutional Court publishes this decision in MAGYAR KOZLONY.

ARGUMENT

I.

1. At its 4 November 1991 session the National Assembly adopted a law with the following wording:

"Paragraph 1.1. On 2 May 1990 the statute of limitations shall once again begin running regarding the prosecution of certain acts regarded by laws in force between 21 December 1944 and 2 May 1990 as criminal acts and committed during that period, which are defined in Law No. 4 of 1978 as treason under Paragraph 144 Section (2), as premeditated murder under Paragraph 166 Sections (1) and (2) and as bodily harm resulting in death under Paragraph 170 Section (5), if the state has failed to enforce its responsibility under criminal law for political reasons.

"1.2. The punishment due as a result of the application of Section (1) may be reduced to an unlimited extent.

"Paragraph 2. This law shall take effect on the day of its proclamation."

2. The president of the republic did not proclaim the law. Instead, he moved on 16 November 1991 to seek the constitutional review of the law. According to the motion:

"The essence of the (constitutional) question is whether Paragraph 1 of the law violates the principle of constitutional statehood as provided for in Paragraph 2 Section (1) of the Constitution, and whether it conflicts with Paragraph 57 Section (4) of the Constitution.

"In detail:

"Whether the resumption of the running of the statute of limitations conflicts with the principle contained in Paragraph 2 Section (1) of the Constitution according to which the Hungarian Republic is a constitutional state. This question arises because certainty as to the effect of laws is an indispensable component of constitutional statehood. Absent the maintenance of such certainty one cannot speak of a constitutional state.

"Whether the wording of Paragraph 1 represents retroactive legislation prohibited by the Constitution; whether it violates the historically evolved legal principle of *'nullum crimen sine lege,'* [no crime without law] which has also been made a part of human rights principles as a result of international agreements;

whether the statute of limitations concerning the criminal acts punishable under Paragraph 1 might have run out based on criminal law in force at the time of their commission.

"Whether a 'renewal' of the full period of time in which criminal action can be brought is consistent with the principle of constitutional statehood. Whether this provision conflicts with the criterion of constitutional statehood according to which the state promises immunity from prosecution to everyone after the statute of limitations runs out, and whether reneging on this promise violates the basic principle of constitutional statehood, according to which every citizen should have confidence in the credibility of the state and of laws.

"Whether entirely general and vague concepts and provisions contained in the law, such as 'the state neglected to perform its responsibility under criminal law for political reasons'; whether references to the crimes of treason and to certain kinds of bodily harm in the law without defining the substance of the crime, and further, whether the fact that in regard to these criminal acts the law provides that punishment may be reduced to an unlimited extent 'in every instance' violate the principle of certainty as to the effect of laws as part of constitutional statehood.

"The question arises whether this law makes unwarranted and arbitrary distinctions between persons who committed these crimes, because the distinctions are based on the reasons for which the state has failed to take action against them. Does this provision not conflict with the prohibition of arbitrariness as provided for in Paragraph 54 Section (1) of the Constitution, and provisions concerning the equality of citizens as contained in Paragraph 70/A Section (1) of the Constitution?"

II.

The Constitutional Court finds that the provisions of this law are not clear-cut.

1. As a result of the vague wording of the law one could equally conclude that the law

—Resumes the statute of limitations regarding criminal acts in regard to which the statute of limitations has already run out;

—Uniformly extends the time period for the prosecution of crimes in regard to which the statute of limitations has not run out as of 2 May 1990; and that it

—Resumes the statute of limitations regarding certain crimes in regard to which the statute of limitations has tolled.

2. The law defines the criminal acts under its objective purview based on Law No. 4 of 1978, disregarding the fact that the status of those crimes has changed on several occasions and in several respects between 1944 and 1978, and also since 1978.

The vagueness of the law as a whole, and the possibility to interpret the law in a number of ways violates the principle of preventing arbitrary enforcement of the law, therefore the law is unconstitutional.

III.

The subject law brings into particular focus the relationship between the laws of previous systems on the one hand, and the constitutional state ordained by the new Constitution, on the other. This justifies the Constitutional Court to individually summarize its views regarding this issue.

1. From a practical standpoint, the constitutional amendments proclaimed on 23 October 1989 gave force to a new Constitution; this Constitution provided a new quality to the state, to laws and to the political system. This new quality substantially differs from the previous conditions insofar as the Constitution proclaims that "the Hungarian Republic is an independent, democratic constitutional state." From the standpoint of constitutional law, this statement constitutes the political context of the "system change." For this reason the review of state actions demanded by the system change must not be divorced from the fundamental criteria of constitutional statehood, criteria which historically crystallized in constitutional democracies and which were considered to be part of the 1989 revision of the Hungarian Constitution. The Constitution defines the fundamental institutions of the constitutional state as well as the chief rules of their operations, and provides for human rights, together with related, fundamental guarantees.

Proclaiming constitutional statehood in Hungary simultaneously amounts to both a statement of fact and a program. The constitutional state materializes as a result of the actual and unconditional enforcement of the Constitution. From the legal standpoint, the system change demands that a change in the legal system occur in the sense that the legal system must be made consistent with the Constitution of the constitutional state, and, insofar as new legislation is concerned, that the entire legal system must be internally consistent. Not only the legal provisions and the functioning of the state organs must be strictly consistent with the Constitution, but the conceptual framework and the value system of the Constitution must also imbue society as a whole. This is what is meant by the rule of law; this is what lends reality to the Constitution. The realization of the constitutional state is a process. It is the constitutional duty of state organs to endeavor to render the constitutional state a reality.

2. The Constitution established the Constitutional Court to review the constitutionality of legal provisions and to void unconstitutional legal provisions. The Constitutional Court was first among the new organs of the constitutional state to begin its operations. The very first decision announced by the Constitutional Court (No. 1 of 12 February 1990 concerning the effect of the 26

November 1989 popular referendum and the opportunity to amend the Constitution) and other decisions (the provisional legal status of the president of the republic, election law issues) of political significance announced prior to convening the new National Assembly made it clear that any political endeavor can only be realized in the framework of the Constitution and that daily political considerations must be excluded when judging the constitutionality of actions. In the course of its examinations, the Constitutional Court has not drawn substantive distinctions from the outset between the constitutionality of legal provisions proclaimed by the previous system on the one hand, and after adopting the Constitution, on the other.

3. The system change was based on legality. The principle of legality demands from the constitutional state that the rules governing the legal system itself prevail by all means. The Constitution and the pivotal laws which, from a political standpoint, introduced revolutionary changes, were established in observance of the legislative rules of the old legal order in a procedurally impeccable manner, deriving their mandatory force on this basis. The old body of laws continued to remain in force. Considering the validity of such laws, there is no difference between laws proclaimed "before" or "after" the Constitution. The legitimacy of the various systems of the last 50 years is indifferent from this standpoint, and this matter is not subject to interpretation from the standpoint of the constitutionality of legal provisions. Irrespective of their date of creation, all legal provisions in effect must conform to the Constitution. In examining the constitutionality of laws the Court does not recognize two types of laws, and there is only one yardstick to measure the constitutionality of laws. The date when a given legal provision was created could only be significant to the extent that old legal provisions might have become unconstitutional when the amended Constitution took effect.

While recognizing legal continuity and legitimacy, the need to treat laws of the previous systems in special ways could arise in two respects. First: what can be done with legal relationships based on old legal provisions which by now have become unconstitutional; can they be made consistent with the Constitution? And second: can the peculiar historical setting of the system change be considered in judging the constitutionality of new legal provisions pertaining to the unconstitutional actions of previous systems. These issues must also be settled in observance of constitutional statehood criteria.

4. Certainty as to the effect of laws is a fundamental element of constitutional statehood. Among other things, this certainty requires that acquired rights be protected, that fulfilled or permanently closed legal relationships be left intact, and that the possibility to change long-term legal relationships that had evolved in the past be restricted by way of rules consistent with the Constitution. In its Decision No. 10 of 25 February 1992 the Constitutional Court held that the legal consequences of unconstitutional provisions must primarily be viewed in the context of certainty as to the effect of laws. This requirement applies to the time when an unconstitutional legal provision loses force, and even more so, to the legal relationships that evolved on the basis of such legal provision, because certain legal relationships and legal facts are viewed independently from the legal standards that served as their foundations, and such relationships and facts are not automatically voided by declaring the underlying unconstitutional legal provision null and void. If the opposite situation existed, any change in legal provisions would include the review of a mass of legal relationships. The chief rule that flows from the principle of certainty as to the effect of laws is that once finalized, legal relationships cannot be changed in a manner consistent with the Constitution either by creating or repealing a legal provision, irrespective of whether such action is taken by the legislature or by the Constitutional Court.

An exception from this principle is permissible only if it becomes unavoidable because of another constitutional principle that competes with the requirement of certainty as to the effect of laws, and only if the enforcement of the competing constitutional principle does not cause disproportionate harm as compared to its goal. An example of such exception is the review of final judgments of criminal courts for the benefit of the convicted person, when court proceedings had been based on legal provisions which have since then been declared unconstitutional. This kind of review is demanded by the principles of constitutionally sound criminal law. In contrast, injustice reflected in the outcome of legal relationships alone does not compete with the principle of certainty as to the effect of laws. In its Decision No. 9 of 30 January 1991 the Constitutional Court held that "economic justice demanded by the principle of constitutional statehood may be realized in the framework of institutions and guarantees designed to provide for certainty as to the effect of laws. The Constitution does not (cannot) grant an individual right ... 'to a guarantee that economic justice prevails....'"

From the standpoint of leaving settled legal relationships undisturbed, no distinction can be made on the basis of why and when the underlying legal provision has been declared unconstitutional. The legislature is bound by the limitation on retroactive law in regard to all legal relationships, and the Constitutional Court is even more restricted by the fact that it cannot determine substantive unconstitutionality regarding legal standards observed prior to the effective date of the Constitution.

Only a very limited opportunity exists for making retroactive changes in laws and legal relationships. From the prospective viewpoint, unconstitutional legal provisions may be remedied in a manner consistent with the Constitution as a result of new legislation.

5. The question arises whether the peculiar historical circumstance of the system change can be taken into

consideration in judging the constitutionality of new legal provisions pertaining to the unconstitutional actions of the past systems.

The given historical situation may indeed be considered within the framework of the constitutional state, and in the interest of developing the constitutional state. One cannot, however, set aside the fundamental guarantees of the constitutional state by referring to the historical situation and to justice demanded by the constitutional state. A constitutional state cannot become a reality in contravention of principles of constitutional statehood. Certainty as to the effect of laws based on objective and formalized principles always precedes concepts of partial and subjective justice. The Constitutional Court has enforced this principle in this way in its practice thus far.

The Constitutional Court cannot disregard history, because the Court itself has a historical function. The Constitutional Court is the beholder of the paradox called "constitutional state revolution": Within the scope of its own authority it must by all means ensure that legislation is consistent with the Constitution. This consistency began with the Constitution of a constitutional state and the peaceful system change which made the constitutional state a reality.

The Constitutional Court has always observed essential historical circumstances in the course of examining individual cases. The Court has been aware of the fact that its decisions have been bound by history: Even in cases in which the Court declared absolute values, these values revealed their meaning as they had been perceived at the time they had been accepted. In the case of abortion the Constitutional Court decided that the legislature must expressly decide whether the fetus is protected by law based on two changes that worked in opposite directions: the historical extension of the legal status of human beings on the one hand, and traditional perceptions concerning the fetus, on the other. Several decisions based the constitutionality of legal provisions, which interfered with the freedom of contract and disposition over property, on judgments as to whether such freedom is necessary and equitable considering the given status of constructing a market economy (as a constitutionally required function). The review of legal provisions pertaining to nationalization and compensation expressly related to a "system change in ownership." However, the Constitutional Court never regarded the situation as extraordinary from the standpoint of constitutionality, i.e., the idea of suspending the criteria of constitutionality has never occurred. Instead, the Constitutional Court asked itself "how the non-recurring, peculiar historical requirements established by the system change could be fulfilled in a constitutional manner, while not straying from the path of legal continuity." (Decision No. 28 of 3 June 1991.)

In the context of the subject law the constitutionally permissible latitude of the legislature is smaller than it was in regard to the compensation law. Ownership conditions are being settled for the future. The compensation law establishes rights, and wherever it establishes limitations on rights, it does so by linking limitations to the free-of-charge acquisition of rights in the future. The opportunity to renew the state's obligations also has a prospective character, this, however, is not necessarily constitutional to an unlimited extent; not even in extraordinary situations can the state change the authority, conditions, or extent of its obligations at will.

In contrast, the law ordering the renewal of the statute of limitations for the prosecution of criminal acts breaches the barriers of the state's power to prosecute; it impacts on guaranteed rights whose restriction is prohibited by Paragraph 8 Section (4) of the Constitution even on occasions when other fundamental rights can be suspended or limited in a manner consistent with the Constitution. In contrast to restrictions imposed upon ownership rights, most basic precepts of constitutionally sound criminal law cannot be perceived as conceptually relative matters; one cannot perceive of any other constitutional right or duty that could offset these. Guarantees contained in criminal law already contain the results of an evaluation, the fact that the risk of the failed prosecution of crime is borne by the state. (Compare with Constitutional Court Decision No. 9 of 30 January 1992.) For this reason, the protection of innocence cannot be restricted on grounds of another constitutional right, but not even conceptually would it be possible not to enforce the protection of the innocent to the fullest extent; as a result of the state's inaction a criminal is fully protected against being punished the moment the statute of limitations runs out; subsequently, the statute of limitations can be neither "reduced" nor revived, and one cannot replace the condition of nullum crimen sine lege [no crime without law] by performing a constitutionally sound task to protect, for example, the rights of others. Accordingly, in no way can the historical situation, a sense of justice, etc. be considered in this regard. At a conceptual level, exceptions from under guarantees provided under criminal law could be made only by openly setting aside such guarantees, this possibility, however, is ruled out by the concept of the constitutional state.

IV.

In examining the subject law the Constitutional Court used as its starting point the constitutional provision which holds that "The Hungarian Republic is an independent, democratic constitutional state" (Paragraph 2 Section (1)). In its practice the Constitutional Court has consistently enforced the principle that the Hungarian Republic is a constitutional state that abides by the rule of law, and that the enforcement of constitutional standards applicable to the legal system—observance of the legal system's rules regarding the legal system itself—is the fundamental criterion of constitutional statehood. The fundamental requirement that the state's exercise of its penal authority conform with constitutional principles also flows from the constitutionality of the legal system: Only a constitutionally sound criminal law can

serve as the exclusive foundation for the exercise of the penal authority. This law also reflects the majority will of the National Assembly, expressing popular sovereignty, as stated in the Constitution (Paragraph 19, Sections (1), (2) and (3)). In contrast, however, Paragraph 32/A Section (1) of the Constitution mandates the Constitutional Court to review the constitutionality of legal provisions, and thus also the subject law. Accordingly, only laws consistent with the constitution enjoy legitimacy in the Hungarian Republic—a constitutional state. Criminal law, too, must be constitutional.

The Constitutional Court holds that a constitutional state must react to violations of rights only in a manner consistent with constitutional statehood. The legal order of a constitutional state does not deny the guarantees provided by the constitutional state to anyone; everyone is entitled to these rights as basic rights. Not even a just claim must be enforced in a constitutional state in disregard of the guarantees provided by the constitutional state. Although a sense of justice and moral reasons may provide cause for motivations to punish certain persons, and to find that certain persons deserve punishment, nevertheless the legal basis for punishment must be constitutional.

1. In its decision No. 9 of 30 January 1992 the Constitutional Court pointed out that the Constitution declared constitutional statehood as the fundamental value of the republic. The fundamental value of constitutional statehood is detailed in the provisions of the Basic Law, at the same time, however, these provisions do not provide complete details concerning this fundamental value. For this reason it is one of the important tasks of the Constitutional Court to interpret the concept of constitutional statehood. In the course of reviewing legal provisions, the Constitutional Court examines the principles that comprise the fundamental value of constitutional statehood based on consistency with some specific provision of the Constitution. The concept of constitutional statehood, however, does not constitute a mere auxiliary, secondary rule in addition to specific rules provided by the Constitution, and the concept of constitutional statehood is not a mere declaration, but an independent constitutional law standard, the violation of which establishes grounds for declaring legal provisions unconstitutional. In the practice of the Constitutional Court, certainty as to the effect of laws is closely tied to the constitutional law concept of constitutional statehood.

As interpreted by the Constitutional Court, certainty as to the effect of laws presumes that the state, and primarily the legislature, create a system of laws that is clear and unequivocal both as a whole and in its parts, and that the effects of individual rules be predictable including criminal [procedural] rules from the standpoint of the affected persons. The prohibition on retroactive effect, and in particular, the prohibition on ex post facto legislation and the application of analogies in criminal law may be deduced directly from requirements for predictability and for the ability to foresee consequences.

Procedural guarantees flow from the principles of constitutional statehood and of certainty as to the effects of laws. These are of fundamental significance from the standpoint of the predictable functioning of legal institutions. Valid legal provisions can result only from adherence to formal procedural rules; the administration of justice functions constitutionally only if procedural standards are observed. Statute of limitations rules in criminal law ensure the enforcement of criminal responsibility by establishing time constraints for the exercise of the state's penal authority. Failure to act on the part of the authorities required to exercise penal authority, or lack of success in detaining a criminal constitute risks borne by the state. Once the statute of limitations runs out, the offender acquires an individual right not to be prosecuted.

2. In a constitutional state in which the rule of law prevails the state has not, and cannot have, unlimited penal authority because public authority itself is not unlimited. Due to basic constitutional rights and liberties protected by the Constitution, public authorities may interfere with an individual's rights and liberty only on the basis of constitutional authorization and on constitutional grounds.

Paragraph 8 Sections (1) and (2) of the Constitution also apply to requirements of constitutionality in the framework of criminal law. Accordingly, the Hungarian Republic recognizes the inviolable and inalienable fundamental rights of persons; respect for, and the protection of these rights is the primary duty of the state. The requirement contained in the Constitution by which "laws shall establish rules applicable to fundamental rights and duties, but must not restrict the fundamental content of these rights" is important. In the practice of the Constitutional Court, the content of fundamental laws and of liberty can only be restricted by law in order to protect another fundamental right or constitutional value, and only if unavoidable and necessary, and only to the extent necessary, done in an equitable manner. All prohibitions and requirements contained in criminal law, and, in particular, various punishments all affect fundamental rights, or constitutionally protected rights and values. Inevitable, necessary and equitable restrictions imposed by law are the foundation and the constitutional interpretation of the fact that criminal penalties (interference under criminal law) are the ultimate choices from among all possible legal consequences.

The Constitutional Court underscores that the subject law is unconstitutional not only because it violates the constitutional prohibition on retroactive effect (Criminal Code of Laws, Paragraph 2) and thus also conflicts with the principle of certainty as to the effect of laws (the ability to foresee, predictability) as provided for in Paragraph 2 Section (1) of the Constitution, but also

because it is not responsive to constitutional requirements regarding the inevitability of interference under criminal law, necessity and equity. The Constitution does not permit the constitutional principles of criminal law (Paragraphs 54-56, and 57 Sections (2)-(4)) to be restricted or suspended even under extraordinary or emergency conditions, or under conditions of imminent danger.

3. The criminal law systems of liberal, democratic states—classic criminal law—treat the principle of nullum crimen [no crime] and of nulla poena sine lege [no punishment without law] (the prohibition on retroactive effect) as state obligations under public law (constitution); the conditions by which the state is permitted to exercise its penal authority must be spelled out in advance, in the form of laws. This principle has been gradually developed in the course of exercising legitimate penal authority. This development expanded the legal criteria ["legalistic content"] for legitimately holding persons criminally responsible; these criteria transcend the requirements contained in the specific part of law by now.

The Constitutional Court interprets the principle of nullum crimen et nulla poena sine lege [no crime and no punishment without law] on the basis of the constitutional principle concerning the legitimacy of criminal law. In doing so the Constitutional Court performed a comparative examination of the constitutions of constitutional states governed by the rule of law. The Court found that these constitutions not only declared that criminal acts must be prohibited by law and that the prospect of punishing crimes must be established in the framework of laws, but they also require that holding persons responsible under criminal law, and convictions as well as punishments must be consistent with, and based on, laws. Accordingly, these constitutions contain the same provisions as does Paragraph 57 Section (4) of our Constitution. This, in turn, renders an individual's right to a conviction and punishment based on due process a basic right. The Constitution states that "No person shall be declared guilty and punished .... [for actions not regarded as criminal acts by Hungarian law at the time of their commission]." Accordingly, we are dealing here with more than the state prohibiting the commission of certain criminal acts and threatening with punishment with the force of law; the law also establishes the right of an individual to be convicted (and declared guilty) and his punishment to be determined (the individual to be punished) in a legitimate way.

Criminal law in constitutional states where the rule of law prevails is not merely a means of punishment, but also a protector and beholder of values: of the principles and guarantees of criminal law that are sound from the standpoint of the constitution. Criminal law constitutes the legitimate foundation for the exercise of penal authority and it also serves as a charter of emancipation for the protection of individual rights. Although criminal law protects interests, as a charter of emancipation it must not be used as a means of moral chatarsis in defense of moral values.

Nullum crimen sine lege and the nulla poena sine lege are basic constitutional principles. Their substance is derived from a number of rules contained in criminal law. Such rules include definitions for criminal acts as contained in the Criminal Code of Laws and the legitimate concepts of punishment and of the penal system. The concept of criminal acts, just as the concept of punishment are decisive from the standpoint of a person's responsibility under criminal law and of holding a person responsible. The individual's constitutionally guaranteed freedom and his human rights are affected not only by the factual definition and sanctions related to a particular crime, but also by the coherent, closed system of rules for punishability and for sentencing. Any change in the rules of responsibility under criminal law fundamentally affects individual freedom and the situation of the individual under the constitution. Statute of limitations rules may be changed only to the extent that they remain consistent with fundamental responsibility under criminal law, in a manner consistent with the Constitution.

4. In sum, the nullum crimen sine lege and the nulla poena sine lege principles are part and parcel of the constitutional principles of the legitimacy of criminal law; but these are not the only criteria for the constitutionality of holding persons responsible under criminal law. The Constitutional Court holds that the constitutional principle of the legitimacy of criminal law means the following:

—Paragraph 8 Sections (1) and (2) of the Constitution require that a law, rather than lower level legal sources, determine punishable acts (punishability) and the punishments (threatening with punishments) for these acts. (Paragraphs 1 and 10 of the Criminal Code of Laws respond to these requirements.)

—Declaring an act a criminal act and bringing punishment must be founded on constitutional grounds: It must be necessary, equitable, and in the final analysis, must have employed (Paragraph 8 Sections (1) and (2) of the Constitution, and the corresponding provisions of Paragraph 10 of the Criminal Code of Laws.)

—Only a court of law can find a person guilty (convict a person); this takes place as a result of a finding issued in the form of a decision establishing responsibility under criminal law. This follows from Paragraph 57 Section (2) of the Constitution, which provides for the protection of the innocent.

—Only on the basis of a law in force at the time of the commission of a criminal act can a person be convicted (declared guilty) and punished (struck with a punishment). This is demanded by Paragraph 57 Section (4) of the Constitution and by the prohibition of decisions having retroactive effects, as contained in Paragraph 2 of the Criminal Code of Laws. Courts

judge criminal acts (determine responsibility under criminal law, pronounce guilty, convict) based on laws in force at the time of commission; sentencing is also based on the same law, except when a new law which enables a less stringent sentence has taken effect, or if a given act is no longer a criminal act and thus is not punishable. This is required by the principle of certainty as to the effect of laws (the ability to foresee, predictability) which also prohibits decisions having a retroactive effect. This flows from the concept of the constitutional state. Its logical precondition is to provide an opportunity for a criminal to familiarize himself with the law in force when he committed the crime (Criminal Code of Laws, Paragraph 2). In addition to the express prohibition concerning retroactive effect, the requirement to apply a lesser rule in the course of adjudication also flows from the requirements related to constitutional statehood: The Constitution does not permit the application of standards that are alien to its basic principles (e.g. the pronouncement of death sentence), even along with the application of the main rule of the law in effect at the time when the crime was committed.

Based on all of the above, the Constitutional Court has determined that the subject law is unconstitutional, because it is inconsistent with constitutional principles of legality under criminal law.

V.

The Constitutional Court examined constitutional problems related to the law both individually, and separate from the law, so as to see whether a response to one question makes it unnecessary to respond to another, or if a prior response directly rules out the supposition upon which the subsequent questions has been based. The Constitutional Court intends to respond to every possible interpretation as well as to certain conceptual elements of the law, because, by necessity, this law is going to be reintroduced in the National Assembly.

In regard to the legitimacy of criminal law as a constitutional requirement, the Constitutional Court holds that the conclusion drawn under IV. above is correct, noting that the law in effect at the time of the commission of the crime must also be applied in regard to the statute of limitations. In IV. above the Constitutional Court concluded that requirements flowing from constitutional statehood, and particularly from the required certainty as to the effect of laws, as those affect the constitutionality of criminal law, must not be limited to the factual definition of, and to the sanctions related to a particular crime. The same constitutional requirements apply to responsibility under criminal law as a whole—starting with the conditions of punishability, through rules for sentencing.

There are no constitutional grounds base on which one could apply the prohibition of retroactivity and the prohibition of more stringent adjudication only to certain elements of judging an act under criminal law, and not to others. For this reason, the Constitutional Court examined the issue pertaining to the statute of limitations based on the legitimacy of criminal law, irrespective of ongoing theoretical debates concerning the character of the statute of limitations in the context of substantive or procedural law.

The constitutionality of criminal law provisions must not be viewed solely on the basis of criminal law guarantees expressly contained in the Constitution. A number of other basic principles and basic rights also provide guidance in criminal law. Thus, for example, the Constitution does not contain a separate prohibition concerning objective responsibility under criminal law, yet it flows from the right to human dignity that an offender may be punished only in a manner consistent with the Constitution, if he is found guilty. Similarly, the substance of the constitutional state is reflected in the principle which holds that the limits and conditions of the state's penal authority must not be changed to the detriment of a person whose act is judged under criminal law. Neither changes in criminal policies, nor the failure to act, nor mistakes made by the proceeding authorities must be used to the detriment of the offender. The unconstitutional character of retroactive laws in any context, which result in more stringent judgments, flows from this precept, but the Constitutional Court also regarded this principle as absolute by voiding with an immediate effect the rules for objections to the legality of action that acted to the detriment of the defendant (No. 9 of 30 January 1992).

Statutory limitation is a factual issue, nevertheless it is determined by legal facts. Only a court can issue an affirmed judgment of general applicability in the framework of a case as to whether a given criminal act is still punishable. In this regard the law in effect at the time of committing a crime governs the length of the statutory limitation and the calculation of how long the statute of limitation has been running, except if at a subsequent date a rule more lenient from the standpoint of the offender has taken force. The legislature has a single, constitutionally sound opportunity to interfere with the statute of limitations: to establish more favorable rules. [Legislative] action aiming to achieve the opposite effect is unconstitutional for various reasons, depending on whether the statute of limitations has already run out or if it is still running, as discussed below.

1. Rendering punishable a crime whose statute of limitations has run out is repugnant to the Constitution.

A criminal is permanently immune to punishment once the statute of limitations has run out. By providing causes for barring punishment, it is primarily the state's function to establish limits for the exercise of its own power. These causes have nothing to do with providing grounds for the establishment of criminal responsibility or with guilt, as, for example, causes that rule out punishability do; they do not change the quality of the criminal act either, because the criminal act committed remains a criminal act. Causes terminating punishability

act independently from the offenders' will, their coming into play does not depend on the offender and is uncertain even otherwise. An offender may foster hope for clemency, for a change in judgment as to the extent of threat he presented to society or for the statute of limitations to run out, but he cannot expect to play a role in regard to the statute of limitations. (There is one exception: He certainly will die.). An offender acquires a right to become immune to punishment if the causes for terminating punishability actually materialize.

Accordingly, once the statute of limitations runs out, the offender has an individual right not to be punished. This individual right evolves as a result of the fact that on the side of the state the need to punish has ceased, if the time allotted by law to the state for the prosecution and punishment of the offender has run out without producing results, when the time limit for exercising the state's penal authority, which the state established for itself runs out. The principle of trusting the legal system by all means demands that once some cause that terminates punishability has materialized, one should not be able to once again render a criminal act punishable as a result of a new law. The legal technique by which punishability is renewed is immaterial—whether it is established by the renewed running of the statute of limitations, or as a result of subsequent legal provisions which establish causes for the tolling or interruption of the statute of limitations—judgments as to the constitutionality of such actions are made on the same basis as if a law would render punishable an act which was not a punishable act at the time of commission. This is so, because from the standpoint of punishability a criminal act whose statute of limitations has run out must be viewed the same way as if it had not been punishable from the outset, because the state's need to punish has withered away.

The lapse of the maximum period of time in which action under criminal law can be taken must not be restarted. This is consistent with the fact that all constitutional provisions with clear criminal law implications act to constrain the state's penal authority, and never burden the offender with prosecutions conducted in a manner consistent with rules that remained unsuccessful (or with prosecutions that remained unsuccessful precisely because of the rules). Just as the protection of the innocent protects not only the innocent, the statute of limitations also bars punishability irrespective of the reason for not prosecuting a criminal; the failure of the state must not become a burden from the standpoint of the criminal. (As always, the guarantee is enforced irrespective of whether the reasons for allowing the statute of limitations to run out can be found. The fact that a person's guilt is obvious is of no help, he remains innocent unless proven guilty; available proof and society's need to punish a criminal is of no help if he is not being prosecuted and if the statute of limitations is running.)

Accordingly, the law requiring the renewal of the punishability of a criminal act is repugnant to Paragraph 2 Section (1) of the Constitution because it violates the principle of certainty as to the effect of the law, and because it breaches the principle that the state's penal authority is limited. And finally, the law is also repugnant to Paragraph 57 Section (4) of the Constitution because it renders acts punishable with a retroactive effect.

2. and 3. Extending the punishability of crimes whose statute of limitations has not run out presents constitutional issues of a scope different from those raised in conjunction with the renewal of the punishability of crimes whose statute of limitations has already run out.

The state's need to punish ceases when the statute of limitations runs out, the offender acquires a right not to be punished. As long as the statute of limitations is running, however, it applies primarily to the criminal prosecution authority and is in the hands of that authority: According to the law, the authority may restart the full, maximum period of time in which criminal action may be taken, by interrupting the statute of limitations even if the offender is unaware of this fact. Based on the law, the statute of limitations can also be extended by the authority suspending the proceedings, and the length of extension corresponds with the length of suspension. (With a few exceptions provided by law, the statute of limitations "tolls" during the period of suspension.) Accordingly, the "normal" period of time during which criminal action can be brought applies only in instances when no action that is part of the criminal proceedings takes place against the offender. Such situations are obviously the exceptions and are caused by functional flaws in the legal system. Accordingly, the offender has no individual right to expect with certainty to become immune to punishment within the normal period of the statute of limitations; he has no basis to count on a situation in which no criminal proceeding whatsoever is initiated against him during this period. His right is limited to an expectation that once the statute of limitation runs out, his prosecution comes to an end and that he is not going to be punished. Accordingly, the actual duration of the maximum period of time in which criminal proceedings may be brought against an offender is not guaranteed, in establishing maximum time periods in which criminal proceedings can be brought define only minimum periods for the running of the statute of limitations.

The statute of limitations does not guarantee that after a certain period of time fixed in advance the punishability of an offender ceases. It guarantees that the rules by which the period of the statute of limitations is counted are not going to change to the detriment of the offender while the statute of limitations is running. This flows from the requirement that the penal authority of the state must remain within the same limits at the time of adjudication as it was when at the time when the crime was committed. Accordingly, the unconstitutionality of a law extending the statute of limitations for a crime whose statute of limitations has not run out depends on whether the result of such extension produces a more

adverse judgment than a criminal procedural action interrupting the statute of limitation, even if such interruption remains unknown to the offender. The question is whether in theory the offender could find himself in a worse situation before the statute of limitations ran out, than the situation he would experience as a result of interrupting the statute of limitations based on the Criminal Code of Laws.

Pursuant to the law, the normal maximum period of time during which criminal proceedings can be initiated applies generally to persons committing a given crime. In contrast, the interruption of that period and an extension of the statute of limitations as a result of tolling applies only to a given person involved in an individual case; this effect can only be achieved as a result of procedural action which has as its purpose the furtherance of the proceeding. Mere administrative action is not suited to attain this extension, and particularly not if these actions only aim for the interruption of the time period. The constitutional principle, the limitation of penal authority, and the risk to be borne in conjunction with the unsuccessful prosecution of crime, which serves as a basis for the statute of limitations, would be infringed upon, were this not the case.

Because of this difference, any law that extends the "normal" statute of limitations always results in a more severe judgment. An extension of the time period during which punishability exists does not replace an extension caused by interruption or tolling, but produces a broader impact. In part, it affects every offender even if there is no ongoing proceeding against him, and in part, an extension resulting from a procedural act may add to this extended period of time in which criminal charges may be filed against the offender, in and of itself adding a longer period of time to the run of the statute of limitations than what would result from calculations made when the crime was committed. Accordingly, the condition created by extending the "normal" run of the statute of limitations is less favorable from the standpoint of criminal acts whose statute of limitations has not run out, as compared to the condition that existed at the time the crime was committed.

Similarly a less favorable situation evolves if the interruption or tolling of the statute of limitation is accomplished by law, rather than by an act of the authorities. A law interrupting the statute of limitations is in conflict with the constitutional principles on the basis of which the statute of limitations serves as a guarantee just as an individual administrative act aimed merely at preventing the statute of limitations from running out would; the conflict is aggravated by the fact that a law would also apply to cases in which proceedings have not even been initiated. In addition, the arguments presented against extending the maximum period of time in which criminal action can be brought also apply in this regard. This is so because from the standpoint of providing a guarantee there is no difference whatsoever between a law extending the statute of limitations regarding certain crimes by raising the normal period of the statute of limitations on the one hand, and ordering a renewed start of the statute of limitations, on the other.

4. The constitutional barriers to extending the statute of limitations by law having a retroactive effect cannot be avoided by arguments claiming that the statute of limitations "tolled". If the statute of limitations indeed tolled when the crime was committed, it is unnecessary to restate that fact in the framework of yet another law. Judging the statute of limitation—applying the law governing the statute of limitations—is the exclusive function of authorities engaged in the prosecution of crime, and as a last resort, of the courts. The legislator must not render subsequent decisions in this respect. According to the statute of limitations in effect when the crime was committed and according to rules exerting a favorable effect from the standpoint of the criminal that took effect while the statute of limitations was running, a law must not proclaim retroactively in regard to an act already considered criminal whose statute of limitations has already run out that the statute of limitations in regard to such criminal act has tolled on grounds that could not be used to adjudicate the given criminal act during the period of the statute of limitations based on laws in force at the time. The statute of limitations is a matter of legal facts, in other words, a legal provision must change the natural fact—the passage of time—into a fact having legal effect. The legal fact which determines the start and content of the statute of limitations must prevail during the run of the statute of limitations, and this facts either prevails or it does not prevail. If some matter did not constitute a legal fact that suspended (prompted the "tolling") the lapse of a criminal act at the time, it cannot be subsequently declared to constitute such legal fact. By doing so, the law would extend the period of the statute of limitations, and this would be unconstitutional, as explained above.

5. and 6. Regarding the crimes specified in the law, the statute of limitations is restarted "if the state has failed to exercise its penal authority for political reasons." This condition itself is unconstitutional.

Certainty as to the effect of laws demands that laws be written clearly and unambiguously so that all affected persons be aware of the legal situation, that they be guided in their decisions and conduct by these laws and that they be able to count on the legal consequences. This also includes the predictability of the conduct of other legal entities and state organs proceeding pursuant to such laws. The condition: "if the state has failed to enforce its responsibility under criminal law for political reasons" as a criminal law standard does not satisfy the above requirement. Even if one considers the special purpose of the law, the meaning of the term "has failed to enforce responsibility under criminal law" cannot be determined with certainty. This concept may cover situations in which no proceedings have been started, in which proceedings have been terminated without a legitimate reason, and it could even mean that proceedings have been terminated after applying a mild sanction that

is also illegal, e.g. by only warning the offender. Similarly, the meaning of the term "political reason," and the basis of comparison for "political reason," cannot be determined with sufficient clarity with particular attention to the political changes that have taken place during the long period of time covered by the law.

The subject law would restart the statute of limitations only in regard to three criminal acts defined in the law, while it would only extend the period in which persons having committed one or several of the three grave crimes—and have not been prosecuted for political reasons—could be punished. Accordingly, a distinction is being made in establishing two categories of persons having committed such crimes. But there is no relationship between the considerations underlying the two definitions, and the two have no effect on each other. Even if there were constitutional grounds to "once again restart" the statute of limitations either with respect to the above-mentioned grave crimes, or in regard to persons not prosecuted for political reasons, these provisions would also penalize persons excluded by the other definition of the law. Such distinction between persons punishable on the same grounds would not conflict with Paragraph 70/A of the Constitution only if the legislature intended to apply positive discrimination in favor of persons who have committed crimes, but who, in the end, were not affected by the law, but could be subject to punishment based on the principles of the law. Neither the text of the law, nor documents examined in the process of the Constitutional Court's proceedings suggest grounds which in the given case could be regarded as constitutionally sound considerations for positive discrimination.

Failure to prosecute crimes for political reasons, as the criterion for extending the punishability of such crimes, conflicts with the basic principle of constitutional criminal law propounded in this Decision, and earlier, in Decision No. 9 of 30 January 1992. According to this principle, the burden resulting from the fact that the ideal goal of criminal proceedings, the pronouncement of just and appropriate punishment, could not be attained due to the state's failure to prosecute, cannot be placed on the offender. From the standpoint of this constitutional distribution of the burden it is immaterial whether the state performed its authority under criminal law badly or not at all and the reason for which it did so makes no difference. Similarly, the state must be blamed if the organizations charged with the prosecution of crime are badly equipped, if the members of their personnel are negligent, if they are corrupt from a financial or political standpoint or if they are conscious accessories to the crime. In retrospect, the criminal enforcement policies of an era may be regarded as unconstitutional; but even then one cannot declare as nonexistent the penal authority of the state that functioned contrary to the principles of a constitutional state based on select parts of that authority, and to then conclude that the statute of limitations could not even have begun running regarding those select parts of the exercise of penal authority.

In the context of the subject law, the statute of limitations could have tolled in regard to the adjudication of the criminal acts committed between 21 December 1944 and 2 May 1992 solely on the basis of laws in force when these crimes were committed. With respect to these crimes, however, the stated cause that "the state has failed to enforce its criminal authority for political reasons" was not a cause for tolling the statute of limitations when these criminal acts were committed. Although Paragraph 9 of Law No. 7 of 1945, giving the force of law to government decrees concerning people's adjudication, declared with a retroactive effect that the statute of limitations has tolled regarding certain crimes committed in 1919 and thereafter, "whose prosecution has been prevented by the prevailing power," it then went on to set the starting date for the statute of limitations as of 21 December 1944, thus the effect of the two laws differs in terms of time.

Certain legal provisions established after 21 December 1944 provided that in regard to certain classes of persons and crimes criminal proceedings could be initiated only with the concurrence of [communist] party organizations having jurisdiction. The composition of these classes of persons and crimes varied. These legal provisions include, for example, directives issued by the supreme prosecutor and the minister of the interior which implemented resolutions passed by the central organs of the party, such as supreme prosecutor's directives 006/1955, 001/1961, 002/1966 and 001/1985, or interior minister's directives 008/1966 and 22/1985.

These legal provisions were patterned after the National Assembly representatives' right to immunity. It is the function of the executive branch to determine with regard to each individual proceeding the effect of decisions that were made on the basis of such directives and to find out whether these cases have lapsed. The subject law has no bearing whatsoever in this regard.

7. Treason is a crime against the state. The related legal objective subject to protection changes as the political systems change and acquire different political values. Despite formal, textual agreements, treason, as a criminal act, must be treated in different ways under the various political system. The failure to prosecute treason "for political reasons" is a typical retroactive qualification, and in reality qualifies the factual situation itself with a retroactive effect. Some of the acts that qualify as treason today were not even regarded as treason based on the value system that prevailed at the time these acts were committed, and were therefore not prosecuted. The subject law fails to consider this change. Judging treason on the basis of the value system espoused by a subsequent political system conflicts with the provisions of Paragraph 57 Section (4) of the Constitution: It applies an act determined to be a criminal act under the new order to the earlier system and would punish such an act, even though it was not regarded a criminal act when it was committed.

In theory, the above statement concerning the statute of limitations also applies to treason. But constitutional concerns regarding this crime, as those relate to the system change, have nothing to do with the statute of limitations.

8. Paragraph 1 Section (2) of the law enables the unlimited reduction of "punishment due as a result of the application of Section (1)." This provision is inappropriate from the standpoint of criminal law presently in force. The Criminal Code of Laws recognizes an opportunity for the unlimited reduction of punishment (Paragraph 87 Section (4) of the Criminal Code of Laws), but this provision broadens the sentencing authority of courts. As adopted [by the National Assembly], the wording of the law pertains to clemency, not to sentencing. But it is not clear whether it assigns the authority to exercise clemency to the courts, or if it restricts the power of the president of the republic to grant clemency in individual cases. The Constitution (Paragraph 30/A Section (1) Subsection (k)) grants this power solely to the president of the republic. Since this law does not provide for general clemency, it cannot vest the courts with the authority to grant clemency. On the other hand, the constitutional power of the president of the republic to grant clemency cannot be restricted. The law limits the exercise of this power to a partial reduction of sentences and therefore this provision of the law is unconstitutional.

In due regard to the significance of the theoretical points of view expressed in this Decision, the Constitutional Court orders the publication of the Decision in MAGYAR KOZLONY.

[Signed:] Dr. Laszlo Solyom, Chairman of the Constitutional Court, the Constitutional Court Justice who wrote the opinion;
Dr. Antal Adam, Dr. Tamas Labady, Dr. Andras Szabo, Dr. Imre Voros, Dr. Geza Kilenyi, Dr. Peter Schmidt, Dr. Odon Tersztyanszky, Dr. Janos Zlinszky, Justices of the Constitutional Court.

Constitutional Court Case Number 2068/A/1991/14.

Law Voids Certain 1963-89 Convictions

92CH0470A Budapest MAGYAR KOZLONY in Hungarian No 24, 9 Mar 92 pp 979-980

["Text" of Law No. 11 of 1992 declaring certain convictions resulting from crimes committed against the state and against public order between 1963 and 1989; adopted by the National Assembly at its 19 February session]

[Text] Provisions defining criminal acts against the state and public order remained in effect unchanged after 1963; based on these provisions an adjudicative practice in conflict with the basic principles contained in the then effective Constitution, and repugnant to generally recognized principles and rules of human rights and to society's system of moral values has prevailed. The system violated all these tenets not only by using means available under criminal law, but also as a result of rules violation proceedings and other administrative processes.

The National Assembly condemns this legal practice and intends to provide moral satisfaction to all those who suffered as a result.

No opportunity exists to remedy all types of violations by law, but it is appropriate to provide political, moral, and legal satisfaction in a manner consistent with the principles of a constitutional state as provided for in the Constitution, to those who suffered as a result of criminal proceedings. Therefore, the National Assembly creates the following law:

Paragraph 1.

Convictions between 5 April 1963 and 15 October 1989 regarding the following criminal acts shall be declared null and void:

(a) Conspiracy (Paragraphs 116-118 of Law No. 5 of 1961, the wording of Law No. 4 of 1978 until the wording of Law No. 25 of 1989 took effect—hereinafter in the context of this law: Criminal Code of Laws—Paragraph 139);

(b) Insurrection (Paragraphs 120-122 of Law No. 5 of 1961, Criminal Code of Laws Paragraph 140);

(c) Incitement (Paragraph 127 of Law No. 5 of 1961, Criminal Code of Laws Paragraph 148);

(d) Conspiracy, insurrection against another socialist state (Paragraph 133 of Law No. 5 of 1961, Criminal Code of Laws Paragraph 151);

(e) Offending an authority or an official person (Paragraph 158 of Law No. 5 of 1961, Criminal Code of Laws Paragraph 232);

(f) Offending the community (Paragraph 217 of Law No. 5 of 1961, Criminal Code of Laws No. 269);

(g) Incitement against a law or action by the authorities (Paragraph 216 of Law No. 5 of 1961, Criminal Code of Laws Paragraph 268);

(h) Abuse of the right to associate with others (Paragraph 207 of Law No. 5 of 1961, Criminal Code of Laws Paragraph 212);

(i) Prohibited border crossing (Paragraph 203 Section (1), Section (2) Subsection (b), Sections (4) and (5), Criminal Code of Laws Paragraph 217. Sections (1) and (2), Section (3) Subsection (b), and Section (5);

(j) Refusal to return to Hungary (Paragraph 205 of Law No. 5 of 1961);

(k) Crime against the people's freedom (Paragraph 136 of Law No. 5 of 1961, Criminal Code of Laws Paragraph 154);

(l) Misdemeanors violating rules governing the press (Paragraph 211 of Law No. 5 of 1961, Criminal Code of Laws Paragraph 213);

(m) Scare-mongering (Paragraph 218 of Law No. 5 of 1961, Criminal Code of Laws Paragraph 270);

(n) Failure to report a crime or misdemeanor if the duty to report pertains to criminal acts under nullity provided for in Paragraph 1 (a)-(m);

(o) Aiding and abetting [an offender] (Paragraph 184 of Law No. 5 of 1961, Criminal Code of Laws Paragraph 244) if the offense pertains to criminal acts under nullity provided for in Paragraph 1 (a)-(n)

provided that the commission of the crime constituted an exercise of the basic rights enumerated in the International Agreement on Civil and Political Rights proclaimed by Decree With the Force of Law No. 8 of 1976, or the realization of the principles and goals contained therein.

Paragraph 2.

(1) Other convictions which took place within the time period defined in Paragraph 1 and pronounced jointly with the convictions enumerated therein for crimes closely related to the above enumerated crimes, but not sanctioned by a more severe punishment, shall also be declared null and void.

(2) Convictions stemming from crimes not enumerated under Section (1), but which were adjudicated jointly with and in relation to the crimes enumerated in Paragraph 1, shall be declared null and void only insofar as they pertain to crimes enumerated in Paragraph 1 (partial nullity). In case of partial nullity the starting point for declaring convictions null and void shall primarily be the ratio between the upper limits of punishments which constitute the basis for the nonconcurrent sentences, and the nonconcurrent sentence shall be reduced with the content of the partially voided punishment, in due regard to this ratio.

(3) If in the case described in Section (2) a convict has not yet completed his sentence, the court shall resentence the convict in the course of a hearing, leaving intact the factual considerations and the guilty verdict relative to the crime not voided.

Paragraph 3.

(1) The provisions of Paragraph 2 Section (1) shall be observed even if the punishment based on crimes enumerated in Paragraph 1 was included as part of nonconcurrent sentences for other crimes closely related to the crimes enumerated in Paragraph 1, but not sanctioned by more severe punishment.

(2) The duration of nonconcurrent sentences specified under Section (1) shall be reduced by the duration of sentences pronounced as a result of crimes enumerated under Paragraph 1. The Provisions of Paragraph 2 shall be observed if any judgment of a court pronounced a nonconcurrent sentence.

Paragraph 4.

(1) Except as provided for in Section (2), general rules for special proceedings, as contained in Paragraph 356 of Law No. 1 of 1973 concerning criminal procedure shall be applied in the course of declaring convictions void.

(2) Section (2) of Paragraph 356 of the criminal procedures law shall be applied in the course of declaring convictions void, with the following changes:

(a) Proceedings shall be initiated on the basis of petitions filed by the convicts' relatives (Paragraph 137 Subsection 5 of the Criminal Code of Laws);

(b) Court jurisdiction for conducting proceedings pursuant to Paragraph 3 shall be established on the basis of jurisdiction of the court that pronounced a nonconcurrent sentence in the first instance, or, in case of multiple nonconcurrent sentences, the court that pronounced the last nonconcurrent sentence;

(c) Relatives may also appeal the judgment of the court;

(d) The cause for vacating specified in Paragraph 356 Section (2) Subsection (d) of the Law on Criminal Procedure shall not apply;

(e) The state shall pay court costs.

Paragraph 5.

Paragraph 3 of Law No. 36 of 1989 shall be applied in the course of voiding convictions during the time period specified in Paragraph 1 regarding political or other criminal acts subject to the authority of Law No. 36 of 1989.

Paragraph 6.

(1) This law shall take effect on the day of its proclamation.

(2) A separate law provides for the compensation of persons whose conviction has been voided based on this law.

(3) The time allowed for submitting compensation claims shall begin on the day when an affirmed judgment of a court is proclaiming a conviction null and void.

[Signed] Arpad Goncz, President of the Republic; Gyorgy Szabad, President of the National Assembly

Law Declares 1987 Land Law Provision Unconstitutional

92P20245B

[Editorial Report] Budapest MAGYAR KOZLONY in Hungarian No. 32, 30 March pages 1,164-1,166 carries the full text of Constitutional Court Decision No. 18 of 30 March declaring unconstitutional the provisions of Paragraph 27 of Law No. 1 of 1987 concerning land, effective on 30 November 1992. The challenged provision provides that "large agricultural plants enjoy nontransferable prepurchase rights regarding land or outlying farms subject to sale by private persons in the area of such large agricultural plants." The implementing decree to this law defined "large agricultural plants" as legal entities professionally engaged in agricultural production and/or forestry, and in other respects, legal entities that utilize arable land. Petitioners asserted that the unwarranted advantage and benefit provided to large agricultural plants violates the equal status of property guaranteed by the Constitution and that the challenged legal provision infringed upon the substance of the owner's dispositional rights and thus also upon the basic constitutional right to property.

The Court held that the right of owners to dispose of property is not unlimited; nevertheless, this right could be restricted only if the restriction was unavoidable. The Court went on pondering the specific economic and legal aspects of the 1987 provision and found that some had merits while others did not. In approaching the issue from the opposite direction, the Court found that in one of its previous decisions it interpreted Paragraph 9 of the Constitution as a prohibition to discriminate against any kind of ownership form. The Court used this argument to strike down the challenged legal provision.

Law on Regional Prefect's Authority

92P20263A

[Editorial Report] Budapest MAGYAR KOZLONY in Hungarian No. 36 on 7 April pages 1,359-1,360 carries the full text of a Constitutional Court decision striking down a Budapest District 12 local government decree concerning rental fees charged for the occupancy of recreational property. The interesting aspect of this case is that the District 12 local legislative body defied a notice given by the Regional Prefect having jurisdiction concerning the illegality of the decree, and that the Regional Prefect was forced to ask the Constitutional Court to intervene before the District 12 local legislature accepted the fact that the decree it promulgated was illegal.

Law Determines 'Management Rights' Unprotected

92P20245A

[Editorial Report] Budapest MAGYAR KOZLONY in Hungarian No. 32, 30 March pages 1,162-1,164 carries the full text of Constitutional Court Decision No. 17 of 30 March 1992 rejecting a petition to retroactively declare unconstitutional and to invalidate provisions of Paragraph 1 Section (1) of Law No. 70 of 1990 which, in conjunction with the provisions of Paragraph 6 Section (1) of the same law, discontinue the management rights of social organizations over state-owned real estate without providing indemnification.

Petitioners asserted that the legal provisions cited above were inconsistent with Paragraph 13 of the Constitution guaranteeing equal rights to property to everyone. They argued that prior to the effective date of Law No. 1 of 1987 it was not possible to transfer property rights related to the state's landed property, and organizations that wanted to obtain real property from the state could acquire management rights only in exchange for compensation. At the same time, Government Decree No. 9 of 9 February 1969 provided that property managers had to exercise the rights and duties of an owner. For this reason petitioners claimed that the substance of management rights fully satisfied the criteria for ownership rights, particularly in instances when management rights were granted on the basis of written agreements, in exchange for compensation and were recorded by land offices.

Acting as amicus curiae, the minister of justice indicated that management rights relative to real property were not fundamental rights subject to protection under Paragraph 13 of the Constitution. Management rights were not recognized by the Constitution and the concept of ownership rights should not be expanded to cover management rights. The minister of justice also stated that natural persons were ineligible to acquire management rights and that the 1990 law did not arbitrarily remove the management rights enjoyed by social organizations; its intent was to place this issue in the realm of civil law and provided for the continued free of charge use of property under management rights until final settlement was reached in the form of law.

In formulating its opinion, the Constitutional Court used as its starting point the fact that the concept of "management rights," as used by petitioners, was a creature of the previous Hungarian legal system, in which the concepts of social property, and within that, of state property dominated. The concept of "management rights" has been unclear from the beginning, and could not be defined or interpreted within the limits, and after the 1989 revision of the Constitution, which discontinued the primacy of state property and accorded an equal standing for both public and private property. The revised constitution did not mention "management rights" as a separate right. The court agreed to hear this case only because the concept of "management rights" served as the foundation for a number of legal relationships, and because, according to the petitioners, it also was the subject of legal provisions. Therefore the court agreed to interpret and qualify old legal provisions still in effect which impact upon "management rights.

The court held that the substance of "management rights" was not identical to ownership rights, because after granting management rights, the state continued to enforce its ownership rights with varying intensity. Further: "Management rights" granted by the state did not constitute partial entitlement to exercise the state's ownership rights, because "management rights" encompassed only the exercise of the remainder of ownership rights the state chose not to exercise. And further: The challenged provision was designed to protect the state's interests and to secure ownership rights for the state under the overall concept of protecting public property. It flows from the idea of the freedom of ownership enjoyed by the state that the state may change the internal structure of its property system as a result of legislation.

For the above reasons the court held that the termination of "management rights" by law was not unconstitutional.

Law Governing First Quarter Provisional Budget

92EP0299A Warsaw RZECZPOSPOLITA (ECONOMY AND LAW supplement) in Polish 2 Mar 92 p VIII

[Law dated 25 January 1992 governing the provisional budget for the period 1 January through 31 March 1992: "The Provisional Budget: Revenues—69,347,000 Million Zlotys, Expenditures—86,957,000 Million Zlotys"]

[Text] *The following is the text of the law, dated 25 January 1992, on the provisional budget for the period of 1 January through 31 March 1992. We are publishing it without annexes, which number several dozen pages of tables.*

Article 1.1. The law sets forth the revenues and expenditures of the state budget in the period of 1 January through 31 March 1992.

1.2. Guidelines for actions in the case in which the Sejm fails to approve a budget law for 1992 before 31 March shall be set forth in a separate law.

Article 2.1. The revenues of the state budget are hereby set at 69,347,000 million zlotys, of which:

1) Tax revenues—54,320,000 million zlotys, of which:

a) The turnover tax—24,700,000 million zlotys;

b) The profit tax—22,520,000 million zlotys;

c) The tax on the growth of remunerations—5,000,000 million zlotys;

d) Other taxes—2,100,000 million zlotys.

2) Current nontax revenues—13,685,000 million zlotys, of which:

a) Dividends from enterprises and companies—2,600,000 zlotys;

b) Payments from the profits of the National Bank of Poland—1,500,000 million zlotys;

c) Import duties—6,000,000 million zlotys;

d) Profits of entities financed from the budget—1,985,000 million zlotys;

e) Other revenues—1,600,000 million zlotys.

2.2. The expenditures of the state budget are hereby set at 86,957,000 million zlotys, of which:

1) Subsidies as funding for economic projects—6,558,000 million zlotys;

2) Servicing the foreign debt—4,044,000 million zlotys;

3) Social welfare—17,770,000 million zlotys;

4) Current expenditures of the sector financed from the budget—43,714,460 million zlotys;

5) Settlements with banks and servicing the domestic debt—10,406,000 million zlotys;

6) Expenditures for assets—2,934,540 million zlotys;

7) Subsidies for gminas—1,400,000 million zlotys;

8) General reserve of the Council of Ministers—130,000 million zlotys.

2.3. The deficit of the state budget as of 31 March 1992 may not exceed the amount of 17,610,000 million zlotys, and the negative balance of foreign credit may not exceed 968,000 million zlotys.

Article 3. With a view to covering the deficit of the state budget and the negative balance of foreign credit, the minister of finance is authorized to increase the indebtedness of the State Treasury in the period of 1 January through 31 March 1992 by virtue of:

1) The sale of treasury securities which mature in less than one year (including treasury bills) and credit taken out in commercial banks—by an amount of up to 14,000,000 million zlotys;

2) The purchase of treasury bills by the bank of Poland—by an amount of up to 6,000,000 million zlotys;

3) The sale of state bonds which mature in more than one year—by an amount of up to 30,000,000 million zlotys.

Article 4.1. The revenues and expenditures for individual ministerial chapters of the state budget and for the budgets of voivodes are established in keeping with Annex 1.

4.2. The revenue and expenditure plans of special state foundations are established in keeping with Annex 2.

Article 5. Subsidies for centrally financed investment projects are established in keeping with Annex 3.

Article 6.1. Special subsidies for projects in the area of government administration assigned to gminas are established in the total amount of 1,799,627 million zlotys.

6.2. The distribution of the amount referred to in Paragraph 1 among individual chapters and divisions of the budgetary classification is set forth in Annex 1.

Article 7. Specific subsidies for the gminas' own projects are set at 197,568 million zlotys, of which:

1) Investments in infrastructure in areas with particularly high unemployment for which subsidies were allocated in 1991 by virtue of Article 7 of the Budget Law, dated 23 February 1991 (DZIENNIK USTAW, No. 21, Item 89, No. 86, Item 391, No. 121, Item 528)—51,268 million zlotys;

2) Investment projects of gminas which were central investment projects in 1991—146,300 million zlotys.

Article 8. Products and services-specific subsidies are established in the amount of 1,513,000 million zlotys, of which:

1) Prepayment for motor vehicles (made in 1991)—50,000 million zlotys;

2) Meals in dairy bars—14,000 million zlotys;

3) Production of hard coal—600,000 million zlotys;

4) Passenger transportation by the Polish State Railroads on domestic routes—450,000 million zlotys;

5) Passenger transportation by bus between cities—253,000 million zlotys;

6) Lime fertilizer—140,000 million zlotys;

7) School and college textbooks—6,000 million zlotys.

Article 9. Subsidies are established to partially finance biological advancement in crop farming and livestock breeding, propagation of agricultural consulting services, control of contagious animal diseases, the procurement and transportation of lime fertilizer from local sources, certain projects in the area of land surveys and application of chemicals in farming, maintenance of basic land reclamation assets, as well as funding for water management companies which maintain land reclamation assets—in the amount of 403,545 million zlotys.

Article 10.1. Subsidies for housing construction cooperatives for uses associated with the upkeep of the cooperative housing stock are set at 3,860,000 million zlotys.

10.2. The minister of land use management and construction shall determine, by way of an executive order, general guidelines for the allocation of, and mode of settlement for the subsidies referred to in Paragraph 1.

10.3. Voivodes shall set forth the distribution and procedures for the transfer of subsidies to individual cooperatives.

Article 11.1. Subsidies to non-state units for state projects carried out by these units are established in the amount of 364,815 million zlotys.

11.2. The distribution of the amount referred to in Paragraph 1 among individual chapters and divisions of the budgetary classification is set forth in Annex 1.

Article 12. An amount of 4,772,000 million zlotys is allocated from the state budget to write off bank loans and to subsidize the bank loans referred to in Article 22, paragraph 1 of the law, dated 5 January 1991—Budget Regulations (DZIENNIK USTAW, No. 4, Item 18; No. 34, Item 150; No. 86, Item 391; No. 94, Item 421; No. 107, Item 464, and No. 110, Item 475).

Article 13. A mandatory contribution to the Labor Fund by enterprises and individuals who are not employees of enterprises but are entitled to social security or retirement benefits by virtue of other non-farm occupations is set in the amount of 2 percent of the base for computing contributions to social security or retirement benefits.

Article 14. In 1992, the percentage rate for computing a mandatory dividend, as defined by the provisions of the law, dated 31 January 1989, on the financial management of state enterprises (DZIENNIK USTAW, 1990, No. 26, Item 152, and No. 89, Item 517, as well as 1991, No. 75, Item 329) comes to 22 percent.

Article 15. The staff of the police force is set at 105,000, of which:

1) In the officer corps—15,000;

2) In the officer candidate corps—21,900;

3) In the warrant officer corps—46,100;

4) In the enlisted men's corps—22,000.

Article 16. The payment of bonuses due by virtue of the law, dated 10 July 1985, on annual bonuses from enterprise bonus funds at state organizational units which are not state enterprises (DZIENNIK USTAW, No. 32, Item 141; 1989, No. 35, Item 192, and 1991, No. 104, Item 450) for 1991 shall be made as follows:

—In the first quarter, 25 percent of the amount of the bonus,

—The remainder of the bonus will be paid after the adoption of the budget law, and in a manner outlined in the latter.

Article 17. State units financed from the budget which are a part of the health care sector may earmark profits generated in the first quarter of 1992 for special means from which they may cover:

1) The cost of basic operations, with the exception of wages and derivatives of wages,

2) The costs of securing additional proceeds, up to the amount of such proceeds.

Article 18. The law is enacted on the day of release, taking effect on 1 January 1992.

Law Governing Profit Tax on Corporate Persons

92EP0309A Warsaw DZIENNIK USTAW in Polish No 21, Item No 86, 10 Mar 92 pp 368-378

[Law dated 15 February 1992 governing the profit tax on corporate persons, as well as changes of certain laws regulating guidelines for taxation]

[Text]

Chapter 1. Subjects and Objects of Taxation

Article 1. 1. The present law regulates the levying of the profit tax on the profits of corporate persons, henceforth referred to as "taxpayers."

2. The provisions of the law also apply to organizational units which are not corporate persons, with the exception of companies which are not corporate persons.

Article 2. 1. The provisions of the present law do not apply to:

1) proceeds from farming operations, with the exception of profits from special sectors of agriculture;

2) forestry proceeds as defined in the law on forests;

3) proceeds from operations which cannot be covered by a legally valid contract.

2. Farming operations for the purposes of Point 1, Paragraph 1 include crop farming, livestock breeding, including the production of seeds, seedlings, young animals, and the breeding herd, vegetable growing in open ground, in greenhouses, or under foil, growing of decorative plants and planted mushrooms, gardening, breeding and producing the attested stock of animals, poultry, and useful insects, animal husbandry on industrial-type farms, and fish breeding.

3. The following are special sectors of agriculture: growing plants in greenhouses and heated foil tunnels, growing mushrooms and their spawns, growing plants "in vitro," breeding poultry for slaughter or egg-laying poultry on farms, poultry hatcheries, breeding and raising fur and laboratory animals, rain-worm breeding, breeding of insect-eating carnivores, silkworm breeding, bee keeping, and breeding and raising other animals outside the farm.

4. Whenever a reference to a farm is made in the law, a farm as defined in the provisions of the law on the farm tax is meant.

5. The minister of finance, in cooperation with the minister of agriculture and the food industry, shall specify by an executive order which types of planting or breeding of those enumerated in Paragraph 3 do not amount to a special sector of agriculture, based on their size.

Article 3. 1. The profits of taxpayers which have headquarters or management in the territory of the Republic of Poland are subject to taxation in their entirety, regardless of the places where they are generated.

2. Only the profits generated in the territory of the Republic of Poland by taxpayers which do not have headquarters or management in the territory of the Republic of Poland are subject to taxation.

Article 4. The exclusive economic zone beyond the territorial sea in which the Republic of Poland, on the basis of national law and in keeping with international law, exercises rights concerning the research and development of of the bottom of the sea and its substrata, as well as their natural resources, is also considered to be the territory of the Republic of Poland for the purposes of the present law.

Article 5. Profits from participation in a partnership which is not a corporate person, and joint ownership or use of objects or property rights are taxed separately for each partner, proportionately to his share. Unless proof to the contrary is available, it is assumed that the partners share equally in profits.

Article 6. 1. The following are exempt from taxes:

1) the State Treasury,

2) the National Bank of Poland,

3) units financed from the budget,

4) special foundations established on the basis of other regulations, except if the provisions of these laws state otherwise,

5) international enterprises and other economic units established by organs of state administration together with other states on the basis of agreements or treaties, except if the agreements or treaties provide otherwise.

2. The exemption referred to in Point 3, Paragraph 1 does not apply to the auxiliary facilities of units financed from the budget, with the exception of auxiliary facilities set up at schools, economic and administrative school associations, Volunteer Labor Brigades, military units, corrections facilities, reform schools, boarding schools, orphanages, health care units, social welfare facilities, and national parks, if funds accruing by virtue of this exemption are contributed to:

1) the revenues of special funds operating at these units financed from the budget, when the objective of these special funds is to finance improved conditions or nutrition in the aforementioned units;

2) an increase in the working capital of auxiliary facilities;

3) investment financing account, earmarked for investment into an auxiliary facility.

Article 7. 1. Profits, regardless of the kind of sources for proceeds from which such profits have been generated, constitute the object of taxation; in the cases referred to in Articles 21 and 22, proceeds constitute the subject of taxation.

2. Except as provided in Articles 10 and 11, the amount by which total proceeds exceed the cost of generating them in a tax year constitutes profits; if the cost of generating proceeds exceeds total proceeds, the difference constitutes losses.

3. The following is not taken into account in the process of calculating profits which constitute the tax base:

1) proceeds from sources proceeds located in the territory of the Republic of Poland or abroad if profits from these sources are not subject to the profit tax or are tax-exempt;

2) the proceeds referred to in Articles 21 and 22;

3) the costs of generating the proceeds referred to in Points 1 and 2.

4. The losses referred to in Paragraph 2 are covered, in equal parts, from profits generated in the subsequent three tax years. In establishing the loss, the proceeds referred to in Paragraph 3 and the costs of generating them are not taken into account.

Article 8. 1. A period of consecutive and complete 12 months constitutes a tax year.

2. Unless a taxpayer resolves otherwise and notifies the proper treasury chamber, a calendar year is a tax year.

3. If the tax year is changed, the first tax year after the change is considered to run from the first month after the previous tax year ends to the end of the newly accepted tax year.

4. The notification referred to in Paragraph 2 should be made, at the latest, within 30 days from the date the last tax year ended.

5. Corporate persons and organizational units which, to date, have not been taxpayers for the purposes of the present law, make the notification referred to in Paragraph 2 before 20 December.

Article 9. 1. The taxpayers must maintain accounting records, in keeping with other regulations, in a manner which provides for calculating the amount of income (loss), the base of taxation, and the tax due.

2. If it is impossible to calculate profits (losses) in the manner set forth in Paragraph 1, the profits (losses) are estimated.

3. If prices for certain goods change, the minister of finance may introduce, by an executive order, the duty to take inventories of certain goods in natural units.

Article 10. Actual profits obtained by virtue of participation in the profits of corporate persons amount to actual profits generated by virtue of such participation and profits earmarked for increasing authorized capital or joint-stock capital.

Article 11. 1. If a taxpayer who has an economic affiliation with a person remaining abroad arranges the running of his business in such a manner that he shows no profit, or shows profit below those which should be expected if the above affiliation did not exist, the profit of such taxpayer is calculated without taking into account special liabilities which result from the above affiliation. If it is impossible to establish such profits on the basis of accounting records it is estimated.

2. The provision of Paragraph 1 applies as appropriate when the taxpayer, using his economic affiliation with a person entitled to special profit tax relief or rendering services to another taxpayer on glaringly more favorable terms which differ from generally applicable norms in the place and at the time the service is provided, shifts his profits, in full or in part, to a person entitled to relief or another taxpayer, and consequently does not show profits in the amount which should have been expected had the aforementioned affiliation not existed, or had the aforementioned service not been provided.

Chapter 2. Proceeds

1. Except as provided in Paragraphs 3 and 4, as well as Articles 13 and 14, funds received, monetary values, including exchange rate differentials, the cost of proceeds in kind, and the cost of services received free of charge constitute proceeds.

2. Proceeds in foreign currencies are converted into zlotys at rates posted by the National Bank of Poland and applicable to purchases, as of the day the proceeds were generated.

3. Proceeds due, even if not yet actually received, less the cost of returned merchandise and rebates and discounts granted, are considered to be proceeds associated with economic operations and with special sectors of farming. If proceeds are denominated in foreign currencies, and different currency exchange rates existed between the day they were generated and the day they were actually received, these proceeds are increased or reduced, as appropriate, by the amount of differences due to using the the exchange rate of the currency for purchases as of the day the proceeds were actually received which was posted by the foreign-exchange bank whose services the person obtaining proceeds used, and the use of the exchange rate for purchases posted by the National Bank of Poland as of the day the proceeds were received.

4. The following are not included in proceeds:

1) payments received, or accruing amounts due, toward deliveries of products and goods and services which will be made in subsequent reporting periods, as well as loans (credit) taken out,

2) amounts of accrued, but not received interest on amounts payable, including those on loans (credit) extended,

3) amounts received by virtue of the return of shares or contributions to cooperatives, remission of an interest in a company or shares, repurchase of securities by the issuer, or by virtue of the remission of units of participation in trust funds—with regard to the portion amounting to the cost of purchasing them,

4) proceeds received with a view to providing, or enlarging authorized (joint stock) capital, a contributory fund, or a similar fund, and in trust funds associations—the cost of the assets of these funds.

5. The cost of proceeds in kind is calculated on the basis of average prices used in a given locality for trade in objects of the same class and type as of the day the proceeds were generated, taking into account their condition and degree of depreciation.

6. The cost of services provided free of charge is established:

1) on the basis of prices other customers are charged, if services falling within the scope of economic activities of the entity providing services are at issue,

2) on the basis of purchase prices, if acquired services are at issue,

3) in the amount equivalent to rent which should have been due had a lease for premises been signed if the service consisted of allowing the use of the premises.

Article 13. 1. An equivalent of rent which would have been due had a lease or rental contract for real estate been signed, which is established on the basis of rent levels used in a given locality in renting or leasing the real estate of the same kind is considered to be proceeds from the real estate made available free of charge, entirely or in part, to other corporate persons or individuals, or organizational units which are not corporate persons.

2. The provision of Paragraph 1 does not apply if the following are made available:

1) residential premises—to individuals who are employed by the taxpayer, and for whom such availability amounts to a free service for the purposes of the provisions of the law on the individual income tax,

2) real estate, or a portion thereof—for the purposes of research, research and technical, educational, educational and upbringing, and cultural activities, as well as in the sphere of physical culture and sports, environmental protection, charity, health care and social welfare, professional and social rehabilitation of the handicapped, and religious worship.

Article 14. 1. The value of real estate, property rights, and other objects expressed through a price set in the sales contract amounts to proceeds from their sale. However, if the price differs considerably from the market value of these objects or rights for no valid reason the proceeds are established by the treasury office at the level of market value.

2. The market value of real estate, property rights, or other objects is determined on the basis of average prices used in a given locality in trade in objects of the same class and type and kind, as of the day a sales contract is signed, taking into account their condition and degree of depreciation.

3. If the value expressed through a price stated in the sales contract differs considerably from the market value of such objects or rights, a treasury office shall call on the parties to the contract to change this value or indicate reasons which justify reporting a price which differs considerably from market value. If an answer is not given, the value is not changed, or reasons which justify reporting a price differing considerably from the market value the treasury office determines the value proceeding from the opinion of experts. If the value so determined differs by at least 33 percent from the value expressed through price the seller bears the cost of consultation by experts.

Chapter 3. The Cost of Generating Proceeds

Article 15. 1. Costs incurred to generate proceeds and the costs of operation of a corporate person, with the exception of costs referred to in Article 16, constitute the costs of generating proceeds. Costs incurred in foreign currencies are converted into zlotys at the rates posted by the National Bank of Poland for purchases foreign exchange as of the day the costs were incurred. If the costs are denominated in foreign exchange, and different exchange rates occurred between the day of their entry and the day of payment, these costs adjusted upward or downward, as appropriate, for the difference resulting from the application of the rate for the sale of foreign exchange as of the day of payment, which is established by a foreign exchange bank whose services the person incurring the cost used, and the application of the rate for sales posted by the National Bank of Poland as of the day the costs were entered.

2. The following also are costs of generating proceeds:

1) withholdings on account of the amortization of fixed assets and intangible and legal values (amortization allowances), as well as the net value of liquidating fixed assets which have not been completely amortized due to their wear or destruction,

2) complete or partial loss of fixed or working capital due to acts of God; the losses can be written off to the extent they are not covered by insurance payouts and amortization allowances,

3) expenditures for research and development, and experimental work, including those which ended unfavorably,

4) outlays on standardization and on developing and evaluating designs of inventions,

5) remunerations paid to the authors of designs of inventions, improvement proposals, and utility models, and awards associated with such projects,

6) actually paid interest on obligations, including loans (credit) and permanent charges which are associated with the source of proceeds, with the exception of those set forth in Article 16, Points 11, 12, and 14, and interest which, pursuant to Article 18, Paragraph 4 are to be subtracted from profits,

7) taxes, fees, and insurance premiums, with the exception of those referred to in Article 16, Point 8,

8) outlays indirectly incurred by the employer for the benefit of the employees if they are the result of a collective labor contract or other legal acts,

9) withholdings for the social and housing fund made along the guidelines, and in the amount set forth in separate regulations on enterprise social and housing funds,

10) amounts receivable which have been written off as uncollectable and reserves set aside to cover the amounts receivable which are very likely to be uncollectable, as well as other reserves if the duty to set them aside follows from other regulations, except for reserves set aside to cover amounts payable as interest,

11) outlays on advertisements in the mass media or otherwise publicly disseminated,

12) costs of representation and advertising effected in a manner other than that referred to in Point 11, up to the amount of 0.25 percent of proceeds,

13) allowances for the land reclamation fund—up to the amount set forth by the taxpayer for a given year in the plan for reclaiming post-production areas less the amount of the balance of this fund as of the beginning of the tax year,

14) outlays for the benefit of employees by virtue of using motor vehicles for the needs of the taxpayer:

a) for going on a business trip (long-distance travel)—up to the amount not exceeding the quota established by using rates per one kilometer of vehicle travel,

b) with regard to local travel—up to the amount of monthly lump-sum payment, or up to the amount not exceeding rates per one kilometer of vehicle travel

—set forth in other regulations which are in effect at state enterprises,

15) other outlays if other regulations establish the duty to count them toward costs.

3. The provision of Article 12, Paragraph 5 applies, as appropriate, with a view to establishing the value of raw and other materials self-produced within one's own crop or livestock farming, or forestry operations which are used in the for processing farm produce or foodstuffs or in special sectors of farming.

4. The costs of generating proceeds may be written off only in the tax year to which they apply, that is, the costs of generating proceeds incurred in the years preceding the tax year but applicable to the proceeds of the tax year may be written off, as well as the costs of generating profits of a definite type, and in a definite amount which have been entered even if not incurred yet, if they apply to proceeds in a given tax year, except if it was impossible to enter them; in the latter case, they may be written off in the year in which they were made.

5. The minister of finances shall specify, by executive order, which components of assets are recognized to be fixed capital and intangible and legal values, guidelines and rates for their amortization, as well as procedures and deadlines for updating the appraisal of fixed capital. The chairman of the Main Office of Statistics shall announce the conversion coefficients in the Official Gazette of the Republic of Poland MONITOR POLSKI and set forth procedures for using them in updating the the appraisal of fixed capital.

Article 16. The following are not considered to be costs of generating proceeds:

1) outlays on purchasing land or the right to use land in perpetuity, as well as outlays on the acquisition or manufacturing with one's own resources other fixed assets or intangible and legal values if such assets or values are subject to amortization allowances; however, such outlays, upon their updating in keeping with regulations issued on the basis of Article 15, Paragraph 5, less the amount of amortization allowances, and outlays on purchasing land or the right to use land in perpetuity are costs of generating profits for the purposes of calculating profits from the sale of objects and property rights, regardless of when such outlays were made,

2) outlays on taking over or acquiring shares or contributions in cooperatives, interest in a partnership, or shares and other securities, as well as outlays on the acquisition of participation units in trust funds,

3) withholdings and contributions to various funds, except if other laws provide for the duty or opportunity for the taxpayer to generate such funds including them in costs, or to make contributions to them,

4) outlays on paying obligations, including loans (credit), outlays on the cancellation or return of capital which is associated with creating (acquiring), enlarging, or improving the source of proceeds, and outlays associated with the cancellation of participation units in trust funds,

5) interest on proprietary capital invested by the taxpayer in the source of profits,

6) gifts and donations of all kinds,

7) the profit tax, the turnover tax on excessive or culpable losses of products, the tax on the growth of remunerations, dividends as defined in the law on the financial management of state enterprises, and amounts of interest on the capital of one-person partnerships of the State Treasury which are set forth in another law,

8) one-time indemnity payment by reason of labor-related accident and operational disease, an additional insurance premium in the event the worsening of working conditions is discovered,

9) enforcement costs entailed by a failure to meet obligations,

10) monetary fines and penalties adjudicated in the course of criminal, tax-criminal, and administrative proceedings, and interests on these fines and penalties,

11) penalties, fees, and damages, and interests on these obligations by virtue of:

a) failures to comply with regulations on environmental protection,

b) failures to carry out the instructions of proper oversight and control organs concerning violations in the area of operational safety and hygiene,

12) amounts payable which have been written as expired,

13) interest due to the late payment of amounts payable to the budget and other amounts payable to which the regulations of the law on tax obligations apply,

14) contract penalties and damages on account of defeats in the merchandise supply, work performed, or services provided, or delays in supplying goods which are free of defects, or delays in eliminating the defeats of merchandise, or of the work or services performed,

15) outlays on repurchasing bonds less the amount of discounts,

16) outlays associated with real estate in the case referred to in Article 13, Paragraph 2, Point 2,

17) amounts by which the basic operating fee for the mining of minerals has been increased in keeping with the mining law,

18) additional amounts which must be paid to the state budget in keeping with regulations on prices,

19) additional amounts of annual fees for failing to build up or develop land before certain deadlines set forth in other regulations on land use.

Chapter 4. Subject-Specific Exemptions

1. The following are tax-exempt:

1) profits from the sale of real estate which is a part of a farm, in total or in part; thee exemption does not apply to profits from the sale of land which, in conjunction with this sale, have ceased being farmland or forest land,

2) profits from the sale of real estate or the right to use in perpetuity on the basis of regulations on the protection and formation of the environment,

3) profits generated by the taxpayers referred to in Article 3, Paragraph 1, outside the territory of the Republic of Poland, if an international treaty to which the Republic of Poland is a part, so establishes,

4) the profits of taxpayers—with the exception of state enterprises, cooperatives, and companies—whose statutory objectives consist of research, research and technical activities, including those consisting of instructing students, as well as cultural activities, activities in the area of physical education and sport, environmental protection, support of public initiatives to build roads and telecommunication networks in rural areas and to provide water to rural areas, charity, health care and public welfare, professional rehabilitation of the handicapped, and religious worship—to the extent it is spent in the tax year or the year following it for these goals,

5) profits of companies whose only partners (shareholders) are organizations operating on the basis of the law—regulations on association, and whose statutory objective is to engage in the activities mentioned in Point 4—to the extent they are spent for these objectives in the tax year or the year following it and are transferred to benefit these organizations,

6) profits of trade unions, organizations of employees, and political parties which operate on the basis of other laws, to the extent they are spent for statutory purposes in the tax year or the year following it,

7) profits from operating schools for the purposes of regulations on the educational system—to the extent they are spent for school purposes in the tax year or the year following it,

8) profits of water management partnerships and their associations spent to maintain, operate, and build land-reclamation facilities in the tax year or the year following it,

9) profits from participation in a company which is a corporate person with the headquarters in the territory of the Republic of Poland spent during the tax year for the acquisition of interest or shares from the State Treasury or for purchases of bonds issued by authorized Polish entities on the condition that such interest, shares, or bonds shall not be sold until the end of 1993,

10) profits of taxpayers who employ handicapped individuals, to the extent and along the guidelines set forth in the law on the employment and professional rehabilitation on the handicapped,

11) profits from compensation paid pursuant to the provisions of the law on the expropriation of real estate, or from selling real estate for uses justifying its expropriation, as well as in conjunction with the exercise of the right of preemption by the buyer, in keeping with the provisions of the law on land use,

12) compensation receives under the provisions of administrative law, civil law, or on the basis of other laws,

13) profits from the membership dues of political, public, and professional organizations,

14) profits by virtue of entity-specific subsidies received from:

a) the state budget and budgets of self-government bodies,

b) state and self-government special funds,

15) profits from nonagricultural operations and special sectors of agriculture allocated for remunerations for the

labor of members of agricultural production cooperatives and other cooperatives engaged in farming, as well as their members—insofar as such remunerations are associated with the above operations.

2. The minister of finance, in coordination with the minister of public education, shall set forth by an executive order outlays which may be considered as made for the purposes of the school as referred to in Paragraph 1, Point 7.

Base of Taxation and Size of the Tax

Article 18. 1. Except as provided in Articles 21 and 22, income established in keeping with Article 7 less the following amounts to the base of taxation:

1) amount of gifts for research, research and technical, educational, educational and upbringing, cultural, and denominational purposes, as well as those of physical education and sports, environmental protection, support of public initiatives to build roads and telecommunication networks in rural areas and to provide water to rural areas, charity, health care and public welfare, professional rehabilitation of the handicapped, and also for the purposes associated with housing construction for territorial self-government bodies and fire stations as defined in regulations on State Fire Brigades and their equipment and maintenance—in amounts not exceeding 10 percent of the profit referred to in Article 7, Paragraph 3, or without limitation if other laws so provide; gifts for the benefit of individuals or corporate persons, or organizational units which are not corporate persons which accomplish the aforementioned tasks through engaging in economic operations, and individuals for whom such gifts amount to their personal income shall not be deducted,

2) amounts by which the basic operational fee for the mining of minerals has been reduced in keeping with the mining law,

3) dues paid to organizations to which a taxpayer must belong on a compulsory basis,

4) outlays on constructing a proprietary multifamily residential building, with residential units located in it being intended for rental, and outlays on purchasing a lot for the construction of this building.

2. The total amount of deductions by virtue of outlays actually made for the purposes set forth in Paragraph 1, Point 4 during the period the present law applies may not exceed the quota amounting to the product of 70 square meters of usable space, the conversion coefficient per one square meter of usable space in the residential building, established for the purpose of calculating guaranteed bonuses on deposits of housing passbook accounts for the third quarter of the year preceding the tax year, and the number of apartments intended for rent.

3. The outlays referred to in Paragraph 1, Point 4 which are not covered by the yearly profit of the taxpayer may be written off from profits generated in subsequent years, until they are written off in their entirety to the limit specified in Paragraph 2.

4. If a taxpayer received credit from a bank or a loan for the purposes outlined in in Paragraph 1, Point 4, the amounts of the credit or loan are subtracted from the amounts spent for these purposes, and payments on this credit or loan, together with interest, are written off in the years in which they are made.

5. If a taxpayer, on the basis of Paragraph 1, Point 4, wrote off his profits outlays incurred to construct a residential building with residential units located in it being intended for rental and then sold the building, or parts or dwellings therein, the segment of profit tax relief secured by applying Paragraph 1, Point 4 and attributable to the usable space sold shall be paid in within 14 days of the day of sale.

6. The quota amounting to the product of 70 square meters of usable space and and the conversion factor for one square meter which was referred to in Paragraph 2 is announced by the minister of finance in the Official Gazette of the Republic of Poland MONITOR POLSKI before 31 December of the year preceding the tax year.

7. The Council of Ministers may establish by an executive order that investment outlays are also eligible to be written off from profits if they are intended for economic operations and environmental protection, as well as outlays on streamlining the use of energy forms, and in particular the purchase and installation of heat and water meters; it may also establish guidelines and conditions for subtracting such outlays from profits.

Article 19. Except as provided by Articles 21 and 22, the tax amounts to 40 percent of the base of taxation.

Article 20. If the taxpayers referred to in Article 3, Paragraph 1 also generates profits outside the territory of the Republic of Poland, and these profits are subject to taxation in a foreign state, and the circumstances referred to in Article 17, Paragraph 1, Point 3 do not obtain, and the treaty on preventing dual taxation signed with the state does not provide otherwise, these profits are combined with profits generated in the territory of the Republic of Poland. In this case, an amount equal to the tax paid in the foreign state is subtracted from the tax calculated for on the basis of the combined total of profits. However, the subtracted amount may not exceed the portion of the tax calculated before the subtraction was made which, in proportion, is attributable to the profits generated in the foreign state.

Article 21. The profit tax by virtue of proceeds from copyright, rights to the design of inventions, trademarks, and decorative patterns, including proceeds from the sale of such rights, amount payable for making available the secrets of recipes or production processes for the use or the right to use an industrial, commercial, or scientific

device, for information associated with experience gained in the area of industry, commerce, or science (know-how) generated in the territory of the Republic of Poland by the taxpayers referred in Article 3, Paragraph 2 is set in the amount of 20 percent of the proceeds except if a treaty on the prevention of dual taxation signed with the country in which the taxpayer has his seat provides otherwise.

Article 22. The profit tax on dividend profits and other proceeds by virtue of a share of the profits of corporate persons which have seats in the territory of the Republic of Poland is set at 20 percent of the proceeds received.

Article 23. 1. The amount of tax collected on the dividend and other proceeds by virtue of a share of the profit of corporate persons which has seat in the territory of the Republic of Poland is subtracted from the amount of tax calculated in keeping with Article 19.

2. If it is impossible to make the subtraction referred to in Paragraph 1, the amount of the tax is subtracted in subsequent tax years, in keeping with the guidelines set forth in the above provision.

Article 24. 1. If the conditions referred to in Article 17, Paragraph 1, Points 4 through 9 are not met, taxpayers, except as provided in Paragraph 2, must file a declaration on an established form with a treasury office without a reminder, and pay the tax due before the 20th day of the month following the tax year in which the deadline for spending the profits for the purposes set forth in this regulations expired, together with accrued interest from the day the intention to spend profits for such purposes was declared, in the amount of one-half of the interest for delay in the back taxes collected.

2. The provision of Paragraph 1 does not apply to the tax referred to in Article 22, with the exception of the tax on profits by virtue of participation in a company which is a corporate person and has a seat in the territory of the Republic of Poland which were not spent during the tax year for the purposes referred to in Article 17, Paragraph 1, Point 9.

Chapter 6. Collection of the Tax

Article 25. 1. The taxpayers, except as provided in Paragraph 3 and Articles 21 and 22 must, without a reminder, file declarations on approved forms indicating the amount of profits (losses) generated from the beginning of the tax year and pay monthly installments amounting to the difference between the tax on profits generated since the beginning of the year and the total of installments due for the past months, to the account of the treasury office which has jurisdiction over the seat of the taxpayer.

2. The monthly installments referred to in Paragraph 1 for the period from the first month of the tax year to the month before last are collected before the 20th day of each month for the previous month. The installment for the last month is collected in the amount of the installment for the previous month before the 20th day of the last month of the tax year; the final settlement for the tax for the tax year occurs as the the time set for the filing of a return concerning the amount of profits generated in the previous year.

3. The provision of Paragraph 1 does not apply to auxiliary facilities of unit financed from the budget and to taxpayers whose income is exempt from taxation in its entity with the exception of the taxpayers referred to in Article 17, Paragraph 1, Points 4 through 8 and 10.

Article 26. 1. Corporate persons and organizational units which are not corporate persons, as well as individuals who are economic subjects, and who pay the amounts due by virtue of provisions referred to in Articles 21 and 22 must, as payers, collect, except as provided in Paragraph 2 lump-sum profit tax on these payments on the day these payments are made, except if the taxpayer makes a statement to the payer that he is spending profits from his participation in a company for the purposes set forth in Article 17, Paragraph 1, Point 9, and the taxpayers referred to in Article 17, Paragraph 1, Points 4 through 8—a statement that they are spending dividend profits and other proceeds by virtue of a share in the profits of corporate persons for the purposes referred to in these provisions.

2. If profits are earmarked for increasing authorized or joint stock capital the payers referred to in Paragraph 1 collect the tax within 14 days from the day proceedings of the court of registration concerning the entry on increasing authorized or joint stock capital become legally valid.

3. The payers referred to in Paragraph 1 transfer the amount of the tax to the account of the treasury office which has jurisdiction over the seat of the taxpayer before the seventh day of the month in which the tax was collected, in keeping with Paragraph 1 and 2; in the case of the taxpayers referred to in Article 3, Paragraph 2, the tax is transferred to the account to of the treasury office which has jurisdiction over matters of taxing foreign persons. The payers must send to the treasury office a declaration, and to the taxpayer a report on the tax collected drawn up on approved forms at the time when the amount of the collected tax is transferred.

Article 27. 1. Taxpayers must file returns on approved forms with treasury chambers concerning the amount of profits (losses) generated in the tax year, on a preliminary basis—before the end of the second month of the next year, at which time they must pay the tax due or the difference between the tax due on the profit indicated on the return and the total of installments due for the period since the beginning of the year. The taxpayers must file returns with the final amount of income within 10 days of the day an annual financial report is verified (confirmed), but no later than the end of six months of the next tax year. The tax based on the return is the tax due

for a given tax year, except if the treasury office issues a ruling in which it sets a different amount of tax.

2. The taxpayers who must draw up a balance sheet and an account of results append to their returns a confirmed annual report and an account of results together with a statement and a report by a unit authorized to review financial reports; companies also append to the return stating the final amount of profits a copy of the decision of a general meeting (meeting of partners) which confirms the annual balance and the account of results.

Article 28. 1. Taxpayers who have plants (divisions) which draw up balance and accounts of results append to the declaration (return stating the amount of profits) data on the amount of the share of the profit tax due to gminas which are referred to in other regulations.

2. With a view to calculating the shares of gminas, the taxpayers referred to in Paragraph 1 must establish, in keeping with the law, the tax which would be due on their enterprises (divisions).

3. If some plants (divisions) of a taxpayer referred to in Paragraph 1 and the tax year (period) with a loss, the tax on other plants (divisions) shall be revised by using a coefficient which amounts to the ratio of the tax due from the taxpayer and the amount of tax calculated in keeping with Paragraph 2.

Chapter 7. Amendments of Existing Regulations

Article 29. The following amendments are made in the law, dated 16 December 1972, on the turnover tax (DZIENNIK USTAW, 1983, No. 43, Item 191, 1985, No. 12, Item 50, 1989, No. 3, Item 12, and No. 74, Item 443, as well as 1991, No. 9, Item 30 and No. 35, Item 155):

1) in Article 3, Paragraph 1, Point 7 will read as follows:

"7) the proceeds which are referred to in Article 12, Article 13, Points 2 through 8, and Article 57 of the law, dated 26 July 1991 on the income tax on individuals (DZIENNIK USTAW, No. 80, Item 350 and No. 100, Item 442)";

2) in Article 11, Paragraph 1 will read as follows:

"1. Customs offices must calculate the turnover tax due on goods brought in or shipped from foreign countries and transfer the tax collected in five day period to the account of the treasury office which has jurisdiction over the seat of the customs office within three days after the end of each period."

Article 30. The following amendments are made in the law, dated 19 December 1980, on tax obligations (DZIENNIK USTAW, No. 27, Item 111, 1982, No. 45, Item 289, 1984, No. 52, Item 268, 1985, No. 12, Item 50, 1988, No. 41, Item 325, 1989, No. 4, Item 23, No. 33, Item 176, No. 35, Item 192 and No. 74, Item 443, 1990, No. 34, Item 198, as well as 1991, No. 100, Item 442 and No. 110, Item 475):

1) in Article 12, Point 2 the words "which are units of the socialized sector" are omitted;

2) in Article 47, the words "limited [partnership] who is not a limited partner" are added, after the comma, following the word "general [partnership]."

Article 31. The following amendents are made in the law, dated 26 July 1982, on the taxation of units in the socialized sector (DZIENNIK USTAW, 1987, No. 12, Item 77, 1989, Item 3, Item 12, No. 35, Item 192, and No. 74, Item 443, 1990, Item 21, Item 126, as well as 1991, No. 9, Item 30, and No. 80, Item 350):

1) in Article 24, the words "with the exception of preferences for the cooperatives of the handicapped" are omitted;

2) in Article 26, Points 5, 8, and 9 are omitted;

3) in Article 27a, Paragraph 1 will read as follows:

"1. Customs offices must calculate the turnover tax due on goods brought in or shipped from foreign countries and transfer the tax collected in five-day periods to the account of the treasury office which has jurisdiction over the seat of the customs office within three days after the end of each period";

4) Article 55 is omitted;

5) in Article 57, Paragraph 1, "1991" is replaced with "1992."

Article 32. The following amendments are in the law, dated 15 November 1984, on farm tax (DZIENNIK USTAW, No. 52, Item 268, 1986, No. 46, Item 225, 1988, No. 1, Item 1, 1989, No. 7, Item 45, No. 10, Item 53, No. 35, Item 192 and No. 74, Item 443, 1990, No. 35, Item 198 and 1991, No. 7, Item 24, No. 80, Item 350 and No. 114, Item 494:

1) in Article 1:

a) in Paragraph 1, the words "as well as profits from certain types of crop farming and animal husbandry hence forth referred to as 'special sectors of agricultural production,'"

b) Paragraphs 4 and 5 are omitted;

1) in Article 3:

a) in Paragraph 1, the words "on land" are omitted,

b) Paragraph 2 is omitted;

c) in Paragraph 3, the words "by virtue of the titles set forth in Paragraphs 1 and 2" are replaced with the words "which were referred to in Paragraph 1";

d) in Paragraph 4, the words "or a special sector of agricultural production" are omitted;

e) Paragraph 5 is omitted;

f) in Paragraph 6 the words "or gmina" are added after the words "the State Treasury," and the words "on land" are omitted;

g) in Paragraph 7, the words "or land on which a special sector of agricultural production is operated";

3) in Article 3a, Point 2, the words "people's councils" are replaced with the word "gminas";

4) the title of Chapter 2 should read: "Guidelines for Establishing the Tax";

5) in Article 4:

a) in Paragraph 1, the words "on land" are omitted;

b) Paragraph 3 will read as follows:

"3. Land under structures, including facilities used to operate special sectors of agricultural production on a farm, should be converted into standard hectares";

c) Paragraph 6 is added, which reads:

"6. Gardens are converted into standard hectares by using a coefficients specified in Paragraph 5 for arable land, provided that coefficients for the IIIa and IVa classes are used for gardens of classes III and IV as appropriate";

6) in Article 5:

a) in Paragraph 2, the words "voivodship people's council on the suggestion of the local organ of state administration with general jurisdiction at the voivodship level" are replaced with the words "the voivode on the suggestion of the gmina council";

b) in Paragraph 3, the words "the people's council at the primary level on the request of the local organ of state administration with general jurisdiction at the primary level" are replaced with the words "the gmina council";

7) in Article 6:

a) in Paragraph 1, the words "on land" are omitted;

b) in Paragraph 2, the words "of the People's Republic of Poland" are replaced with the words "of the Republic of Poland";

8) in Article 6a, the words "on land" are omitted, the word "gmina" is added after the word "proper," and the words "people's council at the basic level" are omitted;

9) Article 6b is added which reads:

"Article 6b gmina council may order the collection of the farm tax from individuals and units other than those mentioned in Article 6a, by way of cash collection and specify cash collectors and the amount of remuneration or cash collection";

10) Chapter 3 is omitted;

11) in Article 12, the words "on land" are omitted in Paragraphs 1 and 3;

12) in Article 13, Paragraphs 2 the words "is granted after the completion of an investment project and" are added after the words "investment preference";

13) in Article 13a, Paragraph 1, Point 2 and in Paragraph 2 the words "on land" are omitted;

14) in Article 13b, Paragraph 1, "IVa, IV, IVb, and V" are replaced with "IVa, IV, and IVb."

Article 33. The following amendments are made in the law, dated 31 December 1989, on stamp duty (DZIENNIK USTAW, No. 4, Item 23 and No. 74, Item 443);

1) in Article 3, Paragraph 1, Point 5, Letter A will read as follows:

"a) sales contracts signed in the course of economic operation (manufacturing, construction, commercial, and service)";

2) in Article 4:

a) in Paragraph 2, Point 2, the period after the words "civil-law" is replaced with a comma, and the words "except as provided by Paragraph 3" are added;

b) Paragraph 3 is added, which reads:

"3. If one of the parties to an act under civil law is an individual, a corporate person, or an organizational unit which is not a corporate person which/who is exempt from stamp duty the responsibility for the payment of the duty devolves jointly and severally, solely on other parties to this transaction";

3) in Article 9:

a) in Point 1, the amounts "5,000 zlotys" and "500 zlotys" are replaced in the amounts "15,000 zlotys" and "1,500 zlotys," respectively;

b) in Point 2, the amount "2,000 zlotys" is replaced with the amount "600,000 zlotys";

c) in Point 3, the amounts "100,000 zlotys" and "3,000 zlotys" are replaced with the amounts "300,000 zlotys" and "9,000 zlotys" respectively;

d) in Point 4, the amounts "10 million zlotys" and "2,000 zlotys" are replaced with the amounts "30 million zlotys" and "6,000 zlotys," respectively;

e) in Point 5, the amount "100,000 zlotys" is replaced with the amount "300,000 zlotys";

4) in Article 10, Paragraph 1:

a) Point 2 will read as follows:

"2) in contracts to exchange:

"a) premises which amount to a separate real estate unit or the cooperative property right to residential premises

for such premises or the right to premises—the different between market values of the exchange premises or the right to such premises;

"b) in other cases—the market value of the object or property right on which higher fee is due";

b) Point 14 shall read:

"14) on a ticket or another documents which entitles individuals to travel (fly) issued by a carrier who has a seat in Poland or operates through his representative office (authorized representative, agent)—the amount of payment due for carriage and for other services which the carrier undertook to provide."

Article 34. The following amendments are made in the law dated 22 January 1991 on local taxes and fees (DZIENNIK USTAW, No. 9, Item 31, and No. 101, Item 444:

1) in Article 5, Paragraph 1, Point 5, Letter A, the words "other than agricultural or forestry" are added after the words "economic activities";

2) in Article 7, Paragraph 1, the words "as well as land under flowing waters and navigable canals" are added at the end of Point 6;

3) in Article 10, Paragraph 1:

a) in Point 1, the amount "40,000 zlotys" is replaced with the amount "70,000 zlotys";

b) in Point 1, the amount "150,000 zlotys" is replaced with the amount "500,000 zlotys";

c) in Point 3, the amount "500,000 zlotys" is replaced with the amount "3 million zlotys";

d) in Point 4, the amount "900,000 zlotys" is replaced with the amount "3.5 million zlotys."

Article 35. The following amendments are made in the law dated 26 July 1991, on the individual income tax (DZIENNIK USTAW, No. 80, Item 350, and No. 100, Item 442):

1) in Article 2, Paragraph 1, the current Points 2 and 3 are designated Points 3 and 4, and Points 2 is added which reads:

"2) proceeds from forestry for the purposes of the law on forests";

2) in Article 11, Paragraph 3, a second sentence is added which reads:

"If proceeds are denominated in foreign currencies, and different currency exchange rates existed between the day they were generated and the day they were actually received, these proceeds are increased or reduced, as appropriate, by the amount of differences due to using the exchange rate of the currency for purchases as of the day the proceeds were actually received which was posted by the foreign-exchange bank whose services the person obtaining proceeds used, and the use of the exchange rate for purchases posted by the National Bank of Poland as of the day the proceeds were received";

3) in Article 14, Paragraph 3 is added, which reads:

"3. The proceeds referred to in Paragraphs 1 and 2 do not include:

"1) fees collected or amounts due entered in the books by virtue of the delivery of goods and services to be performed in subsequent reporting period,

"2) interest on the amounts payable which has accrued but has not been received";

4) in Article 16, Paragraph 2, the word "educational" is added after the words "scientific-technical";

5) in Article 21, Paragraph 1:

a) in Point 10, the comma at the end is omitted and the words "or the money equivalent of such clothing" are added;

b) Point 15 will read as follows:

"15) benefits received on account of being in nonprofessional military service or other alternative or equivalent forms thereof, with the exception of periodic or extended service";

c) in Point 32, Letter A, the word "and" after the word "cooperative" is omitted;

d) in Point 34, the words "on the condition that such interest, shares, or bonds shall not be sold until the end of 1993" are added;

e) Point 36 will read as follows:

"36) profits from operating schools for the purposes of regulations on the educational system—to the extent they are spent for school purposes in the tax year or the year following it";

6) in Article 22:

a) in Paragraph 1, a third sentence is added, which reads:

"If the costs are denominated in foreign exchange, and different exchange rates occurred between the day of their entry and the day of payment, these costs adjusted upward or downward, as appropriate, for the difference resulting from the application of the rate for the sale of foreign exchange as of the day of payment, which is established by a foreign exchange bank whose services the person incurring the cost used, and the application of the rate for sales posted by the National Bank of Poland as of the day the costs were entered";

b) in Paragraph 2, the words "3 percent" and "annually" are replaced with the words "0.25 percent" and "monthly";

c) in Paragraph 3:

—Point 6 will read as follows:

"6) actually paid interest on obligations, including loans (credit) and permanent charges which are associated with the source of proceeds, with the exception of those set forth in Article 23, Points 10, 11, and 13, and interest which, pursuant to Article 26, Paragraph 10 are to be deducted from profits";

—in Point 10, the comma is omitted and the words "except for reverse set aside to cover amounts due by virtue of interest" are added;

7) in Article 23:

a) in Point 4, the word "(credit)" is added after the word "loans";

b) Point 13 will read as follows:

"13) interest due to the late payment of amounts payable to the budget and other amounts payable to which the regulations of the law on tax obligations apply";

c) in Point 13, the words "and damages" are added after the word "contractual";

d) the comma after Point 15 is omitted, and Points 16 through 18 are added which read:

"16) amounts by which the basic operational fee for the mining of minerals has been increased in keeping with the mining law;

"17) additional amounts which must be paid to the state budget in keeping with regulations on prices;

"18) additional amounts of annual fees for failing to build up or develop land before certain deadlines set forth in other regulations on land use";

8) in Article 24, Paragraph 2, in the second sentence the words "by increased" are replaced with the word "increased";

9) in Article 26:

a) in Paragraph 1:

—Point 1 will read as follows:

"1) gifts for research, research and technical, educational, educational and upbringing, cultural, and denominational purposes, as well as those of physical education and sports, environmental protection, support of public initiatives to build roads and telecommunication networks in rural areas and to provide water to rural areas, charity, health care and public welfare, professional and social rehabilitation of the handicapped, and also for the purposes associated with housing construction for territorial self-government bodies and fire stations as defined in regulations on State Fire Brigades and their equipment and maintenance—in amounts not exceeding 10 percent of the profit or without limitation if other laws so provide; gifts for the benefit of individuals or corporate persons, or organizational units which are not corporate persons which accomplish the aforementioned tasks through engaging in economic operations, and individuals for whom such gifts amount to their personal income shall not be subtracted";

—after Point 8, the comma is omitted and Point 9 is added which reads:

"9) by which the basic operational fee for the mining of minerals has been reduced in keeping with the mining law";

b) in Paragraph 13, the words "an environmental protection" are added after the word "economic";

10) in Article 27:

a) Paragraph 2 will read as follows:

"2) If an amount of proceeds smaller than 12 million zlotys on an annual basis remains after deducting the tax on the scale set forth in Paragraph 1, in the case of taxpayers who derive proceeds exclusively from retirement benefits and annuities which are not subject to increases in keeping with Article 55, Paragraph 6, that tax is levied only in for the quarter exceeding these amounts."

b) Paragraph 2a is added, which reads:

"2a) provisions of Paragraph 2 are used if the right to benefits set forth therein and the tax obligations existed as of 1 January 1992 or arose beginning with benefits due from this day on."

11) in Article 28, Paragraph 2, the comma at the end is omitted and the words "to the account of the treasury office which has jurisdiction of the place of residence of the taxpayer, except if the taxpayer files, at the same time, a declaration that profits generated from the sale will be used for the purposes set forth in Article 21, Paragraph 1, Point 32, Letter A";

12) in Article 30:

a) in Paragraph 1, Point 3 is added after Point 2, which reads:

"3) from undisclosed sources of proceeds";

b) Paragraph 2 will read as follows:

"2. The tax on the profits referred to in Paragraph 1:

"1) in Points 1 and 2, is set in the form of a lump-sum payment at the rate of 20 percent of the proceeds received;

"2) in Point 3, is is set at the rate of 75 percent of profits."

13) in Article 31, Paragraph 2, the words "the profits set forth in Article 13, Points 7 and 8, and" are omitted;

14) in Article 32:

a) in Paragraph 2, after the words "in Article 22, Paragraph 2," the following sentence is added: "If an employee draws such proceeds simultaneously at several enterprises the cost of generating them is deducted only from the proceeds obtained from one enterprise indicated in the declaration which is referred to in Paragraph 3";

b) in Paragraph 3, Point 5, after the word "proper," the words "for deducting the cost of generation and";

15) in Article 33, Paragraph 1, the words "other profits set forth in Article 13, Paragraphs 7 and 8, and" are omitted;

16) Article 36 will read as follows:

"Article 36. The provision of Article 27, Paragraph 2 applies, as appropriate, in determining prepayment and the making annual computations in the case of taxpayers who draw proceeds solely from retirement benefits and annuities not subject to increases pursuant to Article 55, Paragraph 6, provided that the prepayment equals the amount exceeding one-twelveth of the quota specified in this regulation";

17) in Article 37. Paragraph 1, the words "Articles 31, 33, or 34" are replaced with the words "Articles 31, 33, 34, or 35";

18) in Article 38:

a) in Paragraph 1, after the words "in Article 31, Paragraph 2," the words "33 Paragraph 1, 34, Paragraph 1, and 35, Paragraph 1,"

b) in Paragraph 3:

—after the second sentence, a new sentence is added which reads:

"The payers transfer the difference collected to the account of a treasury office together with prepayment for these months."

—in the last sentence, the words "enterprise" are replaced with the word "payer";

19) in Article 39, Paragraph 4, the words "Paragraph 1 and Article 36" are replaced with the words "Articles 36, 37, Paragraph 1, and 38, Paragraphs 1, 3, and 4";

20) in Article 41:

a) in Paragraph 1, after the word "collect," the words "except as provided by Paragraph 1a" are added;

b) Paragraph 1a is added, which reads:

"1a. If profits are earmarked for increasing authorized or joint stock capital the payer referred to in Paragraph 1 collects the lump-sum income tax within 14 days from the day proceedings of the court of registration concerning the entry on increasing authorized or joint stock capital becomes legally valid."

c) in Paragraph 4, after the word "police," a comma and the words "treasury audit" are added;

21) in Article 43, Paragraph 2, after the word "file," the words "in addition" are added;

22) in Article 54, Paragraph 2 will read as follows:

"2. Provisions:

"1) of the laws referred to in Paragraph 1, Points 1 and 3 through 7 apply to levying taxes on profits generated before 31 December 1991;

"2) of the law referred to in Paragraph 1, Point 2 apply to the levying of taxes on remunerations included in the operating cost of economic units before 31 December 1991";

23) in Article 55:

a) Paragraph 1 will read as follows:

"1. Enterprises will increase remunerations due to their employees for January 1992 by recomputing it so that, upon deducting the income tax from these remunerations, they are not lower than the remunerations for this month before the recomputation, except as provided in Paragraphs 2 through 5. If the remuneration due for January 1992 is paid before 1 January of that year, the enterprise shall increase the remunerations duty for February 1992";

b) in Paragraph 6, after the words "upon subtracting the profit tax," the words "from these retirement benefit and annuities" are added;

c) Paragraph 7 is omitted.

Article 36. In the law, dated 24 August 1991, on state fire brigades (DZIENNIK USTAW, No. 88, Item 400), Paragraph 2 in Article 6 and the designation of Paragraph 1 are omitted.

Chapter 8. Provisional and Final Regulations

Article 37. In 1992 and 1993, the following are exempt from the profit tax on corporate persons:

1) profits from the sale of interest in companies and shares, bonds, and other securities, with the exception of cases when such sales are the subject of economic operations;

2) enterprises reporting to the ministers of national defense and internal affairs if they transfer funds due them by virtue of this exemption to the account of the supervising organ, to be earmarked for development purposes, and enterprises operating at correctional and pretrial detention facilities if they transfer funds due them by virtue of this exemption to the account of the supervising organ, to be earmarked for the purpose of developing these enterprises and organizational units of the prison system.

Article 38. 1. The minister of finance may, by executive order, exempt from the tax profits of the kinds other than those referred to in Article 17, Paragraph 1, in full or in part, and set forth conditions for such exemptions.

2. The exemptions set forth in the regulations issued pursuant to Paragraph 1 may not apply beyond the end of 1992.

Article 39. The following are invalidated:

1) the law, dated 31 January 1989, on the profit tax on corporate persons (DZIENNIK USTAW, 1991, No. 49, Item 216, No. 80, Item 350, and No. 101, Item 444);

2) Article 12, Paragraph 4 of the law, dated 28 December 1989, on amending certain laws regulating guidelines for taxation (DZIENNIK USTAW, No. 74, Item 443).

2. The provisions of the law referred to Paragraph 1, Point 1 apply to the taxation of profits generated before 1 January 1992.

3. Temporary exemptions from the profit tax to which taxpayers became entitled before 1 January 1992 shall remain in effect until their expiration.

4. Taxpayers which:

1) made the outlays in 1991 which are referred to in Article 16, Paragraph 1, Point 1 of the law referred to in Paragraph 1, Point 1;

2) used until the end of 1991 the deduction of outlays from profits under Article 12, Point 4 of the law referred to in Paragraph 1, Point 2,

retain the right to deduct outlays made during this period until they run out, taking into account the provisions of Article 16, Paragraphs 3 and 4 of the law referred to in Paragraph 1, Point 1.

Article 40. 1. Except as provided in Paragraph 2, the provision of specific laws granting relieve and exemptions from the profit tax on corporate persons are canceled, and the relieve and exemptions granted on the basis of these provisions are abolished.

2. The provision of Paragraph 1 does not apply to relieve and exemptions from the profit tax granted on the basis of provisions in the following laws:

1) dated 17 May 1989, on relations between the state and the Catholic Church in the Republic of Poland (DZIENNIK USTAW, No. 29, Item 154, 1990, No. 51, Item 297, No. 55, Item 321, and No. 86, Item 504, as well as 1991, No. 95, Item 425 and No. 107, Item 459);

2) dated 17 May 1989, on guarantees of the freedom of conscience and religion (DZIENNIK USTAW, No. 29, Item 155, 1990, No. 51, Item 297, No. 55, Item 321, and No. 86, Item 504, as well 1991, No. 95, Item 425);

3) dated 20 January 1990, on changes in the organization and operation of cooperatives (DZIENNIK USTAW, No. 6, Item 36, No. 11, Item 74, No. 25, Item 175, and No. 34, Item 198, as well as 1991, No. 83, Item 373);

4) dated 9 May 1991, on the employment and professional rehabilitation of the handicapped (DZIENNIK USTAW, No. 46, Item 201, No. 80, Item 350, and No. 110, Item 472);

5) dated 14 June 1991, on companies with foreign participation (DZIENNIK USTAW, No. 60, Item 253, No. 80, Item 350, and No. 111, Item 480);

6) dated 4 July 1991, on relations between the state and the Polish Autocephalic Orthodox Church (DZIENNIK USTAW, No. 66, Item 287, and No. 95, Item 425);

7) dated 25 October 1991, on the organization and conduct of cultural activities (DZIENNIK USTAW, No. 114, Item 493).

Article 41. The minister of finance shall publish in DZIENNIK USTAW uniform texts of the laws referred to in Articles 30, 32, and 35, taking in account changes resulting from the regulations released before the day of publication of the uniform text using the continues numbering of articles, paragraphs, and points.

Article 42. The law is enacted on the day of release, taking effect from 1 January 1992, with the exception of Articles 30 and 33, which are enacted on the day of release.

Law on Minimum Wage, Wage Indexing

92BA0817A Bucharest MONITORUL OFICIAL in Romanian 3 Apr 92 pp 3, 4

["Text" of Romanian Government Decision on Correcting the Salary Indexing Coefficient at Commercial Firms With Majority State Capital and at Autonomous Managements Where Salaries Are Negotiated and on Raising the Nationwide Minimum Base Pay Envisaged in Government Decision No. 19/1992, for the March-April 1992 Period, issued in Bucharest on 27 March]

[Text] The Romanian Government decrees:

Article 1—(1) In view of the fact that consumer prices rose higher than the level forecast for the January-April 1992 period, at commercial firms with majority state capital and at autonomous managements at which salaries are established by negotiation, the fund earmarked for salary payment for which no additional tax is paid will be determined for the months of March and April 1992 on the basis of the reference salary fund and an indexing coefficient of 40.5 percent instead of 25 percent as had been envisaged in the Government Decision No. 19/1992 on setting the nationwide minimum base pay and the wage indexing coefficient for the January-April 1992 period.

(2) The 40.5 coefficient envisaged in Paragraph (1) also includes the 1 percent correction decreed on the basis of Government Decision No. 120/1992 for ensuring the real wage level agreed upon for the months of November and December 1991.

Article 2—As of 1 March 1992 the nationwide minimum base pay will be 9,150 lei per month for a full work schedule of 170 hours per month on the average, which translates into 53.80 lei per hour.

Article 3—The provisions of the present decision will be implemented within the limits of the prices and tariffs recorded by economic enterprises, in keeping with Government Decision No. 776/1991.

Article 4—The taxable individual monthly pay steps that will be applicable as of March 1992, established on the basis of the indexing coefficient envisaged in Article 1, are given in the annex.

Article 5—The provisions of Government Decision No. 120/1992 on correcting the salary indexing coefficient at commercial firms with majority state capital and at autonomous managements at which salaries are negotiated, envisaged in Government Decision No. 19/1992 for the March-April 1992 period, will be abrogated.

[signed] Theodor Stolojan, prime minister

Countersigned: Dan Mircea Popescu, minister of labor and social protection
George Danielescu, minister of economy and finance
Florian Bercea, minister for the budget, state revenues, and financial control

Bucharest, 27 March 1992 No. 149

Annex

Taxable Income Steps and Tax Brackets Applicable as of Payment of March 1992 Wages

Taxable Monthly Income	Monthly Tax
Up to 1,100 lei	6 percent
1,101-1,300 lei	66 lei + 10 percent for anything above 1,100 lei
1,301-1,700 lei	86 lei + 18 percent for anything above 1,300 lei
1,701-2,800 lei	158 lei + 22 percent for anything above 1,700 lei
2,801-4,600 lei	400 lei + 23 percent for anything above 2,800 lei
4,601-6,900 lei	814 lei + 24 percent for anything above 4,600 lei
6,901-11,500 lei	1,366 lei + 25 percent for anything above 6,900 lei
11,501-16,100 lei	2,516 lei + 26 percent for anything above 11,500 lei
16,101-22,900 lei	3,712 lei + 28 percent of anything above 16,100 lei
22,901-34,400 lei	5,616 lei + 31 percent for anything above 22,900 lei
34,401-45,900 lei	9,181 lei + 35 percent for anything above 34,400lei
45,901-57,400 lei	13,206 lei + 40 percent for anything above 45,900 lei
Over 57,400 lei	17,806 lei + 45 percent for anything above 57,400 lei

Law on Indexing of Pensions, Other Incomes

92BA0817B Bucharest MONITORUL OFICIAL in Romanian 3 Apr 92 pp 9-11

["Text" of Romanian Government Decision on Correcting the Indexing Coefficient for Social State Security Pensions, Military Pensions, War Invalids, Orphans and Widows Pensions, and other Individual Incomes as of 1 March 1992, issued in Bucharest on 27 March 1992]

[Text] The Romanian Government decrees:

Article 1. As of 1 March 1992 the following individual incomes will be indexed by 12.64 percent:

a) State social security pensions, military, and IOVR [War Invalids, Orphans, and Widows] pensions, and the care allowances allocated to pensioners with invalidity level I.

b) Social assistance allocated on the basis of the pensions legislation.

c) The pensions of persons who lost their working ability totally or partially; the pensions of the heirs of persons who died in the struggle for the victory of the revolution of December 1989; the care allowances of persons classified as invalids level I, and the monthly allowances

allocated to the mothers of martyred heroes in accordance with Law No. 42/1990 and later amendments.

d) The IOVR allowances and increments allocated on the basis of Law No. 49/1991.

e) The quarterly aid payments allocated in accordance with Decree-Law No. 70/1990.

f) Aid to spouses of enlisted military men.

g) Ad-hoc aid allocated in accordance with Council of Ministers Decision No. 454/1957.

h) Maintenance payments for minors entrusted to the care of foster families or persons.

i) The monthly aid payments established in keeping with Article 14 of Law No. 23/1969.

j) Unemployment relief for the unemployed who were on the payroll on 1 March 1992.

k) The amount of the monthly allowance for each year of detention, internment, house arrest, or exile, allocated on the basis of Decree-Law No. 118/1990 and subsequent amendments.

l) The allowances envisaged in Article 1 par. 1 and 2 of Government Decision No. 610/1990 regarding benefits for the blind.

Article 2. State child allowances will be raised by 100 lei for each child.

Article 3. The aid allocated by law on the death of a wage earner or pensioner will be set at 4,500 lei and 3,400 lei on the death of a family member.

Article 4. Food allowances for collective meals in state social units will be indexed in line with the increases in the price of foodstuffs and are given in Annex No. 1.

Article 5. The amount of scholarships awarded to school children and students resulting from indexation in keeping with the present decision are given in Annex No. 2.

Article 6. Social protection regarding medication used in ambulatory treatment will continue to be provided in accordance with the regulations envisaged in Government Decision No. 219/1991.

Article 7. The benefits due to persons who on or after the date of indexation were temporarily incapacitated for work, on maternity leave, on leave to care for a sick child or for a child under one year of age, or in any other situation in which benefits are established by law as a percentage of the base pay, will be set on the basis of the new amount of the base pay.

Article 8. (1) As of 1 March 1992, the amounts resulting after the indexation will be included into the benefits to which they refer, thus obtaining their new amounts.

(2) The amounts representing the results of the indexation will be borne from the same funds as the indexed benefits.

(3) The amounts resulting from the indexation in accordance with the present decision, those representing the indexation and compensation envisaged in Government Decisions No. 219/1991, 579/1991, 780/1991, and 20/1992, and the amounts resulting from the pension increase flowing from Government Decision No. 526/1991 will not be included in the calculation of the revenues on the basis of which are established the rents for state housing, state child allowances, the contributions of legal guardians of persons committed to social welfare institutions, quarterly and ad-hoc aid payments, the discounts awarded to pensioners for the purchase of prostheses and dentures, and the right to social welfare kitchens.

(4) The ceilings regulated under Government Decision No. 360/1991, on the basis of which is established the contribution owed by parents to the maintenance of children in nurseries and kindergartens, are given in Annex No. 3.

Article 9. The cost of warm meals and food allocations awarded in accordance with the regulations in force to the employees of certain autonomous managements and commercial firms with majority state capital, which are borne from the production expenditures established by negotiation upon the signing of collective labor contracts, will be increased by up to 18.5 percent, which represents the difference between the actual increase and the forecast increase in foodstuff prices.

Article 10. Cooperative and civic enterprises with majority private capital and social security systems other than the state systems are advised to implement the social protection measures envisaged in the present decision.

Article 11. Failure to observe the provisions of the present decision will incur disciplinary, material, or penal punishment according to case, in keeping with the law.

[signed] Theodor Stolojan, Prime Minister

Countersigners: Dan Mircea Popescu, Minister of Labor and Social Protection
George Danielescu, Minister of Economy and Finance
Florian Bercea, Minister for the Budget, State Revenues, and Financial Control

Bucharest, 27 March 1992 No. 150

Annex No. 1

Daily Food Allocations for Collective Meals at State Social Units

Education System	**Lei/Day**
Children in extended day kindergartens	108
Children at weekly kindergartens	121
Children at preschool homes and special kindergartens	148
School children and youth at children's homes	132
School children and youth at special care and education units for recoverable and partially recoverable mentally deficient and at training or retraining centers for the mentally deficient and for the handicapped	157
School children in special reeducation schools	108
Children in elementary and intermediate schools	108
High school students	110
Vocational school students	114
Students in complementary and trade schools	108
Students in post-high school schools	116
Students	132
Students suffering of stabilized forms of tuberculosis, in special schools	157
Professional and cultural-artistic competitions for school children and students at county, regional, and final levels, and participants in international olympics	132
Children in summer and other camps and on trips	132
Children in international camps	157
Health System	**Lei/Day**
Adult patients hospitalized in medical facilities	157
Patients on a one-day stay in medical facilities	79
Premature babies in maternity facilities or wards (for breast-fed babies, the mother may receive the newborn's allocation	25
Children 0-3 years old hospitalized in medical facilities	79
Children 3-16 years old hospitalized in medical facilities	132
Children in daily kindergartens	79
Children in weekly nurseries	121
Babies in young nurseries	121
Victims of burns, hospitalized in medical facilities	208
Patients in leper colonies	264
Persons accompanying patients hospitalized in medical facilities	157
Allocation for one 0.5 liter milk ration at milk kitchens	17
Blood donors	266
Foreign citizens hospitalized at the National Institute of Geriatrics and Gerontology	529
Social Assistance	**Lei/Day**
Homes for old people and pensioners	121
Medical care homes for adults	148
Homes for handicapped minors and reception centers for minors	157
Social welfare kitchens	108
Sports	Lei/Day

The amounts of the current daily food allocations will be determined by indexing the October 1991 levels by 67 percent.

Annex No. 2

Amounts of Tuition and Merit Scholarships for School Children and Students

	Lei/Month
1. Preuniversity Education	
a) Tuition scholarships	4,130
b) Merit scholarships	1,240
c) Scholarships for students from the Republic of Moldova	5,450
2. University Education	
a) Category I education scholarships	6,120
b) Category II education scholarships	5,290
c) Category III education scholarships	4,460
d) Merit scholarships	1,650
e) Scholarships for students from the Republic of Moldova:	
—Education scholarships	6,610
—Scholarships for postgraduate, specialization, or doctorate students	8,260
f) Scholarships granted by the Romanian state for foreign students:	
—Student scholarships	6,610
—Postgraduate scholarships	8,260

Annex No. 3

Ceilings Serving To Establish the Contribution of Parents to the Upkeep of Children in Nurseries and Kindergartens

Ceilings envisaged under Government Decision No. 360/1991:

- Up to 12,000
- 12,001-20,000
- Over 20,000

Ceilings Indexed as of 1 March 1992:

- Up to 28,000
- 28,001-40,500
- Over 40,500

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