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Amendments to Law on Political Parties

93CH0309A Budapest MAGYAR KOZLONY in Hungarian No 133, 28 Dec 92 pp 4809-4810

[Law No 81 of 1992 Amending Law No 33 of 1989 on the Functioning and Management of Parties adopted by the National Assembly at its 21 December 1992 session]

[Text]

Paragraph 1

Law No. 33 of 1989, as amended several times (hereinafter: Law), shall be amended by inserting the following provision in lieu of the existing provision of Paragraph 2 Section (2):

"(2) Professional staff members of the armed forces and the police shall not hold offices in parties."

Paragraph 2

(1) The following provision shall be inserted in lieu of the existing provision of Paragraph 3 Section (3) of the Law:

"(3) In response to the prosecutor's initiative, the court shall declare a party inoperative—without affecting the party's continued functioning as a social organization—if a party fails to nominate candidates for National Assembly representatives in two consecutive general elections."

(2) Paragraph 3 of the Law shall be amended by adding Sections (5)-(7) as follows:

"(5) When disbanding a party, the registered representative of the party shall publish a statement MAGYAR KOZLONY with the following content:

"(a) designation of the place where creditors may file their claims within 90 days from the date of publishing the statement;

"(b) statement as to whether the party intends to establish a foundation.

"(6) In disbanding a party pursuant to Section (5) and after closing the books, the party shall submit its financial records to the court.

"(7) After the party turns in its financial records, the court shall delete the disbanded party from its register, and shall certify the satisfaction of creditor claims and

"(a) the registration of the foundation, or

"(b) the fact that the party has no assets left after satisfying creditor claims, or

"(c) the fact that the party has transferred its remaining assets to be owned by the foundation established pursuant to Paragraph 8 Section (1)."

Paragraph 3

(1) The following provision shall be inserted in lieu of the existing provision of Paragraph 4 Section (2) of the Law:

"(2) Except as provided for in Paragraph 4 Section (1), an organ funded by the state budget, a state enterprise, a business organization operating with the state's participation, or a foundation receiving direct state budget support or support from an organ funded by the state budget shall not make financial contributions to a party, and a party shall not accept financial contributions from a state enterprise, a business organization operating with state participation, or from a foundation receiving direct state budget support or support from an organ funded by the state budget."

(2) The following provision shall be inserted in lieu of the existing provision of Paragraph 4 Section (5) of the Law:

"(5) If contributions to a party were made in a form other than money, the party shall provide for the appraisal (determination of value) of the contribution. If a party accepted prohibited non-monetary contributions in violation of rules provided under Sections (2) and (3), the value of the contribution shall be determined by the State Accounting Office."

Paragraph 4

(1) The following provision shall be inserted in lieu of the second sentence in Paragraph 5 Section (2) of the Law:

"Twenty-five percent of the amount earmarked for the support of parties in the state budget shall be distributed in equal proportions to parties which acquired mandates in the National Assembly by votes cast for the national slate."

(2) The following provision shall be inserted in lieu of the existing provision of Paragraph 5 Section (3) of the Law:

"(3) From the standpoint of distributing the budgetary support funds the election results shall be considered in the first instance on the first day of the month following the confirmation of the representatives' mandates."

Paragraph 5

The following provisions shall be inserted in lieu of the existing provisions of Paragraph 6 Sections (1) and (2) of the Law:

"(1) A party may pursue the following business activities to cover its expenses and to increase the value of its assets:

"(a) publish and distribute publications to familiarize people with the political purposes and activities of the party, sell badges that symbolize the party and other objects serving the same purpose, and organize party functions;

"(b) permit use for a fee and sell real and movable property owned by the party.

"(2) From among the business activities of a party referred to in Section (1) the sale of products and service provisions shall be exempt from general sales taxes. A party shall not pay corporate taxes after the above business activities."

(2) Paragraph 6 of the Law shall be amended by adding Section (5) as follows:

"(5) The legal consequences specified in Paragraph 4 Section (4) shall be appropriately invoked if a Party violates the rules contained in Sections (1)-(4)."

Paragraph 6

The following provision shall be inserted in lieu of the existing provision of Paragraph 8 of the Law:

"Paragraph 8

"(1) If a party ceases to function pursuant to the provisions of Paragraph 3 Section (1) Subsections (c)-(e), its assets remaining after the satisfaction of creditor claims shall be transferred under the ownership of a foundation established by the National Assembly. The detailed purposes and methods of utilizing the foundation shall be drafted by a committee established by the National Assembly, composed of one representative from each party having acquired a mandate based on the national slate. The foundation shall be established by the affirmative vote of two-thirds of the National Assembly representatives present.

"(2) If a party ceases to function as a result of a declaration disbanding the party, the foundation referred to in Section (1) may be established by the party itself, or the party may offer the remainder of its assets to an already functioning foundation after satisfying creditor claims."

Paragraph 7

The following provision shall be inserted in lieu of the existing provision of Paragraph 9 Section (1) of the Law:

"(1) Prior to 30 April each year, the parties shall publish their previous year's financial report (final accounting) in MAGYAR KOZLONY, according to the sample contained in Appendix 1 of this law."

Paragraph 8

The following provision shall be inserted in lieu of the existing provision of Paragraph 10 Section (3) of the Law:

"The financial management of parties regularly receiving state budget support shall be audited biannually by the State Accounting Office."

Paragraph 9

The *appendix* to this law shall be inserted in lieu of the existing Appendix 1 to the Law.

Paragraph 10

(1) Except for Section (2), this law shall take effect eight days after its proclamation.

(2) Paragraph 4 Section (1) of this law shall take effect on 1 January 1993.

(3) The following provision shall be inserted in lieu of the initial wording of Paragraph 4 of Law No. 44 of 1991 amending Law No. 33 of 1989 concerning the operation and management of parties, and central headquarters provisions for parties qualified in the 1990 National Assembly elections, and shall be amended by adding to this paragraph the non-designated paragraph appearing below:

"Paragraph 4

"The National Assembly authorizes the Government to [...—text of amended provision unknown] free of charge no later than 31 January 1993 from property managed by the state organ, and primarily by the State Property Agency ...

"—real property utilized by the Treasury Property Management Organization for the housing of parties may be used only for the housing of parties receiving budgetary support."

(4) The following provision shall be inserted in lieu of the existing provision of Paragraph 16 Section (2) of Law No. 38 of 1989 concerning the State Accounting Office (hereinafter: ASZ Law):

"(2) The State Accounting Office shall audit the legality of the financial management of parties, the utilization of contributions by the National Assembly to the parliamentary factions of parties based on separate law, and the Hungarian National Bank's data concerning the issuance of banknotes and coins."

(5) The following provision shall be inserted in lieu of the existing provisions of Paragraph 17 Section (1) of the ASZ Law; this paragraph shall be amended by adding the following Section (2), and the numbering of the presents Sections (2)-(5) shall be changed to (3)-(6):

"(1) The State Accounting Office shall audit annually the proposed state budget, the final accounting, and the credit relationships between the Hungarian National Bank and the state household.

"(2) The State Accounting Office shall audit the financial management of parties regularly."

[Signed] Arpad Goncz, President of the Republic; Gyorgy Szabad, President of the National Assembly

Appendix
to Law No. 81 of 1992

"Appendix 1"
to the law on the operation
and management of parties

"Report to be submitted by the parties

"Income:

"1. Membership dues

"2. State budgetary support

"3. State support provided to representative groups

"4. Other gifts and contributions

"4.1 From legal entities

"4.1.1 From Hungarian legal entities (including the names of contributors donating more than 500,000 forints)

"4.1.2 From foreign legal entities (including the names of contributors donating more than 100,000 forints)

"4.2 From unincorporated business companies

"4.2.1 From Hungarian companies (including the names of contributors donating more than 500,000 forints)

"4.2.2 From foreign companies (including the names of contributors donating more than 100,000 forints)

"4.3 From private persons

"4.3.1 From Hungarian citizens (including the names of contributors donating more than 500,000 forints)

"4.3.2 From foreign citizens (including the names of contributors donating more than 100,000 forints)

"5. Income derived from profits earned by enterprises or limited liability corporations established by the party

"6. Other income

"Total income during the fiscal year

"Expenses

"1. Support paid to the party's National Assembly faction

"2. Support paid to other organizations

"3. Amounts expended to establish entrepreneurial ventures

"4. Operating expenses

"5. Equipment purchase

"6. Expenses related to political activities

"7. Other expenses

"Total expense during the fiscal year"

Constitutional Court Decision on Banking Privacy

93CH0153D Budapest MAGYAR KOZLONY in Hungarian 6 Nov 92 pp 3819-3821

[Constitutional Court Decision No 59 of 6 November 1992]

[Text]

Decision No. 59/1992 (6 November) of the Constitutional Court

In the Name of the Hungarian Republic!

The Constitutional Court made the following decision on the motions to determine the unconstitutionality of, and nullify provisions of law.

The Constitutional Court rules that the regulation of Article 534 of Law No. IV/1959 on the Code of Civil Law, according to which "The bank is obliged to provide information at the suit of the court (notary public) in case of a judgement ordering the confiscation of property or the obligation of compensation to the state, as well as in the course of the administration of wills, on the testator's savings account," and further, Article 6.2 of Executive Order No. 2 of 1989 on savings accounts and Article 6.2 of Cabinet Decree No. 99/1989 (18 September) MT [Cabinet] on the foreign exchange accounts of Hungarian nationals are unconstitutional, and therefore it nullifies these regulations with effect from 31 August 1993.

The Constitutional Court announces its decision in MAGYAR KOZLONY.

Reasons Adduced

I.

In his collective motions, the propounder requested that the unconstitutionality of the provisions of law contained in Article 6.2 of Executive Order No. 2 of 1982 [as published], and further, Article 6.2 of Cabinet Decree No. 99/1989 (18 September) MT be determined and they be partially nullified.

1. According to Article 6.2 of Executive Order No. 2 of 1989, challenged by the propounder, "The bank is obliged to provide information on a foreign exchange account at the suit of the court (notary public) in case of a definitive judgement ordering the confiscation of property or the obligation of compensation to the state, as well as in the course of the administration of wills, on the testator's foreign exchange account."

Further, Article 6.2 of Cabinet Decree No. 99/1989 (18 September) MT on the foreign exchange accounts of Hungarian nationals, also challenged by the propounder, rules that "The bank is obliged to provide information on a foreign exchange account at the suit of the court (notary public) in case of a definitive judgement ordering the confiscation of property or the obligation of compensation to the state, as well as in the course of the administration of wills, on the testator's foreign exchange account."

In the propounder's view, both regulations are unconstitutional as far as they oblige banks to provide information on foreign exchange accounts and savings accounts, respectively, only in case of a definitive judgement ordering the obligation of compensation to the state. In his opinion, this favor granted to the state infringes on Article 13.1 of the Constitution on the protection of property and on Article 9.1 on the equality and equal protection of all forms of ownership.

Therefore, he requested that the unconstitutionality of both provisions of law be determined and that the regulations be nullified.

2. The Constitutional Court found that the last sentence of Article 534 of Law No. IV/1959 on the Code of Civil Law (in the following, CCL), which was modified several times, contains a regulation identical to the challenged regulations quoted above. Namely, "the bank is obliged to provide information at the suit of the court (notary public) in case of a judgement ordering the confiscation of property or the obligation of compensation to the state, as well as in the course of the administration of wills, on the testator's savings account." Although the propounder did not challenge this regulation in his motions, with regard to the identical content of the regulations, the Constitutional Court extended its examination of constitutionality to Article 534 of CCL, as well.

II.

The Constitutional Court ascertained that the motions were well founded. The partially challenged regulations quoted above allow the primary regulation on the secrecy of savings accounts (foreign exchange accounts) to be overridden and the secrecy of accounts to be limited in three cases: The secrecy of savings accounts (foreign exchange accounts) does not predominate in case of a definitive judgement ordering the confiscation of property or the obligation of compensation to the state at the suit of the court and, at the suit of a notary public, in the course of the administration of wills. (In the latter case, the limitation is only apparent, because if the original person entitled to the secret dies, the

determination of the savings (foreign exchange) account serves the interests of the inheritor, i.e., the new person entitled to the secret.)

In these exceptions, the motions regard the regulations to be unconstitutional because the limitation is only upheld in favor of the state in case of a definitive judgement ordering the obligation of compensation, and not in favor of other aggrieved legal entities or private persons. This regulation contains an unfounded discrimination within the group of aggrieved persons, because it gives preference to the protection of state property over the property of other owners without any constitutional reason.

In Ruling No. 21/1990 (4 October) AB [of the Constitutional Court], the Constitutional Court stated that Article 9.1 of the Constitution does not make a distinction between forms of ownership; to the contrary, it states the prohibition of discrimination towards any form of ownership. Thus, Article 9.1 of the Constitution expounds the thesis of equality before the law contained, for instance, in Article 70.A.1, with regard to the right to ownership, whereas Article 70.A.1 of the Constitution prohibits discrimination with regard to human and civic rights; in the opinion of the Constitutional Court the prohibition of inadmissible discrimination in its subjective and objective contexts applies to legal entities (the state), as well.

In Ruling No. 59/1991 (19 November) AB, the Constitutional Court pointed out that in view of Article 9 of the Constitution, under the conditions of a market economy, in the areas of market, property, and competition, the state as executive power must be consistently distinguished from the state as owner. In the opinion of the Constitutional Court, in situations where the state must be perceived as one of the players under autonomous property (civil law) conditions and not as an authority wielding executive power, the privileged position of state property must be abolished. In the consistent practice of the Constitutional Court—as it was expounded, for instance, in rulings No. 18/1992 (30 March) AB, and 54/1992 (29 October) AB—granting such privileges to the state leads to discrimination prohibited by Article 70.A.1 of the Constitution.

Namely, according to Article 9.1 of the Constitution, public and private property enjoys equivalent and equal protection. Varying the extent and intensity of protection according to the subject of ownership means a discrimination between persons, which is inadmissible according to the constitution. Overriding the principal regulation on the secrecy of accounts and establishing various exceptions in order to facilitate compensation for damages are not unconstitutional in themselves. However, there is no adequate constitutional reason for the law to prefer injured (damaged) state property to the property of other persons in compensation procedures, because as a result of the prohibition of discrimination, equality must be maintained between the exceptions to the general rule concerning the critical element of the given case. The preferential treatment of state property violates the requirement of equality; further, it violates the constitutional provision of the protection of property, and the equality and equal protection of all forms of ownership. Thus, the challenged regulation which favors the state is unconstitutional. Therefore, the Constitutional Court nullified the challenged regulations, as well as the regulations included in the examination of constitutionality for reasons of identical regulation on the basis of Article 40 of Law No. XXXII/1989 on the Constitutional Court (in the following: CCLaw).

To remedy unconstitutionality, the Constitutional Court has no other means at its disposal than the nullification of the unconstitutional provision of law, even if it does not rule the entire provision of law unconstitutional. Therefore, to preserve legal security, based on Article 43.4 of CCLaw, by fixing the time of nullification, the Constitutional Court wishes to enable the legislature to create new regulations conforming to constitutional demands, and determine the exceptions to the principal regulation on the secrecy of savings (foreign exchange) accounts in a manner conforming to the constitution by eliminating prohibited discrimination.

Therefore, the Constitutional Court nullified the regulations in question with effect from 31 August, 1993.

The Constitutional Court ordered the publication of its ruling in MAGYAR KOZLONY based on Article 41 of CCLaw.

Signed: Dr. Laszlo Solyom, President of the Constitutional Court
Dr. Antal Adam, Constitutional Justice
Dr. Geza Herczegh, Constitutional Justice
Dr. Geza Kilenyi, Constitutional Justice
Dr. Tamas Labady, Constitutional Justice
Dr. Peter Schmidt, Constitutional Justice
Dr. Odon Tersztyanszky, Constitutional Justice
Dr. Janos Zlinszky, Constitutional Justice

Constitutional Court File Number 255/B/1992/2

Law on Privacy, Access to Public Information

93CH0193A Budapest MAGYAR KOZLONY in Hungarian No 116, 17 Nov 92 pp 3692-3697

["Law No 63 of 1992 on the Protection of Personal Data and Access to Public Information" adopted by the National Assembly at its 27 October session]

[Text]

Pursuant to the Constitution of the Hungarian Republic, the National Assembly creates the following Law to protect personal data and to provide basic rules for the enforcement of the right to have access to public information:

Chapter I

GENERAL PROVISIONS

The Purpose of the Law

Paragraph 1

(1) The purpose of this law is to ensure that everyone has control over the use of his personal data—not including conditions excepted by the legal provisions herein—and to familiarize himself with information of interest to the public [hereinafter: public information].

(2) Exceptions from under the provisions of this law shall be made only as expressly authorized by this law.

(3) Exceptions authorized by this law shall be made on the basis of determinations naming both a given type of data and the data manager.

Definitions

Paragraph 2

In applying this law,

1. the term *personal data* means data that may be linked to a given natural person (hereinafter: individual), that permits one to reach conclusions about an individual. In the course of handling, data retains its personal quality as long as a relationship between the data and the individual can be restored;

2. the term *special data* means personal data concerning

(a) racial origin, national, nationality, or ethnic belonging, political views or party affiliation, and religious or other convictions,

(b) health conditions, pathological addiction, sex life, as well as criminal background;

3. the term *public information* means information managed by state or local government organs which does not qualify as personal data and is not excepted under this law;

4. the term *data management* means the entry and storage, processing and utilization (including conveyance and disclosure) of personal data irrespective of the process used; the altering of data and preventing the further use of data shall also be regarded as part of data management;

5. the term *data conveyance* means providing access to data for a certain third person;

6. the term *disclosure* means rendering data accessible to anyone;

7. the term *data manager* means a organ or a person in charge of the activities defined in 4. above, or an organ or a person having someone else perform these activities;

8. the term *deleting data* means rendering data non-recognizable in a way that the data cannot be restored;

9. the term *legal provision* in the contexts of Paragraph 1 Section (1), Paragraph 6 Section (1), Paragraph 12 Section (1), Paragraphs 24 and 25, and Paragraph 28 Section (2) also includes decrees promulgated by local governments.

Chapter II

PROTECTION OF PERSONAL DATA

Data management

Paragraph 3

(1) Personal data may be collected if

(a) the individual to whom the data pertains agrees to such action, or if

(b) a law, or based on legal authorization within a given scope, a decree promulgated by a local government so orders.

(2) Special data may be collected if

(a) the individual to whom the data pertains provides written consent, or if

(b) with respect to data defined in Paragraph 2, 2. (a), the function to be performed is based on an international agreement, or has as its purpose the enforcement of a fundamental right guaranteed by the Constitution, or if ordered by law for the purpose of national security, crime prevention and the persecution of crime; or

(c) in other cases if so required by law.

(3) Disclosure of personal data may be ordered by law in the public interest, provided that such law defines the scope of data to be disclosed. In all other cases the individual's concurrence, in the case of special data, the individual's written concurrence shall be obtained prior to disclosure. In case of doubt, the individual must be presumed to have refused to concur.

(4) Concurrence by an individual to disclose his personal data shall be regarded as having been granted if the individual publicly divulges his personal data or if he conveys data in order to be disclosed.

(5) In a proceeding initiated at the request of an individual, a presumption must be made that the individual has agreed to provide personal data required in the course of the proceeding. The individual shall be informed of this presumption.

Paragraph 4

Unless excepted by law, rights attached to the protection of personal data and the civil rights of the individual shall not be infringed by other interest related to data management, including the disclosure of public information (Paragraph 19).

Purpose-oriented data management

Paragraph 5

(1) Personal data shall be collected only for specific purposes, in the interest of enforcing laws and to fulfill obligations. Every phase of data management shall serve the established purpose.

(2) Authorized collection of personal data is limited to data indispensable for the achievement of the purpose, to data suitable to achieve the purpose, and only to the extent and within the time frame required for the achievement of the purpose.

(3) Data collection may be mandated only in the public interest.

Paragraph 6

(1) An individual shall be informed prior to revealing his personal data whether revealing such data is mandatory or

voluntary. If revealing such data is mandatory, the legal provision mandating the collection of such data shall be cited.

(2) The individual shall be notified of the purpose of the data collection effort, and of the identity of the data managers. Such notice shall be regarded as given if a law provides for obtaining data from an existing data base through conveyance or matching programs.

The quality of data

Paragraph 7

(1) Personal data collected shall be in compliance with the following requirements:

(a) the collection and handling of the data must be accomplished in a fair and legitimate manner;

(b) the data must be accurate, complete, and timely, if necessary;

(c) the method of storage of personal data must permit the identification of the individual only for the time required to achieve the purpose of storing the data.

(2) The use of general, standard personal identification codes that could be used without limits is hereby prohibited.

Conveyance of data, matching data bases

Paragraph 8

(1) Data may be conveyed, and various data bases may be matched if the individual agrees to that, or if the law permits such action, and if the requirement for personal data collected have been met regarding each personal data.

(2) The Section (1) provision shall also be applied if data matching is performed by one and the same data manager, and regarding the matching of data bases managed by the state and by organs of local governments.

Data conveyance to foreign countries

Paragraph 9

Irrespective of the medium or method of data transfer, personal data shall be conveyed to a foreign data manager only if the individual concurs with, or the law enables such conveyance, provided that the conditions for data management also prevail at the foreign data manager regarding each and every data.

Data security

Paragraph 10

(1) The data manager shall provide for the security of data, shall institute further technical and organizational measures, and shall develop procedural rules needed to enforce this law, as well as rules for data protection and the protection of secrets.

(2) Data shall be protected against unauthorized access, alteration, disclosure, deletion, damage or destruction in particular.

The rights of the individual and their enforcement

Paragraph 11

(1) The individual may

(a) request information concerning the management of his personal data (Paragraphs 12 and 13), and may

(b) request that his personal data be corrected or deleted (Paragraphs 14-16) except if such data is part of a data collection effort required by legal provisions.

(2) Anyone may examine the data integrity record (Paragraph 28 Section (1)), and may take notes and request extracts from the record. A fee shall be paid for extracts.

Paragraph 12

(1) At the request of an individual the data manager shall provide information concerning data managed by him, the purpose, legal basis, and duration of the data collection effort, as well as about the persons who receive or have received such data and for what purpose. The time permitted for maintaining records on data conveyance, and based on that, the obligation to provide such information may be limited by legal provisions governing data collection. The limitation shall not result in a period shorter than five years regarding personal data, and 20 years with respect to special data.

(2) The data manager shall provide information in writing, in a form understandable by the average person, within the shortest possible time after receiving a request for information, but in no event later than 30 days after receiving a request.

(3) The information referred to under Section (2) shall be provided free of charge, if the person requesting the information has not filed a request with the data manager for information of the same kind in the same calendar year. Otherwise, reimbursement of costs may be requested. Costs already reimbursed shall be repaid if illegal data management is discovered, or if the request for information results in correcting the data.

Paragraph 13

(1) The data manager may refuse to provide information to the individual only if the law enables such refusal as described in Paragraph 16.

(2) The data manager shall state the reason for refusing to provide information to the individual.

(3) The data manager shall report all rejected information requests annually to the data integrity commissioner.

Paragraph 14

(1) The data manager shall correct information that is inconsistent with the truth.

(2) Personal data shall be deleted if

(a) it was managed contrary to law;

(b) the individual so requests pursuant to Paragraph 11 Section (1)(b); or if

(c) the purpose of data collection has ceased.

(3) Except in cases where data has been handled contrary to law, the obligation to delete data does not apply to personal data stored on media protected in archives, pursuant to legal provisions governing the protection of archival materials.

Paragraph 15

The individual as well as earlier recipients of the data shall be notified of corrections and deletions. Such notice may be waived if this [as published] does not violate the just interests of the individual from the standpoint of the purpose of managing the data.

Paragraph 16

The rights of the individual (Paragraphs 11-15) may be limited by law in the interest of the state's external and internal security, thus national defense, national security, crime prevention and the persecution of crime, and further, in the financial interest of the state or a local government, as well as in order to protect the individual's or others' rights.

Judicial enforcement or rights

Paragraph 17

(1) The individual may seek judicial recourse if his rights are violated.

(2) The burden of proof regarding the consistency of data management with applicable legal provisions shall rest with the data manager.

(3) The court located in the place where the data manager is headquartered shall have jurisdiction. Persons otherwise having no standing in a suit may also be parties to the suit.

(4) If the court rules in favor of the complainant, it shall obligate the data manager to provide information, to correct or delete data, and shall require that the data integrity commissioner provide access to the data integrity record.

(5) The court may order that its decision be entered into the data integrity record if the interests of protecting data, and the protection of the rights of a larger number of individuals protected under this law so require.

Indemnification

Paragraph 18

(1) The data manager shall indemnify others for damages caused by the illegal handling of an individual's data or as a result of violating the technical requirements for data protection. The data manager shall not be held responsible if he can prove that the damage was caused by an unavoidable circumstance arising outside the field of data management.

(2) No indemnification shall be made if the damages resulted from the deliberate or negligent conduct of the person who suffered the damages.

Chapter III

THE FREEDOM OF PUBLIC INFORMATION

Paragraph 19

(1) An organ or a person performing a state or local government function (hereinafter jointly: organ) shall provide accurate and prompt information to the public regarding matters within its functional scope, including its financial management.

(2) Organs referred to in Section (1) shall regularly make public or otherwise provide access to the most important data concerning their activities, thus, in particular, data concerning their authority and jurisdiction, their organizational structure, the kind of data they possess and their operations.

(3) Organs referred to in Section (1) shall enable anyone to become familiar with public information, unless such information is classified as a state or official secret pursuant to law by an organ authorized to do so, or unless the authority to make public such information is restricted by law as a result of specifically defining the types of data involved, in the following areas:

(a) national defense;

(b) national security;

(c) crime prevention and the persecution of crime;

(d) central financial or foreign exchange interests;

(e) foreign relations or relations with international organizations; or

(f) in regard to a court proceeding.

Paragraph 20

(1) Public information requested shall be provided by the organ handling such information within the shortest possible time, but in no event later than 15 days from date of request for the data, and in a form understandable by the average person. The requester may ask for a copy of the document or part of the document containing the information he seeks, and shall reimburse the organ for the cost of preparing such copy.

(2) The requester shall be informed in writing of the denial of his request within eight days, and a reasoned argument shall be provided for the denial.

(3) The head of the organ providing the information may seek reimbursement of the actual cost of releasing public information. The amount to be paid shall be stated in advance, at the request of the person seeking the information.

(4) The organs referred to in Paragraph 19 Section (1) shall report annually to the data integrity commissioner on rejected requests for information and on the reasons for the rejections.

Paragraph 21

(1) A requester of public information may seek judicial review of the denial of his request.

(2) The burden of proof regarding the legality and the grounds for rejection shall rest with the organ in charge of the information.

(3) A suit against the organ denying the release of requested information must be filed within 30 days from the organ's communication of the denial.

(4) Persons otherwise having no standing in a suit may also be parties to the suit.

(5) The county (Budapest) courts shall have jurisdiction over suits against organs having national jurisdiction. The local court operating at the seat of the county court, and in Budapest, the Pest Central District Court shall proceed in cases under the jurisdiction of local courts. The court located in the place where the organ that denied the request for information is headquartered (operates) shall have jurisdiction.

(6) The court shall proceed on a priority basis in such cases.

(7) If the court rules in favor of the requester, it shall order the organ to release the requested public information.

Paragraph 22

The provisions of this chapter shall not be applied to providing data from authentic sources governed by separate law.

Chapter IV

Data Integrity Commissioner and Data Integrity Record Keeping

Data Integrity Commissioner

Paragraph 23

(1) In order to protect the constitutional right to the protection of personal data and to the openness of public information, the National Assembly selects a data integrity commissioner [hereinafter: Commissioner] from among Hungarian citizens held in high regard by the public, a person with no criminal background. Such person shall be the holder of a university degree, shall have outstanding theoretical knowledge or at least 10 years of practical experience, and shall have significant experience in conducting or supervising proceedings related to the protection of data, or in related theory.

(2) Legal provisions concerning the National Assembly commissioner for citizen rights shall be applicable to the Commissioner, except as provided for in this law.

Paragraph 24

The Commissioner shall

(a) ensure compliance with this law and other legal provisions pertaining to data management;

(b) investigate complaints received; and shall

(c) provide for the maintenance of the data integrity record.

Paragraph 25

(1) The Commissioner shall monitor conditions enabling the protection of personal data and the openness of public information. The Commissioner shall make recommendations regarding the creation or amending of laws related to data management and the openness of public information, and shall comment on related draft legislation.

(2) In the event that the Commissioner discovers illegal action in the course of data management, he shall call upon the data manager to cease managing the data. The data manager shall take the necessary action promptly, and shall inform the Commissioner within 30 days in writing of the action taken.

(3) If the data manager fails to cease the illegal data management, the Commissioner shall inform the public of the fact of [illegal] data management, of the person in charge of the data and the type of data involved.

Paragraph 26

(1) In the course of performing his duties the Commissioner may seek any information from the data manager, may inspect all documents, and may familiarize himself with any data management activity that could relate to personal data or public information.

(2) The Commissioner may enter any premise where data is being handled.

(3) State secrets and official secrets shall not impede the Commissioner in exercising his authority specified in this Paragraph, but provisions for keeping of secrets have a mandatory effect also in regard to the Commissioner. The Commissioner may exercise his authority only in person regarding data management activities involving state secrets or official secrets at the armed forces, the police, and at the national security organs. In the course of proceedings by the Commissioner at national security organs, the commissioner may inspect documents related to only certain data management activities specified under separate law.

Paragraph 27

(1) Any person may complain to the Commissioner if a person feels that his rights related to the management of his personal data or to becoming familiar with public information has been violated, or, if a direct threat of such violation exists, provided that no court proceeding is in progress relative to the complaint.

(2) No one shall suffer disadvantage for complaining to the Commissioner. Complainants are entitled to the same protection as persons filing public interest complaints.

Data integrity record keeping

Paragraph 28

(1) In order to be registered, data managers shall report to the Commissioner prior to commencing their activities

(a) the purpose of data management;

(b) the kinds of data involved and the legal basis for managing such data;

(c) the scope of the group of individuals affected;

(d) the data source;

(e) the types and recipients of conveyed data, and the legal basis for conveying data;

(f) the deadlines by which the individual types of data must be deleted; and

(g) the name and address (headquarters) of the data manager and of the actual place where data are managed.

(2) Data management required by legal provisions shall be reported within 15 days from the effective date of the enabling law by the minister having jurisdiction over the subject of regulation, by the heads of organs of a national scope, and by mayors, lord mayors, and the chairman of county general meetings.

(3) National security organs shall report the purpose and legal basis of their data management activities.

Paragraph 29

(1) In response to the initial registration, each data manager shall be assigned a registration number. The registration number must be shown in every instance when data is conveyed, disclosed or released to individuals.

(2) Changes in data enumerated in Paragraph 28 Section (1) shall be reported to the Commissioner within eight days, and the records shall be changed accordingly.

Paragraph 30

The following types of data need not be reported for entry in the data integrity record:

(a) personal data of employees, members, apprentices or clients of the data manager;

(b) data managed pursuant to the internal rules of a church, religious denomination or religious community;

(c) data contained in health care facility records concerning persons being treated, their illnesses or health conditions, or data collected for the purpose of medical treatment or the preservation of health, or for purposes of filing social security claims;

(d) data contained in records related to individuals for the purpose and for recording financial and other welfare support;

(e) personal data contained in records related to persons involved in proceedings conducted by prosecutors, in court, or by authorities;

(f) personal data collected for official statistical analyses, provided that such data were permanently purged so as not to enable the identification of persons, as provided for under separate law;

(g) records containing data concerning corporations and organs subject to the press law, which serve the exclusive purpose of informing such corporations or organs;

(h) data collected for scientific research purposes, provided that such data are not disclosed;

(i) data transferred from data managers to archives, provided that such data are older than 30 years;

(j) data collected for the personal use of natural persons.

Data integrity office

Paragraph 31

(1) The Commissioner shall be supported by a data integrity office, whose organizational and operating rules shall be promulgated by the Commissioner and confirmed by the President of the Republic.

(2) Rules applicable to the National Assembly commissioner's office [as published] shall also apply to the data integrity office.

Chapter V

SPECIAL PROVISIONS

The processing and use of personal data by research institutions

Paragraph 32

(1) Data collected or stored for the purpose of scientific research shall be used only for scientific research purposes.

(2) Personal data shall be rendered anonymous as soon as the purpose of research permits. Even before doing so, data suitable for the identification or possible identification of a natural person shall be stored separately. Such data shall be linked to other data only if necessary from the standpoint of research.

(3) An organ or person performing scientific research shall disclose personal data only if

(a) the individual involved has consented to the disclosure, or if

(b) disclosure is necessary to illustrate research results concerning historical events.

Chapter VI

CLOSING PROVISIONS Amended rules

Paragraph 33

Paragraph 83 Section (1) of Law No. 4 of 1959 concerning the Civil Code of Laws shall be replaced by the following provision:

"(1) Data management and data processing performed by computers and other means shall not violate individual rights."

Effective date

Paragraph 34

(1) Except as provided for in Sections (2) and (3) below, this law shall take effect on the first day of the sixth month following its promulgation.

(2) Chapter III (Paragraphs 19-22) of the law shall take effect on the 15th day following the proclamation of the law.

(3) Chapter IV (Paragraphs 23-31) of the law shall take effect simultaneously with the effective date of the law on the National Assembly commissioner for citizen rights.

Paragraph 35

(1) Except for provisions contained in Paragraph 3 Section (3), Paragraph 4, and Paragraph 13 Section (1), wherever this law provides for the creation of new laws, such laws shall be prepared by 31 December 1992.

(2) Legal guidelines related to data management shall not be applied after the proclamation of this law.

Paragraph 36

(1) The Commissioner shall be selected within two months after the effective date of Chapter IV (Paragraphs 23-31) of this law, and the organizational and operating rules of the data integrity office shall be presented for confirmation within an additional two months thereafter.

(2) Data managers shall report data management programs conducted at the time of the effective date of this law within four months after the selection of the Commissioner for entering such information in the data integrity record.

Paragraph 37

The finance minister is hereby authorized to promulgate a decree concerning the fee to be charged based on the provisions of Paragraph 11 Section (2), and detailed rules for the handling of such fees.

Signed: Arpad Goncz, President of the Republic;

Gyorgy Szabad, President of the National Assembly

Law on Telecommunications

93CH0285A Budapest MAGYAR KOZLONY in Hungarian No 127, Dec 92 pp 4450-4459

["Law No 72 of 1992 Concerning Telecommunications" adopted by the National Assembly on 23 November 1992]

[Text] To satisfy the need for telecommunications and for the effective and efficient development of modern telecommunications services, and to enhance enterprising and competition, the National Assembly creates the following law, consistent with international rules:

Introductory Provisions

Paragraph 1

(1) The law defines methods and conditions for telecommunications services, the rights and duties of parties involved in telecommunications services (service providers, operators, owners, users, subscribers), conditions for planning, establishing, and operating telecommunications networks, and for the use of telecommunications equipment, provisions for the protection of the telecommunications system, and state functions related to telecommunications.

(2) The *appendix* to the law contains definitions related to telecommunications.

Paragraph 2

(1) Except for telecommunications networks also including radio telecommunication equipment, and radio telecommunications networks subject to licensing, private purpose, special purpose, and closed loop telecommunications networks may be established freely by anyone for his own use within the property boundary.

(2) Private purpose, special purpose, and closed loop telecommunications networks may also be established beyond the property boundary based on official permits defined in Paragraph 19 Section (4) Subsections (a) and (b) of this law, if the network serves a limited group of users.

(3) The Government shall establish rules for the operation of closed, secure service networks.

Telecommunications Services

Paragraph 3

(1) From among the various telecommunications service provisions

(a) public telephone services;

(b) public mobile radio-telephone services;

(c) nationwide public personal calling services; and

(d) the national and regional distribution and broadcasting of public service radio and television programs

may be performed by a corporation operating under a concession [concessionary, concessionaries], established for the purpose of telecommunications, as well as by business organizations established by the state or under state majority control, that operate under conditions identical to those applicable to concessionaries (hereinafter jointly: telecommunications organizations).

(2) Except for the services defined in Section (1) to be performed under the concession, other telecommunications services—thus, in particular, national public service connected data transmission services—may be performed by anyone based on an official service permit (Paragraph 20 Sections (1) and (2)).

Paragraph 4

(1) The minister of transportation, communications and water resource management (hereinafter: minister) may issue invitations to bid for telecommunications service concessions.

(2) When inviting bids the minister shall observe the need to

(a) provide satisfactory services; and to

(b) improve the profitability of telecommunications organizations whose operations are not economical, by no fault of their own.

(3) Autonomous municipal governments may also request the issuance of invitations to bid for public telephone service concessions if justified by the need to develop a telecommunications network or to improve service standards; the scope of such requests shall cover the primary district that in whole or in part is under the municipal

government's jurisdiction. The minister shall render a decision concerning the issuance of the invitation to bid within 90 days, and shall issue an invitation to bid for concessions within one month from agreeing to issue an invitation to bid. An invitation to bid shall be issued within 90 days if more than half of the municipal governments having jurisdiction in areas within the primary district so recommend and agree to reimburse the minister for expenses incurred as a result of issuing the invitation, in the event that the invitation produces no results.

(4) Prior to issuing an invitation to bid, the minister shall issue public notice inviting comments from consumer and professional interest groups, and from the affected municipal governments regarding conditions to be incorporated in the invitation.

(5) The Section (4) proceeding shall also be followed amending (or extending the term of) a concessionary contract.

(6) The minister shall establish a committee to evaluate the competitive bidding. The minister shall decree detailed rules of procedure for issuing invitations to bid and for evaluating the bids, conditions regarding the composition and functioning of the committee, including provisions enabling affected local governments to participate. The minister shall establish fees related to the proceedings in concurrence with the finance minister.

Paragraph 5

(1) In addition to requirements established by Law No. 16 of 1991 on concessions, the invitations to bid and separate concessionary contracts related to the scope of concessionary services and to area-specific provisions shall also contain the following:

(a) a time schedule for traffic, quality, and quantity of service provisions, and technical requirements related to the service, as well as conditions for cooperation with other telecommunications service providers;

(b) conditions regarding concessionary fees;

(c) the method of determining service fees and conditions for changing such fees, unless provided for by law;

(d) the geographical area in which the activity is to be pursued (nationwide, names of counties, municipalities or parts of these);

(e) the minister's authority to periodically review and to change the contract—consistent with contractual conditions—based on consumer interests, developmental requirements, and international obligations that have arisen since entering into the original contract;

(f) the citation of every legal provision that condition contract performance.

(2) The enabling resolution and other founding documents shall appropriately include the information required under Section (1) Subsections (a), (c) and (d).

(3) Concessionary contracts may be extended without issuing a new invitation to bid only once, and only by half the duration of the original term.

(4) In addition to the activities specified in Paragraph 3 Section (1), telecommunications organizations may also perform the following functions:

(a) provide other telecommunications services;

(b) sell, maintain and repair communications and computer products;

(c) provide computer application services;

(d) provide measurement and security technology services;

(e) provide general technological development services;

(f) pursue telecommunications research and experimental development functions;

(g) organize and implement investment and building maintenance, and act as a main contractors in investment projects;

(h) provide training courses or other type of training in the field of telecommunicatons.

Paragraph 6

(1) Special purpose telecommunications networks may be connected to other telecommunications networks pursuant to conditions decreed by the Government.

(2) Individual parts of special purpose telecommunications networks, or the free points of access of special purpose radio telecommunications networks may be made available for one's own use or for use by another service provider.

Special Rules for Telecommunications Service Provider Contracts

Network Contract

Paragraph 7

(1) A service provider has a duty to accept contract offers to connect the telecommunications network with public telecommunications networks.

(2) The service provider has no duty to enter into contract pursuant to Section (1), if doing so

(a) is prohibited by law, or

(b) would conflict with technical requirements established by the minister.

(3) Network contracts must be in writing. The network service provider and user shall reach an agreement concerning the technical, business, and traffic aspects of cooperation between the telecommunications networks, pursuant to requirements decreed by the Government.

Subscriber Contract

Paragraph 8

(1) Based on a subscriber contract, the service provider shall establish within a maximum of 30 days a stationary or

mobile service access point to the network, as a result of which the subscriber is able to utilize the services provided by the network at any time during the term of the contract.

(2) The service provider has a duty to enter into a subscriber contract for the use of the public telecommunications network, except as provided for in Section (3).

(3) The duty to enter into an contract pursuant to Section (2) shall not apply if

(a) the subscriber owes telecommunications fees to the service provider, or if

(b) the service provider cancelled a previous contract within one year prior to the new contract, due to the subscriber's fault (Paragraph 12 Sections (1), (2) and (4)).

Paragraph 9

(1) The minister shall decree consumer protection and quality of service conditions to be incorporated into subscriber contracts.

(2) General conditions for contracts offered by public service providers (hereinafter: business rules) shall be approved by the Telecommunications Chief Superintendency.

(3) Public service providers shall publish the approved business rules and and the fees to be charged for services.

Paragraph 10

(1) Offers to enter into subscriber contracts shall be made in writing.

(2) If a public service provider is unable to establish a point of service access for a prospective subscriber as provided for in Paragraph 8 Section (1) due to the service provider's fault, the public service provider shall record the offer to enter into a subscriber contract pursuant to rules of classification decreed by the government as reconciled with the Telecommunications Interest Mediation Forum, and shall inform the prospective subscriber of the date when the service provider enters into a subscriber contract.

(3) Subscriber contracts reached by circumventing the rules of classification are null and void.

Paragraph 11

(1) The service provider is responsible for a decrease in the subscriber's value of assets caused by delayed or faulty performance on subscriber contracts for services provided on public telecommunications networks.

(2) Public service providers shall pay penalties for exceeding the time allowed for stating the date when a contract is to be entered into or for accepting an offer for an contract, as well as for failing to provide a point of access at the agreed upon time. The amount of penalty per day shall be one-third of the monthly subscription fee.

(3) The amount of penalty for performing on a subscriber contract in a manner inconsistent with technical requirements established by the minister shall be one-third of the monthly subscription fee per day.

Paragraph 12

(1) Fifteen days after providing notice as provided for in Section (3), public service providers may cancel a subscriber contract with an immediate effect, if the subscriber

(a) operates the service equipment in a manner inconsistent with the intended use of the equipment specified in the service network contract, or if the subscriber modifies the equipment, or connects unauthorized equipment to it;

(b) prevents the inspection of the service equipment as stipulated in the contract.

(2) Fifteen days after providing notice as provided for in Section (3), public service providers may cancel a subscriber contract with an immediate effects, if the subscriber

(a) prevents the service equipment from receiving calls;

(b) causes the volume of traffic handled by the service equipment to significantly exceed the permissible technical load in the long term and fails to request the installation of additional equipment despite notice received from the service provider;

(c) prevents the performance of maintenance work on the telephone substation or data transmission equipment, or if he fails to provide for the renewal or exchange of the equipment as required by the technical rules.

(3) Prior to cancellation, the service provider shall provide a call upon the subscriber in writing to cease violating the contract, and shall allow at least 15 days for the subscriber to discontinue the violation.

(4) The service provider may give a 15-day notice of cancellation to the subscriber after 30 days from notifying the subscriber of his failure to pay the fees, provided that the subscriber continues to fail paying the fees.

(5) If the subscriber disputes the amount of the fee charged by the service provider, the burden of proof for proper accounting and for the appropriateness of the charges rests with the service provider.

(6) Claims stemming from public subscriber contracts lapse after one year.

Paragraph 13

(1) Subscribers shall not be charged fees if performance on a subscriber contract is temporarily impeded and the service is interrupted. In such cases rules applicable to the impossibility of performance shall be applied (Civil Code of Laws Paragraph 312).

(2) Performance on subscriber contracts shall also be interrupted upon subscriber's notice. Conditions for interruption shall be contained in the business rules.

Paragraph 14

(1) Anyone shall be able to use public telephones in public places, public roads, public buildings, post offices, commercial business premises, and other public places upon the payment of a fixed fee.

(2) Anyone may propose the installation of a public telephone. A certain proportion of public telephones specified in the concessionary contract shall be equipped for the hearing impaired and accessible to the physically handicapped. An offer to establish a public telephone on grounds of safety to life and property shall not be rejected by a public service provider, if the person ordering such public telephone, or the local government having jurisdiction agrees to pay for the cost of installing the public telephone station.

(3) Service providers shall continuously maintain public telephone stations in a condition appropriate for their intended use (operational).

Paragraph 15

(1) Based on a service contract to provide telegraphic services, the service provider shall forward messages received from clients to addressees, by way of the telecommunications service and the postal service provider, or by other means. The public telecommunications service provider has a duty to enter into contracts for providing or becoming involved in telegraphic services.

(2) The Government shall decree detailed rules concerning performance on telegraphic service contracts (including radio-telepraph services).

Cooperation Between Telecommunications Networks

Paragraph 16

Except for networks referred to in Paragraph 2 Section (1), or, if interconnection is prohibited by law, the country's telecommunications networks shall function on the basis of uniform technical and legal regulatory conditions so that they form a unified, functioning network after incorporating required interconnecting units.

Paragraph 17

(1) The minister shall decree basic technical plans, and qualitative, technical, and technological service conditions to ensure cooperation between the various telecommunications networks as required by Paragraph 16. Technical requirements based on international obligations, and published in the official reporter of the Ministry of Transportation, Telecommunications and Water Resource Management shall also constitute conditions for cooperation.

(2) Prior to introducing and applying the technical requirements referred to in Section (1), the minister shall seek comments from the Engineers' Qualifying Committee on Telecommunications, after the establishment of that body.

(3) The Engineers' Qualifying Committee on Telecommunications shall be established by telecommunications service providers, organizations establishing telecommunications networks, and by the equipment manufacturers, with the involvement of ministers having jurisdiction.

Paragraph 18

(1) In order to ensure uniformity in the country's public telecommunications network, telecommunications service providers shall cooperate in the course of establishing, operating, modifying and terminating networks. Such cooperation shall include

(a) mutual information exchange and the provision of data that bears on cooperative efforts pursuant to Paragraph 32;

(b) measurements related to operations;

(c) the streamlining of maintenance systems; and

(d) the prevention of service disturbances.

(2) The service provider's duty defined in Section (1) Subsection (a) shall also apply to new service providers entering the market.

Permits To Be Issued by the Authorities

Paragraph 19

(1) The authority charged with performing official functions relative to telecommunications shall be a single state administrative organ under the direction and supervision of the minister. Its central organ shall be the Telecommunications Chief Superintendency; its local organs shall be regional telecommunications superintendancies (hereinafter jointly: Authority).

(2) The Government shall determine the functions, authority and jurisdiction of the Authority.

(3) The provisions of Law No. 4 of 1957 on general state administrative rules of procedure shall be applied in the proceedings of the Authority.

(4) Based on conditions expressed in laws or other legal provisions, and further, in decrees promulgated by the minister, the Authority shall

(a) license the establishment and placing into operation telecommunications links and networks, the modification and termination (dismantling) of networks, and further, the interconnection of networks defined in Paragraph 6, or the switching of a network to another telecommunications network;

(b) license the sale, use and operation of telecommunications equipment;

(c) record, and maintain continuous records of persons engaged in design, manufacture, and professional activities referred to in Subsections (a) and (b), provided that such persons are qualified to be included in the roster by virtue of a decision of the committee based on conditions decreed by the minister.

Paragraph 20

(1) Except for the telecommunications activities specified in concessionary contracts pursued by telecommunications organizations as per Paragraph 3 Section (1), the Government shall authorize the performance of telecommunications services subject to obtaining a service permit to be issued pursuant to conditions decreed by the Government, in order to ensure the secure operation of telecommunications networks, undisturbed cooperation between various networks and service provisions, and to protect data.

(2) The Authority issues the service permit based on the Government decree mentioned in Section (1).

(3) In case of limited natural resources, the right acquired at a publicly announced auction or lottery may serve as the criterion for issuing a service permit.

Paragraph 21

(1) No official permit is required for

(a) the establishment and operation of cable networks for private purposes (within property boundaries);

(b) the establishment and operation of telecommunications networks and equipment in underground mining plants;

(c) public address systems connected by cables, used for the conveyance of information;

(d) the reception of broadcast services and of one-way space telecommunications;

(e) the operation of closed, secure service operations;

(f) the termination (dismantling) of special purpose cable telecommunications networks. In this regard the owner is obligated to report the action taken to the Authority.

(2) As part of its licensing proceeding the Authority shall examine what other official permit (concurrence) is required in advance in conjunction with the application. No licensing proceeding shall be conducted in the absence of this.

(3) The distributor shall apply for the licensing of telecommunications equipment to be introduced in domestic commerce. In other instances the manufacturer or the operator of the equipment shall apply for the official permit.

(4) The Authority may order the temporary use of special purpose networks for public service purposes while a technical disturbance in the public telecommunications network is eliminated. Such use shall be implemented on the basis of conditions agreed upon in advance by the operators, and for compensation to be paid by the public telecommunications service provider. Such decision may be implemented with an immediate effect.

Paragraph 22

(1) In addition to assessing a fine as required by law, the Authority may also mandate a person who establishes a network without a permit, or who sells and operates unlicensed equipment to

(a) discontinue the network established without a permit, to discontinue the sale of the unlicensed equipment and to restore the original condition, or to

(b) initiate proceedings for the licensing of the continued operation of the network.

(2) In addition to assessing fines as required by law, the Authority may mandate an unlicensed telecommunications service provider who provides telecommunications services without a permit, or in a manner inconsistent with the permit to

(a) discontinue the service provision, or

(b) to initiate after the fact proceedings for the licensing of the service provision.

(3) The Authority may assess a fine decreed by the minister for violating the obligation specified in Paragraph 14 Section (3).

Paragraph 23

(1) The owner (manager, user) of real property shall allow an authorized representative of the Authority to enter his premises to the extent necessary from the standpoint of performing the authorized representative's specialized task, or for the purpose of verification.

(2) The Authority shall continuously verify compliance with the provisions of concessionary contracts and official permits, as well as the conformity of service provisions with legal provisions, and with provisions of technical standards and requirements (hereinafter: quality control).

(3) In the event that a service provider's activities deviate from the provisions of the concessionary contract or of the permit, the Authority may recommend cancellation of the concessionary contract or may revoke the permit.

Protection of Data and Secrets

Paragraph 24

(1) Based on separate laws, service providers have a duty to protect data and secrets.

(2) Service providers may learn about the contents of communications and data conveyed by them or when using the network only to the extent necessary from the standpoint of providing the service.

(3) If in the course of performing services, a service provider becomes aware of the contents of communications or other personal data—not including broadcasts and program distribution, and other matters governed by separate law—he shall not enable anyone else to become familiar with the contents of such communications.

(4) Receiving, publishing the contents of, and utilizing communications transmitted by the radio telecommunications network, but not intended for public use, is prohibited.

(5) Service providers shall inform users about the conditions under which the users' data is being managed, (including information on the types of data managed, the storing of data and the purpose and duration of the possible conveyance of data, and making certain the further conveyance of data), as well as the users' related rights and duties. Such information shall be conveyed in a manner customary in the given locality.

Paragraph 25

(1) The duty to protect data and secrets equally applies to employees, members, and agents of the service provider.

(2) Relief from under the obligation to protect data and to keep secrets, and for the continued duty to protect data and to keep secrets after the termination of the activities shall be governed by provisions of separate laws.

Real Property Use Rights

Paragraph 26

(1) Based on advance notice, the owner (manager, user) of a real property shall allow

(a) the authorized representative of the public telecommunications service provider to enter the real property for maintenance and repair purposes;

(b) the public telecommunications service provider to install on, above, below, or inside real property, building, or establishment telecommunication equipment, cable, and antennas (hereinafter jointly: telecommunications installations) if, for technical reasons, no alternative exists (to be verified in a statement issued by the Authority).

(2) In conjunction with action taken under Section (1) Subsection (a), the real property owner is entitled to compensation proportionate to the extent of restriction imposed. Relative to action taken under Subsection (b), the owner may enforce his rights granted in Paragraph 108 Section (2) of the Civil Code of Laws, in addition to receiving compensation. In case of expropriation, the party requesting the expropriation shall also obtain the opinion of the Authority.

(3) In cases under Section (1) Subsection (b) the Authority may, in the public interest, create an easement or a use right based on its determination.

(4) Representatives of telecommunications organizations designated in Section (1) shall be given personal identification papers and documents to verify their assignment.

(5) Telecommunications service providers are authorized to utilize streams of water, canals, and natural lakes and their basins, as well as the country's air space for purposes of telecommunications.

Paragraph 27

If the construction, renewal, renovation or demolition of a building requires the removal or relocation of telecommunications installations on buildings or on related land areas, such removal or relocation shall be performed by the service provider, in due regard to the provisions contained in separate law.

Paragraph 28

(1) Provision shall be made for the installation of public telecommunications in the course of planning or renewing settlements, constructing or modernizing roads and public utilities, and constructing or renewing buildings or other facilities.

(2) New, tall telecommunications structures (OESZ [National Construction Standard] Appendix No. 4 Section 67) may be erected only with the concurrence of the municipal government, or in Budapest, of the Budapest local government. In doing so, the scenic and urban view shall be considered.

Protecting the Integrity of Telecommunications

Paragraph 29

(1) The operator of equipment (apparatus, conduit, vehicle, or other means) that interferes with the functioning of telecommunications installations shall prevent the interference, or shall discontinue the interference created.

(2) The Authority, jointly with another authority specified in separate law, may call upon the owner of the equipment causing interference to discontinue the interference; failing to do so, it may obligate the owner to

(a) filter the interference;

(b) to transfer the equipment; or to

(c) eliminate the interference otherwise.

(3) The action authorized in Section (2) may also be taken if the use of the interfering equipment is lawful, except if the interference can be eliminated by changing the telecommunications installations interfered with at no cost or at little cost.

(4) The cost of discontinuing interference shall be paid by the owner of the equipment that causes interference, except if the use of the equipment is lawful, and if such equipment was also used prior to the operation of the telecommunications installations interfered with.

(5) The opinion of the Authority shall be obtained in certain building permit proceedings governed by separate law; in its opinion the Authority shall state whether the structure to be built is consistent with the requirements of protecting the integrity of telecommunications.

(6) If the quality of telecommunications services transmitted by radio telecommunications deteriorates as a result of the above structures, the cost of restoring the original quality of telecommunications shall be paid by the party that caused the deterioration in quality.

Paragraph 30

(1) In order to prevent interference with the functioning of the public telecommunications network, the owner of real property shall remove trees, shrubs, branches and roots which endanger the integrity of the public telecommunications network, pursuant to separate legal provisions governing this requirement. If, upon notice, the owner of real property fails to perform this obligation, the public service provider (operator) shall be authorized to perform the necessary work in his stead.

(2) To ensure the undisturbed functioning of his network, the operator of a nonpublic telecommunications network shall perform the work specified in Section (1) without violating the interests of the owner of the property, at his own expense.

Paragraph 31

Rules for approaches and crossings of primary route telecommunications establishments with other primary route telecommunications establishments shall be established by the minister, jointly with other concerned ministers.

Provision of Information

Paragraph 32

(1) Interested parties shall convey to the Authority all information related to telecommunications that is needed for the preparation of an invitation to bid for concessions, the establishment of a telecommunications organization, the planning of telecommunications networks, the consummation of individual contracts, performance on such contracts and to permit the evolution and maintenance of undisturbed cooperation. The party providing the information shall be responsible for the correctness of the information provided.

(2) Interested parties may request information from the Authority. The Authority shall provide the information requested within 30 days, or shall inform the requester of the date until which the impediment to provide the requested information prevails.

(3) The Authority may request other information needed to perform its functions, as specified in a separate legal provision, from telecommunications service providers.

(4) The minister, jointly with the finance minister, shall determine the amounts of fees and cost reimbursements to be paid for providing information.

(5) Evaluations of the telecommunications organizations' performance in discharging their duty to provide information shall be public; the minister shall provide for the release of such information.

(6) Telecommunications service providers and the authorities shall release information needed from the standpoint of governing, public safety, defense or national security pursuant to conditions established by the Government.

State Functions Related to Telecommunications

Paragraph 33

(1) In the context of this Law the following shall be regarded as state functions:

(a) developing a national telecommunications policy, establishing conditions for implementing such policy, enforcing requirements related to governing, national security, public safety and defense, and verifying the realization of the above;

(b) regulating the telecommunications market; the streamlining of concessionary contracts, guaranteeing through regulatory means equal opportunity for those entering the market and those already involved in the market;

(c) enabling persons hard at hearing and persons with physical handicaps to use telecommunications services;

(d) exercising ownership rights related to telecommunications assets owned by the state;

(e) exercising the functions of a governmental authority over telecommunications;

(f) providing economic, technical rules and laws, and regulatory means to satisfy the technical and functional unity of the national telecommunications network, and needs arising from the use of these;

(g) supervising the functioning of telecommunications service providers and of telecommunications network operators;

(h) providing for measures that become necessary in the unforeseen event that a concessionary contract is terminated before its expiration, or if actions must be taken due to the violation of a concessionary contract by the concessionary, affecting telecommunications service provisions;

(i) participation in international telecommunications organizations; entering into telecommunications treaties, agreements and contracts;

(j) operating the Telecommunications Fund;

(k) providing for the operating conditions of the Telecommunications Interest Mediation Forum and the Engineers' Qualifying Committee on Telecommunications.

(2) Consumers, entrepreneurs, and interest groups representing local governments shall be invited to participate in the performance of state functions, and affected parties shall be given an opportunity to be heard primarily through the Telecommunications Interest Mediation Forum after its establishment.

(3) The state functions specified in Section (1) shall be performed by the Government, the ministries and the authorities based on a division of labor specified in this law and in separate legal provisions.

(4) The direction of telecommunications as a branch of industry, and further, the streamlining of state functions related to telecommunications shall be the function of the minister.

Paragraph 34

(1) From among the state functions specified in Paragraph 33 Section (1), the following functions shall be performed under the authority of the Government:

(a) developing a national telecommunications policy, introducing a related legislative proposal to the National Assembly, and controlling the implementation of the policy;

(b) enforcing the national security and defense needs within the framework of the national telecommunications policy.

Paragraph 35

(1) Within the scope of authority granted by this Law, the minister shall

(a) submit a proposed national telecommunications policy and provide for its implementation if agreed to;

(b) supervise business organizations established for this purpose by the state or with the controlling state ownership share, take action to ensure equal access to the market for public telecommunications service providers if in the course of activities such organizations deviate from the provisions of the organic act or the founding charter;

(c) initiate the establishment and enable the operations of the Telecommunications Interest Mediation Forum and of the Engineers' Qualifying Committee on Telecommunications;

(d) designate the nodes of the network backbone and the primary districts;

(e) provide for the preparation, recording and provision of information needed for establishing rates to be charged;

(f) participate in the implementation of functions having a national security and defense character, based on separate law.

(2) If the exercise of authority related to state ownership affects the direction of telecommunications as an industry branch, the manager of state property and the minister shall act on the basis of mutual concurrence agreed upon in advance.

Telecommunications Fund

Paragraph 36

(1) A Telecommunications Fund shall be established for purposes specified in Section (2); the minister shall have authority to use these funds, and shall have dispositional authority over the fund by appropriately applying the provisions of Law No. 38 of 1992 concerning the state household, and based on comments received from the Telecommunications Interest Mediation Forum and of the Engineers' Qualifying Committee on Telecommunications.

(2) The Telecommunications Fund may be used to finance

(a) the purpose specified in Paragraph 4 Section (2);

(b) costs incurred as a result of immediate action required by the unforeseen, premature termination of a concessionary contract, or the violation of the contract by a concessionary;

(c) the operating costs of the Telecommunications Interest Mediation Forum and of the Engineers' Qualifying Committee on Telecommunications; and

(d) the accumulation of an intervention and development fund.

(3) The Telecommunication Fund shall obtain its resources from

(a) concessionary fees derived from concessionary contracts for telecommunications service provisions, to which the central budget is entitled;

(b) moneys provided by the budget, state or private organizations, or received from private persons for this purpose freely or in exchange for consideration;

(c) amounts derived from the state share of telecommunications privatization revenues as determined annually by the Government; and

(d) fines collected on the basis of Paragraph 22.

Paragraph 37

(1) Prior to the effective date of this Law, the state, and business organizations established and operating on the basis of the state's controlling interest shall continue performing the activities specified in Paragraph 3 Section (1) under unchanged conditions and without a concessionary contract until a telecommunications organization established in the form of a concessionary corporation, or another concessionary company begins its telecommunications service provisions based on a concessionary contract for the performance of the given telecommunications service in the given area.

(2) Consistent with concessionary contracts, telecommunications installations used by the organizations referred to in Section (1) until the initiation of telecommunications service provisions, shall be transferred for use to the concessionary corporation for consideration under a contract, if the invitation for bids issued by the minister states that a single bidder may be awarded a contract for the given service provision in the given area (exclusive award).

(3) The provisions of Sections (1) and (2) shall also be appropriately applied in cases when the minister consummates a new concessionary contract due to the termination of a concessionary contract.

Paragraph 38

(1) If a locally established telephone company presents an offer for local telephone services that is technically suitable for the establishment of a network and is more favorable from the standpoints of cost and the time required to establish the network than the offer made by the functioning organization, the corporation that acquired exclusive rights to provide services shall utilize the network established by a local telephone company for purposes of local public telecommunications services, and shall compensate the local telephone company for such use—except as provided for in Section (2).

(2) The telecommunications organization referred to in Section (1) shall be exempt from this obligation if

(a) it is not obligated to enter into a network contract based on Paragraph 7 Section (2), or if

(b) based on its duties stemming from a valid contract consummated prior to the receipt of such an offer it was unable to comply with the terms of the offer, or could do so only by suffering grave consequences.

(3) The minister, in concurrence with the finance minister, and in due regard to the views expressed by the Telecommunications Interest Mediation Forum, shall decree rules for the attraction of funds from users designated in Section (1) for the establishment (construction), and the development (including service access points and the connection of the terminal equipment) of the public telecommunications network.

(4) Local companies establishing telephone services may initiate the issuance of an invitation to bid pursuant to the provisions of Paragraph 4 Section (3).

(5) The telecommunications organization referred to in Paragraph 37 Section (1) and the concessionary corporation may establish a public network serving local residents only if it must transfer the use of this network required for public telephone services in lieu of compensation to another organization that has acquired an exclusive right to provide telecommunications services by using the installations established by the telecommunications organization and the concessionary corporation. The minister and the State Property Management corporation shall reach an agreement concerning the invitation to bid insofar as it affects state property, pursuant to Paragraph 13 Section (2) of Law No. 53 of 1992 concerning the the management and use of entrepreneurial property to remain under long-term state ownership.

Paragraph 39

(1) Separate law provides for the effective date of this law.

(2) A telecommunications organization or its legal successor referred to in Paragraph 37 Section (1), established prior to the effective date of this law, shall pursue the activities specified in Paragraph 3 Section (1) Subsection (a) of this Law after 30 April 1994 only on the basis of a concessionary contract. Regarding local telephone services, the minister is authorized, or based on Paragraph 4 Section (3), is obligated to conduct concessionary proceedings.

(3) Pursuant to an agreement with the winning bidder, the minister shall enter into a concessionary contract with a business organization domiciled in Hungary, established by the winner, in which the winner personally participates, based on a permissive statement by the winner.

(4) If the telecommunications service provisions specified in Paragraph 3 Section (a) Subsections (a)-(d) can be performed by using frequencies, the conditions and proceedings applicable to the invitation to bid for a concession and the contract may be combined under this law.

(5) Telecommunications service contracts in force at the time of the effective date of this law shall be reviewed by the parties to the contract, and shall be amended to comply with the provisions of this law within one year from the effective date of this law.

Paragraph 40

(1) On the effective date of the law, the table in the Appendix Chapter I.B., main heading: "Services," under SZTJ [expansion unknown] number "406-22-01" in Law No. 87 of 1990 concerning the determination of prices shall be amended as follows: The words "Subscription and use fees, and fees charged for direct connections in domestic telephone service provisions" shall be replaced by the following: "Fees for telecommunications services subject to concessions (subscription fee, use fee, connection fee)."

(2) The minister, in concurrence with the finance minister, may decree the amount of investment contribution (entry fee), the method of payment and repayment, and the possible uses of investment funds. If the user of the investment funds and the telecommunications service provider form a corporation, the telecommunications service provider shall not be entitled to receive investment contributions. [Obscure sentence, possibly: shall not contribute to the investment.]

(3) Paragraph 1 Section (1) Subsection (k) of Law No 16 of 1991 concerning concessions shall be amended by replacing the existing wording with the following text:

"(k) telecommunications services (public telephone services, public mobile radio-telephone services, national public personal calling services, the national and regional distribution of public service radio and television programming, and the frequency use related to broadcasting) not including closed loop services."

[Signed] Arpad Goncz, President of the Republic; Gyorgy Szabad, President of the National Assembly.

Appendix to Law No. 72 of 1992 Concerning Telecommunications

Concepts Related to Telecommunications as Used in the Context of This Law

1. *Basic technical plans.* The totality of all plans that define the structure, mandatory technical and traffic characteristics, and the numbering of traffic direction ["szamozasi forgalomiranyitasat"] of the country's uniform telecommunications network.

2. *The country's uniform telecommunications network.* Jointly, the telecommunications networks capable of working together, which can be interconnected or switched by following the basic technical plans and by using the appropriate equipment when operational safety or other considerations so require.

3. *Leased line.* A system of circuit elements linking domestic or international service access points (telecommunications equipment), which contains only transmission paths, access points (interface), and access points for testing, and which connects without being directed by signals.

4. *Leased line service.* A telecommunications service provision in which circuit elements connecting the service access points are yielded by the service provider (operator) in lieu of a fee for purposes of telecommunications activities.

5. *Node.* Where transmission lines connect enabling interconnection and switching, consistent with the basic technical plans and standards.

6. *Local telephone companies.* Business organizations established by natural persons or legal entities—including the municipal government having jurisdiction in a given place—wanting to use local, public telephone services, for the purpose of establishing (constructing, developing) a telecommunications network suitable for providing telephone services.

7. *Special purpose network (established for a separate purpose).* A telecommunications network which is separate from other telecommunications networks physically, functionally and from the standpoint of use, established and

operated under separate permit by a closed user group, and which conveys the internal telecommunications traffic of its members.

8. *Public telephone network (established for public use).* A system of service access points, transmission paths and switching equipment which interconnects these, which enables anyone wanting to use the system to establish verbal contact or other information transmission consistent with the characteristics of verbal transmission under identical conditions, between terminal equipment connected to one service access point and the user of terminal equipment at another service access point.

9. *Public telephone service.* The service provider ensures the transmission of human conversation over a public telephone network in exchange for a fee. In the framework of public telephone services, the service provider may offer international, domestic or local telephone services. (a) International telephone services are telecommunications activities subject to concessions, in which the service provider enables connections with service access points abroad. (b) Domestic (long distance) telephone services are telecommunications activities subject to concessions, in which the service provider and the user agree to establish connection with the backbone network or to switch the user to the backbone network based on a network contract between the service provider and the user. (c) Local telephone services are telecommunications activities subject to concessions, in which the service provider and the user enter into a subscriber contract within a local network or primary district. Concessionary companies authorized to provide local telecommunications services must also, necessarily, enter into network contracts for the use of services defined under (a) and (b) above.

10. *Public mobile radio-telephone services.* The direct, simultaneous transmission of electromagnetic signals through a public, connected radio telecommunications network for use by persons freely moving about in a large area, offered in exchange for the payment of a fee. Signal transmission may be established between mobile stations connected to the network, or mobile stations and users of the public telephone service.

11. *Public telecommunications services (to be used by the public).* A public service performed by telecommunications organizations on the public telecommunications network, the use of which under equal conditions is ensured to anyone by the state. To accomplish this the state establishes rights and duties to be observed by telecommunications organizations.

12. *Program division.* Transmission of signals produced by the program provider over cable network or nonbroadcast radio telecommunications system from the program provider's location or from the terminal point of the program distribution network to authorized user receiver sets.

13. *Program distribution.* Transmission of signals produced by the program provider over cable network—earth surface or satellite—or nonbroadcast radio telecommunications system to radio and television broadcast transmitters and to program divider networks.

14. *Program broadcasting.* One-way radio telecommunications process accomplished with systems operating on the earth surface or with satellite, transmitting sounds, images or other types of transmissions to users having the appropriate receiving equipment and whose number is unlimited in principle.

15. *Nationwide broadcasting.* Program broadcasts that can be received in an area in which at least half of the country's population resides.

16. *Primary district.* That part of the public telephone network which does not have to use the backbone network in order to establish connection between two service access points under a subscriber contract.

17. *Regional broadcast.* Program broadcasts that can be received in an area in which at least 20 percent of the country's population resides.

18. *Private network.* A network which operates within property boundaries for a specific purpose—including telecommunications systems operating with radio frequencies—, or which transcend property boundaries based on a permit.

19. *Personal calling service.* Radio telecommunications service initiated from terminal equipment that is part of the public telecommunications network, conveying certain messages to given addresses, to be used by subscribers whose locations vary.

20. *Service access point.* All physical connection points providing access which are part of the telecommunications network and which enable information exchange over the telecommunications network.

21. *Telegraphic services.* The service provider accepts messages consisting of text from a person in exchange for the payment of a fee through the telecommunications network or with the involvement of the postal service provider, then forward the messages through the telecommunications network. Subsequently, the message is delivered

(a) with the involvement of the postal service provider (or some other entrepreneur);

(b) by telephone;

(c) by telex;

(d) by telefax;

(e) or in some other way.

22. *Telecommunications.* An activity, in the course of which a sign, signal, writing, image, voice, or other communication produced in any form that can be interpreted is conveyed to one or more receivers or users through electric or optical paths, public, special purpose, closed, secure service, and closed loop telecommunications networks or through a combination of these.

23. *Telecommunications backbone network.* A distinct part of the public telecommunications network capable of transmitting any telecommunications signal, that does not directly serve the subscribers, but provides access to users on the basis of network contracts at nodes with a certain signal transmission speed. The backbone network extends to

network service access points located at central stations connected to primary districts, as defined in the technical plans.

24. *Telecommunications network.* The totality of actually or virtually linked telecommunications installations through which sign, signal, writing, image, voice and other communications may be conveyed to specific service access points through one or more paths. The linking of compatible telecommunications networks constitutes interconnection. The connection of equipment to the telecommunications network for purposes of telecommunications constitutes switching.

25. *Telecommunications service provision.* A business function in the framework of which the service provider provides public (subject to concession) or competitive telecommunications services, or other, closely related, supplemental services in exchange for the payment of a fee, or if he permits the use of his network by someone else for such purpose.

26. *Telecommunications service provider.* A legal entity, or a business organization or individual entrepreneur that does not operate as a legal entity, which (who) is authorized to provide telecommunications services to someone else (service provider, user, subscriber).

27. *Telecommunications terminal equipment.* An installation in the possession of the user, which indirectly or directly connects to telecommunications network points of access for purposes of conveying, receiving, or processing information. The connection is indirect if additional equipment operates between the service access point and the service equipment. The terminal equipment may be connected to the telecommunications network by cable or through an electromagnetic path.

28. *Property boundary.* From the standpoint of constructing, establishing and developing telecommunications installations a property boundary is the borderline which separates a given real property from other land areas, and, in the context of Paragraph 2, relative to multilevel structures (row houses or housing projects consisting of several buildings), the borderline of the public road alongside the project, not including residential access roads.

29. *Closed, secure networks.* Telecommunications networks and equipment which serve governmental, national security, public service, and defense purposes, which are separate by virtue of their function, and which satisfy special needs and the functioning of closed organizations and closed technologies. Their use (operation) does not qualify as a telecommunications service provision.

30. *Closed loop network.* A network separated from other telecommunications networks, which handles the traffic of given communities, or which may be used for purposes of program distribution.

Resolution Allocates Funds for Gypsies

93CH0153B Budapest MAGYAR KOZLONY in Hungarian 6 Nov 92 p 3818

[Text of resolution adopted at the 3 November 1992 session of the Hungarian National Assembly]

[Text]

Resolution No. 76/1992 (16 November) OGY [National Assembly] of the National Assembly on the Distribution of the Reserve Fund Set Aside from the Budget Subsidies for National and Ethnic Minority Organizations

The National Assembly adopts the following resolution on the 2,709,000 forint reserve fund set aside from the 220-million-forint subsidy amount proposed in Law No. XCI/1991, Appendix 1, Section II.5 on the 1992 budget of the Hungarian Republic and the regulations for the management of the state budget in 1992:

Article I.

The 2,309,000 forints allocated for Gypsy organizations must be distributed in the following manner:

1. National Interest Group of Gypsy Musicians	450,000 forints
2. Interest Group of Underprivileged Romanies in Szabolcs-Szatmar-Bereg County	380,000 forints
3. Association of Romany Entrepreneurs in Budapest	130,000 forints
4. Independent Gypsy Organization of Szigetszentmiklos-Lakihegy	130,000 forints
Total	1,090,000 forints

This budget subsidy is intended to cover the organizational and operational costs of the minority organizations listed above. Political organizations, which fall under Law No. XXXIII/1989 on the operation and budget of political parties, must not be granted these subsidies.

Article II.

The National Assembly will reallocate the remaining 1,619,000 forints to the Foundation of National and Ethnic Minorities in Hungary, a high priority allocation contained in Section VII.24.5. The foundation's board of directors is obliged to allocate 1,219,000 forints of the above amount to the Ghandi Foundation towards the support of the education of Gypsy schoolchildren.

The Foundation of National and Ethnic Minorities in Hungary is obliged to apply the remaining 400,000 forints allocated to other organizations towards the support of the education of children of ethnic minorities.

Article III.

The utilization of the budget subsidies will be supervised by the State Audit Office.

Signed: Gyorgy Szabad Speaker of the National Assembly

Sandor Toth Recording Secretary of the National Assembly

Zoltan Trombitas Recording Secretary of the National Assembly

Resolution on House Rules of Budgeting Procedure

93CH0153A Budapest MAGYAR KOZLONY in Hungarian 6 Nov 92 p 3815

[Text of resolution adopted at the 3 November 1992 session of the Hungarian National Assembly]

[Text]

Resolution No. 74/1992 (6 November) OGY [National Assembly] of the National Assembly on the Modification of Resolution No. 8/1989 (8 June) OGY on the Modification and Unified Text of the House Rules of the National Assembly

Article 1

Article 31.a.1. of Resolution No. 8/1989 (8 June) OGY on the modification and unified text of the house rules of the National Assembly (in the following: House Rules) will be replaced by the following clause:

"Article 31.1. The president of the republic, the government, the parliamentary commissioner for citizens' rights, the president of the State Audit Office, the president of the Hungarian National Bank, the chief prosecutor, the managing director of the State Property Agency, as well as every committee of the National Assembly can request an urgent discussion of the proposal for an important reason of state. *The urgent discussion of the proposed budget of the Hungarian Republic cannot be requested.* In case of a motion by individual representatives, 50 representatives can request an urgent discussion in writing. The National Assembly will decide the matter without debate."

Article 2.

Article 56 of the House Rules will be supplemented by the following Articles 56.A-56.C:

"56.A. During the discussion and adoption of a proposed budget of the Hungarian Republic, the regulations of the House Rules must be applied with the amendments contained in Articles 56.B and 56.C.

"56.B.1. Before a resolution is adopted on the principal amounts of revenues and expenditures contained in the central sections of the budget proposed for the following year, as well as on the amount of the budget deficit or surplus, respectively, which the National Assembly must accomplish by 30 November, in accordance with Article 32.1 the committee in charge of budgetary matters will publish in Part I of its report those modification proposals and related observations by the committee which concern the amount of revenues and expenditures of each individual section of the proposed budget of the Hungarian Republic, as well as their sum total, and the amount of the budget deficit or surplus, respectively. Modification proposals not concerning these matters must be listed—without being reproduced verbatim—in Part II of the report.

"56.B.2. The National Assembly must make a decision on the modification proposals contained in Part I of the report, as well as on the sum total of each section; it does not have to make a decision on the modification proposals contained in Part II of the report, or—in case of a rejected modification proposal—on the original wording of the proposal.

"56.B.3. In the course of passing a resolution in accordance with Section 2, after the decision on the modification proposals is made, the committee in charge of budgetary matters will make a modification proposal about the sum of revenues and expenditures in each section of the state budget, its sum total, and the amount of the deficit or the surplus. The National Assembly will subsequently make an immediate decision on the above without debate.

"56.B.4. On the day following the decision, the committee in charge of budgetary matters will inform the National Assembly about the parts of the proposed budget of the Hungarian Republic on which the National Assembly made a decision.

"56.C.1. After the information provided in accordance with Article 56.B.4, detailed discussion will be reopened. Within eight days of the notification, modification proposals may be submitted which do not concern the principal amounts of revenues and expenditures in the individual sections, or the amount of the deficit or surplus.

"56.C.2. Following the conclusion of the renewed detailed discussion, the committee in charge of budgetary matters will prepare a report containing the number and the complete text of modification proposals and related modification proposals as described in Part II of the report according to Article 56.B.1, the number and the complete text of related modification proposals which were submitted after the detailed discussion was opened, as well as the committee's observations on the modification proposals."

Article 3.

This resolution shall enter into force on the day of its promulgation.

Signed: Gyorgy Szabad Speaker of the National Assembly

Laszlo Boros Recording Secretary of the National Assembly

Dr. Jozsef Horvath Recording Secretary of the National Assembly

Resolution on New Television Foundation

Text of Charter

93CH0071A Budapest MAGYAR KOZLONY in Hungarian No 102, 9 Oct 92 p 4

[Text of Government Resolution No 1057/1992 (9 Oct) Establishing the Hungaria Television Foundation"]

[Text] 1. The Government hereby establishes the Hungaria Television Foundation and publishes the said foundation's charter in the supplement to this resolution.

2. The government instructs the minister of justice to see to registering the foundation with the court.

3. This resolution becomes effective the day of its promulgation.

For the prime minister:

(Signed) Dr. Peter Boross, Minister of the Interior

Supplement To Government Resolution No. 1057/1992

CHARTER

The government has resolved to establish—pursuant to Section 74/A of Law No IV/1959 (the Civil Code)—a foundation for a period of indefinite duration, under the following conditions:

1. The foundation shall be called Hungaria Televizio Alapitvany or [in English] the Hungaria Television Foundation.

2. The foundation's headquarters are at 38 Keleti Karoly utca, 1024 Budapest.

3. The foundation's purpose is nonpublic-service television broadcasting to Central and East Europe, especially for the benefit of the ethnic Hungarians living beyond our borders. The television broadcasting must serve to promote Hungarian and universal intellectual and cultural values; to form a positive image of Hungary and of the Hungarian people; to foster and strengthen ties between peoples and international relations; and to help Hungarian minorities preserve their identity, native language and culture.

The foundation will achieve the enumerated objectives primarily by producing, or commissioning, and broadcasting programs of the following types:

a) Programs that are devoted to political, economic and cultural developments at home and abroad, or to issues affecting Hungarians, as well as programs that enhance the formation of objective opinions;

b) Programs offering information and entertainment, for the purpose of reinforcing Hungarian linguistic existence; news analyses that serve to keep viewers better informed; programs that satisfy the religious needs of Hungarian viewers; programs presenting literary and artistic works and cultural values; and educational and cultural programs, with special attention to televised instruction.

To achieve the set objectives and ensure the financial prerequisites for doing so, the foundation may engage also in business activity for profit (by broadcasting commercials, for instance).

In programming, increased attention must be devoted to the provisions of the Agreement on Cross-Border Television, sponsored by the Council of Europe (Strasbourg, 1989).

In the interest of realizing these objectives, the founder will ensure that the foundation's television service is retransmitted over the No 33 transponder of the Eutelsat 2 F-3 communications satellite. The foundation will commission Magyar Musorszoro Vallat [Hungarian Broadcasting Enterprise] to build and operate on its behalf the modulated link between the studio and the satellite. To that end, the foundation and the enterprise will conclude a contract that contains the technical specifications and economic conditions.

The founder stipulates that the foundation must begin trial broadcasting, for three hours a day, by 1 November 1992; and regular television service as of 1 January 1993, in accordance with the charter.

4. The foundation's assets will comprise the following:

a) For the startup of the foundation's operation and its maintenance during the initial period, the founder undertakes to provide a grant of 300 million (three hundred million) forints for 1992, and a grant of at most 2.0 billion (two billion) forints for 1993. The founder will deposit the 300 million (three hundred mnillion) forints within 30 days, to the foundation's bank account.

The annual state budgets will determine the amounts of the annual grants for the 1994-1997 period.

b) In harmony with its objectives, the foundation may engage in business activity. The proceeds from such business activity must be used exclusively for the realization of the objectives specified in the charter.

c) The foundation is open-ended: any domestic or foreign individual, legal entity or nonincorporated organization may acceed to it by contributing to its endownment, in cash or in kind.

Accession will not make the contributors cofounders.

5. The foundation's organs are (A) its board of trustees, and (B) its secretariat.

(A) The Board of Trustees

a) The board of trustees is the foundation's highest decision-making organ, which also administers the foundation's assets.

The board of trustees has between 11 and 19 members. At the time of establishing the foundation, the board members are:

1. Sandor Csoori, 38 Keleti Karoly u., 1024 Budapest;
2. Gyorgy Illes, 171 Rona u., 1149 Budapest ;
3. Marcell Jankovich, 9 Kukullo u., 1026 Budapest;
4. Gyula Kodolanyi, 2 Csejtei u., 1025 Budapest;
5. Zoltan K. Kovacs, 12 Bocskay u., 1114 Budapest;
6. Ferenc Kohalmi, 24 Olga u., 1165 Budapest;
7. Imre Makovecz, 8 Villanyi ut, 1114 Budapest;
8. Dr. Jozsef Molnar, 60/a Etele ut, 1115 Budapest;
9. Gyorgy Szabados, 6 Tancsics u., 2626 Nagymaros;
10. Ferenc Szakaly, 7 Beg u., 1022 Budapest;
11. Laszlo Tokeczky, 113/a Baross u., 1083 Budapest;
12. Dr. Miklos Kelleymayer, 2 Lenke u., 7626 Pecs; and
13. Dr. Laszlo Dux, 11 Attila u., 6722 Szeged.

Later on, the founder will appoint additional board members and will register them with the court.

The board may invite to its meetings observers from European organizations representing ethnic Hungarians.

b) The members of the board elect a board chairman from among themselves.

c) The chairman and members of the board are reimbursed for their expenses.

d) The members of the board are appointed to terms of indefinite duration.

e) When a seat on the board becomes vacant, the founder appoints a new member on the basis of the board's recommendation.

The board of trustees functions as follows:

a) The board ensures the foundation's continuous operation in accordance with its charter, and sees to it that the foundation's assets are used for the objectives specified in the charter. It determines and provides the personnel, plant and equipment necessary for the realization of the set objectives.

b) The board has a quorum when more than half of its members are present at its meeting. The meeting rescheduled with the same agenda, because a quorum was lacking, is able to take action even if attended by fewer members than would otherwise be required for a quorum.

c) The board meets as required, but at least once every six months.

d) The board adopts its decisions by simple majority. On the chairman's proposal, the board decides by a two-thirds vote the questions specified in the foundation's rules of organization and procedure.

e) The board has exclusive authority:

- To adopt the foundation's rules of organization and procedure, subject to the founder's approval;
- To make decisions regarding the use of the available assets;
- To appoint the senior managers of institutions operated by the foundation;
- To approve the foundation's annual business plan and financial statement; and
- To decide all matters over which the foundation's rules of organization and procedure give the board exclusive authority.

(B) The Secretariat

a) The secretariat is an organ of the board of trustees.

b) The board employs a secretary general to head the secretariat. His appointment is for a three-year term, but is renewable. The chairman of the board exercises the employer's rights in relation to the secretary general.

c) The secretary general's duties are as follows:

- To prepara the meetings of the board of trustees;
- To implement the board's decisions;
- To exercise the employer's rights in relation to the foundation's [other] employees; and
- To manage the secretariat.

6. The foundation's representation: The chairman of the board of trustees represents the foundation. At the time of establishing the foundation, its representative is Sandor Csoori, 38 Keleti Karoly u., 1024 Budapest.

The rules of organization and procedure contain detailed provisions on the foundation's representation. The chairman of the board and the secretary general are authorized to sign documents in the foundation's name.

Checks and withdrawals from the foundation's bank account must be signed jointly by the chairman and a member of the board, or by two board members.

At the time of establishing the foundation, Sandor Csoori (38 Keleti Karoly u., 1024 Budapest) and Gyula Kodolanyi (2 Csejtei u., 1025 Budapest) are authorized to sign checks and withdrawals from the foundation's bank account.

The agents authorized to sign checks and withdrawals must jointly sign all documents pertaining to financial matters.

7. Reporting on the foundation's activity: Regularly, but at least twice a year, the board of trustees must present a report on its activity to the founder. The board must regularly inform also the general public about its activity.

8. The foundation's duration: The foundation has been established for a period of indefinite duration.

9. The foundation's cessation: The foundation will cease:

a) If realization of the foundation's objectives is no longer feasible, due to changing circumstances since the foundation's establishment, or

b) If the assets earmarked for the realization of the foundation's objectives, and the proceeds from such assets, have all been spent in the interest of realizing the foundation's objectives.

If the foundation ceases, its assets must be donated—in accordance with the founder's instructions—to other foundations concerned with the welfare of ethnic Hungarians living beyond our borders.

10. Final provisions:

a) To be valid, the foundation must be registered with the court.

b) The Civil Code and the statutory regulations governing foundations, in force at the given time, shall apply respectively to questions for which provisions are lacking in the charter.

Editorial Critique

93CH0071B Budapest FIGYELO in Hungarian 15 Oct 92 p 3

[Editorial by Janos Budai: "Whose Hungaria?"]

[Text] The unanswered questions in conjunction with the Hungaria Television Foundation, which the government has established, keep accumulating.

According to the government's resolution, a new satellite TV channel will be launched as of November. Its programs are intended primarily for the Hungarian minorities living beyond our borders. Transmission will be relayed by the Eutelsat 2 F-3 communications satellite. The parabolic antennas in Hungary and the neighboring countries have been set up predominantly for reception from the Astra communications satellite. To receive the programs of Hungaria TV, therefore, viewers will either have to realign their antennas with Eutelsat or install another parabolic antenna, at no small cost. Fortunately, most of the viewers concerned are able to receive over cable TV networks the programs transmitted by satellite, and for them the additional cost of installing a new antenna will be negligible. According to information that the government has neither confirmed nor denied, the cost of leasing the international fequency will be 500 million forints a year. Transmission costs next year will amount to 3.0 billion forints. According to the long-range plans, Hungaria TV is to become self-supporting within a few years. The government has set up a board of trustees to manage the TV channel. The leaked list of names indicates that practically every one of the board's members has close links with the MDF [Hungarian Democratic Forum], and within it particularly with Jozsef Antall, Tamas Katona and Gyula Kodolanyi. The Hungarian Broadcasting Enterprise has concluded the contract with Eutelsat for transmitting the programs. The government, of course, had to provide the customary guarantee, Eutelsat not being a firm independent of the European Community.

Behind the available information, however, there are still a good many hidden secrets. It is still unclear, for instance, who has licensed the operation of this TV channel, on what basis, and for how long. According to the statutory regulations now in force, the Institute for the Administration of Frequencies is the agency of first instance for the licensing of television stations. But we have been informed that in this case the license has been issued by the Ministry of Transport and Communications (in other words, the government has issued a license to itself). The validity of the license is also questionable. If the communications bill now before Parliament is enacted, then—according to the government's own version of the bill—the law will apply to Hungaria TV as well, if it is intended to operate as a public-service television channel. But then the license would be effective only until the Telecommunications Law becomes effective! And should Hungaria TV be exempted from the Communications Law as a result of this debate, then it would fall under the Media Law. But there is as yet no Media Law. In principle, moreover, Hungaria TV—as cross-border transmission—would not fall under that law, either. Unless an amendment to that effect is introduced and adopted. Today this leaves a legislative gap so wide that it is able to accomodate an entire Hungaria Foundation.

Likewise unclear is how the channel will be financed. As we have indicated, it is hard to tell whether Hungaria TV will be a public-service or a commercial channel. If it is to be a commercial channel—which is the conclusion one may draw from the government's intention that the channel is to become self-supporting within a few years—then there should not be even a penny of state funds in it! Yet, to repeat, the government wants to provide 300 million forints for this purpose this year, and ten times that amount next year. All that from a budget whose planned deficit is not supposed to exceed 185 billion forints. (In other words, the cost would amount to nearly 2 percent of the deficit.) Thus the government's present standpoint (because of using budgertary funds) precludes the television channel's commercial nature. In the case of a public-service channel, however, the Media Law must (or should) determine the manner of appointing the channel's senior management. But that leaves the question of what to do with the list of board members who are loyal to the party? Furthermore, if all this remains unclear, whose money was used to pay for the microwave link built between Gyor and Taliandorogd for Hungaria TV's use, who authorized the construction project, and how much did it cost?

If we think all this through, then perhaps it is not absurd to assume that the government is not really interested in the media bill's passage. Unclear situations, too, can be politically useful.

Resolution on 1992 Property Policy Guidelines

93CH0157A Budapest MAGYAR KOZLONY in Hungarian No 112, 6 Nov 92 pp 3811-3814

[National Assembly Resolution No 71 of 6 November 1992 concerning the 1992 Property Policy Guidelines adopted at the 27 October session of the National Assembly]

[Text] Pursuant to Law No. 54 of 1992 concerning the sale, utilization, and protection of property under temporary state ownership, and pursuant to Law No. 53 of 1992 concerning the management and utilization of entrepreneurial property to remain under long-term state ownership, the National Assembly has approved the following 1992 Property Policy Guidelines (hereinafter: Guidelines).

Consistent with the government's ownership and privatization strategy, the Guidelines contain the privatization goals and the main procedural rules for 1992.

The Guidelines encourage attainment of the following strategic privatization goals:

—development of an ownership structure characteristic of modern market economies;

—strengthening of competition and the enforcement of efficiency constraints based on conditions commensurate with a private economy;

—providing added resources indispensable to the modernization of the economy, and establishing still missing institutions required in a market economy;

—expanding and strengthening of the Hungarian propertied stratum;

—advancing integration with world markets; and

—reducing the state's indebtedness.

The Guidelines confirm the requirement that the sale of state property must be pursued in Hungary so as to realize the goals of a market economy, and by way of a market-based system.

It is the government's function to implement the provisions of the Guidelines within a framework established by legal provisions in force, and through organizations that exercise state ownership rights (State Property Agency [AVU], State Property Management Corporation [AVRt.]).

I.

1. The System of Goals Established by the Property Policy Guidelines

1.1 In terms of ownership policy, the general goal of the Guidelines is to strengthen economic conditions based on private ownership, to productively operate state property, and to accelerate the rational dismantling of state property.

1.2 In additional to the general goal, the following partial goals have been designated:

—to maintain and to strengthen interest in privatization by foreign investors;

—to support Hungarian investors—entrepreneurs, employees—in acquiring property;

—to efficiently exercise state ownership rights, to protect state property in the course of privatization and property management;

—to renew the producer and enterprise organizational system, and to encourage more productive enterprise management;

—to attract developmental resources to the manufacturing structure for purposes of technological development and to expand exports;

—to more effectively enforce employment policy—workplace preservation, workplace creation—and employee welfare considerations;

—to dismantle monopolies operating in the domestic market by way of decentralized privatization;

—to increase privatization revenues, to provide resources for the economy.

2. Procedural Rules Applicable to the Privatization Process

In the course of selling state property, competitive bidding must be the principal rule to be observed by the organization exercising ownership rights. This process must be consistent with the following criteria:

—the procedural and decision-making rules followed by the organization exercising ownership rights, as well as the rules of competitive bidding must be available and understandable to all affected parties;

—bids tendered by Hungarian investors or internal employee groups that are similar to bids submitted by others, must have preference in making the final award;

—measures aiming for the effective protection of state property must be part of the procedural rules;

—in the course of selling state property, interest mediation must appear in a form consistent with applicable legal provisions in force.

In applying procedural rules in the process of privatization, the decreased direct role to be played by the state must be accompanied by the development and enforcement of effective state ownership control.

3. The Exercise of Ownership Rights Related to State Property

Pursuant to the provisions of Paragraph 31 of Law No. 54 of 1992 concerning the sale, utilization, and protection of assets under temporary state ownership, the autonomous enterprise form of operation (enterprise council, general meeting of workers, meeting of delegates) will cease in the Hungarian economy after 30 June 1993.

3.1. Placing Enterprises Under State Administrative Management; The Exercise of Ownership Rights at Enterprises Under State Administrative Management

Enterprises generally managed by enterprise councils, general meetings of workers (meetings of delegates) must be placed under state administrative supervision for purposes of privatization if

—as a result of changing the enterprise structure an overwhelming part of the real property is transformed into capital assets in other organizations, or if it is operated as capital in an enterprise;

—the autonomous management of the enterprise fails to contribute to successful privatization;

—the enterprise experiences long-term losses and the enterprise management has no acceptable program to discontinue loss operations;

—the assets are being used up openly or in a concealed fashion; or if

—the enterprise has failed to convert itself by the legally established deadline, or if the enterprise has no valid agreement concerning the implementation of its conversion with the organization exercising ownership rights or its agent, a consulting firm.

In enterprises under state administrative supervision the state's exercise of its ownership rights must aim for attaining the following goals:

—privatizing the enterprise;

—reorganizing the enterprise;

—renewing enterprise management;

—preparing the enterprise for conversion;

—dismantling the enterprise into independent organizational units;

—liquidating the enterprise.

3.2. Ways to Utilize Assets Remaining Under Temporary State Ownership

Corporate shares acquired by the organization exercising the state's ownership rights based on property under temporary state ownership may be

—sold to Hungarian and/or foreign investors;

—sold on credit, leased, sold at option, or sold under arrangements calling for installment payments to Hungarian investors, if so requested;

—invested in corporations, investment funds, or portfolio packages;

—transferred free of charge pursuant to law to organizations enumerated in Section 6 of the Guidelines, consistent with the conditions specified therein;

—transferred in the form of stock to entitled persons in exchange for ownership shares established in the course of privatizing public utility enterprises of a national scope (natural gas utilities, regional water works, MATAV [Hungarian Telecommunications Enterprise], MVM [Hungarian Electrical Works]), as a result of contributions to public utility development or in the framework of a public utility development corporation;

—transferred for the purpose of property management by using various techniques;

—utilized for compensation purposes.

Organizations exercising ownership rights over state property managed by business organizations in which the organization exercising ownership rights has a controlling interest, must enforce their ownership policy and economic policy goals consistent with the corporation's rules for decision-making. This requirement extends to the development of requirements related to the composition and operation of the executive bodies, as well as to the periodic audit of their activities.

4. Determining the Amount of Dividends Payable After Corporate Property in the State's Hands

Organizations exercising ownership rights must proceed pursuant to the following considerations in developing dividend policies related to state ownership (state share of ownership):

—preservation of the viability of the business corporations, and the expansion of the corporation's developmental and marketing opportunities must be the primary consideration;

—increasing the value of assets;

—ensuring that necessary resources are attracted.

The state budget is entitled to receive dividends payable after state property, pursuant to Law No. 91 of 1991 concerning the state budget.

5. Rules for Employee Property Acquisition

—The government supports property acquisition by employees also by providing preferential terms within the limits of legal provisions in force, and of the Guidelines. It is appropriate to offer an opportunity to take advantage of preferential terms to be given to employees, if such offer is made to all employee groups, and if proper care is taken not to exclude or disadvantage any entitled worker stratum.

—The types of benefits to be provided to employees and to corporations established by employees, as well as to MRP [Employee Stockholder Groups] organizations must be treated on an equal basis by the ownership organizations, and benefits provided in different forms must be considered jointly.

—The benefit to be provided at the expense of state property must not exceed 10 percent of the amount of the enterprise's own capital (own assets) as shown in the starting financial statement of the converting state enterprise, or the amount of 12 months of gross wages per person, whichever is smaller. If 10 percent of the converting enterprise's own capital (own assets) amounts to less than 12 months of aggregate gross wages, the state organizations that exercise ownership rights may raise this ratio at their discretion to 15 percent, in response to a justified request.

—In case of a buy-out initiated by a group of workers, or if not all workers take part in the preferential purchase program, the possible extent (amount) of the benefit must be determined consistent with the ratio of workers involved in the purchase as part of the total number of workers at the enterprise. The benefit may be extended at a later date to workers who did not initially take advantage of it. The benefit may be extended in the course of the privatization of business corporations established as a result of converting a state enterprise or with the participation of a state enterprise, including business corporations established prior to the conversion of the state enterprise or founded by the legal successor to the state enterprise that has been established after conversion. Whether to grant the benefit must be decided by the organization exercising the state's ownership rights.

—When selling a corporation established as a result of converting a state enterprise, the organization exercising the state's ownership rights may grant to the employees a discount, or an opportunity to pay installment in an amount not exceeding 50 percent of the selling price. Except in cases involving MRP, or sales administered under the new MRP law, if the reduced purchase price is paid in installments, 25 percent of the reduced price must be paid in cash and the installments must be paid off within a maximum of three years, and the remainder of the purchase price may accrue interest at a rate equal to the interest rate applicable to privatization loans (E-Loans ["Existential"—Small Business Loans]). The proceeds of privatization loans (E-Loans) may also be used for paying the purchase price.

—The nominal value of stock must be used as a basis of calculation when selling workers' stock. In the course of sale a maximum discount of 90 percent of the nominal value may be granted.

6. Free of Charge Transfer of Assets

State property may be transferred free of charge if

—the transfer is part of a property transfer assigned to Social Security, or if

—the transfer is made to a foundation that replaces or substitutes a budgeted expenditure,

—at the request of enterprise employees, the organization that exercises the state's ownership rights may transfer free of charge the social welfare assets of converting enterprises or enterprises to be privatized to occupational, welfare or social foundations, if as a result of the transfer all service obligations of the enterprise are also transferred, and if the related expenditures are paid in full by the recipients of such assets and by those who benefit from the services provided.

Property transfer to social security takes place pursuant to the following rules:

—securities and other pieces of property may be transferred only to one or more property management organization that meets professional criteria;

—in the course of transfer, social security may acquire only a minority share in business corporations, except for property management organizations;

—except in the case of exchanging portfolios for purposes of preserving or increasing the value of assets, only the returns on property transferred to Social Security may be used to finance the current expenditures of Social Security;

—the social security law will provide annually for the method of utilizing property transferred to Social Security.

II. Utilization of 1992 Privatization Revenues

1. 1992 Privatization Revenues

Pursuant to Paragraph 15 of Law No. 54 of 1992 concerning the sale, utilization and protection of property under temporary state ownership [hereinafter: Law], 1992 AVU revenues amount to the following:

(a) The total amount of revenues corresponding to AVU's recorded value of property and revenues collected in excess of the recorded value is 66 billion forints;

(b) Dividends, shares paid after property recorded by AVU is valued at 4 billion forints.

Revenues collected by AVU as a result of property sales financed under the E-Loan will be used to reduce the state's indebtedness.

2. Utilization of 1992 Privatization Revenues

2.1. Paragraph 16 of the Law provides for the 1992 utilization of revenues derived from the sale and utilization of state property under the authority of AVU, as follows:

(a) Pursuant to Paragraph 16 Section (2) Subsection (a) of the Law, 300 million forints may be paid to property managers in the form of fees and expenditures incurred in conjunction with property management;

(b) Pursuant to Paragraph 16 Section (2) Subsection (b) of the Law, a total of 9.8 billion forints may be expended to cover expenses incurred as a result of necessary reorganization required prior to the sale of property. Of this amount, 8 billion forints must be used to increase the basic capital of the Hungarian Investment and Development Corporation.

(c) Pursuant to Paragraph 16 Section (2) Subsection (c) of the Law, a total of 11.6 billion forints may be used to cover sales commissions and expenditures incurred in conjunction with the sale of property. Of this amount 5.6 billion forints will cover direct expenditures (consultant fees, appraisal fees) related to sales, while 6 billion forints may be used for providing guarantees or warranties, or guarantees related to responsibilities incurred as a result of warranties, and for 1992 expenditures and reserve accumulation;

(d) Pursuant to Paragraph 16 Section (2) Subsection (d) of the Law, 300 million forints may be used to compensate local governments for the value of downtown land yielded;

(e) Pursuant to Paragraph 16 Section (2) Subsection (e) of the Law, the AVU may also use its revenues to establish business corporations. In 1992, a total of 11 billion forints may be used for this purpose, of this amount the AVU must contribute 4 billion forints for the establishment of the Credit Guarantee Corporation, and 7 billion forints for the establishment of the AVRt.;

(f) Pursuant to Paragraph 16 Section (2) Subsection (f) of the Law, 1 billion forints must be earmarked for expenditures incurred as a result of establishing workplaces in conjunction with the sale of property (the conversion of the enterprise);

(g) Pursuant to Paragraph 16 Section (3) of the Law, annual amounts established in the budget law, and derived from the sale of enterprises established by local councils, must be paid to local governments. The amount budgeted for 1992 is 2 billion forints.

2.2. Law No. 91 of 1991 concerning the 1992 budget of the Hungarian Republic and the 1992 rules for managing the state household (hereinafter: Budget Law) provides for the utilization of 1992 privatization revenues. Accordingly,

(a) Pursuant to Paragraph 27 Section (1) of the Budget Law, the AVU must transfer 20 billion forints to the state budget;

(b) Pursuant to Paragraph 17 Section (1) of the Budget Law, 2.722 billion forints must be transferred to Social Security;

(c) Paragraph 25 of the Budget Law provides that the state's share after property controlled by AVU must be transferred to the state budget. Four billion forints must be earmarked for this purpose in 1992.

2.3. According to Law No. 13 of 1989 concerning the conversion of management organizations and business corporations, 20 percent of the revenues derived from the sale of enterprises managed by local governments may be returned to the corporation. This provision has been repealed on 28 August 1992 by Law No. 55 of 1992, amending legal provisions related to laws concerning the state's entrepreneurial property. In due regard to sales presently in progress, 3.3 billion forints may be earmarked for this purpose in 1992.

2.4. Pursuant to Paragraph 18 Section (1) of the Law, 4 billion forints of the 1992 privatization revenues must be expended to support the World Exposition Fund.

2.5. In the event that the total amount of 1992 privatization revenues exceeds the total amount of 70 billion forints shown under 2.1 - 2.4, the government has discretionary authority to expend the accumulated surplus revenues for the following purposes:

—to increase the amount of contribution to the basic capital of the AVRt.,

—to increase the amount of the basic capital of the Hungarian Investment and Development Corporation, [and/or]

—to reduce the state's indebtedness.

3. The government must submit an itemized report concerning the implementation of the Property Policy Guidelines as part of its report concerning the implementation of the 1992 budget.

[Signed]: Gyorgy Szabad, President of the National Assembly; Dr. Lajos Szabo, National Assembly Recorder of Minutes; Zoltan Trombitas, National Assembly Recorder of Minutes.

Text of 'Small Constitution'

AU3011124392 Warsaw ZYCIE WARSZAWY (Special supplement) in Polish 19 Nov 92 pp unnumbered

["Constitutional Law of 17 October 1992 on Mutual Relations Between the Legislature and the Executive of the Republic of Poland, and on Local Government"]

[Text] To improve the work of the supreme authorities of the state until such time as the new Constitution of the Republic of Poland has been passed, the following is decreed.

Chapter 1. General Principles

Article 1. The following are state authorities in the legislative sphere: the Sejm and the Senate of the Republic of Poland. The following are state authorities in the executive sphere: the president of the Republic of Poland and the Council of Ministers. The following are state authorities in the judicial sphere: the impartial courts.

Article 2.1. Deputies and senators, persons belonging to the Council of Ministers, and other persons holding public offices in the state, as described in the constitutional law, may not pursue activities that conflict with the performance of their mandate, office, or function within the scope and under the regulations defined in the law.

Article 2.2. At the beginning and end of their terms of office, or prior to assuming their office and after leaving it, the persons listed in Point 1 are to file declarations about the size of their assets.

Chapter 2. The Sejm and the Senate

Article 3.1. The Sejm consists of 460 deputies, chosen in universal, equal, direct, and proportional elections by secret ballot.

Article 3.2. The Senate consists of 100 senators, chosen in the voivodships for a period of time equal to the Sejm's term of office and in universal, equal, direct, and proportional elections by secret ballot.

Article 4.1. The Sejm's term of office is four years from the date of the elections.

Article 4.2. The president directs that elections be held on a nonworking day during the month preceding the end of the Sejm's term of office.

Article 4.3. The Sejm may be dissolved by means of its own resolution, supported by at least two-thirds of the deputies.

Article 4.4. The president may dissolve the Sejm in circumstances defined in this law, after obtaining the opinions of the marshals of the Sejm and the Senate.

Article 4.5. The term of office of the Sejm and the Senate ends on the day on which a Sejm resolution or presidential decree on the dissolution of the Sejm is announced.

Article 4.6. If the Sejm is dissolved by the president or by a Sejm resolution, the president directs that elections be held on a nonworking day no earlier than three months and no later than four months after the termination of the Sejm's term of office.

Article 5. The Supreme Court decides on the validity of the elections or the validity of the mandate of any deputy against whom a protest has been lodged.

Article 6. A deputy is a representative of the entire people. He is not bound by any instructions from voters, and he may not be recalled.

Article 7.1. A deputy may not be brought to face responsibility for actions stemming from the performance of his mandate either during his mandate or after the termination thereof, unless he violates the personal assets of other persons.

Article 7.2. A deputy may not be brought to face criminal charges nor may he be arrested without the approval of the Sejm. Such approval is expressed by means of a two-thirds majority of votes, with a quorum of at least half of the deputies.

Article 8. The mandate of a deputy may not be combined with the mandate of a senator nor with the post of judge in the Constitutional Tribunal, judge in the State Tribunal, judge in the Supreme Court, president of the National Bank of Poland, civic ombudsman, chairman of the Supreme Chamber of Control, ambassador, or voivode.

Article 9.1. The Sejm conducts its deliberations at sessions.

Article 9.2. The president convenes the first session of the newly elected Sejm within 30 days of the day of the elections.

Article 10.1. The Sejm appoints from among its number a marshal, deputy marshals, and committees.

Article 10.2. The marshal and deputy marshals together form the Sejm Presidium. The Presidium convenes Sejm sessions and oversees their activity.

Article 10.3. The terms of office of the Sejm marshal and deputy marshals expire the moment the new Sejm has convened.

Article 11. To investigate a given issue, the Sejm may appoint an investigative committee, which has the right to interview persons within the terms of the code of criminal proceedings.

Article 12.1. The Sejm's deliberations are open. The Sejm may make its deliberations secret by an absolute majority of votes, should the welfare of the state necessitate this.

Article 12.2. At Sejm sessions, the chairman of the Council of Ministers, members of the Council of Ministers, and ministers of state may speak out of turn whenever they wish.

Article 13. The Sejm passes laws by a majority of votes, with at least half of all deputies present, unless the constitutional law states otherwise. The Sejm passes other resolutions in the same way, unless the provisions of laws and Sejm resolutions state otherwise.

Article 14. The organization and procedures of Sejm work are set out in rules adopted by the Sejm.

Article 15.1. Legislative initiative belongs to the deputies, the Senate, the president, and the Council of Ministers.

Article 15.2. When presenting a draft law, the Council of Ministers shall discuss its financial affects and supply the drafts of basic rules on how to implement them.

Article 15.3. The initiators of draft legislation, deputies, and the Council of Ministers have the right to make amendments to such legislation while it is being discussed in the Sejm. On his own initiative, and also at the request of the Council of Ministers, the Sejm marshal may refuse to put to the vote any amendments that were not previously placed before a committee.

Article 15.4. The initiators of draft legislation may withdraw a piece of draft legislation during the Sejm legislative process before the first reading has taken place. Should such a withdrawal take place, the Sejm decides on further procedures.

Article 16.1. In justified cases, the Council of Ministers may give urgent status to a piece of legislation introduced by it.

Article 16.2. The Sejm regulations define the different procedures to be followed when there is an urgent piece of legislation.

Article 16.3. The Sejm marshal may refuse to put to the vote any amendment to an urgent piece of legislation that was not previously placed before a committee.

Article 16.4. In proceedings concerning urgent legislation, the deadlines discussed in Article 17, Point 2 and Article 18, Point 2 are brought forward by seven days.

Article 17.1. The Sejm marshal conveys to the Senate any law that has been passed by the Sejm.

Article 17.2. Within the space of 30 days, the Senate may accept a law, make amendments to it, or reject it. If the Senate fails to adopt any resolution on this law within 30 days, it is considered passed.

Article 17.3. In the case of amendments made by the Senate requiring state budget expenditure, the source of the necessary funds must be indicated.

Article 17.4. A Senate resolution rejecting a law or an amendment proposed in a Senate resolution is considered valid unless the Sejm rejects it by an absolute majority of votes.

Article 18.1. The Sejm marshal places a law passed by the Sejm and the Senate before the president to be signed.

Article 18.2. The president signs the law within 30 days of its being placed before him and decrees that it be published in DZIENNIK USTAW.

Article 18.3. The president may refuse to sign a law and, with a suitable explanation, refer it back to the Sejm for reconsideration. Once the Sejm has once again passed the law with a two-thirds majority of votes, the president shall sign the law within seven days and decree that it be published in DZIENNIK USTAW, unless he applies to the Constitutional Tribunal under the provisions of Point 4.

Article 18.4. Before signing a law, the president may request the Constitutional Tribunal to see that the law complies with the Constitution. In this case, the deadline by which the president would normally sign the law is frozen. The president cannot refuse to sign a law the Constitutional Tribunal has deemed to be in compliance with the Constitution.

Article 19.1. A referendum may be held on matters of particular importance to the state.

Article 19.2. A referendum may be decreed by:

1) The Sejm, by means of a resolution passed with an absolute majority of votes, or by:

2) The president, with the approval of the Senate, expressed by an absolute majority of votes.

Article 19.3. The result of the referendum is binding if more than half of eligible voters took part in it.

Article 19.4. The rules and procedure for holding a referendum are set out in this law.

Article 20. State incomes and expenditures for the calendar year are set out in the budget law. In particular cases, state incomes and expenditures for a period of less than one year may be set out in a law on a provisional budget.

Article 21.1. The Council of Ministers is obliged to place draft budgets before the Sejm early enough for the Sejm to pass them before the start of the budget year and, in certain cases, before the end of the first quarter of the year. This deadline and the conditions attached to the draft budget are set out in this law.

Article 21.2. The Senate may pass a resolution to accept or amend a draft budget that has been approved by the Sejm within 20 days of receiving it.

Article 21.3. Should a budget or provisional budget not be approved, the Council of Ministers shall pursue financial policy on the basis of the draft that has been placed before it.

Article 21.4. The president may dissolve the Sejm if it fails to pass the budget within three months.

Article 22.1. The Council of Ministers is obliged to submit to the Sejm reports on the implementation of the budget and on the implementation of other state financial plans passed by the Sejm within six months of the end of the budget year.

Article 22.2. The Sejm shall assess the implementation of the budget and other state financial plans within two months of receiving reports from the Council of Ministers and shall pass a vote of approval after hearing the opinion of the Supreme Chamber of Control, presented by its chairman.

Article 22.3. Should the Council of Ministers not receive the Sejm's approval, it shall resign.

Article 23.1. By means of a law passed with an absolute majority of votes, the Sejm may authorize the Council of Ministers, on application by the Council, to issue decrees that have the force of law.

Article 23.2. Such decrees shall define the subject matter they apply to and the extent of the powers described therein.

Article 23.3. During the validity of a decree described in Point 2, the Council of Ministers enjoys sole legislative initiative within the framework of the powers that belong to the government.

Article 23.4. A Sejm law may not authorize the Council of Ministers to pass a decree concerning the following subjects: changes to the Constitution; presidential elections; elections to the Sejm, the Senate, and local government bodies; the personal liberties of citizens; the political rights of citizens; the rights and duties stemming from employment contracts; and the ratification of the international agreements discussed in Article 33, Point 2 of this law.

Article 23.5. The president signs a decree that has been placed before him by the Council of Ministers and orders it to be published in DZIENNIK USTAW.

Article 23.6. Before signing a decree, the president may ask the Constitutional Tribunal to check whether it complies with the Constitution.

Article 23.7. The president may refuse to sign a decree and return it to the Council of Ministers within 14 days, in which case the Council of Ministers may submit the decree to the Sejm as a draft law.

Article 24.1. The Sejm may only adopt a resolution on declaring a state of war if there is an armed attack on the Republic of Poland or if an international agreement requires joint defense against aggression. Should the Sejm not be in session, the president reaches a decision on declaring a state of war.

Article 24.2. The conditions, legal outcome, and procedures for declaring a state of war are set out in this law.

Article 25.1. A deputy may address a motion or question to the chairman of the Council of Ministers and individual members of this Council.

Article 25.2. Motions are put in writing, and a reply to them should be issued within 21 days. Should the reply not satisfy the originator of the motion, he may ask the Sejm marshal for an additional reply and also request that a reply be given during a Sejm session.

Article 25.3. Questions are put orally at every Sejm session and require a direct reply.

Article 25.4. Detailed rules concerning motions and questions and replies to them are contained in the Sejm regulations.

Article 26. Articles 5-10 and 12-14 are applicable to the Senate and senators as appropriate.

Article 27. In circumstances laid down in the constitutional law, the Sejm and the Senate meet in joint session under the chairmanship of the Sejm marshal and thus form the National Assembly.

Chapter 3. The President of the Republic of Poland

Article 28.1. The president of the Republic of Poland is the highest representative of the Polish state in domestic and international relations.

Article 28.2. The president sees that the Constitution of the Republic of Poland is adhered to. He safeguards the state's sovereignty and security and the inviolability and integrity of its borders. He monitors an adherence to international agreements and treaties.

Article 29.1. The president is chosen by the people.

Article 29.2. The president is chosen in a universal, equal, direct election by secret ballot, by an absolute majority of the valid votes cast.

Article 29.3. Should no presidential candidate achieve an absolute majority, a second round of voting is held 14 days after the first round. Those candidates who achieved the largest number of votes in succession in the first round and who have not withdrawn their candidatures take part in this second round of voting. The candidate who achieves the greatest number of votes is considered the president-elect.

Article 29.4. The president is elected for five years and may be reelected only once.

Article 29.5. Any Polish citizen above age 35 and holding the full right to vote in a Sejm election may become president.

Article 29.6. The president's term of office runs from the day on which he enters office.

Article 29.7. Presidential elections are decreed by the Sejm marshal no earlier than four months and no later than three months before the end of the incumbent president's term of office. Should the post of president be vacated, such an election must be decreed no later than 14 days after it becomes vacant. The presidential election shall be held within two months of the day on which the election was announced. Elections are held on a nonworking day.

Article 30.1. The president takes up his post after taking an oath before the National Assembly with the following text: "Assuming the office of president of the Republic of Poland according to the will of the people, I solemnly swear that I shall remain faithful to the provisions of the Constitution, that I shall safeguard the honor of the nation and the independence and security of the state, and that the welfare of the fatherland and the well-being of its citizens will be my highest consideration." The words "So help me God" may be added to the oath.

Article 30.2. A president elected prior to the termination of his predecessor's term of office assumes his post the day after the termination of his predecessor's term of office.

Article 31. The president may not hold any other post nor may he belong to the Sejm or the Senate.

Article 32.1. The president exercises general supervision over foreign relations.

Article 32.2. The president appoints and dismisses legal representatives of the Republic of Poland in other countries and receives the credentials of foreign diplomats accredited to him and receives them when they depart their posts.

Article 32.3. Contacts with other countries, as well as with Polish diplomatic representatives abroad, take place via the appropriate foreign minister.

Article 33.1. The president ratifies and terminates international agreements and informs the Sejm and the Senate of this.

Article 33.2. The ratification and termination of international agreements concerning the country's borders and defense alliances, as well as any agreements that involve the spending of state funds or necessitate changes to legislation, have to be approved in advance by means of a law.

Article 34. The president exercises general supervision concerning the state's external and internal security. The president's advisory body in this regard is the National Security Council.

Article 35.1. The president is the head of the Armed Forces of the Republic of Poland.

Article 35.2. The president, in concert with the minister of national defense, appoints and dismisses the chief of the Polish Army General Staff and, on the recommendation of the minister of national defense, appoints and dismisses deputy chiefs of the General Staff, commanders of the individual armed services, and commanders of the military districts.

Article 35.3. The president appoints a commander in chief of the Armed Forces in time of war.

Article 36.1. In the event of the state's being exposed to an external threat, the president may introduce martial law applicable to part or the entire territory of the Republic of Poland as well as announce a partial or general mobilization.

Article 36.2. The organization of the authorities of the state for the duration of martial law and the other legal consequences of the introduction of martial law are regulated by law.

Article 37.1. The president may, for a definite period of time, not exceeding three months, introduce a state of emergency applicable to part or the entire territory of the state if the internal security of the state is threatened or in the event of a natural catastrophe. The duration of the state of emergency can only be extended once for a period not exceeding three months with the assent of the Sejm.

Article 37.2. The Sejm may not be dissolved during a state of emergency, and its term of office may not end within three months of the state of emergency's being lifted.

Article 37.3. During a state of emergency, neither constitutional laws nor electoral codes may be altered.

Article 37.4. The detailed conditions and legal consequences of the introduction of a state of emergency as well as the manner in which it is to be introduced are to be regulated by law.

Article 38.1. The chairman of the Council of Ministers is to report to the president on basic issues that are the subject of the work of the Council of Ministers.

Article 38.2. The president may convene a meeting of the Council Ministers and chair it in connection with matters of particular importance for the state.

Article 39. The president may address the Sejm or the Senate. The address is not made the subject of a debate.

Article 40. The president proposes to the Sejm the appointment or the dismissal of the chairman of the National Bank of Poland.

Article 41. The president bestows and withdraws Polish citizenship.

Article 42. The president appoints judges on the recommendation of the National Judiciary Council.

Article 43. The president exercises the right of clemency.

Article 44. The president bestows orders and decorations.

Article 45.1. To implement laws and on the basis of the powers contained in them, the president issues decrees and directives.

Article 45.2. The president issues directives pertaining to the exercise of his legal powers.

Article 46.1. To acquire the force of law, legal acts issued by the president are to be countersigned by the chairman of the Council of Ministers or the appropriate minister, who submits the issue to the president.

Article 47. The provision of Article 46 does not apply to:

1) convening the first session of a newly elected Sejm and Senate;

2) the dissolution of the Sejm;

3) calling elections to the Sejm and the Senate;

4) legislative initiatives;

5) the signing or refusal to sign laws or decrees having the force of law;

6) applications to the Constitutional Tribunal to examine the compatibility with the Constitution of laws or decrees having the force of law;

7) the designation of the Council of Ministers and the appointment of the full membership of the Council of Ministers;

8) accepting the resignation of the Council of Ministers and entrusting the council with the exercise of its duties;

9) convening meetings of the Council of Ministers;

10) the initial application for constitutional accountability proceedings before the State Tribunal;

11) applications for the conduct of an inspection by the Supreme Chamber of Control;

12) the appointment and dismissal of the chairman of the Supreme Administrative Court;

13) the powers of the president contained in Article 19, Paragraph 2, Point 2, Articles 39-44, and Article 48.

Article 48.1. The president may appoint the minister of state to represent him on matters connected with the exercise of his powers.

Article 48.2. The executive agency of the president is the Presidential Chancellery. The president determines the statute of the Chancellery and appoints and dismisses its head.

Article 49.1. The office of president falls vacant before the end of the term of office in the event of:

1) death;

2) resignation from office;

3) permanent inability to hold office for health reasons as determined by the National Assembly in the form of a resolution passed by at least a two-thirds majority in the presence of at least half the total National Assembly.

4) divestiture of office in consequence of a State Tribunal ruling.

49.2. In the event that the office of president is vacant and until the office is assumed by a new president, as well as in the event that the president is unable to discharge his office, the Sejm marshal acts in his place, and, in the event that he is unable to perform these functions, the Senate marshal.

Article 49.3. A person acting in place of the president may not dissolve the Sejm.

Article 50.1. For breaches of the Constitution or laws as well as for the committing of crimes, the president may be made accountable only before the State Tribunal.

Article 50.2. The president may be impeached by means of a National Assembly resolution passed by at least two-thirds of the total number of members of the National Assembly.

Article 50.3. On impeachment, the exercise of office by the president is immediately suspended. Article 49, Paragraphs 2 and 3 apply accordingly.

Chapter 4. The Council of Ministers of the Republic of Poland (the Government)

Article 51.1. The Council of Minister conducts the domestic and foreign policy of the Republic of Poland.

Article 51.2. The Council of Ministers directs the entire administrative apparatus.

Article 52.1. The Council of Ministers makes decisions on all issues pertaining to state policy that are not, by virtue of the Constitution or other legislation, reserved for the president, another agency of the state administrative apparatus, or local government.

Article 52.2. In particular, the Council of Ministers:

1) ensures the implementation of laws;

2) issues decrees having the force of law, while observing the conditions contained in Article 23 of this law;

3) directs, coordinates, and oversees the work of all other agencies of the state administrative apparatus and is accountable for their work before the Sejm;

4) protects the interests of the State Treasury on the basis of laws;

5) prepares a draft budget and other financial plans of the state and, following their approval by the Sejm, directs their implementation;

6) oversees, within the limits and in accordance with the forms provided by the Constitution and other legislation, local government and other forms of self-administration;

7) maintains relations and concludes agreements with the governments of other states as well as with international organizations;

8) ensures the external and internal security of the state.

Article 53.1. The Council of Ministers (the government) comprises:

1) the chairman of the Council of Ministers;

2) deputy chairmen of the Council of Ministers;

3) ministers;

4) chairmen of the committees and commissions that exercise the functions of the highest agencies of the state administrative apparatus and are appointed under the procedures contained in Articles 57-62.

Article 53.2. In the event that a deputy chairman is not appointed, such duties may be performed by one of the ministers.

Article 53.3. The Council of Ministers functions as a collective decisionmaking body. The organization of the work and the manner in which that work is conducted is regulated by law.

Article 54.1. To implement laws and on the basis of the powers contained in those laws, the Council of Ministers issues decrees.

Article 54.2. The Council of Ministers adopts resolutions in the course of exercising its constitutional powers.

Article 55.1. The chairman of the Council of Ministers directs the work of the Council of Ministers as well as coordinates and oversees the work conducted by individual ministers.

Article 55.2. The chairman of the Council of Ministers is the highest authority within the state administration for all employees of the state administrative apparatus.

Article 55.3. To implement laws and on the basis of the powers contained in those laws, the chairman of the Council of Ministers issues decrees.

Article 56.1. The minister directs a specific department of the state administration. The purview of ministerial activity is regulated by law.

Article 56.2. The minister directs a specific department of the state administration, with the assistance of secretaries of state and under secretaries of state appointed by the chairman of the Council of Ministers acting on a recommendation made by the minister.

Article 56.3. To implement laws and on the basis of the powers contained in those laws, the minister issues decrees and directives.

Article 56.4. On the recommendation of the chairman of the Council of Ministers, the Council of Ministers may annul a ministerial decree or directive.

Article 57.1. The president designates the chairman of the Council of Ministers and, on his recommendation, appoints the Council of Ministers proposed by the chairman of the Council of Ministers within 14 days of the first session of the Sejm or of the acceptance of the resignation of a Council of Ministers. The appointment of the chairman of the Council of Ministers by the president occurs at the same time as the appointment of the Council of Ministers.

Article 57.2. No later than 14 days after his appointment by the president, the chairman of the Council of Ministers is to submit the Council of Ministers' program to the Sejm and request that a vote of confidence be passed. The Sejm passes a vote of confidence if a simple majority is obtained.

Article 58. In the event that a Council of Ministers is not appointed in accordance with Article 57 within 21 days, the Sejm is to elect a chairman of the Council of Ministers and a Council of Ministers that he proposes by means of an absolute majority vote. The president appoints the government thus elected and the government is sworn in by the president.

Article 59. In the event that a Council of Ministers is not appointed in accordance with Article 58, the president appoints the chairman of the Council of Ministers and the Council of Ministers on the recommendation of the chairman in accordance with Article 57, with the qualification that the Sejm is to pass a vote of confidence.

Article 60. In the event that a Council of Ministers is not appointed in accordance with Article 60 within 21 days, the Sejm is to elect a chairman of the Council of Ministers and the Council of Ministers that he proposes by means of a majority vote. The president appoints the government thus elected, and the government is sworn in by the president.

Article 61. Recommendations concerning the appointment of the minister of foreign affairs, the minister of national defense, and the minister of internal affairs are submitted by the chairman of the Council of Ministers after they have been consulted with by the president.

Article 62. In the event that a Council of Ministers is not appointed in accordance with Article 60, the president is to dissolve the Sejm or appoints a chairman of the Council of Ministers and a Council of Ministers within 14 days and for a period not exceeding six months. If the Sejm fails to pass a vote of confidence in that government or passes a vote of no confidence in accordance with Article 66, Point 4 before the end of that period, the president is to dissolve the Sejm.

Article 63. The chairman of the Council of Ministers and ministers are to take the following oath before the president: "Assuming the office of chairman of the Council of Ministers (minister), I solemnly swear to remain faithful to the provisions of the Constitution and to always regard the welfare of the fatherland and the well-being of its citizens as my highest consideration." The oath may also be taken with the addition of the words: "So help me God."

Article 64. The chairman of the Council of Ministers tenders the resignation of the government to the president in the event that:

1) a newly elected Sejm is constituted;

2) the Council of Ministers or the chairman of the Council of Ministers relinquishes the further exercise of duties;

3) the Sejm fails to pass a vote of confidence in the Council of Ministers;

4) the Sejm passes a vote of no confidence.

Article 65.1. In the event that the chairman of the Council of Ministers tenders the resignation of the government for the reasons contained in Article 64, Points 1-3, the president is to accept the resignation.

Article 65.2. On accepting the resignation of the government, the president is to entrust that government with the continued exercise of duties until a new Council of Ministers is appointed.

Article 66.1. The Sejm may pass a vote of no confidence in the Council of Ministers by means of an absolute majority.

Article 66.2. A vote of no confidence may be proposed by at least 46 deputies and is to be held not before seven days have elapsed from the date on which the vote has been proposed.

Article 66.3. In the event that a vote of no confidence is not passed, a period of three months has to elapse from that time before a proposal to hold a further vote may be submitted. The period of three months does not have to be observed if a proposal to that effect is submitted by at least 115 deputies.

Article 66.4. In passing a vote of no confidence, the Sejm may at the same time elect a new chairman of the Council of Ministers and entrust him with the mission of forming a government in the manner provided by Article 58.

Article 66.5. If the Sejm passes a vote of no confidence without electing a new chairman of the Council of Ministers at the same time, the president is to accept the resignation of the government or dissolve the Sejm.

Article 67.1. The Sejm may pass a vote of no confidence in an individual minister. The provisions of Article 66, Points 1-3 apply.

Article 67.2. A minister in whom the Sejm has passed a vote of no confidence is to tender his resignation, and the resignation is to be accepted by the president.

Article 68.1. The minister may relinquish the further performance of his duties by submitting his resignation to the chairman of the Council of Ministers.

Article 68.2. On the recommendation of the chairman of the Council of Ministers, the president may appoint and dismiss individual ministers.

Article 69.1. The voivode is an agent of the state administration as well as a representative of the Council of Ministers in the voivodship.

Article 69.2. Procedures for the appointment and dismissal of voivodes as well as the purview of activities conducted by voivodes are regulated by law.

Chapter 5. Local Government

Article 70.1. Local government is the basic form of organization for public life at the local level.

Article 70.2. Local government units are legal persons by virtue of being communities of the inhabitants of a given region in law.

Article 70.3. The right of ownership and other property rights enjoyed by local government units constitute community property.

Article 70.4. The basic local government unit is the gmina (township). The remaining local government units are regulated by law.

Article 71.1. Local self-government performs, within a legal framework, an important part of public work, with the exception of those tasks that are reserved by law as being within the purview of the government administration.

Article 71.2. Local government units perform the tasks assigned them in their own name and bear sole responsibility for satisfying the needs of the inhabitants.

Article 71.3. To the extent regulated by law, local government units perform the tasks of government administration. To this end, they are provided with appropriate financial resources.

Article 71.4. Local government units perform tasks through their decisionmaking and executive agencies and are free to determine their internal structure within the limits set by law.

Article 72.1. Elections to local government decisionmaking agencies are universal, equal, and by secret ballot.

Article 72.2. Inhabitants may make decisions by means of local referenda. The procedures for local referenda are regulated by law.

Article 73.1. The revenue of local government units is generated by the units themselves, by subsidies, and by grants.

Article 73.2. The sources of revenue for local government units with regard to public tasks are guaranteed by law.

Article 74. Supervision of the activities of local government units is regulated by law.

Article 75. The principles of assembly for local government units and the representation of their interests vis-a-vis state authorities is regulated by law.

Chapter 6. Interim and Final Provisions

Article 76. The provisions of Article 8 do not apply to persons who have assumed office before the day on which this law takes effect.

Article 77. The Constitution of the Republic of Poland of 22 July 1952 lapses (DZIENNIK USTAW, 1976, No. 7, Item 36; 1980, No. 22, Item 81; 1982, No. 11, Item 83; 1983, No. 39, Item 175; 1987, No. 14, Item 82; 1988, No. 19, Item 129; 1989, No. 19, Item 101, No. 75, Item 44; 1990, No. 16, Item 94, No. 29, Item 171, No. 77, Item 397; 1991, No. 41, Item 176, No. 119, Item 514; and 1992, No. 75, Item 367), except for the provisions of Chapters 1, 4, 7, excluding Article 60, Paragraph 1; of Chapters 8 and 9, excluding Article 94; and of Chapters 10 and 11.

Article 78. The law takes effect 14 days from the day of its publication.

Lech Walesa, president of the Republic of Poland

Decision on Membership of Senate Commissions

93P20064A Bucharest MONITORUL OFICIAL in Romanian 16 Nov 92 pp 12-16

[Text of Decision No 41 of the Senate approving the membership of the permanent commissions of the Senate]

[Text] On the basis of Article 25 of the Regulation on the Senate, the Senate has decided:

Sole article—The membership of the permanent commissions of the Senate is approved in accordance with attachments 1-14, which are an integral part of the present decision.

President of the Senate, Oliviu Gherman

Bucharest, 5 November 1992

Decision No. 41

Attachment No. 1

Economic Commission—7 to 11 members

1. Stelian Dedu—Democratic National Salvation Front [FDSN] parliamentary group

2. Gheorghe C. Ionescu—FDSN

3. Valeriu Momanu—FDSN

4. Ioan Constantin Pop—FDSN

5. Florin Buruiana—National Peasant Christian Democratic Party [PNT-cd] parliamentary group

6. Ionel Blaga—National Salvation Front [FSN] parliamentary group

7. Petru Dan Lazar—Romanian National Unity Party [PUNR] parliamentary group

8. Tiberiu Stefan Incze—Democratic Union of Hungarians in Romania [UDMR] parliamentary group

9. Mihail Ladaru—National Party parliamentary group (PSM [Socialist Workers Party])

Attachment No. 2

Commission for Privatization—7-11 members

1. Darie Simion—FDSN

2. Emil Dima—FDSN

3. Florin Radulescu Botica—FDSN

4. Gigel Grigore—Democratic Agrarian Party of Romania [PDAR]

5. Ioan Manea—PNT-cd

6. Ionel Aichimoaie—FSN

7. Viorel Salagean—PUNR

8. Tiberiu Stefan Incze—UDMR

9. Alexandru Popovici—Civic-liberal orientation parliamentary group (PAC [Civic Alliance Party])

10. Andrei Suhov—National Party parliamentary group (PSM)

Attachment No. 3

Commission for Budget and Finance—11-15 members

1. Ioan Bancescu—FDSN

2. Stelian Dan Marin—FDSN

3. Iulian Mincu—FDSN

4. Petre Ninosu—FDSN

5. Constantin Simionescu—FDSN

6. Radu Vasile—PNT-cd

7. Mircea Boulescu—FSN

8. Dan Constantin Vasiliu—FSN

9. Ioan Joarza—PUNR

10. Karoly Ferenc Szabo—UDMR

11. Adrian Dumitru Popescu Necsesti—Civic-liberal orientation parliamentary group (PNL-CD [National Liberal Party-Democratic Convention])

12. Gheorghe Raboaca—National Party parliamentary group (PSM)

Attachment No. 4

Commission for Agriculture, the Food Industry, and Silviculture—7-13 members

1. Victor Neagu—PDAR

2. Mihai Petreascu—FDSN

3. Marin Predila—FDSN

4. Emil Scurtu—PDAR

5. Dragomir Stan—FDSN

6. Gheorghe Catuneanu—PNT-cd

7. Adrian I. Sirbu—PNT-cd

8. Alexandru Diaconu—FSN

9. Mircea Mancia—PUNR

10. Iosif Csapo—UDMR

11. Ion Paun Otoman—Civic-liberal orientation parliamentary group (PAC)

12. Victor Stoicescu—National Party parliamentary group (PRM [Romania Mare Party])

13. Radu Ceontea—Independent

Attachment No. 5

Commission for Foreign Policy—7-13 members

1. Florea Dudita—FDSN

2. Vasile Ion—FDSN

3. Ton Coja—PDAR

4. Florin Velicu—PDAR

5. Tiberiu Vladislav—PNT-cd

6. Cristian Sorin Dumitrescu—FSN

7. Ovidiu Corneliu Popescu—FSN

8. Teodor Ardelean—PUNR

9. Bela Marko—UDMR

10. Dumitru Calueanu—Civic-liberal orientation parliamentary group (PNL-CD)

11. Rene Radu Policrat—PNL-AT [National Liberal Party-Youth Wing] civic-liberal orientation parliamentary group

12. Ion Mocioi—National Party parliamentary group (PRM)

Attachment No. 6

Commission for Defense, Public Order, and National Security—7 to 11 members

1. Ion Marcu—FDSN

2. Ilie Platica Vidovici—FDSN

3. Dimitrie Popa—FDSN

4. Alexandru Radu Timof te-FDSN

5. Valentin Corneliu Gabrielescu—PNT-cd

6. Costel Gheorghiu—FSN

7. Aurel Ion Stoica—FSN

8. Viorel Ilisiu—PUNR

9. Karoly Ferenc Szabo—UDMR

10. Nicolae Apolzan Manolescu—Civic-liberal orientation parliamentary group (PAC)

11. Stefan David—National Party parliamentary group (PSM)

Attachment No. 7

Commission for Human Rights—7 to 11 members

1. Dinis Ion—FDSN

2. Vasile Pipa—FDSN

3. Neculai Simeon Tatu—FDSN

4. Vasile Vacaru—FDSN

5. Ioan Alexandru—PNT-cd

6. Tanase Pavel Tavala—PNT-cd

7. Vasiliu Dan Constantin—FSN

8. Mircea Valcu—PUNR

9. Petre Constantin Buchwald—UDMR

10. Alexandru Paleologu—Civic-liberal orientation parliamentary group (PAC)

11. Ion Carciumaru—National Party parliamentary group (PSM)

Attachment No. 8

Commission for Labor, Social Protection, and Unemployment Problems—11-15 members

1. Victor Apostolache—FDSN

2. Emil Dima—FDSN

3. Dumitru Mocanu—FDSN

4. Teiu Paunescu—FDSN

5. Vasile Vacaru—FDSN

6. Constantin Moiceanu—PNT-cd parliamentary group (PSDR [Romanian Social Democratic Party])

7. Ioan Cretu—FSN

8. Mihail Iurcu—FSN

9. Mircea Mancia—PUNR

10. Gabor Menyhert Hajdu—UDMR

11. Gheorghe Raboaca—National Party parliamentary group (PSM)

Attachment No. 9

Commission for Education and Scientific Research—7-11 members

1. Augustin Botis Griguta—FDSN

2. Ioan Broscateanu—FDSN

3. Ion Solcanu—FDSN

4. Dumitru Vasile—FDSN

5. Aurelian I. Popescu—PNT-cd

6. Ioan Paul Popescu—PNT-cd

7. Andrei Tugulea—FSN

8. Gheorghe Secara—PUNR

9. Lajos Magyari—UDMR

10. Emil Tocaci—Civic-liberal orientation parliamentary group (PAC)

11. Ioan Todea—National Party parliamentary group (PRM)

Attachment No. 10

Commission for Culture, the Arts, and the Media—7-11 members

1. Augustin Botis Griguta—FDSN

2. Gheorghe Dumitrascu—FDSN

3. Sergiu Florin Nicolaescu—FDSN

4. Ion Coja—FDSN

5. Mihail Buracu—PNT-cd

6. Vasile Vetisanu—PNT-cd

7. Constantin Radu Baltazar—FSN

8. Doina Florica Ignat—PUNR

9. Attila Verestoy—UDMR

10. Stefan Radof—Civic-liberal orientation parliamentary group (PAC)

11. Adrian Paunescu—National Party parliamentary group (PSM)

Attachment No. 11

Commission for Public Administration and Territorial Organization—7-11 members

1. Virgil Popa—FDSN
2. Gheorghe Rizescu—FDSN
3. Constantin Zaiceanu—FDSN
4. Corneliu Coposu—PNT-cd
5. Voicu Valentin Glodean—PNT-cd
6. Aristotel Adrian Cancescu—FSN
7. Augustin Crecan—PUNR
8. Zoltan Hosszu—UDMR
9. Denes Seres—UDMR
10. Stefan Radof—Civic-liberal orientation parliamentary group (PAC)
11. Constantin Moldovan—National Party parliamentary group (PRM)

Attachment No. 12

Commission for Juridical Matters, Appointments, Discipline, Immunities, and Validations—11-15 members

1. Petre Ninosu—FDSN
2. Octavian Opris—FDSN
3. Octavian Muntean—FDSN
4. Romul Petru Vonica—FDSN
5. Nistor Badiceanu—PNT-cd
6. Tudor Gane—PNT-cd
7. Ion Predescu—FSN
8. Valer Suian—PUNR
9. Gheorghe Frunda—UDMR
10. Maria Matilda Tetu—Civic-liberal orientation parliamentary group (PNL-CD)
11. Stefan David—National Party parliamentary group (PSM)

Attachment No. 13

Commission for the Investigation of Abuses and Petitions—7-11 members

1. Teiu Paunescu—FDSN
2. Virgil Popa—FDSN
3. Constantin Sava—FDSN
4. Nicolai Senciuc—FDSN
5. Matei Boila—PNT-cd
6. Constantin Ticu Dumitrescu—PNT-cd
7. Sorin Adrian Nichifor Vornicu—FSN
8. Dumitru Pustai—PUNR
9. Zoltan Hosszu—UDMR
10. Sabin Ivan—Civic-liberal orientation parliamentary group (PNL-CD)
11. Mihail Ladaru—National Party parliamentary group (PSM)

Attachment No. 14

Commission for Health, Ecology, and Sports—7-11 members

1. Iulian Mincu—FDSN
2. Dragomir Popescu—FDSN
3. Elena Preda—FDSN
4. Florica Secara—FDSN
5. Serban Sandulescu—PNT-cd
6. Ioan Cretu—FSN
7. Traian Caius Dragomir—FSN
8. Dan Petru Lazar—PUNR
9. Petre Constantin Buchwald—UDMR
10. Sabin Ivan—Civic-liberal orientation parliamentary group (PNL-CD)
11. Ion Carciumaru—National Party parliamentary group (PRM)

Decision on Increasing Membership of Senate Commissions

93P20063A Bucharest in Romanian 16 Nov 92 p II

[Text of Senate Decision No 40 on increasing the maximum number of members for some senate permanent commissions]

[Text] The Senate has decided the following:

Sole article—The maximum number of members for some permanent commissions of the Senate, set by Senate Decision No. 38 of 29 October 1992, is increased as follows:

1. From 11 to 13 members for the Commission for Agriculture, the Food Industry, and Silviculture.

2. From 11 to 13 members for the Commission for Foreign Policy.

President of the Senate, Oliviu Gherman

Bucharest, 5 November 1992

Decision on Gasoline Prices, Taxes Amended

93BA0341A Bucharest MONITORUL OFICIAL in Romanian 24 Nov 92 p 1

[Government Decision to amend Article 10 of Government Decision No. 747/1992 Regarding Fuel Retail Prices and Taxes]

[Text] The Romanian Government decides:

Sole article—Article 10 of Government Decision No. 747/1992 Regarding Fuel Retail Prices and Taxes is amended to contain the following:

"Article 10. Residents of Romania who travel abroad will pay a 200-percent duty on the value of the fuel calculated on the basis of the maximum capacity of the vehicle's normal tank, independently of the amount of fuel contained in the tank at the time.

"For amounts fuel that exceed the normal capacity of the tank, the duty will be 400 percent.

"Excluded from these provisions are foreigners with diplomatic passports."

Prime Minister, Dan Mircea Popescu

Countersigned by Minister of the Economy and Finance, George Danielescu

Bucharest, 20 November 1992

No. 765

Decision on Regulation of State Ownership Fund

93BA0162A Bucharest MONITORUL OFICIAL No 262, 21 Oct 92 pp 6-10

[Regulation on Organization and Operation of the State Ownership Fund approved by Decision No 643 of the Romanian Government on 8 October 1992]

[Text]

CHAPTER I

Article 1. The State Ownership Fund, established in accordance with the provisions of Law No. 58/1991 on Privatization of Commercial Companies, to be referred to henceforth as *the law*, is a public institution with the status of a legal person and with a commercial and financial nature.

The State Ownership Fund has its own assets and has operational and decision-making independence. Its activity is conducted and its decisions are made according to commercial principles.

Article 2. The State Ownership Fund administers its own assets and manages the stocks and shares it holds in commercial companies specified in Article 2 of the law.

The activity of the State Ownership Fund takes place in accordance with provisions of the law, of Law 3/1990 on Commercial Companies, of the present regulation, as well as other applicable legal provisions.

Article 3. The State Ownership Fund has its own seal approved by the Administrative Council.

The State Ownership Fund headquarters are in Bucharest, located at 21 C. A. Rosetti St., Sector 1, postal code 70205.

The name "State Ownership Fund" and its headquarters must visibly appear on all documents issued by the State Ownership Fund.

Its seal also is to be imprinted on official documents of the State Ownership Fund.

CHAPTER II: The Goal of State Ownership Fund Activity

Article 4. The following activities are the goal of the State Ownership Fund:

(a) As provided in Article 2 of the law, it prepares and carries out the gradual privatization of commercial companies with state capital, seeking to ensure reduced state participation in registered capital until complete privatization;

(b) Managing the stocks and shares it holds, fulfilling the duties provided by the legal provisions in effect;

(c) It utilizes the incomes earned with a view to providing financing for the activities provided in Letters (a) and (b) above as well as other actions belonging to the State Ownership Fund as provided by law.

CHAPTER III: Assets of the State Ownership Fund

Article 5. Assets of the State Ownership Fund, in accordance with the law, initially are comprised of 70 percent of the stocks and shares of the commercial companies with state capital, as the case may be, as provided in Article 2 of the law, as well as 70 percent of the amounts resulting from the sale of stocks of the commercial companies prior to organization of the State Ownership Fund.

The stocks and shares forming the initial assets of the State Ownership Fund are transmitted to it by the Ministry of the Economy and Finances in the name of the Romanian state through an act of transmittal drawn up in accordance with the Appendix to this regulation.

Article 6. The assets of the State Ownership Fund are funded by the amounts obtained through the privatization act and any commercial or financial operations carried out by the State Ownership Fund according to the law.

Article 7. The expenses of the State Ownership Fund are made with respect for legal provisions and financial norms in accordance with the competencies established by the Administrative Council.

Article 8. The budget of incomes and expenses drawn up annually and the account of budgetary expenses for the preceding year are approved by the Administrative Council.

CHAPTER IV: Duties of the State Ownership Fund

Article 9. The State Ownership Fund carries out, according to the law, the following duties:

(a) In collaboration with the Private Ownership Funds it draws up the minimum annual program for privatization for the next year and presents it to Parliament for approval and to the government for information purposes;

(b) Within the minimum annual programs for privatization, it seeks to reduce the state's participation in the registered capital of the commercial companies until they are completely privatized;

(c) It collaborates with the Private Ownership Funds to establish and carry out measures to speed up the privatization process;

(d) It draws up the annual report on its activity and presents it to Parliament for approval and to the government for information purposes. The report and the profit and loss statement are published in MONITORUL OFICIAL and is disseminated in the mass media;

(e) It takes measures to sell the stocks of the commercial companies to persons receiving the benefits given through Articles 48 and 49 of the law;

(f) As stockholder and shareholder of the commercial companies with state capital as provided in Article 2 of the law, it exercises rights and assumes the duties belonging to it in this regard, in accordance with Law No. 31/1990 on Commercial Companies and other commercial laws;

(g) It defines the criteria for minimum performance in order to evaluate the commercial companies in which it is a shareholder;

(h) Depending on the results obtained by the commercial companies regarding the criteria for minimum performance, it establishes programs to reorganize and rehabilitate them; it makes investments and carries out financing without this increasing the proportion of the state's participation in the registered capital of the commercial companies;

(i) It identifies commercial companies that are to be eliminated, according to the law, on grounds that they can no longer be rehabilitated;

(j) In conformity with the law, it grants credits, payment terms, installment payments or other means to persons entitled to purchase stocks and assets of the commercial companies;

(k) It establishes for each year a policy for utilizing the dividends due it and the profit it has made for itself;

(l) Together with the National Agency for Privatization and Development of Small and Medium-Sized Enterprises and the Private Ownership Funds, it participates in the privatization of small commercial companies under the conditions provided by the law;

(m) It gives a special mandate to the Private Ownership Fund for privatization of each medium-sized commercial company under the conditions provided by the law;

(n) It gives the Private Ownership Fund a mandate to negotiate the sales conditions in its name in cases where physical and legal persons, Romanian or foreign, choose to buy 100 percent of the stocks of certain commercial companies;

(o) Directly or through a representative, it carries out any other commercial and financial operations needed to achieve its goal of activity;

(p) It gives and receives any insurances and guarantees needed to carry out its goal.

CHAPTER V: Administrative Council

Article 10. The leadership organ of the State Ownership Fund is the Administrative Council, formed of 17 members appointed for a term of five years, which may be renewed just once.

Appointment of the Administrative Council members is done in accordance with the law. Dismissing them for serious violations in carrying out their mandate is done by the same organs that appointed them. Removal is compulsory in case the violations committed are as provided in Article 29 in Law No. 31/1990.

Leadership is carried out by the Administrative Council in ordinary or extraordinary meetings and by its president in cases and under conditions provided by law and by this regulation.

Article 11. Administrative Council members cannot be the following at the same time:

(a) Members of the Administrative Councils of the Private Ownership Funds or their auditors;

(b) Administrators or auditors of the commercial companies provided in Article 2 of the law;

(c) Administrators or auditors of privatized commercial companies in conformity with the law, except if a period of two years has expired since the privatization.

Article 12. In case of incompatibility or another cause for a vacancy on the Administrative Council, it will request that the organ that appointed the person involved immediately make new appointments for the remainder of the five-year term.

Article 13. Administrative Council members carry out their mandate according to Law No. 31/1990 on Commercial Companies. They are responsible for their personal and joint activity in accordance with commercial legislation.

Article 14. Responsibility for acts committed or for omissions does not also carry over to those Administrative Council members who have made known in the records of the council's decisions their opposition to certain decisions adopted and who have made the auditors aware of this.

With regard to decisions made in meetings where an Administrative Council member did not participate, he remains responsible if he has not expressed his opposition under the conditions provided in Paragraph 1 within a month of his being informed of them.

Article 15. When an Administrative Council member, spouse or up to a fourth-removed relative has interests directly or indirectly contrary to the interests of the State Ownership Fund in a certain operation, he must inform the other council members and auditors of this, and must not take part in any deliberation on this operation.

Article 16. Failure of an Administrative Council member to respect the provisions of Articles 11 and 15 of this regulation brings with it responsibility for losses caused the State Ownership Fund.

Article 17. Administrative Council meetings are considered valid only if at least 12 council members are present. Binding decisions require approval by 75 percent of those present.

Article 18. The Administrative Council meets in ordinary meetings at least once a month.

The Administrative Council may be convened in extraordinary meetings by the president or at the request of at least five of its members.

Article 19. Administrative Council meetings must be convened in writing at least five days before the date set for them. Convocations for Administrative Council meetings are to include the place where the meeting is to be held and the agenda, with decisions on unforeseen problems to be made only in case of emergency.

Article 20. The Administrative Council meetings are to be conducted by its president or, in his absence, the vice president.

The auditors also are to be called to meetings, but they do not have the right to vote.

Article 21. All materials, including reports on operations carried out, must be presented in writing during the Administrative Council meetings.

Article 22. A report covering the order of deliberations, decisions made, number of votes obtained, and separate opinions is to be drawn up at each meeting.

CHAPTER VI: Competencies of the Leadership Organ and Executive General Director

Article 23. The Administrative Council has the following competencies:

(a) It works out the draft regulation on organization and operation of the State Ownership Fund and proposes changes or additions to it;

(b) It elects from its members one president, one vice president, and one secretary general of the council; the state secretary for privatization cannot be elected to any of these positions;

(c) It approves the organizational structure of the central apparatus, its duties as well as the establishment of personnel and number of salaried personnel;

(d) It agrees to the appointment and dismissal of the executive general director; it appoints the leaders of foreign representatives;

(e) Based on criteria of management, efficiency, and cost, it approves the establishment of branches and agents in Romania and representatives abroad, plus their organizational structure and personnel;

(f) It adopts the draft annual program for privatization and the annual report on its activity, which are given to Parliament for approval and to the government for information purposes;

(g) It approves strategies for reorganization and privatization of commercial companies, taking into account the sectional goals set by the government;

(h) It adopts, according to the law, specific methodological standards for carrying out and speeding up the privatization process;

(i) It makes decisions, according to the law, on establishing commercial companies whose goal of activity would be to promote and speed up the process of economic reorganization and privatization;

(j) It approves the profit and loss statement, the balance sheet, and the income and expenses budget for the State Ownership Fund;

(k) It appoints, according to its mandate, the representative(s) of the State Ownership Fund to the general meetings of the commercial companies in which it is a stockholder or shareholder; it establishes the representative's duties to defend and promote the stockholder's interests, the representative's duties, rights, and responsibilities, and the conditions for withdrawing the mandate—all of which are to be made specific in a contract of representation; it sets the criteria for establishing the number of representatives of the State Ownership Fund in the general meetings;

(l) It approves the special mandate of the representative(s) of the State Ownership Fund to the general meetings of the commercial companies in which it is a stockholder or shareholder convening to make decisions on the following:

—Division, merger, dissolution, and liquidation for any other reason;

—Participation in establishing new commercial companies;

—Changes in the state's participation in registered capital in any other way but within the privatization action established by law;

(m) It appoints delegates to the State Ownership Fund that participates in the privatization of small commercial companies, as prescribed by law, and determines their role in the process of maintaining optimum utilization, through privatization, of the state's participation in the registered capital of the particular commercial society;

(n) It gives a special mandate, for each separate case, to the Private Ownership Funds for privatization of the medium-sized commercial companies, as prescribed by the law. It appoints a delegate to participate in the privatization procedure and keeps the Administrative Council informed on the progress of privatization. In case of disagreements with the Private Ownership Fund regarding privatization conditions for a medium-sized commercial company, for which a special mandate was given, it adopts within 30 days an alternative solution and sends it to the Private Ownership Fund, after first beingt approved by the National Agency for Privatization and Development of Small and Medium-Sized Enterprises;

(o) It consults with the Administrative Council of the Private Ownership Fund before making a decision on privatization in the case of a medium-sized commercial company directly connected with the activity of large commercial companies;

(p) It adopts minimum performance criteria for commercial companies;

(r) It approves utilization of State Ownership Fund income for the following:

—Depositing into interest-bearing accounts;

—Investing and financing in commercial companies, if needed to reorganize and rehabilitate them;

—Issuing credits to physical or legal persons with private Romanian capital in order to facilitate their purchase of stocks, shares or assets of commercial companies;

—Financing expenses connected with preparing and achieving privatization of commercial companies;

—Any other commercial and financial operations in connection with its goal;

(s) It establishes the number of stocks for each public sales offering that may be sold to those holding ownership certificates at a 10 percent reduction in the price of the offering;

(t) It establishes conditions for exercising the right to reduce the purchase price of the stocks of commercial companies being privatized in the course of public sale offerings, as prescribed by law;

(u) It negotiates and concludes stockholder agreements with each Private Ownership Fund, as prescribed by law;

(v) It establishes the method for declaring assets and the term within which it must be completed, in accordance with Article 69 of the law;

(w) It approves contracts for specialized assistance service in the area of privatization and economic and technical reorganization with physical and legal persons, both Romanian and foreign;

(z) It carries out any other duties of the State Ownership Fund prescribed by the law and by this regulation.

Article 24. The president of the Administrative Council implements decisions of the Administrative Council and informs it on how they are being carried out, for which purpose he has the following competencies and duties:

(a) He presents to the Administrative Council the draft minimum annual program for privatization and the draft budget of incomes and expenses, the report on budget implementation, and the annual activity report;

(b) With the agreement of the Administrative Council, he appoints and removes the executive general director; he appoints and removes directors from their jobs;

(c) He checks on the executive general director's activity;

(d) He involves and represents the State Ownership Fund in relations with physical and legal persons as well as before the courts and arbitration;

(e) He signs or approves closing of contracts in his competency;

(f) He approves payment arrangements within his competency;

(g) He carries out any other duty given by the Administrative Council.

In the president's absence his duties are carried out by the vice president of the Administrative Council.

The Administrative Council president may give to the executive general director the right to involve and represent the State Ownership Fund in relations with physical or legal persons as well as before the courts and arbitration.

Article 25. The Administrative Council secretary general has the following duties:

(a) He ensures preparation of materials for the Administrative Council meetings and ensures they are carried out well;

(b) He draws up the report for each meeting of the Administrative Council;

(c) He coordinates the activity of the Administrative Council's technical apparatus;

(d) He keeps the Administrative Council's documents;

(e) He fulfills other tasks entrusted by the council.

Article 26. The executive general director efficiently conducts the daily activity of the State Ownership Fund apparatus. He has the following competencies and duties:

(a) He works out the draft minimum annual program for privatization and the draft budget of incomes and expenses, the annual activity report and the report on budgetary implementation, and presents them to the president of the Administrative Council;

(b) He hires and lays off salaried employees of the State Ownership Fund, except for those whose appointments fall under the competency of the Administrative Council president;

(c) He concludes the collective labor contract and, within this, negotiates salary rights;

(d) He establishes the expenses connected with operation of the State Ownership Fund's own organization;

(e) He presents to the Administrative Council or its president the projects drawn up by the implementation organs and, once they are approved, he makes sure they are sent to other organs to be implemented or communicated;

(f) He hires foreign assistants for certain projects or specialized opinions;

(g) He carries out any other duties delegated to him by the Administrative Council or its president.

CHAPTER VII: Auditors

Article 27. There are six auditors—three full and three deputy—appointed in conformity with the law for a five-year period, it being possible to renew their mandates just once.

Article 28. The auditors supervise the management of the State Ownership Fund, including the territorial units and representatives abroad, for which purpose:

(a) They certify the accounting statement and the profit-loss statement;

(b) They certify the compensation of the Administrative Council members;

(c) They present their own report to the Administrative Council on the results of economic-financial activity concluded.

Certification and report of the auditors as provided in Letters (a) and (c) are appendices to the annual activity report of the State Ownership Fund.

Article 29. The auditors present special reports to the Administrative Council on findings they have made if necessary.

CHAPTER VIII: Salaries, Remuneration, And Other Monetary Rights

Article 30. Pay and salaries are to include a set portion and a variable portion, in proportion to the performances of the State Ownership Fund and on the basis of criteria approved by the Administrative Council.

Monetary rights of representatives of the State Ownership Fund in general meetings of the commercial companies are given according to the contract for representation concluded with them.

Article 31. Pay for Administrative Council members and auditors as well as the salary of the executive general director are set by the Administrative Council.

CHAPTER IX: Cessation of Activity of the State Ownership Fund

Article 32. The State Ownership Fund shall cease its activity when privatization of commercial companies with state capital has been completed, as provided in Article 2 of the law.

Article 33. Liquidation of the assets of the State Ownership Fund is carried out in accordance with Article 29 of the law.

CHAPTER X: Provisional and Final Provisions

Article 34. Until approval of the budget of incomes and expenses of the State Ownership Fund, payment of salaries, remunerations, honorariums, dues, and other expenses are made from sources belonging to it in conformity with Article 45 of the law, as well as other sources involved.

Article 35. The State Ownership Fund shall inform the government of legislative deficiencies and irregularities found in areas that lie within the purview of its activity and shall make proposals to initiate draft laws or normative acts at the government level.

Article 36. The assets established in conformity with the provisions of Article 5 of this regulation are not calculated into the statistical and economic-financial reports drawn up at the national level.

Article 37. This regulation enters into effect on the date it is published in MONITORUL OFICIAL.

Appendix to the Regulation

ACT OF TRANSMITTAL OF 70 PERCENT OF STOCKS OR SHARES OF COMMERCIAL COMPANIES

This act of transmittal is concluded between, on the one side, the Romanian state, henceforth *the state*, represented by minister.....of the Ministry of the Economy and Finance, and, on the other side, the State Ownership Fund, henceforth *the fund*, legally represented by president.....of the Administrative Council.

PREAMBLE

Law No. 15/1990 provided conditions for reorganization of state economic units in independently managed organizations and commercial companies.

Law No. 58/1991 established conditions and methods for privatization of commercial companies.

Article 24 of Law No. 58/1991 provided that the fund initially hold 70 percent of the shares of the commercial companies.

In accordance with the constituent act dated....., and of the registration request dated.....and registered on.....at the Trade Registry in the Chamber of Commerce and Industry, a commercial company named.....was created under the legal form of a stock company or a company with limited responsibility, henceforth *the company*, with registered capital of.....lei, comprised of.....stocks or shares with a nominal value of.....lei each.

The state is the stockholder or single associate of the company, in accordance with Article 20 of Law No. 15/1990 until this present transmittal act is signed.

As a result, the following have been agreed upon:

ARTICLE 1: Transmittal

On the basis of this act, the state transmits to the fund 70 percent of the company's registered capital, which represents.....stocks or shares with the nominal value of.....lei each, in conformity with registration at the Trade Registry. The transmittal occurs through this act.

ARTICLE 2: Registration

This act is registered at the Trade Registry of the company's headquarters.

The fund must include the company on the list of commercial companies from whose registered capital the 70 percent was transmitted. The fund must publish this list in MONITORUL OFICIAL.

Concluded at.....on the date of.....in four copies.

Decision on Retail Prices, Taxes for Gasoline

93BA0340A Bucharest MONITORUL OFICIAL in Romanian 19 Nov 92 pp 1-2

[Government Decision regarding fuel retail prices and taxes]

[Text] The Romanian Government decides:

Article 1. Retail prices for domestic-production fuels sold by PECO [Unit for the Sale of Petrolium Products] outlets operated with full or majority state capital, are established at:

	Within Quota in Accordance With Government Decision No. 773/1991, in Lei per Liter	Beyond the Quota, in Lei per Liter
Premium gasoline	100	160
Regular gasoline	95	145
Standard gasoline	90	135
Diesel fuel	90	110

The retail prices established in accordance with the preceding paragraph apply to retail sales and the commercial markups prevailing on the date of the present decision.

Diesel fuel delivered to dealers, independently of the form of ownership of their capital, is sold at the retail price of 110 lei per liter.

Article 2. Dealers, independently of the form of ownership of their capital, who buy domestic production or imported fuels for sale to the population or dealers, owe the state budget the following taxes:

Premium gasoline	79,100 lei per metric ton
Regular gasoline	72,123 lei per ton
Standard gasoline	67,198 lei per ton
Diesel fuel	31,897 lei per ton

Article 3. Fuels from refineries or other domestic producers are delivered to dealers other than those in the PECO system at wholesale prices based on refinery prices and the taxes stipulated in Article 2 of the present decision.

Article 4. Dealers operating with full or majority private capital establish retail prices for domestic production fuels on the basis of refinery prices, the taxes stipulated in Article 2 of the present decision, and a commercial markup within the limits declared by the territorial organizations of the Ministry of the Economy and Finance.

Article 5. Importing dealers, regardless of the type of capital ownership, shall establish fuel retail prices—based on the foreign price converted into lei at the leu exchange rate used to calculate the import duty—of import duties, of the tax owed to the state budget, and of the commercial markup within the limits declared by the territorial organizations of the Ministry of the Economy and Finance, in accordance with legal regulations.

Article 6. On the basis of justifying documents, PECO dealers with full or majority state capital will pay monthly from the taxes owed the state budget, an allowance for the protection of the population in relation to the quantities of gasoline and diesel fuel stipulated in Article 2 of Government Decision No. 773/1991, as well as a 5-percent quota of effective income (in cash), which will be paid monthly to the account of the Ministry of Transportation to perform modernization work on public roads.

The Ministry of the Economy and Finance will issue specific details regarding the compensation system stipulated in the preceding paragraph, as well as payment terms.

Article 7. The obligation to calculate and pay to the state budget the taxes stipulated in Article 2 of the present decision falls on resale dealers or production commercial companies, depending on circumstances.

Article 8. The provisions of Article 12 Paragraph 2 up to and including Article 19, of Government Decision No. 779/1991, also apply to the dealers stipulated in Article 7 of the present decision.

Article 9. The retail prices determined according to the provisions of the present decision are valid until 31 December 1992.

By that date, the Ministry of the Economy and Finance together with the Ministry of Industry will present to the government proposals for single retail prices for fuels.

Tickets not used by 31 December 1992 will be honored until 15 January 1993 at the retail prices of the present decision, after which they will cease being valid.

Article 10. Residents of Romania who travel abroad will pay a 200 percent duty on the value of the fuel calculated on the basis of the car's tank capacity.

Article 11. The provisions of the present decision become effective on 19 November 1992.

Rescinded on that date are:

Articles 1 and 2 of Government Decision No. 803/1991; Articles 1, 3, 4, and 5 of Government Ordinance No. 4/1992; Government Decision No. 667/1992; Government Decision No. 697/1992.

Article 12. The Ministry of Industry, the Ministry of the Economy and Finance, the Ministry of Transportation, and the Ministry of Agriculture and Food will assure the implementation of the present decision.

For the Prime Minister, Dan Mircea Popescu

Countersigned by: Minister of Industry, Dan Constantinescu Minister of the Economy and Finance, George Danielescu For the Minister of Agriculture and Food, Ovidiu Natea, secretary of state

Bucharest, 18 November 1992 No. 747

Decision on State Secretariat for Religions

93BA0277A Bucharest MONITORUL OFICIAL in Romanian 27 Oct 92 pp 6-8

[Text of Government Decision on State Secretariat for Religions]

[Text] Romanian Government Decision on the organization and operation of the State Secretariat for Religions.

The Romanian Government decrees:

Article 1. The State Secretariat for Religions is the central organ of public administration that is responsible for state relations with all religions in Romania. In its activities, the State Secretariat for Religions conducts itself on the principle that all legally recognized religions are free, autonomous, and equal in the eyes of public authorities.

Article 2. The State Secretariat for Religions has the following attributes:

(a) based on our Constitution, it supports all religions, as prescribed by their statutes of organization and operation, to ensure their participation in the country's social and spiritual life; it ensures that there be no type or form of quarreling in relations among the religions and on request it mediates in litigious situations that may arise;

(b) it provides for contacts between religions and ministries and other central and local public administrative organs to ensure religious liberty and autonomy, to prevent or eliminate any abuses through enforcement of the law; it assists local public administrators to resolve specific problems that may occur in their contacts with religions and religious organizations; and, above all, it assists religions, at their request, in resolving problems they may have with local public administrators;

(c) it analyzes requests by new religions for legal status, completing the necessary documentation and forwarding proposals for recognizing these religions, as prescribed by law;

(d) based on submitted documentation and current regulations, it provides advice on the establishment of religious associations and foundations to authorize them as juridical persons as prescribed by law; where authorized religious associations or foundations do not respect the basis for their establishment, the State Secretariat for Religions will withdraw the approval given;

(e) it presents proposals for recognition through decree of the religious leaders, of heads of dioceses, of church hierarchies and of those in them, at the request of the religions and as prescribed by law;

(f) it makes legal note of election results or the nomination of those who occupy leadership positions, with the exception of those named in paragraph (e) above, as well as of religious clerics and laity, including those undergoing theological training, to obtain state subsidies for their salaries as prescribed by law;

(g) in cooperation with the Ministry of Education and Science, it assists theological training institutes in carrying out their activities, it assists in the ongoing correlation of their analytic programs with the demands and requirements of the training process, and in the organization of religious training in state schools; it authorizes the establishment and operation of theological training institutions, as prescribed by law and at the request of the religious bodies.

(h) it assists religions in carrying out their charitable activities and in providing religious guidance in the armed forces, in hospitals, penitentiaries, shelters and orphanages, working together with the responsible ministries and other organizations;

(i) it provides assistance and technical help to religious organizations in activities to document, preserve, conserve, restore, and improve cultural buildings and possessions with emphasis on those that are part of the national cultural heritage and that are in the possession or use of religious organizations; it directly monitors the conservation of cultural buildings and possessions of special value that belong to the religious organizations, in order to obtain state subsidies for efforts to conserve, restore, and improve the value of these objects; upon request it provides assistance in completing technical documentation for construction of monasteries as well as for maintaining and restoring them, as prescribed in established norms; it analyzes, approves and promotes technical-economic documentation for construction and repair of monasteries and other buildings belonging to religious organizations to ensure compliance with legal guidelines; in cooperation with religious organizations and other similar institutions both in country and abroad, it organizes instruction and professional training of specialists in the network of objects of cultural heritage owned by the religious bodies;

(j) it assists in the organization and operation of nongovernmental and nonprofit associations and foundations for preserving and restoring of cultural monuments and religious art of value to our national heritage;

(k) it organizes activities and demonstrations for the learning and promotion of religious culture through expositions, symposia, communications activities, and artistic displays;

(l) in cooperation with the Ministry of Foreign Affairs, it assists religions in initiating and developing foreign relations and in promoting cooperation between Romanian churches and those abroad, as well as in the organization and operation of religious communities of Romanians abroad; it assists in obtaining passports and visas necessary for clergy to travel abroad to participate in the foreign activities of Romanian churches;

(m) it initiates foreign relations activities with similar state institutions in other countries and with nongovernmental international organizations that are concerned with religious rights and liberties, and it participates in their activities designed to draw attention to these issues;

(n) it develops documentaries regarding religious life in Romania and the rights and liberties of various religions, which it makes available upon demand to Parliament, the government, interested central and local public administrative organs, as well as to Romanian embassies abroad and

foreign embassies in Romania; it produces studies and documentaries regarding religious life in other countries and the organization and operation of international religious organizations and associations;

(o) it supplements the financial resources of religions with funds allocated in the national budget, as prescribed by law, for the construction and repair of religious monasteries and for the conservation, restoration, and use of religious patrimony, buildings and contents, and in their administration including the technical documentation that forms the basis for this work;

(p) it resolves issues concerning the granting upon request of contributions from the national budget for the salaries of religious personnel and those involved in religious training and it provides the requisite assistance for an equitable salary system as required by law;

(r) it monitors the use of funds received by religious organizations from the national budget regarding the established destination of those funds and respect for applicable legal provisions; [as published]

(s) upon their request, it assists religions in assembling accounting and statistical data as prescribed by relevant legislation;

(t) it assists religions in accepting assistance, donations, or endowments from abroad so that this activity is in accordance with the law, and it assists the religious organizations in offering assistance or donations to Romanian communities in the diaspora;

(u) it executes any other powers prescribed by law or government decree.

Article 3. As prescribed by law, The State Secretariat for Religions develops and implements its own budget of income and expenditures, and maintains its balance-sheet and accounting procedures for its activities.

Article 4. The State Secretariat for Religions presents to the Government draft laws and regulations regarding religious life and advises on draft laws of other ministries and public administration organs that reference religious organizations.

Article 5. (1) The State Secretariat for Religions has the organizational structure defined in the annex.

(2) The maximum number of positions in the State Secretariat for Religions is 64, excluding the chief executive.

(3) The structure of its divisions, and the attributes and tasks of its own membership are established by order of the State Secretary for Religions, based on the statute of operations approved in accordance with the law.

(4) Salaries for top management positions and for those executing technical, economic or other speciality posts within the State Secretariat for Religions are presented in the annex of Law No. 40/1991 and Law No. 58/1992.

Article 6. The State Secretariat for Religions has an automobile for its own use, under conditions prescribed in Government Decision No. 487/1991.

Article 7. (1) The management of the State Secretariat for Religions is carried out by the state secretary and the leadership council.

The attributes of the leadership council are established by order of the state secretary.

(2) The state secretary represents the State Secretariat for Religions in relations with public authorities and with private juridical persons.

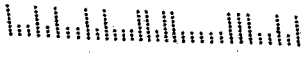
Article 8. On the date this decision enters into effect, Government Decision No. 939/1990 regarding the organization and operations of the State Secretariat for Religions is repealed.

Prime Minister Theodor Stolojan

Countersigned: Economy and Finance Minister George Danielescu, Labor and Social Protection Minister Dan Mircea Popescu, State Secretariat for Religions, Gheorghe Vladutescu, state secretary.

Bucharest, 28 September 1992

No. 595



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