JPRS-EER-91-038-S
27 MARCH 1991

Foreign Broadcast Information Service 50 ANNIVERSARY 1941 - 1991

JPRS Report
Supplement

East Europe

Recent Legislation

East Europe
Supplement
Recent Legislation

JPRS-EER-91-038-S *27 March 1991*

CONTENTS

Decree on Liberalization of Prices, Social Protection of Population

91BA0292A Sofia ZEMEDELSKO ZNAME in Bulgarian 10 Jan 91 pp 1, 3

[Council of Ministers Decree No. 8, dated 29 January 1991, on the liberalization of prices and social protection of the population]

[Text] Sofia, 29 January (BTA)—The Council of Ministers has released to the BTA [Bulgarian Telegraph Agency] for dissemination Decree No. 8, dated 29 January 1991, on the Liberalization of Prices and Social Protection of the Population.

The complete text follows:

Article 1. (1) The Council of Ministers hereby approves fixed prices of goods, which shall become effective as of 1 February 1991 in accordance with Appendix No. 1.

(2) As of 1 February 1991, the prices of all goods and services not included in the appendix in accordance with the preceding section shall be set and negotiated freely.

(3) The Council of Ministers hereby approves a list of prime-necessity goods and services, the prices of which shall be an object of special observation and monitoring on the part of the Council of Ministers in accordance with Appendix No. 2.

Article 2. (1) The Ministry of Industry, Trade, and Services, the Ministry of Finance, and the Committee on Prices shall, before 10 February 1991, submit for approval by the Council of Ministers the following:

1. A price control system for the goods and services in Appendix No. 2.

2. Principles, rules, and criteria for determining an illegal price increase due to abuse of monopoly position, restraint of competition, unfair competition, or other unlawful actions.

(2) The control system, principles, rules, and criteria under the preceding section shall be discussed in advance in the National Commission on the Coordination of Interests.

Article 3. (1) The Council of Ministers hereby approves, effective as of 1 February 1991, a new minimum monthly wage amounting to 435 leva, which shall consist of its present amount—namely, 165 leva—plus a compensatory adjustment of 270 leva.

(2) Pending the transition to wage negotiation under new collective labor contracts, the current documents for the determination of monthly base pay and additional payments under the Labor Code and other prescriptive enactments, the wage regulations, the procedure and conditions for the determination of labor standards, rates, and so forth shall remain in force.

(3) In determining the amount of the monetary indemnifications, benefits, stipends, pensions, and supplements thereto, the minimum monthly wage, established prior to the entry into force of this decree, shall be applied.

Article 4. There are hereby approved compensatory adjustments in the following types of payments, which shall be applied with effect from 1 February 1991:

1. in the nominal wage for work under a basic labor contract—270 leva;

2. in the monetary indemnification for temporary disability due to sickness or on-the-job accident (occupational illness) or in monetary indemnification for pregnancy, childbirth, and child care—242 leva;

3. in monetary benefits in the amount of the minimum wage for pregnancy, childbirth and child care, paid under the Ukase for Stimulation of the Birth Rate—242 leva;

4. in monetary indemnifications and benefits for the care of children under age three;

5. in monthly supplements and benefits for children—100 leva per child;

6. in indemnifications and benefits paid during unemployment;

7. in the pension received or in the sum of more-than-one pension received—182 leva;

8. in supplement to another person's benefit paid in pensions—91 leva;

9. in all stipends for students over age 18—130 leva, and for graduate students—230 leva.

Article 5. (1) The indemnification specified by this decree for each individual payment shall apply to a full working (calendar) month.

(2) In the event of an incomplete working (calendar) month, the compensatory adjustment in each individual payment shall be determined in proportion to days worked (calendar days) and to days to leave due to temporary disability.

Article 6. (1) The compensatory adjustment for pensioners working in a legal labor relationship shall be paid only in their pensions, while, for pensioners receiving a disability pension, the compensatory adjustment shall be paid in their wages.

(2) The compensatory adjustment in pensions shall be paid over and above the limitations envisaged in the pension law.

Article 7. (1) The compensatory adjustments under this decree are of a temporary character and represent supplements to wages, pensions, benefits, indemnifications, stipends, and so forth that have been received.

(2) The wage supplement shall be included in the total of taxable gross income, and a surcharge shall be imposed thereon for state social security.

Article 8. Firms and other economic organizations may, after negotiations with the trade unions, set a lower amount for the compensatory adjustment, but not less than 235 leva.

Article 9. Funds for the compensatory adjustments shall be provided by the following:

1. The state budget—for compensatory wage adjustments in budget-supported organizations and for the stipends of students throughout the country, as well as for compensatory adjustments in pensions, monthly allowances for children, benefits for childbirth and child care, indemnifications, benefits during temporary disability, pregnancy, unemployment, and so forth.

2. Wage funds of firms and other economic organizations—for the compensatory adjustments in the wages of workers therein that are earned, and in the stipends under contract with students.

Article 10. The boards of managers of firms and the governing bodies of other economic organizations may, if funds do not suffice to pay the compensatory adjustments, use other funds of their own. For this purpose, they may not use funds earmarked for housing construction or received from the sale of capital assets, raw materials, and supplies, or from depreciation allowances for capital replacement.

Article 11. The amounts paid out for compensatory adjustments in accordance with the procedure of this decree shall be disregarded in the application of Article 94 of the Regulations on the Application of Ukase No. 56 on Economic Activity.

Article 12. (1) The Central Statistical Administration shall calculate every month the index of change in consumer prices and shall submit to the National Commission for Coordination of Interests information about the level and dynamics thereof.

(2) On the basis of the data for the first quarter of 1991 regarding a rise in the consumer price index and the social minimum, the government shall, on the suggestion of the National Commission for Coordination of Interests, determine the additional compensatory adjustment in all payments where necessary.

Article 13. (1) The Ministry of Labor and Social Welfare and the Ministry of Finance shall, after discussion in the National Commission for Coordination of Interests, submit to the Council of Ministers by 25 February 1991 a proposal regarding the procedure and conditions for social assistance to extremely needy low-income persons.

(2) Persons and families with an average total income per family member under 65 percent of the minimum wage, including the compensatory adjustment established in Article 3, Section 1, may receive a monthly benefit up to this amount from the social assistance agency concerned.

(3) The social benefit under the preceding section shall not be granted to persons and families under legal sanctions according to the established procedure for speculative activity and concealed income.

Article 14. In approving the budget of health care, educational, social, and other institutions and organizations in the ministries and other budget-supported departments, the necessary funds shall be provided to compensate for the increase of costs, based on the rise in the prices of goods and services.

Final Provisions

Paragraph 1. This decree shall be applied by all firms, organizations, and departments.

Paragraph 2. (1) The surcharge for compensatory adjustments shall be made with effect from 1 February 1991. They shall be paid simultaneously with the payments in question, but not later than 15 March 1991. Firms and other organizations may also pay the first compensatory adjustment in February 1991.

(2) The compensatory adjustment in pensions for February 1991 shall be paid with the pension and compensatory adjustment for March 1991, but not later than 15 March 1991.

Paragraph 3. Disputed questions that arise in the application of the decree shall be decided in the National Commission for Coordination of Interests.

Paragraph 4. The following rescissions are hereby made:

1. Article 6 of Degree No. 64/1987 of the Council of Ministers (published in DURZHAVEN VESTNIK, Nos. 3 and 4/1988; amended No. 28/1988, No. 15/1989, and No. 28/1990).

2. Article 12 of Council of Ministers Decree No. 32/1990 (published in DURZHAVEN VESTNIK, No. 35/1990).

3. Section 1 of Article 21, Section 1, second sentence of Section 1, Article 211, Paragraph 1 and Appendices Nos. 1, 2, 3, and 4 of Council of Ministers Decree No. 71/1990 (published in DURZHAVEN VESTNIK, No. 76/1990; amended in No. 91/1990).

4. Council of Ministers Decree No. 77/1990 (published in DURZHAVEN VESTNIK, No. 60/1990).

5. Council of Ministers Decree No. 102/1990 (published in DURZHAVEN VESTNIK, No. 81/1990; amended in No. 101/1990).

6. Council of Ministers Decision No. 183/1990 (published in DURZHAVEN VESTNIK, No. 72/1990).

7. Article 1, Section 1, Article 4 and Article 5 of Council of Ministers Decree No. 33/1990 (published in DURZHAVEN VESTNIK, No. 34/1990).

8. The words "with the exception of prices for overnight accommodations for Bulgarian citizens in shelter facilities" from Article 5 of Council of Ministers Decree No. 35/1990 (published in DURZHAVEN VESTNIK, No. 22/1990).

9. Council of Ministers Decree No. 108/1990 (published in DURZHAVEN VESTNIK, No. 91/1990).

Appendix No. 1
Fixed Prices

Serial No.	Designation of Good	Unit of Measure	For Economic Needs		For the Population	
			Price	Index	Price	Index
1.	Electric power	000 kwH	271	521	167	439
2.	Thermal energy	Large calorie	165	917	50	500
3.	Propane-butane gas	Ton	2,650	408	—	—
		Liter	—	—	1.50	300
4.	Coal (comparison ton)	Ton	285	1,425	210	750

NOTE: Prices, differentiated by periods, types, and mixes, shall be set by the producers and coordinated with the Committee on Prices.

Appendix No. 2

List of Prime-Necessity Goods and Services, the Prices of Which Are an Object of Observation and Monitoring by the Council of Ministers

1. Packages type "500" white flour
2. Dobrudzha bread
3. Stara Zagora bread
4. Meat with bones
   —Pork, blanched
   —Veal
   —Lamb
   —Broiler chickens, first quality
5. Meat products
   —Veal sausages
   —Hamburg sausages
   —Strandzha sausages
   —Sausages made of boiled pork dressed with grated horseradish
   —Boiled sausages
6. Pasteurized cow's milk with 2- or 3-percent butterfat
7. Clabber cow's milk
8. Cow's milk—16 percent water content
9. White brined cheese
10. Vitosha yellow cheese
11. Refined sunflower soil
12. Packaged crystal sugar
13. Macaroni and egg noodles
14. Fare schedule per passenger-km by rail and by motor transportation, and price of rides on intraurban transportation

General Agreement on Obligations of Employers, Unions

91CH0341A Prague HOSPODARSKE NOVINY in Czech 30 Jan 91 p 3

["Text" of General Agreement for 1991 on obligations of employers and unions, signed in Bratislava, 28 January 1991]

[Text] In the interest of avoiding social tension and achieving social peace the CSFR Government, the Czech Republic Government and the Slovak Republic Government (hereafter "the governments"), the Czech Republic Coordination Council of Entrepreneurial Unions and Associations, the Slovak Republic Coordination Council of Entrepreneurial Unions and Associations (hereafter "the employers"), the Czech and Slovak Trade Union Confederations, the Art and Culture Confederation, the Czecho-Moravian Chamber of the Czech and Slovak Trade Union Confederations, and the Slovak Republic Confederation of Trade Unions (hereafter "the unions") hereby sign this General Agreement for 1991.

Part I GENERAL PROVISIONS

Article 1

1. This General Agreement is based on Czechoslovak laws, the conventions and recommendations of the International Labor Organization, and other international documents and is binding on the contracting parties.

2. The General Agreement defines obligations mainly in the area of employment, wages, social and legal certainties. The contracting parties promise to meet these obligations in the context of their authority to assure that the rights and responsibilities contained in the General Agreement apply to all employers and employees.

Article 2

1. The conditions negotiated in the General Agreement are binding for all levels of collective contracts as minimums or maximums, according to the pertinent text of the agreement.

2. The General Agreement makes no individual demands on employees.

Article 3

Proposed laws aimed at meeting obligations under the General Agreement will be discussed by the governments and, when necessary, submitted by the governments for discussion in legislative committees only after obtaining agreement in the pertinent Council of Economic and Social Agreement, or Council of Social Agreement. On other issues affecting labor and social conditions, laws may be submitted only after previous discussion in the pertinent Council of Economic and Social Agreement, or Council of Social Agreement.

Article 4

The contracting parties promise to provide to each other necessary social and economic information. This is true as well for collective negotiations at all levels.

Article 5

The contracting parties promise to assure the preservation of trade union rights, especially the right of free association and collective bargaining in accordance with legal regulations and without regard for ownership relations and the origin of capital.

Part II EMPLOYMENT

Article 6

1. The governments and employers will see to preparing and financing government and enterprise employment programs, implementing government and other retraining programs and, when necessary, setting up government retraining centers.

2. Representatives of trade unions, employers, and interest groups of cooperatives are working with labor offices, financial offices, and towns with the goal of putting together and assisting in the implementation of regional programs of business activities and the resulting employment programs.

3. The governments will pass a law allowing a designated government agency to provide financial support (such as subsidies and interest payments) to those seeking employment who decide to go into business fulltime as entrepreneurs.

4. Goals for a proactive employment policy include setting aside about 25 percent of the financial resources designated in republic government unemployment budgets to support retraining programs, new job creation, small business undertakings, and the organization of public works projects in the republics.

5. Collective contracts for 1991 will spell out a more precise strategy for laying employees off for organizational reasons and for hiring new employees.

Article 7

1. Unemployed persons who have been laid off for organizational reasons and who have not been able to find appropriate work or retraining through labor offices will receive six months of unemployment compensation at 65 percent of the average net wage at their last job, and another six months at 60 percent of this wage. In cases where people left a job for other reasons the compensation is 60 percent of the above salary. These amounts will be evaluated.

2. An employee who has been fired from an organization under Section 46, Paragraph 1a-c of the labor code or who has been asked to leave for the same reasons will be compensated as follows:

a) The firing organization will pay severance equal to twice the most recent average monthly gross salary.

b) A collective contract may specify that an organization must pay an employee additional severance up to three times the average monthly gross wage received most recently at the firing organization.

Article 8 Formation of Cultural and Social Needs Fund

Employers must form a cultural and social needs fund (social fund) in an amount equal to not less than two percent of its annual wage volume, provided that employees request that the fund be established. Collective contracts can define joint decisionmaking by employers and trade unions concerning the formation and use of this fund.

Part III WAGES

Article 9 Directions in Wage Growth and Its Adaptation to the Evolution of the Cost of Living

1. The guideline for average nominal wage increases in 1991 provides information about wage increases acceptable at the national level, defines a range for negotiating the wage component of collective wages, and a limit beyond which wages considered by businesses as costs can be allocated using a special transfer payment.

2. The guideline for wage increases for the first quarter of 1991, compensating for increases in cost of living in 1990, has been set at five percent, and at six percent for the budgetary sphere.

3. Since the average cost of living in the first two months of 1991 increased compared with the cost of living in December 1990 by more than 25 percent, the guideline for average nominal wage increases in March 1991 has been set so that the decline of real wages in this month caused by increases in living costs in the first two months and the target growth rate for average nominal wages will not be more than 12 percent.

4. The target growth rate for average nominal wages for the subsequent quarters of 1991 will be adjusted based on increased average cost of living in the preceding quarter compared with the average cost of living in December 1990. This takes account of the actual development of real wages in the preceding quarter. The target growth rate for average nominal wages set for the preceding period will increase by enough so that the decline in real wages will not exceed 10 percent for any quarter.

5. Wage growth targets will be incorporated into the conditions governing the taxation of wages and other personal costs, and into the conditions for managing wages in both the budget-supported and self-supported spheres.

6. The wages of individual employees will be adjusted for increases in the cost of living during the year within the context of the target growth rate of average nominal wages in a way and under conditions established in collective contracts, in agreements between employers and employees, and in wage regulations. The adjustment will be made either by a percentage increase in overall employee wages considered as costs, by adjustments to certain components of wages, or by a specific wage supplement included in costs. This increase or supplement can be established as a uniform rate, in inverse proportion to the amount of the wages (a declining rate).

Article 10 Minimum Wage and Its Adjustment to Increases in the Cost of Living

1. The CSFR Government decrees, in conjunction with the updated labor code, a minimum wage to take effect on 1 February 1991.

2. The minimum wage shall be 10.80 Czech korunas [Kcs] per hour with a work week of 42.5 hours for hourly employees, and Kcs2,000 monthly for fulltime, salaried employees.

3. An employee has a right to the minimum wage regardless of position, job responsibilities, performance, or ability to pay of the employer.

4. If, under applicable wage regulations or collective agreements, an employee does not receive minimum earnings in a calendar month, the employer is obligated to pay the employee the difference. Such payments up to the minimum wage come from wage costs.

5. The minimum wage will be adjusted to increasing costs of living by:

a) Comparing cost of living on a monthly basis in 1991 with the base (December 1990);

b) When the average cost of living increases in comparison with the base by more than five percent above the level established as the base for the minimum wage, every percentage increase in the cost of living will be matched by a percentage increase in the minimum wage.

6. The cost of living index prepared by the Federal Statistical Office will be used to derive target growth rates for wages (Article 9, Paragraphs 3, 4, and 6) and minimum wages (Article 10, Paragraph 5). The cost of living index will be used with an eye to central, nonwage compensation for price increases.

Article 11 Wage System

1. At the beginning of 1991 the current wage system and its legal underpinnings will be left in place.

2. Based on the principles of wage reform an implementation plan is being drawn up for a new wage system, with the following target completion dates:

a) For the business sphere by 31 May 1991;

b) For the budget-supported and self-supported spheres by 30 November 1991;

c) For budget-supported and self-supported cultural organizations by 31 March 1991.

Part IV CONCLUDING PROVISIONS

Article 12

The contracting parties promise to maintain social peace based on the conditions of this General Agreement.

Article 13

Adherence to the obligations set forth in the General Agreement and compliance with its provisions will be monitored quarterly in the appropriate Council of Economic and Social Agreement, or the Social Agreement Council.

Article 14

1. Any of the contracting parties can propose discussions regarding changes in or additions to the General Agreement. The other contracting parties are obligated to consider all such proposals.

2. The contracting parties are obligated by the current text of the General Agreement to accept changes or additions to the General Agreement.

3. Possible amendment of or change in the General Agreement do not invalidate provisions of collective contracts signed on the basis of the General Agreement.

Article 15

This General Agreement takes effect when signed by representatives of the contracting parties and will be in effect for the duration of 1991.

Law on Social Assistance to Individuals, Families

91EP0320C Warsaw DZIENNIK USTAW in Polish No 87, 17 Dec 90 pp 1182-1187

[Law, Item No. 506, dated 28 November 1990, on social assistance to individuals and families]

[Text]

Section 1. General Provisions

Chapter 1. General Guidelines and Scope of This Law

Article 1.1. Social assistance is an institution of the state's social policy intended to enable individuals and families to overcome difficult life situations with which they cannot cope by dint of their own efforts, possibilities, and rights alone.

1.2. Social assistance is organized by agencies of the general and local government administrations, on cooperating in this respect with social organizations, religious associations, charitable societies, foundations, and individuals.

1.3. Persons and families benefiting from social assistance are obligated to participate in the resolution of their difficult life situations.

Article 2.1. The purpose of social assistance is to meet the indispensable basic needs of individuals and families and to enable them to survive under circumstances preserving human dignity. Social assistance should, insofar as possible, promote independent living for individuals and families and promote their integration with the society.

2.2. Another purpose of social assistance is to avert the emergence of the situations referred to in Article 1, Paragraph 1.

2.3. The nature, form, and extent of the benefits should correspond to the circumstances warranting the provision of assistance. The provision of social assistance should also serve to strengthen the role of the family.

2.4. The needs of individuals and families benefiting from assistance should be considered if they meet the objectives and possibilities of social assistance.

Article 3. Social assistance under the guidelines defined in the present law is provided to individuals and families by reason of, in particular:

1) Destitution.

2) Orphaning.

3) Homelessness.

4) Need to provide maternity care.

5) Unemployment.

6) Physical or mental disability.

7) Prolonged illness.

8) Inability to cope in cases involving need for guardianship or maintenance of households, especially in single parent households or large families.

9) Alcoholism or drug abuse.

10) Difficulties in adaptation to life following release from a penal institution.

11) Natural or ecological disaster.

Article 4.1. The right to the financial form of social assistance belongs to persons lacking any source of income and to families whose income per family member is below the minimum retirement pension, when this is combined with the rise of at least one of the circumstances referred to in Article 3, Points 2-11.

4.2. Income per family member is reckoned with allowance for the combined income of all members of a common household, on deducting alimony payments to other persons and dividing the remaining sum by the number of the members of the household.

4.3. Family members (the family) are construed as the persons sharing a common household.

Article 5. Individuals and families who do not meet the requirements of Article 4, Paragraph 1, may in particularly warranted cases be granted financial or in-kind assistance on condition that they repay that assistance partially or entirely in accordance with the guidelines of Articles 34, 35, and 39-41.

Article 6.1. Social assistance may be reduced to the absolute minimum or refused in the event it is found that previously granted benefits are wasted or deliberately destroyed, or the recipient's own material resources are wasted.

6.2. The refusal or curtailment of social assistance should not result in a deterioration of the situation of persons being supported by the recipient.

Article 7.1. The rights of Polish citizens abroad with respect to social assistance are regulated by international agreements.

7.2. The scope of social assistance provided to foreigners in Poland may not violate the provisions of the international agreements binding on the Polish Republic.

Chapter 2. Objectives of Social Assistance

Article 8. The objectives of social assistance include in particular:

1) Creation of organizational conditions for the functioning of social assistance, inclusive of expansion of the needed infrastructure of social services.

2) Analysis and evaluation of trends spurring the demand for social assistance.

3) Granting and disbursement of legally prescribed benefits.

4) Promotion of social proactivism with the object of satisfying the necessities of life for individuals and families.

5) Social work construed as professional activities intended to assist individuals and families in strengthening or recovering ability to function in the society and to create the conditions promoting this objective.

Article 9.1. The obligation of accomplishing the objectives of social assistance rests on the gmina and on the general government administration to the legally defined extent.

9.2. The gmina is obligated, pursuant to the provisions of this law, to provide social assistance, and it may not refuse help to a needy person, in addition to the existing obligation of individuals or legal entities to satisfy the minimum needs of that person.

Article 10.1. The social assistance obligations of the gmina itself include:

1) Operation of local social-care homes and guardianship centers and assignment of persons needing care to these homes and centers.

2) Granting and payment of special purpose benefits (Article 32).

3) Granting of material assistance (Article 32, Paragraph 2).

4) Other social assistance obligations ensuing from identified needs of the gmina.

10.2. The mandatory social assistance obligations of the gmina itself include:

1) Provision of shelter, meals, and needed clothing to the needy (Article 13).

2) Provision of on-site guardianship care (Article 17, Paragraph 1).

3) Defraying expenditures on medical services in accordance with the same guidelines as those applying to pensioners and annuitants (Article 22).

4) Social work (Articles 23 and 25).

5) Attending to funerals (Article 26).

6) Provision of funds for paying employee wages and of conditions for implementing the obligations referred to in Points 1-5 and in Paragraph 1.

Article 11. The obligations assigned to the gmina [by the state] include:

1) Provision of guardianship services pursuant to Article 17, Paragraph 2.

2) In-kind assistance to promote independent living, granted pursuant to Article 24, Paragraph 2.

3) Granting and disbursement of benefits and loans to promote independent living (Article 24, Paragraph 3).

4) Granting and disbursement of regular benefits and the attendant allowances and entitlements (Articles 27-30).

5) Granting and disbursement of periodic benefits (Article 31).

6) Establishment and operation of a social assistance center and the allocation of funds for paying salaries to the employees implementing the objectives defined in Points 1-5 and 7.

7) Other objectives ensuing from government programs for social assistance and intended to protect the living standards of individuals and families.

Article 12.1. The obligations of the voivode regarding social assistance are:

1) Preparation of a statement of needs and resources for social assistance.

2) Organization and funding of social-care and guardianship homes open to not only local inhabitants, and the assignment thereto of persons needing care.

3) Identification of ways and means of accomplishing the obligations assigned [by the state].

4) Organization of the regular and advanced training of social workers.

5) Sponsorship of the social assistance activities of social organizations, religious associations, charitable societies, and foundations.

12.2. The voivode also implements social assistance objectives relating to foreigners sojourning in Poland.

Section 2. Guidelines for Granting Benefits

Chapter 1. Provision of Social Assistance

Article 13. The gmina should provide shelter, meals, and indispensable clothing to needy persons.

Article 14.1. Shelter is provided by assigning a temporary sleeping accommodation.

14.2. Shelter is provided in refuges, homes for the homeless, and other places.

Article 15. Indispensable clothing is granted by providing the needy individual with the underwear, garments, and footwear suiting his or her personal needs and the season of the year.

Article 16.1. A person who is unable to obtain food through his or her own efforts is entitled to assistance in the form of one hot meal daily.

16.2. The assistance referred to in Paragraph 1 may be provided now and then or periodically.

Article 17.1. Solitary persons who, owing to age, illness, or other reasons, need to be cared for by other people, are eligible for assistance in the form of guardianship services.

17.2. Guardianship services may also be granted to persons unable to care for themselves whose families cannot provide such care.

Article 18.1. Guardianship services include assistance in meeting basic daily needs, provision of basic hygienic care, physician-recommended nursing services and, insofar as possible, also assurance of contact with the outside world.

18.2. When granting assistance in the form of guardianship services the gmina defines their scope.

Article 19.1. In the event it is impossible to provide home guardianship services, the person needing guardianship care or his or her legal representative may apply for placement in a social-care home or a guardianship institution.

19.2. Persons who qualify for a social-care home owing to their age, life situation, family circumstances, housing conditions, or material conditions, may be placed in social-care homes. Also placed in social-care homes are chronically ill persons whose state of health does not require hospitalization but warrants regular nursing care.

19.3. Steps to place a person in a social-care home, taken ex officio or upon the request of another person, may be taken only with the consent of the person needing social care or of its legal representative. If the person needing assistance or his or her legal representative does not express his or her consent to placement in a social-care home, or if he or she withdraws his or her consent following said placement, the social-care center or home notifies accordingly the appropriate guardianship court or, if the person in question lacks a legal representative or guardian, the public prosecutor.

Article 20. Social-care homes provide round-the-clock care and meet indispensable subsistence, health, educational, social, and religious needs.

Article 21. Guardianship services may also be provided by day care centers and at guardianship centers. Day care centers and guardianship centers provide daytime accommodations and basic guardianship services along with recreational and cultural facilities and meals. At these homes and centers rehabilitation services may be offered.

Article 22.1. Persons not covered by the provisions governing social security or retirement benefits may be granted financial assistance to cover expenditures on medical care. Such assistance may also be granted to the dependent family members of these persons.

22.2. Medical care for the persons referred to in Paragraph 1, provided on the same principles as for pensioners and annuitants, includes:

1) Inpatient and outpatient health care.

2) Medicines and first aid.

3) Provision of needed orthopedic equipment and auxiliary devices.

22.3. The granting of the assistance referred to in Paragraph 1 does not preclude granting a special allowance for defraying medical expenses.

Article 23.1. Individuals and families are granted assistance in the form of social work and counseling of the, in particular, legal and psychological kinds.

23.2. Individuals and families may also be granted help in resolving official matters and other important aspects of living as well as in maintaining contact with the surrounding world.

Article 24.1. The gmina may provide assistance intended to promote economically independent living by individuals and families. The related assistance may be granted in kind or in financial form.

24.2. Assistance in kind to promote economically independent living consists in the provision of machinery and instruments of labor affording the possibility of operating a workshop of one's own, and also in the provision of facilities facilitating work for the disabled. This equipment and facilities are made available on the basis of an agreement governed by the appropriate provisions of the Civil Law Code.

24.3. Financial assistance to promote economically independent living may be granted in the form of a targeted lump sum allowance or an interest free loan. The gmina concludes an agreement specifying the terms for granting the loan, the procedure for its repayment, and the loan insurance. The loan may be forgiven entirely or partially if it contributes to a more rapid attainment of the purpose of social assistance.

24.4. The basis for refusal to grant or curtailment of scope of assistance for economically independent living may be the applicant's avoidance of suitable—as construed by employment regulations—work or of vocational retraining.

24.5. Assistance to promote economically independent living is not granted if the applicant has already received assistance for this purpose from another source.

24.6. In the matters referred to in Paragraphs 1-5 the gmina cooperates with the district employment offices.

24.7. The minister of labor and social policy shall issue an order defining the procedure and detailed guidelines for granting assistance for economically independent living.

Article 25.1. Disabled persons with limited mobility or limited possibilities for communicating with the surrounding world are granted assistance as part of social work with the object of enabling them to exercise a socially active role and integrating them with the community. In particular, such assistance may consist in helping them obtain and utilize means of communications and data transmission as well as in their housing accommodations to the limitations ensuing from their disability.

25.2. The gmina cooperates with the social organizations, religious associations, and charitable societies serving to assist disabled individuals and promote their integration with the community.

25.3. Disabled individuals, women in a late stage of pregnancy, and persons with children up to threee years old or with a disabled child have the right to get their problems resolved outside the queues.

Article 26. Social assistance also includes the obligation of attending to a funeral by the procedure established by the gmina, in consonance with the deceased's religion.

Article 27.1. A regular allowance is granted to persons who are completely nonablebodied owing to age or disability, if such persons have no source of income or if their incomes are below 90 percent of the minimum retirement pension.

27.2. A regular allowance is also granted to persons who do not work, or who resign their jobs, in order to care for a child requiring constant care and nursing. The criteria for evaluating the child's health status are applied in consonance with the provisions governing the right to early retirement for employees who care for children requiring constant care.

27.3. A regular allowance is also granted to persons who are unable to work owing to a disability contracted before the age of 18 is reached, regardless of the material situation of the care provider and irrespective of the applicable alimony payments and other services and payments due under the Civil Law Code.

Article 28. The regular allowance referred to in Article 27 is granted in the amount of:

1) Ninety percent of the minimum retirement pension for persons without any source of income.

2) The differential between the amount corresponding to 90 percent of the minimum retirement pension and the income of the applicant for the allowance.

Article 29.1. Recipients of the regular allowance who are classified in Category 1 of the disabled or who reach the age of 75 are entitled to a supplementary allowance equal to 30 percent of the minimum retirement pension.

29.2. The supplementary allowance may also be granted in the amount of 30 percent of the minimum retirement pension to:

1) Severely and chronically ill persons.

2) Pregnant women starting in the 18th week of pregnancy.

29.3. Women living in social care homes are not entitled to the supplementary allowance referred to in Paragraphs 1 and 2.

Article 30.1. Recipients of the regular allowance are entitled to medical care on the same principles as in the provisions governing retirement benefits for employees and their families.

30.2. Persons referred to in Paragraph 1 may be granted the supplementary special allowance referred to in Article 32, Paragraph 2.

Article 31.1. A periodic allowance for purposes of social assistance may be granted to individuals and families if their individual incomes do not exceed the minimum retirement pension and if their financial resources are insufficient to satisfy their basic needs owing to:

1) Prolonged illness.

2) Incapacity.

3) Lack of employment possibilities.

4) Lack of the right to receive a family pension after the demise of the person charged with the duty of caring for such individuals.

5) Other justified reasons.

31.2. The period of time for which the periodic allowance is granted is determined by the gmina depending on the circumstances of the individual case.

31.3. The periodic allowance is fixed in the amount of 90 percent of the minimum retirement pension.

31.4. The minister of labor and social policy shall issue an order defining the guidelines for granting the periodic allowance.

Article 32.1. In order to meet a basic need, a special purpose allowance may be granted for social assistance.

32.2. The special purpose allowance may be granted in particular to defray partially or entirely the expenses of medicines and medical treatment, housing renovation, heating fuel, or clothing. Said allowance may be financial or, if the financial form does not assure utilizing the allowance for the purpose for which it is granted, material.

Article 33. The Council of Ministers defines in an executive order the detailed guidelines for granting benefits and funds for social assistance under government programs with the object of protecting the living standards of individuals and families.

Chapter 2. Guidelines for the Repayment of Assistance

Article 34.1. Outlays on guardianship services, medical services, and in-kind and financial benefits granted to promote economically independent living, are subject to partial or total reimbursement if the income per person exceeds the amount of the minimum retirement pension.

34.2. Funeral expenses are subject to partial or total reimbursement from the assets of an inheritance and thus encumber the heirs. If the deceased's savings were deposited with a social-care home, funeral expenses are defrayed from that deposit.

34.3. The gmina investigates on the basis of interviews the situation of the individual and the family and the extent of the funeral expenses subject to reimbursement pursuant to Paragraph 1.

34.4. The minister of labor and social policy shall issue an order defining the detailed guidelines for the reimbursement by the heir of the total or partial expenditures on the assistance referred to in Paragraph 1.

Article 35.1. Accommodation in a social-care home is subject to a financial charge. In this connection:

1) The monthly fee for living in a social-care home is fixed in the amount of 200 percent of the lowest retirement pension but it may not be higher than 70 percent of the income the person living in said home.

2) The monthly fee for children living in child-care homes is fixed in the amount of 150 percent of the lowest monthly retirement pension but it may not be higher than 70 percent of the income per person.

35.2. The fees referred to in Paragraph 1 may be raised to the level of the total cost of upkeep when so warranted by the living conditions and the level of services provided by the social-care home.

35.3. Fees for using the services of day-care and guardianship centers are fixed at the level of the cost of meals.

35.4. The minister of labor and social policy shall issue an order defining the types of social-care homes, the guidelines for their operation and for determining the fees they charge, and also the guidelines and procedure for collecting these fees.

35.5. The provisions of Paragraphs 1-4 do not apply to the social-care homes and guardianship centers operated by gminas and gmina associations.

Chapter 3. Proceedure for Granting Social Assistance Benefits

Article 36.1. The procedure for granting social assistance benefits is, with the exception of the benefits granted pursuant to the agreements referred to in Article 24, Paragraphs 2 and 3, governed by the provisions of the Code of Administrative Proceedings with allowance for the amendments ensuing from the present law.

36.2. In proceedings to grant social assistance benefits the guiding principle is the good of the recipients of the assistance and the protection of their personal rights and interests. In particular, the names of these recipients and the nature and extent of the assistance they receive should not be made public.

Article 37.1. The locally competent gmina is the gmina of which the applicant for social assistance is a permanent resident, and, in cases brooking no delay, the gmina in which the applicant happens to be sojourning.

37.2. The gmina competent by virtue of the domicile of the recipient of social assistance is obligated to reimburse the gmina which had provided assistance at the applicant's place of sojourn for the expenditures thus incurred.

37.3. The benefits referred to in Articles 13, 15, 16, 17, Paragraph 1, Articles 22, 26, and 32, Paragraph 2, are granted at the place of sojourn.

Article 38.1. Social assistance benefits are granted upon the request of the concerned person, his or her legal representative, or, with the consent of the concerned person or his or her legal representative, upon the request of another person.

38.2. Social assistance may also be granted ex officio.

Article 39.1. The obligation of refunding the expenditures on social assistance benefits encumbers the recipient of the assistance or, out of the assets bequeathed by the recipient, his or her heirs, or the persons obligated to care for the recipient to the extent of and in accordance with the guidelines defined in the Family and Guardianship Law Code.

39.2. The obligation of reimbursing the gminas for the expenditures is nonexistent when the income per family member of the obligated person is below the minimum monthly retirement pension.

Article 40.1. Payments of reimbursements for social assistance benefits are exacted pursuant to provisions governing executive proceedings in administration.

40.2. The executory document is represented by the list of payments due, drawn up by the gmina.

40.3. The list of payments due referred to in Paragraph 2 is delivered by the gmina together with a letter of demand and instructions to the obligated person. Within 30 days from the day he is handed said list and letter of demand, the obligated person may submit to a court of law a counterclaim on the grounds that payments are not due partially or entirely or that the time limit for payment has expired.

Article 41. In special cases, particularly if the demand for total or partial reimbursement of expenditures on social assistance would mean an excessive hardship to the obligated person, or would nullify the benefits of the assistance granted, the gmina may, upon the request of a

social worker or the concerned party, relinquish its demand for reimbursement.

Article 42. Courts, state agencies, and other organizational entities are obligated to provide or grant to social workers immediately, or within not later than seven days, proper information needed to decide whether to grant or refuse applications for benefits, and to determine the extent of these benefits.

Article 43.1. Rulings in matters of social assistance are issued in writing. In particular cases the ruling may be given orally, except in cases of refusal to grant benefits.

43.2. Benefits in the form of social work and counseling (Article 23) require no prior ruling.

43.3. Rulings to grant or refuse the assignment of benefits must be preceded by interviews of the family and acquaintances. The minister of labor and social policy shall issue an order defining the guidelines for such interviews and the wording of the sample questionnaire.

Article 44. Appeals against rulings on social assistance may also be submitted by other persons with the consent of the applicant.

Article 45. Individuals and families receiving financial benefits are obligated to keep the competent gmina informed about any changes in their personal and property situation that relate to the grounds for granting them benefits.

Section 3. Organization of Social Assistance

Chapter 1. Organizational Structure of Social Assistance

Article 46.1. To accomplish the social assistance objectives assigned to the gmina, organizational units termed centers of social assistance are established.

46.2. Centers of social assistance also pursue the gmina's own objectives, unless the gmina decides otherwise.

46.3. The center of social assistance pursues the gmina's own objectives in accordance with the instructions transmitted thereto by the gmina council.

46.4. The center of social assistance may institute claims for alimony on behalf of citizens. In judicial proceedings, such centers are correspondingly governed by the regulations of the public prosecutor's office.

46.5. The gmina council grants, pursuant to Article 39, Paragraph 3, of the Law dated 8 March 1990 on Territorial Self-Government (Dz.U., No. 16, Item No. 95; No. 32, Item No. 191; No. 34, Item No. 189; and No. 43, Item No. 253) to the director of the social assistance center the powers he needs to issue administrative decisions as regards the implementation of state-assigned obligations, and it may empower him to issue administrative decisions with the object of accomplishing the gmina's own voluntary and mandatory obligations.

46.6. The director of the social assistance center submits to the gmina council annual reports on the center's activities as well as on the needs relating to social assistance.

Article 47.1. In accomplishing its social assistance objectives, the gmina cooperates with the institutions, social organizations, the Catholic Church, other churches and religious associations, and workplaces located on its territory.

47.2. The gmina may recommend to the entities referred to in Paragraph 1, upon their consent, by means of a written agreement, the implementation of specified social-assistance objectives, upon granting them funds for this purpose.

47.3. The minister of labor and social policy grants support, including financial support, to social organizations, religious associations, charitable societies, and foundations accomplishing major tasks related to the government programs for social assistance.

Article 48. To accomplish social assistance objectives, the voivode establishes a budget unit directly subordinated to him, namely, the voivodship taskforce for social assistance.

Chapter 2. Social Workers

Article 49.1. A social worker may be a person with suitable professional qualifications, that is, a graduate of a school of social workers or of a higher educational institution with a major in social work, social policy, resocialization, education, psychology, or allied disciplines.

49.2. A social worker may also be a person with a higher educational background who majored in a discipline not named in Paragraph 1, provided that he or she has completed special training in the organization of social assistance or allied postgraduate studies.

49.3. The social worker is obligated to improve his or her professional qualifications.

Article 50. Social workers may also be employed by other institutions, and in particular by plants and factories, hospitals, guardianship centers, boarding schools, medical institutions, and penal institutions, at which they accomplish the objectives of these institutions relating to social assistance.

Article 51. The social worker has priority in receiving assistance in his work from offices, institutions, and other places. Agencies of the central and local government administrations are obligated to provide the social worker with assistance in performing his activities.

Article 52. The rights and duties of social workers employed in:

1) Social assistance centers are regulated by the provisions governing local government employees.

2) Voivodship taskforce on social assistance are correspondingly regulated by provisions governing employees of the federal government.

Chapter 3. The Social Assistance Council

Article 53.1. The Social Assistance Council is established under the minister of labor and social policy as an advisory and consultative body as far as matters relating to social assistance are concerned.

53.2. The scope of activities of the Social Assistance Council includes:

1) Evaluating draft legislation and initiating amendments of legislation relating to social assistance.

2) Preparing expertises on selected domains of social assistance.

3) Presenting to the minister of labor and social policy periodic reports on its activities and the attendant recommendations.

4) Collecting and evaluating for the minister of labor and social policy recommendations for special awards for eminent achievements in the field of social assistance.

Article 54.1. The Social Assistance Council consists of not more than 30 persons representing social assistance teams and centers, social and professional organizations, religious associations, and the scientific community.

54.2. Members of the Social Assistance Council are appointed from among the representatives referred to in Paragraph 1 by the minister of labor and social policy for a period of four years. Members of the Social Assistance Council perform their duties on an unpaid, voluntary basis.

54.3. The minister of labor and social policy shall issue an order defining the organizational structure and operating procedure of the Social Assistance Council.

Section 4. Interim and Final Provisions

Article 55. The social assistance benefits granted pursuant to hitherto binding regulations are henceforth disbursed in accordance with the guidelines of and to the extent defined in the present law.

Article 56.1. Until the implementing regulations envisaged in the present law are issued, but within not more than one month from the effective date of the present law, the existing regulations remain binding insofar as they do not conflict with the present law.

56.2. Until they become separately regulated, the provisions of the present law concerning reimbursement for accommodation in social assistance centers and guardianship centers apply correspondingly to the guardianship and nursing centers under the jurisdiction or supervision of the Ministry of Health and Social Welfare.

Article 57. The following Paragraph 3 is incorporated in Article 48 of the Law dated 14 December 1982 on Retirement Benefits of Employees and Their Families (Dz.U., No. 40, Item No. 267; No. 52, Items No. 268 and No. 270, 1984; No. 1, Item No. 1, 1986; No. 35, Items No. 190 and No. 192, 1989; and No. 10, Items No. 58 and No. 61, No. 36, Item No. 206, and No. 66, Item No. 390, 1990):

"3. A person accommodated in a social assistance center is not entitled to a supplementary nursing allowance."

Article 58. In the Law dated 17 May 1990 on the Division of Duties and Powers Defined in Special Legislation Between Gmina Agencies and Agencies of the General Government Administration, as Well as on Amendments of Certain Laws (Dz.U., No. 34, Item No. 198, and No. 43, Item No. 253), in Article 8:

a) The original text is denoted as Paragraph 1.

b) The following Paragraph 2 is added:

"2. The establishment and operation of nurseries are among the gmina's own obligations."

Article 59. The following legislation is declared null and void:

1) Law dated 16 August 1923 on Social Care (Dz.U., No. 92, Item No. 726; No. 56, Item No. 576, 1924; No. 94, Item No. 807, 1932; No. 110, Item No. 976, 1934; and No. 34, Item 198, 1990).

2) Decree dated 23 October 1947 on the Binding Power of Certain Legislative Provisions Concerning Social Care (Dz.U., No. 65, Item No. 389).

Article 60. The present law takes effect 30 days after the day of its publication, with the exception of Article 49, Paragraphs 1 and 2, which take effect on 1 January 1995.

President of the Polish Republic: W. Jaruzelski

Law on Gmina Revenues, Subsidization, Local Self-Government

91EP0320B Warsaw DZIENNIK USTAW in Polish No 89, 24 Dec 90 pp 1208-1211

[Law, Item No. 518, dated 14 December 1990, on gmina revenues and guidelines for [gmina] subsidization, and on amendments to the Law on Local Self-Government]

[Text]

Chapter 1. Gmina Revenues

Article 1. Gmina revenues are:

1) Income from the following taxes, assessed and collected pursuant to separate regulations:

a) Agricultural tax.

b) Tax on real estate located within gmina boundaries.

c) Road tax.

d) Tax on inheritances and donations.

e) Taxes paid in the form of a tax card, on the economic activity of individuals.

f) Tax on dog ownership.

2) Revenues from the following fees:

a) Treasury fee.

b) Local and other fees collected by gmina offices.

3) Interest charged on arrears in payment of the taxes and fees referred to in Points 2 and 3.

Article 2. The following also are gmina revenues:

1) Revenues of municipal budget units and payments contributed by other municipal organizational units.

2) Income from gmina assets.

Article 3. Gmina revenues include the participation of gminas in the tax revenues of the state, in the following proportions:

1) Five percent of the revenues from the income tax collected from the legal entities with offices in gmina territory, with the proviso of Article 26.

2) Thirty percent of the revenues from the wage tax, the remuneration tax, and the equalization tax.

3) Fifty percent of the revenues from the income tax collected from individuals and assessed pursuant to general guidelines.

Article 4. Gmina revenues include the general subsidies calculated according to the guidelines contained in the present law.

Article 5. Gmina revenues may be, in addition to those referred to in Articles 1-4, the following:

1) Budget surpluses from previous years, earmarked by the gmina council for increased expenditures.

2) Targeted subsidies from the State Budget for implementing obligations of the general government administration assigned to the gminas pursuant to Article 8 of the Law dated 8 March 1990 on Local Governments (Dz.U., No. 16, Item No. 95; No. 34, Item No. 199; and No. 43, Item No. 253).

3) Targeted subsidies from the State Budget for funding the obligations of the gminas themselves, including the organization of community projects and activities relating to environmental protection.

4) Revenues from the self-taxation of gmina residents.

5) Inheritances, legacies, and donations.

6) Interest earned on gmina funds deposited in bank accounts.

7) Monies transmitted from state targeted funds.

8) Other revenues assigned to gminas under separate regulations.

Article 6.1. The targeted subsidies for funding the implementation of State-assigned obligations by gminas, referred to in Article 5, Point 2, are calculated according to the guidelines adopted for determining the corresponding line-item expenditures of the State Budget.

6.2. If the Budget Decree allocates the subsidies referred to in Article 5, Point 3, the distribution of these subsidies among discrete gminas is handled by the minister of finance in consultation with the National Assembly of Gminas.

Article 7. If a gmina adopts an agreements with another gmina for the implementation of specified joint obligations, the funds transmitted by that other gmina are included in the revenues of the gmina implementing these obligations.

Article 8.1. Revenues from taxes and fees constituting gmina revenues which are, under separate regulations, collected by State Treasury offices, are subject to being deposited in the bank accounts of the concerned gmina budgets within 10 days from the day on which the Treasury office receives these revenues.

8.2. The provisions of Paragraph 1 apply correspondingly to the share of gminas in the taxes and fees constituting the revenues of the State Budget as referred to in Article 3.

8.3. If a State Treasury office fails to transfer to a gmina the revenues of that gmina within the time limit referred to in Paragraph 1, the gmina is entitled to charge the same interest rate as that charged on tax arrears.

8.4. On the request of the gmina, the State Treasury office provides it with information on the status and schedule for collecting the gmina revenues referred to in Paragraphs 1 and 2.

Article 9.1. Granting rebates, deferrals, and remissions, as well as rescinding the assessment and collection of taxes constituting gmina revenues and paid directly into gmina bank accounts, belongs within the competences of the village head or the burgomaster (mayor).

9.2. As regards the taxes and fees constituting gmina revenues which are collected by the State Treasury office, that office may grant rebates, deferrals, and remissions, and it may rescind the assessment and collection of such taxes and fees, solely upon the recommendation or with the consent of the gmina.

9.3. The consequences of the decisions taken by the procedure referred to in Paragraphs 1 and 2 do not

constitute a basis warranting an increase in general subsidies from the State Budget.

Chapter 2. Guidelines for the Determination and Transfer of General Subsidies for Gminas

Article 10. The gmina receives a general subsidy from the State Budget.

Article 11. The amount of the general subsidy due a gmina during the fiscal year is represented by the sum of:

1) Subsidy for basic current expenditures of the gmina.

2) Subsidies for the gmina's own obligations as regards schools and other educational and guardian institutions transferred to the jurisdiction of the gmina pursuant to Article 9, Paragraph 2, of the Law datedf 17 May 1990 on the Division of the Rights and Duties Defined in Specific Laws Between Gmina Agencies and the Agencies of the General Government Administration, and on Amending Certain Laws (Dz.U., No. 34, Item No. 198; No. 43, Item No. 253; and No. 87, Item No. 506).

3) Subsidy for investment outlays.

4) Equalization subsidy.

Article 12.1. The subsidy for the basic current expenditures of a gmina is determined as the sum total of separately reckoned subsidies for the following departments or department groups of budgetary classification:

1) Education and upbringing.

2) Administration.

3) Culture and art.

4) Social assistance.

5) Municipal services, housing, environmental protection.

6) Other departments.

12.2. The overall amounts of the subsidies referred to in Paragraph 1, as specified in the draft State Budget, are determined by the minister of finance upon consulting the National Assembly of Gminas.

12.3. The distribution of the overall amount of the subsidies referred to in Paragraph 1 is handled by the minister of finance, taking as the criterion the number of conversion units corresponding to the number of a gmina's residents as of the population of the gmina on 31 December of the year preceding the fiscal year, henceforth referred to as "the base year."

12.4. The number of conversion units is increased if a gmina meets the requirements for including it in the categories referred to in Paragraph 5.

12.5. The number of conversion units is increased when:

1) The gmina is located in a city with a population in excess of 100,000.

2) The gmina's territory encompasses:

a) A spa.

b) A seaport.

c) A border crossing.

3) The gmina is located in an area subject, under separate regulations, to special rules for environmental protection.

4) The gmina is located in an area exposed to a special ecological danger, on taking into consideration the degree of that danger.

5) Sixty and more percent of the gmina's farmland is classified in Category V and VI.

6) The gmina exercises the functions of a capital.

7) Seventy and more percent of the gmina's population derive their living from agriculture and forestry.

12.6. The minister of finance decides, upon consulting the National Assembly of Gminas, separately for each of the departments or department groups referred to in Article 12, Paragraph 1, on increasing the number of the conversion units credited to the gminas classified into the categories referred to in Paragraph 5.

12.7. The minister of environmental protection, natural resources, and forestry determines the lists of the gminas located in the areas referred to in Paragraph 5, Points 3 and 4, and the categories of gminas as determined according to the degree of ecological danger.

Article 13.1. The subsidy for the gmina's own obligations concerning schools and other educational and guardian institutions referred to in Article 11, Point 2, is determined in accordance with the guidelines adopted for calculating the funding of such institutions by the State Budget.

13.2. The gmina has the right to the subsidy determined according to the guidelines referred to in Paragraph 1 irrespective of the gmina's own revenues from other sources and subsidies for other objectives.

Article 14.1. The minister of finance, upon consulting the National Assembly of Gminas, determines the overall amount of the subsidies for investment outlays referred to in Article 11, Point 3, and decides how that amount is to be divided between the gminas and the investment funding reserve for gminas earmarked in the State Budget.

14.2. The amount of the subsidies due individual gminas from the part to be distributed among the gminas pursuant to Paragraph 1 is determined by the minister of finance proportionately to the share of each gmina in the overall amount of the subsidy for basic current expenditures of gminas referred to in Article 11, Point 1.

Article 15.1. The overall subsidy payable to a gmina under the guidelines specified in Articles 12-14 may be augmented with the equalization subsidy referred to in Article 11, Point 4.

15.2. The amount of the equalization subsidy for every individual gmina is determined by the minister of finance according to the formula S = L x 0.9 (0.85 B-A), where:

1) S is the equalization subsidy

2) L is the number of the gmina's residents on 31 December of the base year

3) A is the indicator of the level of adjusted revenues for each gmina in terms of per gmina resident (per capita) as of 31 December of the base year

4) B is the mean indicator for all gminas, derived in accordance with the rules defined in Point 3

5) Adjusted revenues are the gmina's base-year revenues from the sources referred to in Article 1, Points 1 and 2, and in Article 3, as determined upon taking into account the effects of the exemptions, rebates, deferrals, and remissions granted pursuant to Article 9, Paragraphs 1 and 2, as well as the exemptions granted by gmina agencies in accordance with other regulations.

15.3. The equalization subsidy is not granted to the gminas for which indicator A is greater than or equal to 0.85 of indicator B as referred to in Paragraph 2.

15.4. If indicator A for a given gmina is higher than 1.5 times indicator B, the minister of finance shall, with the proviso of Paragraph 5, reduce for that gmina the subsidy referred to in Article 11, Point 1, by the amount derived from the formula Z = L x 0.25 (A-1.5B), where:

1) Z is the amount by which the subsidy is reduced

2) The symbols L, A, B, defined in Paragraph 2, Points 2, 3, and 4, apply correspondingly.

15.5. The extent of the reduction referred to in Paragraph 4 may not be greater than that of the subsidy referred to in Article 11, Point 1 for the given gmina.

15.6. The amount by which in the subsidy mentioned in Paragraph 4 is reduced is credited to the general subsidy reserve for gminas in the State Budget.

Article 16. The reserve referred to in Article 14, Paragraph 1, and Article 15, Paragraph 6, is disposed of by the minister of finance in consultation with the National Assembly of Gminas.

Article 17.1. The minister of finance includes the overall amount of the general subsidy for gminas referred to in Article 10 in the draft State Budget and notifies the gminas of the amounts earmarked for each in the general subsidy.

17.2. Gmina councils pass gmina budgets with allowance for the subsidy referred to in Paragraph 1, with the proviso of Article 19, Paragraph 2.

Article 18.1. The minister of finance submits to the Council of Ministers the draft Budget Decree jointly with the position paper of the National Assembly of Gminas concerning matters referred to in the present Executive Order.

18.2. The Council of Ministers submits to the Sejm and the Senate the draft Budget Decree jointly with the position paper of the National Assembly of Gminas referred to in Paragraph 1.

Article 19.1. If the Budget Decree specifies a different amount of the general subsidy for gminas than that specified in the draft of that decree by the procedure mentioned in Article 17, Paragraph 1, the minister of finance shall determine within 14 days from the effective date of the Budget Decree the final amounts of subsidy for each gmina and notify the respective gmina councils about these revisions.

19.2. The gmina councils will allow for the revisions referred to in Paragraph 1 in their budgets.

Article 20.1. The general subsidy is transmitted to gminas in monthly installments by 10 January and by the 15th day of each subsequent month.

20.2. The minister of finances shall issue an executive order detailing the guidelines and procedure for transferring the general subsidy to the gminas.

20.3. If the general subsidy is not transmitted to the gminas within the time limits referred to in Paragraph 1, the gminas are entitled to be paid interest on the arrears at the same interest rates as those charged for tax arrears.

Chapter 3. Requirements for Borrowing and Issuance of Securities by Gminas

Artricle 21. A gmina council may borrow funds with the object of:

1) Funding current yearly expenditures.

2) Funding outlays not covered by gmina revenues.

Article 22.1. The borrowings referred to in Article 21, Point 1, are subject to being repaid with interest in the year in which the funds are borrowed; the related indebtedness many not exceed eight percent of the planned annual outlays of the gmina budget during the first half of the year and four percent during the second.

22.2. The borrowings referred to in Article 21, Point 2, may not exceed the level specified in the gmina budget.

22.3. The gmina board notifies the appropriate regional auditing chamber about the loan agreements in cases referred to in Paragraphs 1 and 2.

22.4. In the event that a gmina applies for a loan to a bank other than that which services the gmina's budget, the regional auditing chamber is obligated to provide, upon the bank's request, its opinion on the gmina's solvency.

Article 23. The expenditures on the payment of loan installments due in a given year, with respect to the borrowings referred to in Article 21, Point 2, inclusive of interest rates, may not exceed 5 percent of the expenditures planned in the gmina budget for the year in question.

Article 24.1. The gmina has the right to issue securities.

24.2. The gmina board notifies the regional auditing chamber of its intent to issue securities; said chamber thereupon makes public its opinion.

24.3. The guidelines for licensing gmina-issued securities are defined by separate regulations.

Chapter 4. Amendments of Binding Regulations. Special, Interim, and Final Provisions

Article 25. The following amendments are incorporated in the Law dated 8 March 1990 on Territorial Self-Government (Dz.U., No. 16, Item No. 95; No. 34, Item No. 199; and No. 43, Item No. 253):

1) Article 54, Paragraph 1, Point 3, and Article 55, Paragraph 2, are amended by striking out "Central Budget" and inserting in lieu thereof "State Budget."

2) Article 56 is deleted.

3) In Article 60 Paragraph 2 is reworded as follows:

"2. Banking services to the gmina are provided by the bank named by the gmina council, provided that the National Bank of Poland may not be named."

4) In Article 83, Paragraph 2, "with the exception of the provisions of Article 54" is added at the end of the sentence.

Article 26.1. If establishments (branches) owned by a legal entity which prepare their own balance sheets are located in gminas other than the gmina in which the legal entity maintains a presence, the revenues referred to in Article 3, Point 1, and the share in the wage-tax revenues referred to in Article 3, Point 2, are paid into the budgets of the gminas in whose area said establishments (branches) are located.

26.2. If a legal entity owns establishments (branches) that do not prepare its balance sheet and are located in the area of other gminas than the gmina in which the legal entity maintains a presence, the share in wage-tax revenues referred to in Article 3, Point 2, is paid by the legal entity into the budgets of the gminas in whose area said establishments are located.

Article 27. Until the National Assembly of Gminas is established under separate regulations, the related powers with regard to the 1991 State Budget draft are exercised by the National Assembly of Local Governments, established on 28 September 1990 in Poznan.

Article 28. Not later than 31 August 1991 the Council of Ministers shall submit to the Sejm a draft law on regulating the revenues and financial management of gminas.

Article 29. This Law takes effect on 1 January 1991, with the proviso that the provisions of this law apply to the drafting of gmina budgets for 1991.

President of the Polish Republic: W. Jaruzelski

Executive Order on Inheritance of Agricultural Lands

91EP0320A Warsaw DZIENNIK USTAW in Polish No 89, 24 Dec 90 p 1211

[Executive Order, Item No. 519, of the Council of Ministers, dated 12 December 1990, governing conditions of statutory inheritance of agricultural lands]

[Text] Pursuant to Article 1064 of the Civil Law Code, the following is hereby ordered:

Paragraph 1. An heir is considered to have the occupational skills for engaging in agricultural production, entitling him to inherit a farm by virtue of law, if he or she has:

1) Completed an elementary or vocational agricultural school or an economic school on specializing in an occupation suitable for engaging in agricultural production.

2) Completed an agricultural or economic institution of higher education with a major in a discipline suitable for engaging in agricultural production.

3) Undergone occupational training for work in agriculture by taking advanced training courses offered by authorized workplaces, organizational entities, and other legal entities or individuals.

4) Demonstrated a stable work record on a farm, while directly engaging in agricultural production, for a period of at least one year.

Paragraph 2. Apprenticeship in an occupation or attendance of a school, including a higher school, makes the heir eligible for inheriting a farm, unless he has a regular job or another regular source of income.

Paragraph 3.1. The heir to a farm is considered to be permanently disabled if he or she:

1) Has reached the age of 60 years for a woman or 65 years for a man and does not hold a regular job representing his or her main source of income, or

2) Is included in Disability Category 1 or 2 by the procedure and according to the guidelines defined in the regulations governing retirement benefits for employees and their families.

3.2. If a farm inheritor cannot be examined by a medical commission of the disability or employment services, or if that commission is unable to pinpoint the date on which disability first arose owing to the passage of a considerable interval of time between the opening of the inheritance succession and the medical examination, the finding of permanent work disability may also be ruled upon by a court of law.

Paragraph 4. The Executive Order dated 28 November 1964 of the Council of Ministers Concerning the Transfer of Agricultural Real Estate, the Abolition of Co-Ownership of Such Estate, and Farm Inheritance (Dz.U., No. 19, Item No. 86, 1983; No. 10, Item No. 73, 1988; No. 29, Item No. 202, 1988; and No. 23, Item No. 122, 1989) is hereby rescinded.

Paragraph 5. This Executive Order takes effect on the day of its publication.

Chairman of the Council of Ministers: T. Mazowiecki

Order on Calculating Excess Wage Tax, Average Employment

91EP0330A Warsaw RZECZPOSPOLITA (ECONOMY AND LAW supplement) in Polish 15 Feb 91 p V

[Order No. 15 of the Minister of Finance, dated 14 February 1991, governing standards of calculating taxation of wage growth, as well as methods of calculating average employment: "How Is the PPWW [Tax on Above-the-Plan Growth of Wages] Tax To Be Computed?"]

[Text] Proceeding from Article 16, Section 1 of the Law dated 22 December 1990 on the Taxation of the Growth of Wages (DZIENNIK USTAW, No. 1, Item No. 1, 1991) and Article 13 of the Law dated 27 December 1989 on the Taxation of the Growth of Wages in 1990 (DZIENNIK USTAW, No. 74, Item No. 438; No. 13, Item No. 82; and No. 56, Item No. 324, 1990) the following is decreed:

Paragraph 1. Sample declarations on the following are introduced:

1) Computing the tax on the growth of wages included in the overall cost of operations in 1991—Annex No. 1 to the order.

2) Payment of awards and bonuses from balance-sheet profits for 1990—Annex No. 2 to the order.

3) Installment payments of awards and bonuses from net profits in 1991—Annex No. 3 to the order.

4) Amounts due to the budget by virtue of retroactive raises introduced—Annex No. 4 to the order.

Paragraph 2.1. Individuals employed full time on the basis of a labor contract and individuals employed part-time converted into full-time employees, except as provided by Points 2 through 5, are counted in order to determine the average labor force in the tax year (period) and in September 1989, December 1990, and the first month of operation in the tax year.

2.2. The mode of determining the average labor force in individual months and periods, adopted in keeping with the methodology of the Central Office of Statistics in a declaration on computing the tax on the growth of wages included in the overall cost of operations in 1990, also applies in the process of determining the average labor force in the tax year (period) 1991.

2.3. The average labor force established in keeping with Point 1 is reduced by the number of the following persons, taking into account Point 4:

1) Those whose wages have not been included in wages on the basis of the provision in Article 2, Points 4 and 5 of the law.

2) Those whose wages are financed by the Labor Fund.

3) Those who are on leave without pay for a period longer than 14 days per month (continuously).

2.4. The average employment for December 1990 established in keeping with Points 1 through 3:

a) Is increased by the number of persons (converted into full-time positions) who were on leave without pay secured in November or December 1990 for a period shorter than two months (continuously).

b) Is reduced by the number of persons (converted into full-time positions) for whom the period of notice of the cancellation of the labor contract was in effect in December for reasons envisaged by Article 1, Point 1 of the law dated 28 December 1989 on specific guidelines for canceling labor contracts with employees and on amending certain laws (Dz.U., No. 4, Item No. 19; No. 10, Item No. 59, and No. 51, Item No. 258, 1990).

2.5. The average labor force established in keeping with Points 1 through 4 is increased by the average labor force of people doing work at home.

The average labor force of these people is obtained by dividing the amount of their wages by the average wage of the employees of the taxpayer without the payment of awards and bonuses from profits.

The number of employees working under take-home arrangements established in this manner cannot exceed the number of persons actually operating under this system.

2.6. The average labor force for the purposes of computing the amount of excess monetary payments per employee and the equivalent of benefits in kind provided from the enterprise social and housing funds referred to in Article 3, Point

2 of the law, is established in keeping with the provisions in the order of the minister of labor and social policy dated 21 December 1990 on guidelines for establishing the average monthly number of employees with a view to calculating allowances for the enterprise social and housing funds in socialized enterprises (Dz.U., No. 19, Item No. 531, 1990).

2.7. For the purposes of calculating the amount of excess [payments] from the social fund, the average employment established in keeping with Point 6 is increased by one-quarter of the number of retirees and annuitants if an enterprise has increased the basic allowance for these persons.

Paragraph 3

This order is enacted on the day of publication and takes effect on 1 January 1991.
[round seal of the minister of finance]
[signed] The minister of finance/ for the minister
Secretary of State Dr. Andrzej Podsiadlo

Annexes to Order No. 12 of the Minister of Finance Dated 14 February 1991

Annex No. 1

Name and address of the taxpayer
Statistical number
Region
Treasury Office in_____

DECLARATION for computing the tax on the growth of wages included in the overall cost of operations for the period from _____ to _____ 1991.

Part I. Establishing the Standard of Average Wages and the Tax on the Growth of Wages Included in the Overall Cost of Operations

Rubric	Number of line	Monthly standard of average wages in zlotys	Average labor force on the payroll in a given month	Total amount of standard wages (product of columns 3 and 4) in zlotys
December 1990	01		x	x
January 1991	02			
February	03			
March	04			
April	05			
May	06			
June	07			
July	08			
August	09			
September	10			
October	11			
November	12			
December	13			
Total standard wages as of the end of the tax year (period) (the sum of products from lines 02 through 13	14	x	x	

Rubric	Number of line	Unit of measurement	Amount
Average monthly labor force between January and the end of the tax year (period)	15	Jobs	
Standard average wage in the tax year (period) (line 14 over line 15)	16	zlotys	

Rubric	Number of line	Unit of measurement	Amount
Additional amount increasing the standard average wage of /the tax year (period) (Article 9 of the law—amount from line 37 or 39)	17	zlotys	
Total standard average wage (total of lines 16 and 17)	18	zlotys	
Amount of wages included in the overall costs of operation from the beginning of the year established in keeping with Articles 2, 10, 12 of the law	19	zlotys	
Amount of wages included in the costs since the beginning of the year per employee (line 19 over line 15)	20	zlotys	
Surplus average wage (difference between lines 20 and 18)	21	zlotys	
Amount of excess payments or issues in kind made from the social and housing funds referred to in Article 3, Section 2 of the law per one employee since the beginning of the year, out of which:	22	zlotys	
a) From the social fund ... zlotys			
b) From the housing fund ... zlotys			
Total excess average wage:			
a) Amount (total of lines 21 and 22)	23	zlotys	
b) Percentage margin of exceeding the standard	24		
Amount of tax on the excess average wage	25	zlotys	
Amount of tax on total excess wages (line 25 times line 15)	26	zlotys	
Installment payments of tax	27	zlotys	
Difference to be paid (line 26 less line 27)	28	zlotys	
Difference overpaid (line 27 less line 26)	29	zlotys	

on _____ day of_____

Signatures of persons representing the taxpayer

First and last names and
telephone number of the person
responsible for the correct
computation of the tax

Part II. Reference Data and Computation of the Additional Exempt Amount for the Tax Period

Rubric	Number of line	Unit of measurement	Amount
Balance-sheet profit (balance-sheet loss)	30	1,000 zlotys	
Amount of wages included in the overall cost of operations in 1990 (established in keeping with Article 2 of the law)	31	1,000 zlotys	
Ratio of wages to 1990 profit (the total of lines 30 and 31 divided by line 31)	32	indicated	
Net profit (loss) for the 1991 tax period	33	1,000 zlotys	
Payments of wages from 1990 reserves made in 1991	34	zlotys	
Ratio of wages to profits for the 1991 tax year (period) (total of lines 33 and 19 over line 19)	35	indicated	
Average monthly wage before the exempt additional amount is figured in (total of lines 19 and 34 over line 15 and the number of months in the tax period)	36	zlotys	
Maximum additional exempt amount provided that a ratio is maintained for the tax period which is no smaller than the one determined on line 32 (one-eighth or one-sixth times the amount from line 36 times the number of months)	37	indicated	
Ratio of wages and profits in the 1991 tax year (period) after factoring in an additional exempt amount (total of lines 33, 19, and 37 times line 15 over the total of lines 19 and 37 over line 15)	38	indicated	
Permissible additional exempt amount for the tax period which maintains the ratio on line 32	39	zlotys	

Part III. Establishing the Basis for Determining the Standard Average Wage in January 1991

Rubric	Number of line	Unit of measurement	Amount
Standard wage for December 1990 (from line 19 of the 1990 declaration)	40	zlotys	
Total amount of wages subtracted from the standard wage in December (Article 4, Section 2 of the law)	41	zlotys	
Out of which the wages referred to in Article 2, Section 4 of the law:			
Point 5 ____ zlotys			
Point 6 ____ zlotys			
Point 8 ____ zlotys			
Point 19 ____ zlotys			
Point 22 ____ zlotys			
Point 23 ____ zlotys			
Adjusted standard wage in December (difference between lines 40 and 41)	42	zlotys	
Average labor force in the month determined for the taxpayer in Article 4, Section 2, Points 1, 2, 3, 4 (cross out unnecessary points) of the law	43	jobs	
Average wage used as the basis for determining the standard average wage for January 1991 (line 42 over line 43)	44	zlotys	
Average labor force in in 1990 (from line 22 of the 1990 declaration)	45	jobs	
Amount of excess wages over the 1990 standard	46	zlotys	
One-twenty fourth of the amount of excess wages in 1990 per one employee (line 46 over line 45 divided by 24)	47	zlotys	
Average wage used as the basis for determining the standard for January 1991 for taxpayers who registered excess wages in 1990 (total of lines 44 and 47)	48	zlotys	
Amount used as the basis for determining the standard for January 1991 established on the basis of the provision in Article 4, Section 4 or Section 5 of the law	49	zlotys	

NOTES:

1. The articles indicated in the declaration pertain to the Law dated 22 December 1990 on the Taxation of the Growth of Wages (Dz.U., No. 1, Item No. 1, 1991).

2. The value of the corrective coefficient for a given month is determined by the Council of Ministers by decree.

3. Data on the tax are reported rounded to 100 zlotys.

The strength of the labor force is converted into full-time employees and reported to the second decimal point.

Statistics on indicators are calculated to the third decimal point.

Part I

1. On line 01, taxpayers write in the base for establishing the standard for January 1991 (adjusted standard for December 1990) from line 44, 48, or 49 of Part III.

2. On lines 02 through 13, the monthly standard average wage indicated is established as a product of the standard in the previous month (for January—the average standard for December indicated on line 01) plus a product of this amount and the percentage growth of prices for consumer goods and services in the month and a corrective coefficient. The units referred to in Article 5 of the law use the percentage growth of average wages in the six basic sectors of the sphere of material production less payments from profit, instead of the percentage growth of prices for consumer goods and services and a corrective coefficient.

3. On line 15, taxpayers establish the average monthly labor force along the guidelines set forth in the provisions of Section 2, Points 1 through 3 of the order of the minister of finance.

4. On line 19, the payments referred to in Article 2, Section 4 and Article 13 of the law are subtracted from the amount of wages included in the overall costs of operation, and wages paid by other units to the employees of the taxpayer are added on the basis of the provisions of Article 10 of the law.

5. Line 21 is not filled out unless the difference between lines 20 and 18 indicates an excess average wage.

6. On line 21, with a view to determining excess payments or issues in kind made from the:

a) **Social Fund**, the amount of payments from this fund should be divided by the number of employees determined in keeping with the provisions of Paragraph 2, Sections 4 and 5 of the order of the minister of finance less double the amount of the allowance referred to in Article 4, Sections 2, 4, 5, and Article 12, Section 2 of the Law dated 24 November 1989 on Enterprise Social and Housing Funds in the Units of Socialized Economy (Dz.U., No. 58, Item No. 343, 1990). Moneys transferred from the social fund for general purposes, for example, subsidizing resort and camp centers, rest homes, sanatoriums, the operation of cooperative garden plots, nurseries, day care centers, and so on, are not included in the amount of payments as provided for by the provisions of Article 4, Section 2, Point 1 of the law.

The difference between the amount of payments per one employee and two times the basic allowance amounts to the excess which needs to be indicated on line 22, Point a).

b) **Housing Fund**, the amount of payments from this fund should be divided by the number of employees established in keeping with the provisions of Paragraph 2, Section 4 of the order of the minister of finance less four times the allowance referred to in Article 7, Section 2 of the aforementioned law dated 24 October 1986.

The difference between the amount of payments per employee and four times the basic allowance amounts to the surplus which should be indicated on line 22, Point b).

Payments and benefits which are made without an obligation to return them, including canceled loans, are included in monetary payments and benefits in kind from the housing funds for the employees.

Part II

Part II is filled out only by taxpayers who indicate an additional exempt quota on line 17, Part I.

1. Taxpayers who started operations in 1990 for the first time indicate on lines 30 and 31 amounts from the period of operation in this year. Taxpayers who began operations as a result of the organizational changes referred to in Article 4, Section 8 of the Law dated 27 December 1989 on the Taxation on the Growth of Wages in 1990 (Dz.U., No. 74, Item No. 438 as subsequently amended) indicate amounts corresponding to operations over an entire year in the case of units with their own balance sheet, and the rest—amounts corresponding to the period of their operation after the organizational change was introduced.

2. On line 33, the amount of gross profits is established on the basis of a report on proceeds, costs, and financial performances (Form F-01, Part 1, line 12 or 13).

3. On line 37, the number of months n is counted:

—For the taxpayers outlined in Article 9, Section 4, Point 1 beginning from January (n for the entire year 1991 amounts to 12).

—For the taxpayers outlined in Article 9, Section 4, Point 2 beginning from April (n for the entire year 1991 amounts to 9).

4. Taxpayers registering positive financial performance (profits) may calculate the additional tax-exempt amount by using the following formula:

$$x = (w_{91}(1 - R_0) + z_{91}/R_0 - 1) : z_{tr}$$

Where:

x—the additional exempt amount per one employee

W_{91}—wages included in the cost of overall operations in the tax year (period) indicated on line 19 of the declaration

R_0—the statistic of the 1990 ratio indicated on line 32

z_{91}—gross profits generated for the 1991 tax year (period) indicated on line 33 of the declaration

Z_{tr}—employment in the tax year (period) from line 15 of the declaration.

Part III

Part III is filled out by the taxpayers to whom the provisions of the Law dated 29 December 1989 on the Taxation of the Growth of Wages apply (Dz.U., No. 74, Item No. 438 as subsequently amended) in the course of drawing up the first declaration in 1991. In subsequent periods, there is no need to fill out this part unless changes occur in the ledgers which are associated with the auditing of the 1990 balance.

1. The amount of individual components of wages referred to in Points 5, 6, 8, 19, 22, and 23 which were included by the taxpayer in wages in December 1989 should be separated out on line 41 with a view to establishing the amount of wages which are subtracted from the standard wage for December 1990; subsequently, indexation for the fourth quarter of 1989 amounting to 43.8 percent and 40.32 percent, as well as the indicators of the growth of prices for consumer goods and services adjusted by a corrective coefficient determined for individual months of the year 1990, should be added to these components.

The total of indexed amounts of individual components of wages results in the amount which needs to be subtracted from the standard for December 1990.

Units for which the standard was set by treasury offices on the basis of Article 5 of the law dated 27 December 1989 and units which were set up as a result of organizational changes on the basis of Article 4, Section 8 and 8a of the above law subtract from the standard for

December 1990 the amount of the components of wages mentioned on this line, resulting from the structure of wages paid in 1990.

2. On line 46, excess wages over the 1990 standard are determined by subtracting from the amount indicated on line 28 of the 1990 declaration the difference between the actual payments of the components of wages indicated on line 41 made in 1990, and a segment of the annual standard attributable to these components. The product of the amount on line 41 and 12 months amounts to the annual standard for 1990 for these components of wages. The above calculation may be expressed as follows:

Excess wages from line 28 of the 1990 declaration less [actual payments of the wages mentioned in Points 5, 6, 8, 19, 22, and 23, Paragraph 4, Article 2 of the law (in 1990) less the amount on line 41 times 12 months]

If the actual payments of the wage components are smaller than the annual standard attributable to these components, the excess amount which is to be indicated on line 46 is taken from line 28 of the 1990 declaration without changes.

Newly formed units and units which were set up as a result of organizational changes multiply the amount on line 41 by the number of months corresponding to the duration of their operations in 1990.

Annex No. 2

Name and address of the taxpayer
Statistical number
Region
Treasury Office in _____

DECLARATION for computing the payments of awards and bonuses from the 1990 balance-sheet profit made between 1 January 1990 and _____ 1991.

Rubric	Number of line	Unit	Amount
Balance-sheet profit for 1990	01	1,000 zlotys	
Balance-sheet profit for the first half of 1990	02	1,000 zlotys	
Amount of wages included in the overall cost of operations in 1990 without payments to contractors and honoraria	03	1,000 zlotys	
Standard awards and bonuses amounting to 8.5 percent of the amount indicated on line 03	04	1,000 zlotys	
Ratio of the 1990 balance-sheet profit to the book profit for the first half of 1990 (one-twelfth of the amount from line 01 over one-sixth of the amount from line 02)	05	indicated	
Percentage coefficient increasing standard awards and bonuses from profit (line 05 times 20.0 corrective coefficient)	06	percent	
Additional amount added to the standard awards and bonuses from profit (line 04 times the percentage coefficient from line 05)	07	1,000 zlotys	
Amount corresponding to 50 percent of the value of the State Treasury bonds or shares distributed to the employees (one-half of the amount from line 10)	08	1,000 zlotys	
Total standard tax-exempt awards and bonuses from profit (total of lines 04, 07, and 08)	09	1,000 zlotys	
Amount of awards and bonuses paid to the employees in the form of State Treasury bonds or shares in 1990	10	1,000 zlotys	
Amount of awards and bonuses paid to the employees in 1991 in the form of cash, State Treasury bonds, or shares in 1991	11	1,000 zlotys	
Amount of payments of awards and bonuses in excess of the standard (line 10 plus line 11 less line 09)	12	1,000 zlotys	
The amount of tax due (amount from line 12 times 5.0)	13	zlotys	
Transferred since the settlement began	14	zlotys	
To be paid	15	zlotys	
To be returned	16	zlotys	

On the_____ day of _____

Signatures of individuals representing the taxpayer.

_____
First and last names and
the telephone number of the person
responsible for the correct computation
of the tax.

Note: The standard amount from line 09 less prepayments made in 1990 provide the basis for determining the size of the amount of award and bonus payments which is referred to in Article 17, Section 2, Point 1 of the Law dated 22 December 1990 on the Taxation of the Growth of Wages (Dz.U., No. 1, Item No. 1, 1991).

Annex No. 3

Name and address of the taxpayer
Statistical number
Region
Treasury office in _____

DECLARATIONconcerning installment payments of awards and bonuses from profit for 1991 made between 1 January 1991 and _____ 1991.

Rubric	Number of line	Unit	Amount
Gross profit for the settlement period	01	1,000 zlotys	
Amount of wages included in the costs determined in keeping with provisions of Article 12, Paragraph 1 of the law	02	1,000 zlotys	
Standard awards and bonuses coming to 8.5 percent of the amount shown on line 02	03	1,000 zlotys	
Amount corresponding to 50 percent of the value of State Treasury bonds or shares distributed to the employees (one-half of the amount from line 06)	04	1,000 zlotys	
Total standard of awards and bonuses exempt from taxes (total of lines 03 and 04)	05	1,000 zlotys	
Amount of awards and bonuses paid to the employees in the form of State Treasury bonds or shares	06	1,000 zlotys	
Amount of the paid wages referred to in Article 2, Section 7 of the law	0.7	1,000 zlotys	
Total amount of awards and bonuses paid above the standard (line 06 plus line 07 less line 05)	0.8	1,000 zlotys	
Amount of tax due (line 08 times 5.0)	0.9	zlotys	
Transferred since the beginning of settlement	10	zlotys	
To be paid	11	zlotys	
To be returned	12	zlotys	

On the _____ day of _____

Signatures of individuals representing the taxpayer.

_____
First and last names and
the telephone number of the person
responsible for the correct computation
of the tax.

Annex No. 4

Name and address of the taxpayer
Statistical number
Region
Treasury office in ...

DECLARATION concerning payments due to the budget by virtue of wage increases granted retroactively on _____ 1991.

1. Amount of the retroactive increase of wages included in the overall costs of operation: _____ zlotys.
2. Payable to the budget (amount from item 1 times two): _____ zlotys

on the _____ day of _____

_____
First and last names and
the telephone number of the person
responsible for the correct computation
of the tax.
Signatures of individuals representing the taxpayer.

Order on Maintaining Tax Ledgers for Profits, Expenses

91EP0314A Warsaw PRAWO I INTERESY in Polish No 1, Jan 91 p VII

[Order of the Ministry of Finance, dated 12 December 1991, governing the keeping of tax ledgers for receipts and expenditures; also published in DZIENNIK USTAW in Polish No. 88, Item No. 516, 21 December 1990 pp 1199-1204]

[Text] Pursuant to Article 38, Point 3 of the Law dated 19 December 1980 on Tax Obligations (Dz.U., No. 27, Item No. 111, 1982; No. 45, Item No. 289, 1984; No. 52, Item No. 268, 1985; No. 12, Item No. 50, 1988; No. 41, Item No. 325, 1989; No. 4, Item No. 23, No. 33, Item No. 176, No. 35, Item No. 192, No. 74, Item No. 443, and No. 34, Item No. 198, 1990) and Article 22, Point 1 of the Law dated 16 December 1972 on the Profit Tax (Dz.U., No. 27, Item No. 147, and No. 74, Item No. 443, 1989) the following is decreed:

Paragraph 1.1. Persons engaged in economic operations (manufacturing, service, or commercial) have a duty to keep a book of proceeds and expenses, henceforth referred to as "the book," based on the sample set forth in an annex to the present order.

1.2. The duty to keep the books does not apply to the persons who:

1) Keep commercial books.

2) Are exempt (free) from the sales and profit taxes by virtue of separate regulations, or pay the sales and profit taxes, or the profit tax only, in lump sums, unless these regulations provide otherwise.

3) Transport people and goods by horse-drawn carriages.

Paragraph 2. Definitions used in the order mean:

1) "Goods"—commercial goods, basic and auxiliary materials, semifinished products, rejects and wastes, as well as materials for repairing or mending, and materials received from customers for processing and treatment, provided that:

a) Commercial goods are products earmarked for sale without processing.

b) Basic (raw) materials are materials which become the main substance of the finished product in the process of production or the rendering of services; materials which amount to an integral (assembled) part of the product or are closely linked to the product (for example, containers—jars, bottles, and so on) are also considered basic materials.

c) Auxiliary materials are materials which are not basic materials and are used in conjunction with manufacturing activities or the rendering of services and directly impart their properties to the product.

d) Semifinished products are products manufactured in-house, the course of processing which has not been entirely completed; semifinished products produced elsewhere are considered to be basic materials.

e) Finished products are products manufactured in-house, the course of processing which has been entirely completed.

f) Rejects are products manufactured in-house entirely finished or brought to a certain stage of production which fail to meet technical requirements; also, rejects are commercial goods which have in part lost their original value as a result of damage or destruction while in transit or storage.

g) Wastes are materials which have entirely lost their initial user value as a result of technological processes or as a consequence of technological processes, destruction, or damage.

2) "Purchase price" means the price which the purchaser pays for the materials and commercial goods purchased.

3) "Acquisition price" means the purchase price with the addition of overhead associated with purchasing materials and commercial goods until the time they are deposited at a warehouse, such as: costs of transportation, insurance en route, and so on.

4) "Cost of production" means all costs associated directly or indirectly with the processing of materials or procurement (mining) of minerals, except for the cost of selling finished products.

5) "Accounting office" means an economic entity providing accounting services as ordered by the taxpayer.

6) "Fixed assets" mean land and terrain, buildings, structures, machines, transportation vehicles, technical equipment, and other durable goods defined in separate regulations as fixed assets.

Paragraph 3. Persons who have a duty to keep books are henceforth referred to as taxpayers if they operate in the fields of:

1) Sales on commission—also must keep records or goods accepted on commission and settlements with the commitment side; the records should reflect the following data in particular: the date of acceptance of merchandise for sale on commission, first and last name, the address of the commitment side, the amount, kind, unit price, and cost of merchandise, the date of merchandise sales, the amount of payments to the commitment side, price reductions, the date the merchandise is returned, and the amount of commissions received.

2) Buying and selling merchandise vouchers of the Polish Security Bank S.A.—also must keep records of voucher purchases and sales; the records should reflect in particular the following economic operations: each case of voucher purchases with an indication of their nominal value and the amount paid for it in zlotys, each case of voucher sales with an indication of the due sums received in zlotys and the nominal value of the vouchers sold.

3) Buying and selling foreign exchange valuables—also must maintain registers of purchases and sales of foreign exchange valuables along the guidelines outlined in separate regulations on engaging in economic operations involving purchasing and selling foreign exchange valuables.

4) Extending collateralized loans (operating pawn shops)—also must keep records of loans and pawned objects; these records should contain the following data: the date the loan was given, the amount of the loan given, the rate of the agreed-upon interest in zlotys, a description of the object pawned and its market value, the deadline for the repayment of the loan together with interest, the date the object pawned is returned, the date the object was sold and the amount due by virtue of this sale, the amount of commission amounting to the value of interest paid or the difference between the cost of the object pawned and the amount of the loan provided.

Paragraph 4. In cases justified by special circumstances such as, for example, the type and scope of operations performed, or the age and health condition of the taxpayer, a treasury office may exempt a taxpayer from the duty to keep the book, as well as of individual bookkeeping actions. A petition should be filed before 30 November of the year preceding the tax year to which it applies, and if operations begin, or the duty to maintain the book begins to apply during a tax year—within 14 days of the day such operations begin or the duty to keep the book begins to apply.

Paragraph 5.1. If keeping the book has been entrusted to an accounting office by the taxpayer, the latter must:

1) Within three days of the day a contract with the accounting office is signed, notify the proper treasury office, indicating the exact address and name of the office and the place (address) at which the book will be kept and stored, and documents associated with keeping it.

2) Keep at the place of operation records of sales and records of purchases of basic materials and commercial goods, henceforth referred to as "records of purchases and sales," and in the case of engaging in the operations set forth in Paragraph 3, also the records referred to in this provision.

5.2. The records of purchases and sales referred to in paragraph 1, point 2 should contain the following data: the sequential number of the entry, the date of entry, the number of the bookkeeping record, proceeds from the sale of products, commercial goods, and services which are not documented by bills, and the value of the basic materials and commercial goods purchased.

Paragraph 6.1. The book, and the documents associated with keeping it, should be continuously located in the place of operation or in a place indicated by the taxpayer as his place of business, and in the case where the keeping of the book is entrusted to an accounting office—in a place indicated by the taxpayer as indicated in Paragraph 5, Point 1. In justified cases, the treasury chamber may authorize keeping and storing the book together with the documents at a different location.

6.2. In cases where a multibranch enterprise is in operation, the books should be located at every branch. However, a taxpayer may keep one book in a location indicated as his place of business on the condition that at the very least records of purchases and sales are kept at individual branches, and in the case of the operations referred to in Paragraph 3, also the records specified in this provision.

6.3. Taxpayers must keep for five years documents on which book entries are based and all documents written up within the framework of the internal auditing system practiced in the enterprise, counting from the end of the tax year to which they apply.

Paragraph 7. Before entries begin to be made, the book together with the records referred to in Paragraph 3, Points 1, 2, and 4, and in Paragraph 5, Subparagraph 1, Point 2, should be submitted by the taxpayer for certification to the treasury office having jurisdiction over the income tax.

Paragraph 8.1. Entries should be made in the book in Polish and in the Polish currency in a thorough, legible, and durable manner (for example, in ink or pen) based on correct and honest documentation. Mistakes are corrected by crossing out entries made in error and writing in correct information so as to leave the previous entry legible. Corrections of mistakes should be signed by the person making the corrections.

8.2. Bills or other bookkeeping documentation drawn up in Polish is the basis for book entries. It may be drawn up in a foreign language if documentation pertains to a transaction with a foreign partner. The content of documentation should be complete and understandable. It is permissible to use generally accepted abbreviations. If the documentation indicates the value of a transaction only in a foreign currency, a taxpayer in possession of this documentation must convert the foreign currency into zlotys at the rate of exchange set by the chairman of the National Bank of Poland and applicable for the day the operation was accomplished. The result of conversion should be recorded in the free margin of the document or in an annex to the document drawn up in a foreign currency.

Paragraph 9. The book should be kept correctly both from the formal point of view (without deficiencies) and material point of view (honest). A book kept in keeping with the provisions of the present order and explanations provided in the sample book is a book kept correctly. A book kept in agreement with the actual state affairs is correct from the material point of view (honest).

Paragraph 10.1. The receipt of basic and auxiliary materials, henceforth referred to as "materials," and commercial goods should be confirmed on the purchase document by the date and signature of the person taking

delivery, and the number of the item under which the receipt of materials or commercial goods is entered.

10.2. If materials or commercial goods, the purchase of which is documented by the invoices of suppliers in keeping with the provisions of the present order, have been delivered to an enterprise, or have been traded before an invoice is received, a detailed description of the materials (commercial goods) received should be made indicating the name, last name (company), and address of the supplier, the amount, kind, unit price, and cost of the materials (or commercial goods), and an entry in the book (documentation) should be made on the basis of the description. The description should be confirmed in the way outlined in Paragraph 1, and should be kept as an acceptance document together with the subsequently sent bill. Possible variance from the cost given in the invoice should be entered in the book (documentation) on the day the invoice is received.

Paragraph 11.1. Entries in the book reflecting expenditures associated with purchasing goods and services, with the exception of those outlined in Paragraph 2 and 3, should be documented by invoices meeting the requirements set forth in separate regulations. Entries in the book are not required materials provided by the customer. However, if the taxpayer cannot indicate the customer materials purchased by the taxpayer will be considered an undocumented purchase.

11.2. The purchase of materials and objects which are not fixed assets at retail trade establishments may be documented by the receipt dated and stamped (marked) by the unit issuing the receipt which specifies the number, unit price, and the amount of purchase, except as provided by Paragraph 3, Point 3. The taxpayer must add to the receipt, writing on the back of it, his name (enterprise name) and type (name) of the materials purchased.

11.3. With a view to documenting entries in the book concerning certain expenditures (costs), documents may be drawn up which bear the date and signatures of persons who have directly made those expenditures (internal documentation) which specify: in the case of a purchase, the type of materials or goods, as well as number, unit price, and cost, and in other cases, the goal and amount of expenditures. Such documentation may concern only the following:

1) Purchasing from producers products of crop farming and animal husbandry turned out by their own planting or livestock operations and not processed by industry.

2) The cost of crop and animal husbandry products turned out by the taxpayer's own planting or livestock operation and not processed by industry.

3) The purchase of auxiliary materials in the units of retail trade.

4) The cost of per diems and other amounts due to employees traveling on business.

5) The cost incurred by using private passenger cars for the purposes of economic activities in amounts not to exceed the rate in effect which are set forth in separate regulations.

6) Purchases of postconsumption wastes which are secondary raw materials from the populace.

7) Other outlays not mentioned in Points 1 through 6 if their total does not exceed three percent of the amount of annual trade less the sales tax.

Paragraph 12.1. Purchases of basic materials and commercial goods should be entered in the book immediately after they are received, at the very latest before they are sent to the warehouse, for processing, or for sale. Entries concerning other expenditures and sales (proceeds) should be made once daily, at the end of the day, not later than the beginning of operations on the following day, except as provided by Paragraph 16, Point 3.

12.2. The following should be immediately entered in the separately maintained documentation and referred to in Paragraph 3:

1) Accepting goods on commission.

2) Purchasing and selling vouchers.

3) The amount of loan extended, the interest rate agreed upon, and the acceptance of the pawned object.

12.3. Guidelines for keeping the book set forth in Paragraphs 8 through 11 apply accordingly to the maintenance of documentation on purchases and sales referred to in Paragraph 1, Subparagraph 1, Point 2.

Paragraph 13. An inventory should be taken and entered in the book before the book is started and at the end of every tax year, as well as in the event the person of the taxpayer (partner) changes, or operations are discontinued.

Paragraph 14.1. An inventory of merchandise should contain at a minimum: date of inventory, consecutive number of the inventory sheet, detailed description of the goods, the unit of measurements, the amount ascertained at time of inventory, the price per unit of measurement, and the total cost resulting from multiplying the amount of goods by the unit price, provided that in the operation of:

1) Bookstores and secondhand bookstores, one item in the inventory may cover publications with the same price, regardless of the title and name of author, segregating them into books, booklets, albums, and so on.

2) Operations in the field of buying and selling merchandise vouchers and buying and selling foreign exchange valuables, an inventory should cover unsold vouchers and foreign exchange valuables.

3) Operations based on providing loans with a collateral, an inventory should cover objects given as collateral for the loans provided.

An inventory should be compiled in a thorough and durable manner (for example, in ink or pen) and should be completed and signed by the people taking inventory before transactions are resumed before a new accounting period.

14.2. An inventory of goods should cover goods owned by the taxpayer which are located outside the enterprise on the day of inventory, as well as the goods of others located at the enterprise of the taxpayer. The goods of others need not be evaluated; it is enough to include their number on the list of goods and indicate whose property they are.

14.3. Taxpayers must inform the treasury office of their intention to take an inventory of goods at a time other than 31 December at least seven days in advance of drawing up an inventory.

Paragraph 15.1. An inventory of materials and commercial goods is expressed in purchase prices or in market prices as of the day the inventory is compiled if the latter price is lower than the purchase price. An inventory of semifinished goods, finished goods, and rejects from one's own production are expressed in the cost of production, and the cost of wastes is expressed as one zloty. An inventory of unsold vouchers and foreign exchange valuables is expressed in the purchase price as of the day the inventory is taken, and the costs of pawned objects in their market value. In construction and assembly operations, partially completed products are evaluated in the cost of production; however, this cannot be smaller than the cost of materials directly used for partially completed products.

15.2. An inventory should be entered in the book by individual types of its components, or in a single item (total) if a separate detailed list of individual components of inventory is compiled on the basis of the inventory. This list should be submitted to the treasury office together with the book.

15.3. An inventory should be evaluated at the latest before the deadlines set forth in separate regulations for filing tax declarations.

15.4. In the event lower a valuation of goods than the purchase price, or cost of production, is accepted, for example, due to damage or becoming unfashionable, the unit price of purchase or cost of production should also be entered in the individual items.

Paragraph 16.1. In the event the book is kept by an accounting office, entries should be made in chronological order based on the documentation referred to in Paragraph 1 and monthly totals of proceeds resulting from the documentation outlined in Paragraph 5, Subparagraph 1, Point 2 which are transferred by the taxpayer in keeping with the provisions of the contracts referred to in Paragraph 1, Subparagraph 1, Point 1, at such time as to ensure the correct and timely settlement with the budget, but no later than before the 14th day of every month with regard to the previous month.

16.2. The provision of Paragraph 1 applies accordingly to taxpayers operating multibranch enterprises.

16.3. Taxpayers keeping the books on their own (not using the services of accounting offices) may make entries in the books along the guidelines set forth in Paragraph 1 on the condition that they simultaneously keep the records referred to in Paragraph 5, Subparagraph 1, Point 2.

Paragraph 17. If the book is kept entirely or in part by computer in the form of reports (computer printouts) the following are the conditions for recognizing the books to be correct:

1) Specific instructions on servicing the computer program used to keep the book are provided in writing.

2) A computer program is used which ensures immediate access to the contents of the entries made and the printing of all data in chronological order, in keeping with the sample book.

3) The recorded data are stored on magnetic data media until the data contained in them are printed out in a manner preventing the erasure or distortion of these data or a violation of the established guideline for processing them.

Paragraph 18.1. Taxpayers who paid the sales and profit taxes, or only the profit tax, in lump sums in 1990 may take an inventory of goods in market prices as of the day the inventory is taken before starting the book in 1991.

18.2. The taxpayers referred to in Subparagraph 1 must start the book no later than 1 April 1991.

Paragraph 19. The Order of the Minister of Finance, dated 29 December 1988, on Keeping the Tax Book of Proceeds and Expenditures (Dz.U., No. 44, Item No. 350, and No. 14, Item No. 91, 1990) is hereby voided.

Paragraph 20. The present order takes effect on 1 January 1991.

For the minister of finance: A. Podsiadlo

Law on Solving Collective Labor Conflicts

91BA0367A Bucharest ADEVARUL in Romanian
13 Feb 91 p 2

["Text" of Law No. 15 of 11 February 1991 on solving collective labor conflicts]

[Text] The Romanian Parliament adopts the following law:

CHAPTER I

General Dispositions

Article 1—The law of the country guarantees the right to work and the right to make socioeconomic demands accordingly; these rights may not be violated.

Article 2—(1) Conflicts concerning the socioeconomic professional interests of the employees, whether organized in trade unions or not, stemming from labor relations between the unit on the one hand and its employees or the majority of its employees on the other constitute collective labor conflicts and are dealt with in accordance with the provisions of the present law.

(2) Collective labor conflicts may also occur between the unit management and the employees of a subunit or of one of its departments, and between the unit management and employees exercising the same trade or profession in the unit in question.

Article 3—The following cases do not constitute collective labor conflicts:

a) Litigations between employees and the unit whose solution falls under other legal regulations than those envisaged in the present law.

b) Employees' demands which require the adoption of a law.

Article 4—(1) Employees are represented in collective labor conflicts by trade unions.

(2) If no trade union exists in the unit or if not all the employees are members of the trade union, the employees will elect representatives to handle the collective labor conflict in question.

Article 5—Employees may go on strike only in the conditions envisaged in the present law.

Article 6—For the purpose of the present law, unit refers to autonomous managements, commercial firms, other profit organizations, public institutions, associations of any kind, and state institutions.

CHAPTER II

Settling Collective Labor Conflicts

Section I

Direct Settlement

Article 7—(1) In every instance in which conditions are ripe in a unit for the outbreak of a collective labor conflict, the trade union or in its absence, the employees' elected representatives will notify the management about the situation.

(2) The notification will be done in writing and will specify the employees' demands and their grounds, as well as proposals for solutions; the management is obligated to accept and record the notification.

(3) The requirement stipulated under (2) is viewed as fulfilled if the employees' demands, the grounds thereof, and their proposals for solutions are expressed by the trade union or by the elected representatives of the employees on the occasion of an interview with the management, if minutes of the discussions exist.

Article 8—The management is obligated to respond in writing to the trade union or, in its absence, to the elected representatives of the employees, within 48 hours of having received the notification and to specify its views on each one of the demands expressed.

Article 9—If the unit has not responded to all the demands expressed; or if it has responded but no consensus was achieved, a collective labor conflict is considered to have begun.

Section II

Settlement Organized by the Ministry of Labor and Social Protection

Article 10—If the collective labor conflict began in the conditions described under Article 9, the trade union or the employees representatives, as the case may be, notify the Ministry of Labor and Social Protection [MLSP] through its local branches—labor and social protection directorates—for the purpose of continuing the settlement process.

Article 11—(1) The notification for the settlement of the collective labor conflict will be done in writing and will mandatorily feature at least the following data:

a) Name, head office, and manager of the unit at which the collective labor conflict appeared;

b) The object of the collective labor conflict and its grounds;

c) Proof of fulfillment of the requirements stipulated under Articles 7-9;

d) A list of the persons designated to represent the trade union or the employees, as the case may be, in the settlement.

(2) The notification will be filed in two copies with the labor and social protection directorate in the area of the unit, and must be dated and signed by the trade union body indicated in the statute or the employees' representatives, as the case may be.

Article 12—Within 24 hours of the filing of the notification, the MLSP will designate its delegate to the collective labor conflict settlement, whose obligation is to take measures to:

a) Communicate the notification to the unit manager within 48 hours of being designated;

b) Invite the sides to the settlement procedure at a date no later than seven days since the filing of the notification.

Article 13—(1) To plead their interests at the settlement, the trade union or the employees, as the case may be, will elect a delegation made up of two to five persons, which will be empowered in writing to participate in the settlement procedure organized by the MLSP. Representatives of the federation or confederation with which the respective trade union is affiliated may also participate in the delegation.

(2) In exceptional cases, when so required by the nature of the activities of the unit, the MLSP delegate may decide that a larger number of delegates of the trade union or employees participate in the settlement procedure.

(3) Any employee can be elected as delegate of the trade union or the employees, as the case may be, who has worked for the unit for at least three years or since its opening if the unit is more recent than three years; is over 21 years of age; has not been sentenced for the offences described under Articles 46 and 47 of the present law; and is not serving any of the related punishments envisaged under Article 64 of the Penal Code.

Article 14—For the purpose of expressing the unit's position, its manager will designate in writing—if he does not personally participate—a delegation of two to five members of the management board to participate in the settlement procedure.

Article 15—(1) The settlement procedure may be held at the MLSP, at the labor and social protection directorate, or at some other mutually agreeable site.

(2) The settlement procedure will end on the day on which the sides were invited, unless both sides agree to continue it.

Article 16—(1) On the date set for the settlement, the MLSP delegation will verify the mandate of the sides and will insist that they strive to come to an agreement.

(2) The sides' expressed positions and the outcome of the discussions will be recorded in a written report on the proceedings which will be signed by the sides and the MLSP delegate.

(3) The written report will be drafted in three copies, one each for the representatives of the trade union or the employees, as the case may be, the unit management, and the MLSP delegate.

Article 17—If in the wake of the discussions an agreement is reached on settling the collective labor conflict, it will be binding for the entire duration decided and for all the sides involved in the collective labor conflict.

Article 18—If the agreement on settling the collective labor conflict is only partial, the written report will note the demands on which agreement was not reached and those still pending, as well as each side's position on the latter.

Article 19—The results of the settlement mentioned under Articles 17 and 18 will be reported to the employees by those who made the notification for the settlement.

Chapter III

Declaration, Pursuit, and Cessation of a Strike

Article 20—(1) A strike is a collective and voluntary work cessation. The decision to declare a strike is taken by the trade unions with the agreement of at least half of the number of their members. In the case of employees not organized in trade unions, the decision to declare a strike is taken by secret ballot and with the agreement of at least half of their number.

(2) Strikes may be intended as warning or actual strikes.

(93) Warning strikes may not last longer than two hours if work is interrupted; in every instance they must precede the actual strike by at least 48 hours.

Article 21—Strikes are organized and led by the trade union body or the representatives of the employees, as the case may be, who will also decide its duration.

Article 22—Strikes may be declared only after all others means of settling the collective labor conflict through the settlement procedures envisaged under Articles 7-19 have been exhausted, and only if the management was notified by the organizers of the time set for the beginning of the strike at least 48 hours prior to that time.

Article 23—In the case that, after the strike has been declared, half of the trade union members or the employees who decided to declare the strike change their mind, the strike must cease.

Article 24—(1) Strikes may be declared only for the purpose of defending the socioeconomic professional interests of the employees.

(2) Strikes may not pursue political goals.

(3) It is also forbidden to organize strikes for the purpose of repealing the unit's decision to dissolve the labor contract; for hiring purposes; or for the purpose of replacing a given person.

Article 25—Strikes may not be declared in order to modify clauses in the collective labor contract, in a previous agreement, or in a final decision pronounced by an arbitrage commission in keeping with Article 43 in settlement of a collective labor conflict, for the entire duration for which they were decided.

Article 26—(1) Participation in a strike is free. No one may be forced to participate in a strike or to refuse to participate.

(2) Employees who do not participate in the strike can continue their activities, conditions permitting.

(3) Striking employees must refrain from doing anything to prevent those who are not participating in the strike from doing their work.

(4) If the entire production process in the unit has ceased because of the strike, that is not viewed as an act designed to prevent work.

Article 27—The strike organizers and the unit management are obligated to protect the unit's assets during the strike and to ensure that equipment and installations that may threaten people's lives or health or cause irreparable damage if stopped, continue to operate.

Article 28—Throughout the duration of the strike the management may not be prevented from working by striking employees or strike organizers.

Article 29—(1) Participation in or organization of a strike—whereby the provisions of the present law are observed—do not constitute a violation of the employees' working obligations and may not have negative consequences for the striking employees or the organizers of the strike.

(2) The provisions of paragraph 1 will not apply if the strike is suspended or declared illegal in keeping with Articles 30 or 35, paragraph 1, point b, as the case may be.

(3) Throughout the duration of the strike the employees will preserve the rights stemming from their labor relations, with the exception of the right to draw pay and to pay rises.

Article 30—The Supreme Court of Justice, at the notification of the managements of units in which a collective labor conflict has been declared, can suspend the beginning or continuation of the strike for at most 90 days, if major interests of the economy or humanitarian interests are jeopardized by the strike.

Article 31—(1) Notifications filed with the Supreme Court of Justice must be solved within seven days of their filing.

(2) The decisions pronounced are final.

Article 32—(1) During the strike the organizers will continue negotiations with the management for the purpose of meeting the demands that were the object of the collective work stoppage.

(2) The strike ceases if the organizers and the management come to an agreement.

(3) If the organizers of the strike refuse to comply with the obligation envisaged under point 1, they will be subjected to material punishments for the damages inflicted on the unit.

Article 33—If the unit manager believes that the strike was declared or continues in violation of the law, he may appeal to the court in whose jurisdiction the unit is located and request a verification of the fact that the conditions envisaged by the present law for declaring or continuing a strike were not fulfilled.

Article 34—The court will set a date for solving the appeal, which may not be later than three days after the notification, and will subpoena the sides.

Article 35—(1) The court will examine the appeal and will urgently pronounce a judgment under which, according to case:

a) The appeal of the unit is rejected;

b) The appeal is accepted and an order is issued to halt the strike for being illegal.

(2) The court's decision may be appealed at the county court or the court of Bucharest Municipality, as the case may be, within three days of its pronouncement.

Article 36—(1) The court and the county or Bucharest municipal tribunal will settle the request or the appeal, as the case may be, with a panel established in accordance with the law for judging individual work litigations.

(2) Collective labor conflicts will be tried in compliance with the Code of Civil Procedure, unless otherwise stipulated in the present law.

(3) If the strike is ordered stopped for being illegal, the instances will obligate those responsible to pay the compensation requested by the unit for the damages incurred.

Article 37—All the procedure documents drafted in accordance with the provisions of the present law are exempted from stamp tax.

Article 38—(1) If the strike has been on for more than 20 days and the sides involved have not come to an agreement, and if the continuation of the strike is apt to affect the interests of the national economy or humanitarian interests, the MLSP may request an arbitrage commission to settle the collective labor conflict.

(2) The MLSP intervention will be communicated in writing to the sides involved in the collective labor conflict. The strike will stop on the date of the communication.

Article 39—(1) The arbitrage commission will be made up of three arbiters.

(2) The list of persons who may be designated as arbiters is established once a year by the MLSP from among experts in economic, technical, legal, and other professions, in consultation with trade unions and with the Chamber of Commerce and Industry.

Article 40—In conjunction with the object of the collective labor conflict, the arbiters are designated as follows:

—one arbiter selected by the unit management;

—one arbiter selected by the trade union or the employees' representatives, as the case may be;

—one arbiter selected by the MLSP.

Article 41—The arbitrage commission will carry out its work to settle the collective labor conflict at the MLSP offices or at the offices of the labor and social protection directorate, as the case may be.

Article 42—Once the arbitrage commission has been set up the sides are obligated to provide it with all the documents concerning the collective labor conflict and their arguments.

Article 43—(1) Within three days of receipt of the documentation specified under Article 42 the arbitrage commission is obligated to summon the sides and together with them to review the collective labor conflict in compliance with the provisions of the law and of applicable collective contracts.

(2) The arbitrage commission will pronounce a final decision within 24 hours of the end of the debates.

(3) The decision will be communicated to the sides within 24 hours of being pronounced.

(4) The decision of the arbitrage commission marks the end of the collective labor conflict.

Article 44—The members of the arbitrage commission will receive a honorarium for their work designed to settle the collective labor conflict, which will be established and paid by the sides involved in the litigation in equal shares. If the sides cannot agree on the size of the honorarium, the latter will be established by the MLSP, taking into consideration the suggestions of the sides.

CHAPTER IV

Final Dispositions

Article 45—(1) The following categories may not declare strike:

a) Employees with special duties in the apparatus of the Parliament, government, ministries, other central bodies of the state administration, prefects' offices and city halls; prosecutors or judges; the personnel of the Ministry of National Defense, the Ministry of the Interior, and units belonging to those ministries; military personnel in units serving the Ministry of Justice.

b) Employees of units of the national power system, operators of nuclear power plants, the personnel of continual process units that may explode if stopped, and the personnel engaged in defense industries.

(2) In case of a labor conflict between the units and employees listed under paragraph 1, point b, or civilian personnel employed in units belonging to the Ministries of National Defense and Interior, the respective trade union or representatives of the employees, as the case may be, will solve the demands through a direct settlement with the participation of a MLSP delegate.

(3) Personnel employed in any kind of air, ground, or maritime transporation may not declare strikes between the time of departure from the country and until their return. Personnel employed on commercial vessels sailing under Romanian flag may declare strikes only in compliance with the norms established under international conventions ratified by the Romanian state.

(4) Strikes are permitted in medical and pharmaceutical units, education, telecommunications, radio and television, railways—including repair teams for rolling stock—river transportation, civil aviation, and state units in charge of public transportation and sanitation, and units in charge of bread, milk, meat, gas, power, heat, and water supply only if the organizers ensure essential services, but no less than one third of normal activities.

Article 46—(1) Threatening or using violence in order to prevent or force an employee or a group of employees to participate in a strike or to work during a strike is an offense punishable by three to six months of imprisonment or fines between 2,000 to 7,000 lei, unless the action presents elements of other offenses for which the penal law envisages harsher punishment.

(2) Such attempted actions are also punishable.

Article 47—Declaring a strike in violation of the interdictions and conditions envisaged under Article 24, paragraph 2, or Article 45, pragraphs (1), (3), and (4) constitutes an offense and the organizers will be punished by three to six months in prison or 2,000 to 7,000 lei fines, unless the action presents elements of other offenses for which the penal law envisages a harsher punishment.

Article 48—The participation of employees in a strike does not obviate their material, legal, civil, or penal responsibility, as the case may be, if in the course of the strike they commit actions that under the law incur such responsibility.

Bucharest, 11 February 1991 No. 15

Resolution on Organizing Currency Market Operations

91BA0310D Bucharest MONITORUL OFICIAL in Romanian 15 Jan 91 p 5

[Government Resolution No. 9 of 10 January 1991 on implementing the law on organizing currency market operations]

[Text]

Resolution on the Implementation of Certain Provisions of Law No. 15/1990 on Organizing Currency Market Operations Aimed at the Transition to a Convertible Leu

The Romanian Government decrees:

Article 1—The Romanian National Bank is empowered to authorize banking institutions and other economic enterprises with headquarters in Romania to conduct currency auctions in keeping with the conditions established under Law No. 15/1990. The demand and offer recorded at such auctions will serve as the basis for freely establishing the ratio between the leu and the convertible currencies quoted by each authorized bank, whereas the actual currency exchange operations will take place at a rate determined by agreement among all the banks involved.

Article 2—The Romanian National Bank will establish regulations for conducting exchange operations in the currency market envisaged under Article 1. One copy of the regulations will be deposited with the General Secretariat of the Romanian Government through the Romanian National Bank within seven days of the date of the present resolution.

Article 3—The present resolution will go into effect 15 days after its issue, during which time Bucharest's Municipal City Hall and the Ministry of Communictions will provide appropriate premises and technical material for conducting currency market operations.

Article 4—Any contrary regulations will be abrogated on the date on which the present resolution goes into effect.

[Signed] Prime Minister Petre Roman

Government Resolution on Export, Import System

91BA0310A Bucharest MONITORUL OFICIAL in Romanian 15 Jan 91 pp 3, 4

[Government Resolution No. 6 of 10 January 1991 on import, export system]

[Text]

Resolution on the Export and Import System

The Romanian Government decrees:

Article 1—The export of commodities will be liberalized and will be governed by automatic export licensing for maintaining statistics.

Article 2—The Ministry of Commerce and Tourism, in agreement with the interested ministries, will establish a list of commodities subject to export licensing that require the endorsement of the relevant ministries, and a list of items subject to export contingencies, for the purpose of protecting the resources needed for internal production and ensuring the required consumer goods for the people.

Article 3—The import of commodities will be liberalized and will be governed by automatic import licensing for maintaining statistics.

Article 4—Upon the proposal of the Ministry of Commerce and Tourism, the Finance Ministry may impose temporary customs surtaxes on imports of products which could seriously impair the internal production of certain products. Such surtaxes can be implemented until such a time as the negative impact of the imports targeted by the tax has been eliminated.

Customs surtaxes may be imposed upon thoroughly documented requests by economic ministries or enterprises, or by associations of concerned economic enterprises.

Article 5—The Ministry of Commerce and Tourism, in agreement with the interested ministries, may impose quantitative restrictions on imports in the following cases:

a) When there is imminent risk of disequilibrium in the balance of foreign payments and the import products in question can be procured locally in competitive conditions;

b) For the purpose of accumulating normal hard currency reserves, in compliance with GATT procedures.

Article 6—The items listed in the annex to the present resolution are prohibited for both import and export.

Article 7—Import or export licenses will be issued by the Foreign Trade Department of the Ministry of Commerce and Tourism, which will also handle contingencies.

Applications for export licenses will be obligatorily filed with the Ministry of Commerce and Tourism accompanied by a statement by the manufacturer certifying that he will deliver the goods to the buyer in the quantities specified in the application.

When imports are to be paid for with state currency funds, applications for import licenses will be decided on by the ministry in charge of the respective currency fund in relation with the availability of the necessary payment funds.

In the case of commodities subject to quantitative export restrictions, the Ministry of Commerce and Tourism

may request the relevant ministries to notify them; the notification is to be formulated within five days of registration.

Article 8—Export or import licenses will be issued within 10 days of the registration of the license application, with the exception of licenses concerning commercial operations with items subject to quantitative restrictions for which notification was requested from the relevant ministries in accordance with article 7, in which case the issue term is 15 days from the registration of the application.

Article 9—Export or import licenses for items subject to contingencies will be issued for limited periods of time to ensure that economic enterprises which fail to carry out the operations in question do not block the contingencies.

Article 10—Export and import restrictions, which may be imposed on the basis of the present resolution, will be published at least 30 days before they come into effect.

Article 11—Applications for export or import licenses may be rejected on solid grounds. If the grounds for rejection do not comply with those assigned by the law to the decision of the Ministry of Commerce and Tourism, the dissatisfied applicant may have recourse to the provision of the Law on Disputed Claims.

Article 12—The present resolution goes into effect on 1 January 1991.

[Signed] Prime Minister Petre Roman

Annex

List of Items Prohibited for Import, Export

a) For import:

1. Arms and ammunition with the exception of the items authorized by law;

2. Equipment, component installations, and technologies that may be used to produce nuclear, chemical, or biological arms or means of delivering such arms, as envisaged in Romania's international agreements on the nonproliferation of such arms;

3. Radioactive, chemical, and biological material and products that may be used for the production of nuclear, chemical, or biological arms, as envisaged in Romania's international agreements on the nonproliferation of such arms;

4. Explosive and toxic materials, with the exception of those authorized by law;

5. Drugs and narcotics, with the exception of those authorized by law;

6. Military equipment, with the exception of that authorized by law;

7. Medicines, medical equipment, and technical-medical materials not authorized or approved by the Ministry of Health;

8. Documents, publications, and any printed material banned by the law;

9. Other items that are prohibited under legal regulations in effect.

b) For export:

1. Arms and ammunition, with the exception of those authorized by law;

2. Equipment, component installations, and technologies that may be used to produce nuclear, chemical, or biological arms and means of delivering such arms, as envisaged in Romania's international agreements on the nonproliferation of those arms;

3. Radioactive, chemical, and biological material and products that may serve to produce nuclear, chemical, or biological arms, as envisaged in Romania's international agreements on the nonproliferation of such arms;

4. Explosive or toxic materials, with the exception of those authorized by law;

5. Drugs and narcotics, with the exception of those authorized by law;

6. Military equipment, with the exception of that authorized by law;

7. Medicines, medical equipment, and technical-medical materials not authorized or approved by the Ministry of Health;

8. Items belonging to our cultural and national heritage, with the exception of those legally authorized to temporarily leave the country;

9. Precious metals or gems and objects made out of such materials, with the exception of those that may be legally taken out of the country;

10. Philatelic stamps, with the exception of stamps exchanged through authorized agencies or stamps to be displayed at international exhibits.

Resolution on Financial Measures as Export Incentives

91BA0310B Bucharest MONITORUL OFICIAL in Romanian 15 Jan 91 p 4

[Government Resolution No. 7 of 10 January 1991 on export incentives]

[Text]

Resolution on Financial Measures as Additional Export Incentives

The Romanian Government decrees:

Article 1—As of 1 January 1991, economic enterprises which manufacture goods for export may solicit the

Finance Ministry to reimburse them out of the central administration budget for the turnover tax included in the price of raw and other materials, semimanufactured goods, and products used as major intermediary products in the manufacture of the export goods.

Article 2—The methods and criteria to be fulfilled by export goods manufacturers in order to qualify for the provisions of Article 1 will be established by the Finance Ministry within 15 days of the publication of the present decision.

Article 3—Economic enterprises who manufacture export goods and who have delivered the goods on credit, having for that purpose themselves taken out internal credits in lei, may draw the hard currency in which they received interest for exports purchased on credit, and are responsible only for payment of the interest due on the internal credit according to the terms established by the financing bank.

Article 4—If the economic enterprises took out bank loans for downpayments or other expenditures prior to the arrival of import goods, the interest on the respective loans will be borne by the economic agents in question rather than be paid out of the state budget.

Article 5—Any regulations contrary to the present law are abrogated.

Article 6—The present decision goes into effect on 1 January 1991.

[Signed] Prime Minister Petre Roman

Resolution on Ensuring Funds for Import of Materials List Items

91BA0310C Bucharest MONITORUL OFICIAL in Romanian 15 Jan 91 p 5

[Government Resolution No. 8 of 10 January 1991 on ensuring funds for importing products on materials lists]

[Text]

Resolution on Ensuring the Necessary Funds for Importing the Products on Materials Lists

The Romanian Government decrees:

Article 1—Economic enterprises who import products featured in the materials lists drawn up by ministries will use the following sources to procure hard currency payment for them:

a) Hard currency earned from their own exports, according to the legal quota;

b) Funds obtained from hard currency loans or under financing lines;

c) Buying hard currency on the currency market.

Article 2—Economic enterprises which export goods under clearing or barter agreements may draw up to 50 percent in convertible currency if the goods imported are featured on materials lists. Under the export license the Ministry of Commerce and Tourism, after prior notification by the ministry in charge of the importer's area and of the National Bank, will decide the exact convertible currency quota to which the exporter will be entitled. Amounts in convertible currency will be allocated out of the state's currency funds.

Article 3—If the sources envisaged under Article 1 do not suffice to cover the amounts of currency required for the import, the economic enterprises which import products in accordance with the delivery rules featured in the materials lists drafted by ministries may purchase the remaining currency out of the state's currency funds at the official rate.

For that purpose, the government—at the proposal of the National Commission for Economic Planning, Forecast, and Conjuncture, and the Romanian National Bank drafted in consultation with the economic ministries—will allocate state currency resources according to ministries and major products.

Article 4—The operations envisaged under Article 3 will be carried out on a competitive basis by selecting one importer out of at least three competing importers.

If there are less than three interested importers, the funds will be assigned to the importing commercial firm who made the application or, according to case, to the autonomous management established by the competent ministry.

Article 5—State enterprises that have not organized themselves as autonomous managements or commercial firms in compliance with the law, may open temporary accounts through which they can conduct the currency operations to which they are legally entitled.

Article 6—The present decision goes into effect on 1 January 1991.

[Signed] Prime Minister Petre Roman

Text of Law on Wages

91BA0328A Bucharest ADEVARUL in Romanian 14 Feb 91 p 5

["Text" of Law No. 14 on wages adopted by the Romanian Parliament on 8 February 1991]

[Text]

Chapter I

General Dispositions

Article 1—(1) Each person is entitled to monetary compensation for work done in compliance with their individual work contract and in the amount agreed upon at the signing of the contract.

(2) Salaries are made up of the base pay, supplements, and pay increases.

(3) The base pay is calculated for each employee in keeping with his qualifications, the importance and complexity of the job, and his professional training or competence.

(4) Supplements and base pay increases are granted in accordance with the results obtained, the specific conditions in which the work is done, and in some cases, length of service.

(5) Supplements and base pay increases are included into the calculations to establish rights that are based on salaries, if that is what the law decrees.

(6) The base pay, supplements, and increases are confidential.

Article 2—There will be no political, ethnic, religious, age, sex, or material status discrimination in establishing salaries.

Article 3—The provisions of the present law apply to:

a) Employees who reside in Romania or are authorized to work in Romania, if they carry out their activities here;

b) Romanian citizens employed by enterprises established on Romanian soil, who work abroad.

Chapter II

Methods for Establishing Salaries and the Role of the State in Providing Social Protection for Employees

Article 4—(1) The pay scale on which individual salaries are based is established in compliance with the provisions of the present law and in keeping with the form of organization of the enterprise, its financing, and the nature of the activity.

(2) Salaries are established by collective or individual negotiations, as the case may be, between the hiring legal entities or individuals and the employees or their representatives, in keeping with the financial means of the employer.

(3) Exceptions are:

a) The salaries of personnel in units financed from the state budget which are established by the government in consultation with the trade unions, and the salaries of the personnel of bodies of the legislative, executive, and judicial branches, which are established by law;

b) The salaries of the personnel of special autonomous managements decided by the government, which are established in the same manner as those in units financed from the state budget;

c) The salaries of managers of commercial firms and autonomous managements, which are established by the bodies in charge of appointing them.

(4) The parties in a work contract may not request changes in the salaries negotiated before one year of their establishment.

Article 5—(1) The minimum base pay in the country is established by a government resolution after consultations with the trade unions and the employers.

(2) The base salaries determined by negotiation or by a government resolution may not be lower that the national minimum base pay approved for a regular work schedule.

Article 6—In situations of increases in prices and tariffs, the method of base pay compensation-indexing will be established by a government resolution in consultation with the trade unions and employers.

Chapter III

Temporary and Final Dispositions

Article 7—(1) Salaries will be paid periodically at intervals of one month, at the most.

(2) The monetary rights due to employees will be paid before any other monetary obligations the enterprise may have.

(3) Salaries may not be docked or encumbered except in the cases and conditions envisaged in the law.

(4) In the case of an employee's death, the monetary rights to which he was entitled up to the date of death will be paid to the surviving spouse, children, or parents, or in the absence of such relatives to other legal heirs.

Article 8—In order to curb the process of inflation and unemployment, the government, in consultation with the trade unions, may take measures to moderate pay increases for periods of one year, at most, by introducing additional taxes payable by employers.

Article 9—At the request of the government, the law may approve extensions to the period of time envisaged under Article 8, as well as pay freezes for limited periods of time.

Article 10—If in the course of negotiations for 1991 salaries, differences appear that cannot be settled within 30 calendar days, the arbitrage system regulted by the law on collective work disputes will be implemented.

Article 11—The present law goes into effect within 30 days of its publications in MONITORUL OFICIAL.

Article 12—On the date of enactment of the present law, the laws listed in the annex and any other contrary regulations are abrogated.

Law on Amending Penal Code Procedures

91BA0309A Bucharest MONITORUL OFICIAL in Romanian 17 Nov 91 pp 1-7

["Text" of Law No. 32 dated 16 November 1990 on amending and supplementing some regulations on penal code procedures]

[Text] The Romanian Parliament passes the present law:

Single Article—The Code of Penal Procedure will be amended as follows:

1. Article 5 will read as follows:

"Guaranteed Physical Freedom

"Article 5—Physical freedom is guaranteed throughout the duration of a criminal trial.

"A person may not be detained or arrested, nor subjected to any form of curtailed freedom, except in the cases and conditions envisaged by law.

"If a person placed under preventive detention or subjected to any form of curtailed freedom believes that the measure is illegal, he has a right, throughout the duration of the trial, to appeal to the presiding judge according to the law.

"Any person subjected to an illegal preventive measure has a right to reparations for the damage suffered, as envisaged by law.

"Throughout the criminal trial a person charged or indicted and placed under preventive detention may request to be temporarily released under court supervision or on bail."

2. Article 5^1 will be inserted after Article 5, to read:

"Respect for Human Dignity

"Article 5^1—Any person who is under criminal investigation or on trial must be treated with respect for human dignity. Subjecting such persons to torture or cruel, inhumane, or degrading treatment is punishable by law."

3. Article 6 will read as follows:

"Guaranteed Right to Defense

"Article 6—Persons charged or indicted and other parties have a guaranteed right to defense throughout the duration of a criminal trial.

"In the course of the criminal trial, the court is obligated to ensure that the sides enjoy complete freedom to exercise their judicial rights in the conditions envisaged by law and to use the evidence required for the defense.

"The courts are obligated to inform the person charged or indicted of the offense for which he was charged, to place the respective offense within a judicial framework, and to allow him to prepare and deliver his defense.

"Any side is entitled to be defended throughout the duration of the criminal trial.

"Before any statement is taken the courts are obligated to inform the person charged or indicted of their right to defense, and the fact will be noted in the hearing report. According to the conditions and cases envisaged by law, the courts are obligated to take measures to provide legal defense for persons charged or indicted if the latter do not have their own defense."

4. A final paragraph will be added to article 136 to read:

"When a person charged or indicted is placed under preventive detention, the prosecutor or court will within 24 hours inform a family member or some other person designated by the person charged or indicted, and the fact will be noted in a report."

5. Article 140^1 will be inserted after article 140 to read:

"Complaints Against Preventive Steps Taken by the Prosecutor

"Article 140^1—A complaint against a preventive detention order or an order not to leave the locality may be lodged with the court scheduled to try the actual charge

"The complaint and the case file will be sent to the court cited under point 1 within 24 hours; the person charged or indicted will be brought before the court and assisted by a defense lawyer.

"The complaint will be examined *in camera.*

"The court will pronounce a final conclusion on the same day after hearing the person charged or indicted.

"The prosecutor is obligated to attend.

"When the court deems that the preventive measure was illegal, it may repeal the detention and release the person charged or indicted, or may revoke the obligatory order not to leave the locality, as the case may be."

6. Article 155 will read as follows:

"Prosecutor-Extended Detention of a Person Indicted

"Article 155—The duration of an indicted person's detention may be extended if needed, provided the reason is warranted.

"Extending an indicted person's detention may be ordered by the head prosecutor of the office to which the prosecutor in charge of the criminal investigation or the criminal prosecution belongs. Only one extension of at most 30 days may be ordered.

"If the arrest warrant was issued by the chief prosecutor of the office in charge of the criminal investigation, the extention cited in the previous paragraph may be ordered by the chief prosecutor of the immediately-higher office.

"If the arrest warrant was issued by a member of the General Prosecutor's Office, the extention cited under pragraph 2 may be ordered by the immediately-higher prosecutor."

7. Article 158 paragraphs 1 and 2 will read as follows:

"If the duration of the preventive detention was extended, the prosecutor who ordered the extension, upon receiving a proposal according to article 156 at least eight days prior to the expiration of the detention, if he considers that the person indicted should not be released, he will notify the court in charge of the case trial at least five days before the expiration date.

"If the extension was ordered by a prosecutor at a hierarchically lower office than the one corresponding to the court responsible to try the case itself, the latter—if he thinks that the person indicted should not be released—will notify the prosecutor at the immediately-higher office within 24 hours and he, if he finds the grounds founded, will notify the court."

8. Article 159 will read as follows:

"The Procedure for Court Extension of an Detention

"Article 159—The court notified will set a court appearance date prior to the expiration of the warrant.

"The trial panel will be chaired by the court president or a judge appointed by him; the prosecutor is obligated to attend.

"The case file will be entered by the prosecutor at least two days before the court date, and can be consulted by the defense lawyer upon request.

"The dafendant will be brought before the court and will be assisted by a defense lawyer.

"Any extension granted by the court may not exceed 30 days.

"The decision under which the extension was pronounced may not be appealed. The measure will be communicated to the management of the detention facility, whose obligation it is to inform the defendant about it.

"The court may grant additional extensions, each of which may not exceed 30 days. The provisions of the previous paragraphs and of article 158 will be duly implemented."

9. Article 160 will read as follows:

"Procedure in Cases With Several Indicted Persons Under Arrest

"Article 160—When several indicted persons are under arrest in the same case and the duration of the detention extension expires at different dates for each, the chief prosecutor or the hierarchically superior prosecutor, as the case may be, who notifies the court for one of the defendants according to article 158, will at the same time notify the court about the other defendants."

10. A new section, Section V, will be inserted after article 160, with the following contents:

Section V

Provisional Release Under Court Supervision and Provisional Release on Bail

Methods of Provisional Release

Article 160[1]—Throughout the criminal trial, a defendant under preventive detention may request to be provisionally released under court supervision or on bail.

Section 1. Provisional Release Under Court Supervision

Article 160[2]—Provisional release under court supervision may be granted in cases of unpremeditated offenses or premeditated offenses for which the law envisages prison sentences not exceeding seven years.

Provisional release under court supervision will not be granted if the defendant is a recidivist or if indications exist to justify the concern that he may commit another offense.

The court will order the defendant to comply with one of more of the following obligations during his provisional release:

a) Not to go outside the perimeter of the area established except in accordance with the conditions decided by the court;

b) To communicate any change of address or residence to the court;

c) Not to go to specifically listed places;

d) To report at the office of criminal investigation or, according to each case, at the court whenever summoned;

e) Not to get in touch with certain specified persons;

f) Not to drive any vehicle or certain vehicles;

g) Not to exercise a profession of the same nature as the one he used to commit the offense.

Lifting the Court Supervision

Article 160[3]—The court supervision ordered by the prosecutor or the court may be lifted at any time, completely or partially, for sound reasons.

Section 2. Provisional Release on Bail

Release Conditions

Article 160[4]—Provisional release on bail may be granted upon request when reparation for the damage caused in the wake of the offense is ensured and the bail established by the responsible court has been posted.

A defendant free on provisional release is obligated to respond to any court summons and to communicate any change of address or residence.

Provisional release on bail will not be granted in the case of premeditated crimes for which the law envisages prison sentences in excess of seven years, if the defendant is a recidivist, or if indications exist to justify concern that he may commit another crime.

Bail

Article 160[5]—The purpose of bail is to guarantee that the defendant will observe the obligations incumbent on him during his provisional release.

The amount of bail ranges between 10,000-100,000 lei.

Bail will be posted in the name of the defendant and at the disposal of the court that established the amount.

The bail is returned when:

a) The provisional release is revoked for reasons such as the ones indicated under article 160 paragraph 1 point a);

b) The prosecutor notes in an order, and the court in a decision, that the reasons that elicited the preventive detention no longer exist;

c) The criminal investigation is canceled or lifted, the defendant is acquitted, or the criminal trial ends;

d) The defendant is sentenced to pay a fine, to a conditional prison term, or to serve a sentence of correctional labor;

e) The defendant is sentenced to prison.

The bail will not be returned in cases such as envisaged under point e), when the provisional release was repealed in accordance with the provisions of article 160[10] paragraph 1 point b). The bail amount will be deposited in the state budget as revenue when the final sentence judgment is pronounced.

In cases such as those cited under points b)-e) the provisional release will also be canceled.

Request for Provisional Release and the Body Responsible To Approve It

Article 160[6]—A request for provisional release may be filed in the course of the criminal investigation and during the trial, prior to the completion of investigation by the first jurisdictional court, by the defendant, the defendant's spouse, or close relatives.

The request may also be made when the case is to be retried by an appeal court for bringing new evidence or when the case is to be retried by the court whose decision was appealed.

The request must feature the first and last names, address, and relation of the petitioner and mention of the fact that the petitioner is aware of the legal dispositions concerning grounds for revoking a provisional release.

In the case of a provisional release on bail, the request must include the obligation to post bail and attest knowledge of the law regarding the cases in which bail is not returned.

During the criminal investigation the request may be answered by the prosecutor in charge of the criminal prosecution or the prosecutor who oversees the criminal investigation; during the trial, the request may be answered by the court in charge of trying the case.

A request filed with the criminal investigation judge or the detention facility management will be submitted within 24 hours to the competent prosecutor or court, depending on whether the case is under criminal investigation or under trial.

Preliminary Measures Before the Request Is Examined

Article 160[7]—The prosecutor or the court will examine whether the request for provisional release features the points cited under article 160[6] paragraphs 3 and 4 and, if necessary, will take measures to have them completed. When the request is filed with the court before the trial date, these obligations are carried out by the court president, who will inform the petitioner of the date on which the request is to be decided.

When the request is filed by a person other than the defendant, according to article 160[6] paragraph 1, the responsible body in charge of it will ask the defendant whether he agrees with the request and will note his answer to the request.

Examining and Acceptng the Request

Article 160[8]—The prosecutor or the court will urgently examine the request and verify compliance with the legal conditions for accepting it.

In the case of requests for release on bail, if the prosecutor or the court deem that the legal conditions are fulfilled, they set the amount of the bail and inform the petitioner about it. After proof of posted bail has been filed, the prosecutor resolves the request and the court sets a trial date.

The court will resolve the request after hearing the defendant and the conclusions of his defense lawyer, as well as the prosecutor's.

If the legal conditions are found to exist and the request is justified, the prosecutor or the court accepts the request and orders the provisional release of the defendant.

The request is resolved by the prosecutor's order and by the court's decision.

The court decision is not open to appeal.

If the request for provisional release under court supervision has been approved, the prosecutor's order or the court decision will also feature the obligations that the defendant must fulfill.

A copy of the order or of the decision or an abstract thereof will be sent to the detention facility and to the police unit responsible for the area in which the defendant resides. The interested parties will be informed.

The detention facility management is obligated to take measures to immediately release the defendant.

Rejecting a Request for Provisional Release

Article 160^{9}—If the legal conditions are not fulfilled, if the request is unjustified, or if the request was made by another person and not endorsed by the defendant, the prosecutor or court will reject it.

A complaint against the prosecutor's order may be filed with the court in charge of trying the case.

The dispositions of article 160^{8} are duly applied.

Revoking a Release

Article 160^{10}—A provisional release may be revoked if:

a) Facts or circumstances are discovered that were not known at the time when the request for provisional release was accepted and that justify the defendant's detention;

b) The defendant deliberately fails to fulfill the obligations incumbent on him under article 160^{2} paragraph 2 and article 160^{4} paragraph 2, or tries to prevent the truth being uncovered, or deliberately commits another offense for which he is investigated or put on trial.

A provisional release may be ordered by a prosecutor or by a court decision, after the defendant, assisted by his lawyer, has been heard. The release may also be revoked in the absence of the defendant, when the latter fails to respond to summons without justified reason.

If the provisional release is revoked, the prosecutor or the court will order the preventive detention of the defendant and will issue a new arrest warrant.

11. Article 171 paragraphs 1 and 2 will read as follows:

"The person charged or indicted is entitled to defense throughout the criminal prosecution and trial, and the judicial bodies are obligated to apprise him of that right.

"Legal defense is obligatory when the person charged or indicted is a minor, an enlisted soldier, a short-term enlisted man, on active reserve duty, a military school cadet, interned in a special school for reeducation and labor, or when he is under arrest for another offense."

12. Article 172 will read as follows:

"Defense Lawyer's Rights

"Article 172—In the course of the criminal prosecution, the defendant's defense lawyer or the defendant are entitled to be present at any act of criminal prosecution and may make requests of file memoranda. The absence of the defense lawyer does not preempt the proceeding of criminal investigation if proof is available that the defense lawyer was apprised of the date and time of the procedure.

"In cases in which legal defense is obligatory, the body in charge of the criminal prosecution will ensure that the defense lawyer attends the hearing of the defendant.

"If the defendant's defense lawyer or the defendant is present at a criminal prosecution procedure, the fact will be noted and the respective document will also be signed by the defense lawyer.

"A defendant under arrest is entitled to get in touch with his lawyer. Except, and when the interests of the investigation require it, the prosecutor may—on his own accord or at the proposal of the criminal investigators—issue a restraining order to forbid the detained defendant from getting in touch with his lawyer; he may do so once and for no more than five days.

"Contacts between the defendant and his lawyer may not be forbidden if the detention is extended by the court and the defense lawyer must be present when the criminal prosecution material is presented.

"The defense lawyer has a right to complain, according to article 275, if his requests were rejected.

"During the trial the defense lawyer has a right to assist the defendant and to exercise the latter's trial rights, and if the defendant is under arrest, he has a right to make contact with him."

13. Article 201 will read as follows:

"Criminal Investigation Bodies

"Article 201—The criminal investigation is carried out by prosecutors and by the bodies of criminal investigation.

"Bodies of criminal investigation are:

"a) Police investigation bodies;

"b) Special investigation bodies.

"Operatives specially designed by the Interior Ministry will act as police investigation bodies."

14. Letter e) with the following contents will be inserted in article 245 paragraph 1 after letter d):

"e) for returning the bail in the cases envisaged by law."

15. A new paragraph with the following contents will be inserted under article 350 after paragraph 6:

"When the person charged or indicted was provisionally released on bail during the criminal investigation or trial,

the court will order that the amount of the bail posted be returned in cases envisaged by the law. The dispositions of article 160^5 will be duly applied."

16. Chapter IV of title IV of the special part will read as follows:

"Damage Reparation in Cases of Unjust Sentencing or Preventive Measures."

17. Article 504 paragraph 2 will read as follows:

"Also entitled to damage reparation are persons against whom preventive measures were taken and who were subsequently released from investigation or acquitted for the reasons cited in the previous paragraph."

18. The term "militia body" or "militia" in the Code of Penal Procedure or other special laws will be replaced by the term "police body" or "police."

This law was passed by the Assembly of Deputies in its 12 November 1990 session.

[Signed] Dan Martian, president of the Assembly of Deputies

This law was passed by the Senate in its 12 November 1990 session.

[Signed] Academician Alexandru Birladeanu, president of the Senate

In compliance with article 82 letter m) of Decree-Law No. 92/1990 for the election of Parliament and of the president of Romania,

We promulgate the present law on amending and supplementing certain regulations of the Code of Penal Procedure and we order its publication in Romania's MONITORUL OFICIAL.

Ion Iliescu, president of Romania
Bucharest, 16 November 1990 No. 32