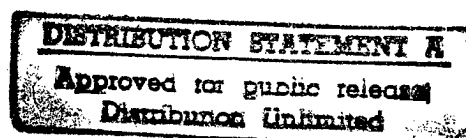




# ***JPRS Report***

## ***Supplement***



# **East Europe**

## ***Recent Legislation***

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# East Europe

## Supplement

### Recent Legislation

JPRS-EER-91-132-S

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5 September 1991

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**Law on Ministry of Internal Affairs**

91BA0941A Sofia DURZHAVEN VESTNIK  
in Bulgarian 16 Jul 91 No 57, pp 1-11

["Text" of Law on Ministry of Internal Affairs passed by the Grand National Assembly on 3 July and signed by Nikolay Todorov, chairman of the Grand National Assembly]

[Text]

Ukase No. 221  
of the President of the Republic Zhelyu Zhelev  
issued in Sofia on 15 July 1991  
and stamped with the state seal

In accordance with Article 84, paragraph 1, and Article 92, item 8, of the Constitution of the Republic of Bulgaria, I hereby decree that the Law on the Ministry of Internal Affairs, passed by the Grand National Assembly on 3 July 1991, be published in DURZHAVEN VESTNIK.

**LAW ON THE MINISTRY OF INTERNAL AFFAIRS**

**Chapter 1**

**Functions and Basic Principles Governing the Organization and Activities of the Ministry of Internal Affairs**

**Article 1.** The present law defines the functions, structure, and organs of administration of the Ministry of Internal Affairs, and the rights, obligations, and responsibilities of its personnel.

**Article 2.** (1) The Ministry of Internal Affairs implements through its organs the functions entrusted to it by the Constitution and the laws regarding:

1. Defense of national security;
2. Defense against a violent change in the constitutionally established state and social system in the Republic of Bulgaria;
3. Preservation of public order, and protection of the rights and freedoms of the citizens, and assistance in the observance of the laws and the regulations issued by state authorities;
4. Struggle against crime by the prevention and detection of crimes and participation in their investigation;
5. Protection of the state border and control over the observance of the border regime;
6. Protection of the life and health of citizens, property, and cultural values from fires and related dangers, and assisting in natural disasters and industrial accidents.

(2) The Ministry of Internal Affairs processes, stores, and submits to the state authorities information gathered in the course of the implementation of its functions.

**Article 3.** The Ministry of Internal Affairs conducts its activities on the basis of the Constitution and the laws of the Republic of Bulgaria.

**Article 4.** The personnel of the Ministry of Internal Affairs must be loyal to the institutions of the political system in the Republic of Bulgaria. They may not participate in organized political activities or engage in the course of their duties in actions which may violate their political neutrality.

**Article 5.** (1) In the course of exercising their rights and implementing their obligations, the personnel of the Ministry of Internal Affairs must protect the life, health, rights, and freedoms of citizens and show respect for human dignity.

(2) Information concerning the private life of citizens must be kept secret, unless otherwise stipulated by the law.

**Article 6.** (1) The personnel of the Ministry of Internal Affairs organize cooperation with citizens in implementing the Ministry's functions.

(2) In the implementation of their official duties, the personnel of the Ministry of Internal Affairs represent the entire society.

**Article 7.** The organization and activities of the Ministry of Internal Affairs are carried out in combining the principles of centralization and decentralization.

**Article 8.** (1) The orders of superiors are mandatory to their subordinates.

(2) The orders must pertain exclusively to the service and be accompanied by the necessary instruction for their execution. They may not be such as to violate the personal dignity of the subordinates.

(3) The terms and conditions of service for the troops of the Ministry of Interior are based on the regulations governing the Armed Forces.

**Article 9.** (1) An official who determines that the order he has received is illegal must indicate his reasons to this effect to the superior who has issued the order. If the order is confirmed in writing, the official must obey it, in which case it is the superior who bears the responsibility for its implementation.

(2) If an order has been issued during the exercise of duties for the preservation of public order or if a situation of immediate danger exists or else an urgent need arises, the order must be obeyed after verbal confirmation as well. In that case the superior must confirm it in writing before the end of the shift.

(3) If the execution of an order that has been issued is an obvious crime, the official must not obey it and must immediately report it to the higher superior.

**Chapter 2****Structure of the Ministry of Internal Affairs****Section I****Organs of the Ministry of Internal Affairs**

**Article 10.** (1) The organs of the Ministry of Internal Affairs are created with the present law.

(2) The area of action and the headquarters of the organs of the Ministry of Internal Affairs are determined by the Council of Ministers by proposal of the minister of internal affairs.

**Article 11.** (1) National, central and territorial services of the Ministry of Internal Affairs are created.

(2) The national services of the Ministry of Internal Affairs are the following:

1. National security service;
2. National police;
3. National fire-fighting service;
4. Border troops;
5. Internal troops.

(3) The central services of the Ministry of Internal Affairs are the following:

1. Central service for the struggle with organized crime;
2. Specialized detachment for the struggle with terrorism.

(4) The territorial services of the Ministry of Internal Affairs are the following:

1. Sofia directorate of internal affairs;
2. Regional internal affairs directorates.

(5) The national, central, and territorial services of the Ministry of Internal Affairs are juridical persons.

(6) The organization and activities of the national services and of the Central Service for the Struggle With Organized Crime are regulated by a law.

**Article 12.** (1) The Sofia and regional internal affairs directorates set up the "National Security" service, the "Police" service, and the "Fire Fighting" service.

(2) The "National Security" service, the "Police" service and the "Fire Fighting" service are autonomous and equal territorial units of the respective national services.

**Article 13.** (1) The following are created under the Sofia and regional internal affairs directorates:

1. Rayon police administrations;
2. Rayon fire fighting services.

(2) The areas of action of the rayon police administrations and rayon fire fighting services are based on the conditions of criminality, public order and fire safety.

(3) The rayon police administrations may organize police precincts within the limits of their approved personnel strength and wage fund, in individual settlements within the serviced territory.

**Section II****National Security Service**

**Article 14.** The National Security Service:

1. Observes, determines, limits or counteracts, independently or together with other state organs, activities related to the following:

- a. Intelligence gathering in favor of foreign powers;
- b. Violations of the unity of the nation and the territorial integrity and sovereignty of the country;
- c. Use of force or use of general threatening means with which national security is either threatened or harmed;
- d. Violent change in the constitutionally established governmental and social system in the Republic of Bulgaria;

2. Gathers, processes, stores and presents to the state authorities information related to the defense of national security and national interests, in the cases and according to the procedures stipulated by a law;

3. Assists the state organs and organizations in the creation and functioning of a national system for the protection of facts, information, and objects which constitute a state secret, and monitors its observation;

4. Independently, or together with other specialized organs, protects strategic and life-supporting activities and property in the country.

**Section III****National Police**

**Article 15.** The National Police:

1. Organizes and ensures the preservation of public order, independently or jointly with other state authorities, the public and the private citizens;

2. Independently, as well as in interaction with other state and public authorities, detects and prevents crimes and other violations of the law and participates in criminal investigation;

3. Protects the rights and freedoms of the citizens and assists in the exercise of these rights;

4. Protects the property of the state, of organizations, and of private citizens;

5. Organizes and provides the protection of establishments and projects;

6. Alone, or jointly with other state and public organs, organizes and controls traffic safety and the state and registration of motor vehicles;
7. Allows and supervises activities involving the use of general dangerous equipment;
8. Supervises the observance of the passport regime in the country;
9. Searches for individuals who have been charged and are defendants in court cases, who have avoided penal prosecution, individuals who have been sentenced and have avoided serving their penalties, individuals who have vanished without a trace, as well as other individuals in cases stipulated by the law;
10. Contributes to and takes the necessary steps for the observance of laws and orders issued by state authorities;
11. Studies and analyzes the reasons and prerequisites for criminal behavior;
12. Gathers, processes, uses, and provides information on the state of public order, the struggle against crime, and traffic safety.

#### **Section IV**

##### **National Fire Fighting Service**

**Article 16.** (1) The National Fire Fighting Service:

1. Organizes and provides state fire prevention monitoring and fire extinguishing activities;
  2. Develops, alone or jointly with other state authorities, a national strategy and the ways and means for providing fire fighting safety in the country;
  3. Studies, determines, and analyzes the reasons and prerequisites for the outbreak and spreading of fires and takes measures for their prevention;
  4. Controls and assists in the organization of fire fighting safety in projects of national and life-supporting significance;
  5. Assists in natural disasters and industrial accidents;
  6. Gathers, processes, uses, and provides information on fire fighting safety in the country.
- (2) In the course of the implementation of its functions, the use of the National Fire Fighting Service may be permitted by order of the minister of internal affairs on an individual case basis.

#### **Section V**

##### **Troops of the Ministry of Internal Affairs**

**Article 17.** (1) The border troops are a special branch of troops and a structural part of the Armed Forces of the Republic of Bulgaria in charge of protecting the state border and controlling the observance of border regulations.

(2) The border troops:

1. Guard and participate in the defense of the state border in peace and war times;
2. Alone, and jointly with other state authorities, implement the border system and control over individuals and transportation facilities which cross the borders of the country, including the territorial sea, the internal sea waterways, and the Bulgarian section of the Danube River;
3. Detect and apprehend violators of state border;
4. Alone, or jointly with other state authorities, maintain the safety and public order in the border zone;
5. Assist in the implementation of agreements with neighboring countries relative to the regime maintained along the state border;
6. Gather, process, and offer to state authorities information on violations of the state border and of border regulations.

**Article 18.** (1) The internal troops are a specialized armed force and a structural part of the Armed Forces of the Republic of Bulgaria in charge of protecting strategic and life-support equipment, the restoration and maintenance of public order in cases of particularly severe mass violations, or in the case of marshal law or any other emergency condition.

(2) Alone, or jointly with other agencies of the Ministry of Internal Affairs, the internal troops render harmless terrorist and sabotage groups operating on the territory of the country.

(3) The use of the internal troops in the implementation of other functions is permitted by order of the minister of internal affairs, in each separate case.

#### **Section VI**

##### **Central Services of the Ministry of Internal Affairs**

**Article 19.** The Central Service for the Struggle Against Organized Crime:

1. Observes, determines, limits, and, alone or jointly with other specialized organs, counteracts activities related to:
  - a. Acts of terrorism committed against individuals and property on the territory of the country;
  - b. The illegal manufacturing and trafficking in drugs and other biologically strong active substances;
  - c. The organized smuggling of weapons, strategic goods, and historical and cultural valuables;
  - d. Organized crime in the economic and financial system of the country;

2. Gathers, processes, stores, and offers to state authorities information on the state of organized crime, in accordance with the objective of its activities.

**Article 20.** (1) The Specialized Detachment for the Struggle Against Terrorism is used in the prevention of acts of terrorism and other severe crimes, and the apprehension of

their perpetrators, as well as in cases of particularly grave and mass violations of the public order.

(2) The use of the Specialized Detachment is allowed by written order of the minister of internal affairs in each separate case.

### ***Section VII***

#### ***General Services of the Ministry of Internal Affairs***

**Article 21.** (1) The operative-technical services:

1. Secure the necessary special communications facilities for use by the state leadership;

2. Organize, manage, and control enciphering, the development and making of codes, and coding equipment for the needs of the country;

3. Develop, produce, and maintain the technical facilities servicing the activities of the Ministry.

(2) The services assist the organs of the Ministry of Internal Affairs, as described in paragraph 1, and other security services in the country in the implementation of their functions with their specialized intelligence facilities.

(3) The specialized intelligence facilities, as described in paragraph 2, and the conditions and procedure for their utilization are regulated by a law.

**Article 22.** The support services organize and control operative-combat and mobilization preparations and provide the safety, protection, and access rules for the Ministry's buildings, as defined by the minister of internal affairs.

**Article 23.** The Auditing Service controls the implementation of the financial regulations and the protection of the property of the Ministry of Internal Affairs.

**Article 24.** (1) The material and technical and social insurance services provide supplies of armaments, technical facilities, and uniforms during peace and war times.

(2) Per paragraph 1, the services organize medical services and other social and cultural activities for the personnel. They organize the construction and utilization of buildings and communal-consumer services within the Ministry.

### ***Section VIII***

#### ***Applied Sciences Institutes and Educational Institutions of the Ministry of Internal Affairs***

**Article 25.** The applied sciences institutes and educational establishments serve the professional, scientific and technical and educational needs of the Ministry of Internal Affairs.

**Article 26.** (1) The applied sciences institutes are set up by the Council of Ministers by proposal of the minister of internal affairs.

(2) The organization, activities, and interaction among applied sciences institutes and national services are governed by a regulation issued by the minister of internal affairs.

**Article 27.** The Ministry of Internal Affairs opens the following educational establishments: a higher institute, a school for sergeants, and specialization centers.

### ***Chapter 3***

#### ***Management of the Ministry of Internal Affairs***

### ***Section I***

#### ***Minister, Chief Secretary, and Secretaries***

**Article 28.** (1) The minister of internal affairs implements the state policy pertaining to the safety and public order in the country. He provides the overall and direct leadership of the Ministry.

(2) The minister of internal affairs organizes the interaction with other state authorities.

(3) The minister of internal affairs is a civilian.

(4) In the case of the lengthy absence from his duties of the minister of internal affairs, the Council of Ministers names his replacement.

**Article 29.** (1) The minister of internal affairs ratifies the structure and tables of organization of the Ministry services; he opens and closes down structural units within the limits of the approved budget and personnel strength.

(2) The minister of internal affairs may create economic organizations with Ministry property to serve the needs of the Ministry.

**Article 30.** (1) The position of chief secretary is the highest professional position held in the Ministry of Internal Affairs.

(2) The chief secretary organizes interaction within the Ministry and coordinates activities with the respective services of other state and international organizations.

(3) The chief secretary coordinates the activities of the secretaries in the Ministry of Internal Affairs.

(4) The chief secretary issues orders related to the implementation of the functions of the Ministry whenever the minister of internal affairs is absent and has not delegated his functions to another official, or else the Council of Ministers has not named his replacement and the case is urgent.

**Article 31.** (1) The chief secretary of the Ministry of Internal Affairs must be a person with higher training and have no less than 10 years of professional experience.

(2) The chief secretary is appointed by the president of the Republic by proposal of the Council of Ministers.

**Article 32.** (1) The secretaries perform administrative functions as assigned to them by the minister of internal affairs.

(2) The secretaries are appointed by the Council of Ministers by proposal of the minister of internal affairs.

(3) The stipulations of Article 31, paragraph 1, apply to the secretaries.

## *Section II*

### *Central Administration of the Ministry of Internal Affairs*

**Article 33.** The minister of internal affairs performs his functions directly as well as with the help of his office and central administration services.

**Article 34.** (1) The minister's office has consultative and informative functions. The office personnel do not perform management functions.

(2) The office consists of a chief of office and the personal assistants of the minister. The members of the office are, by right, the parliamentary secretary and the Ministry's spokesman.

**Article 35.** (1) The central administration includes the following services:

1. Coordination and Information-Analytical Work;
2. Legal;
3. International Cooperation;
4. Press Center and Public Relations;
5. Inspectorate;
6. Personnel;
7. Financial-Resource Support;
8. Archives.

(2) The ranks for the services listed in paragraph 1 are set by the Council of Ministers.

**Article 36.** (1) The Coordination and Information-Analytical Work Service organizes the implementation of the orders of the minister of internal affairs. It analyzes and evaluates information gathered by the Ministry of Internal Affairs.

(2) The Service coordinates the plans and interaction among Ministry services.

(3) The Service organizes and controls the correspondence of the Ministry and investigates complaints.

**Article 37.** (1) The information, as described in Article 36, paragraph 1, can be based only on documents drafted and filed by the institutions and officials of the Ministry of Internal Affairs, other state authorities, and the judicial authorities.

(2) Gathering information about private citizens, exclusively based on race, religion, political convictions, affiliations with trade union, cultural or charitable organizations, or engaged in any type of legitimate activities which they promote as members of organizations in said areas, is forbidden.

**Article 38.** (1) Automated information banks are created for data assembled by the Ministry of Internal Affairs.

(2) The minister of internal affairs sets the criteria and technical standards for automated information banks.

(3) Control over automated information banks is provided by a parliamentary commission which investigates the criteria and technical standards governing the creation of these banks and may demand representative excerpts without indicating names or other data which could identify individuals.

(4) The parliamentary commission may order the deletion of illegally acquired data.

**Article 39.** (1) The Legal Service protects the interests of the Ministry of Internal Affairs, drafts plans and opinions on legal acts, and provides legal assistance to the minister, the chief secretary, the secretaries, and the other legal services of the Ministry.

(2) The Legal Service conducts comparative-legal studies on maintaining security and public order for the implementing of international obligations in the area of the rights and freedoms of the citizens by the Ministry's institutions.

**Article 40.** The International Cooperation Service organizes the interaction between the Ministry of International Affairs and the respective services in other countries.

**Article 41.** The "Press Center and Public Relations" Service explains the activities related to implementing the Ministry's functions.

**Article 42.** The Inspectorate monitors the implementation of the orders of the minister of internal affairs and the disciplinary practices in the Ministry.

**Article 43.** (1) The Personnel Service studies and plans the need for cadres and plans tables of organization.

(2) The Service keeps the records of the personnel of the various services as defined by the minister of internal affairs.

**Article 44.** The Financial-Resource Support Service assists the minister in his quality as the chief handler of the Ministry of Internal Affairs' budget.

**Article 45.** (1) The Archive Service receives, processes and stores documents in the archives of the Ministry of Internal Affairs.

(2) The Service assists the minister of internal affairs in managing the Ministry's archive data base.

**Article 46.** The Central Administration Services draft plans for internal legal acts, in accordance with their activities, and provide methodical guidance to similar units within the Ministry of Internal Affairs agencies.

**Article 47.** The National Central Bureau—Interpol—which has the status of a juridical person, organizes and implements cooperation with the International

Organization of Criminal Police and with the police authorities in other countries.

**Article 48.** (1) Access to information and documents collected and stored in the automated information banks and the archives of the Ministry of Internal Affairs is permitted in accordance with a procedure stipulated by the minister.

(2) Information may be provided to corresponding authorities of other countries and international organizations with which special agreements have been concluded.

### *Section III*

#### *Administration of the National Services of the Ministry of Internal Affairs*

**Article 49.** (1) The directors of the National Security Service, National Police, and National Fire Fighting Service:

1. Organize, guide and are responsible for the activities of the national service;
2. Inform the minister of internal affairs and the chief secretary of the condition of security, public order, and fire protection, and report to them;
3. Coordinate the activities of the corresponding national service with other state agencies;
4. Guide participation in international cooperation with the respective services of other countries and international organizations.

(2) The directors of the national services, as described in paragraph 1, are appointed by the president of the Republic, by proposal of the Council of Ministers.

**Article 50.** (1) The administration of the border troops and the internal troops is based on the regulations governing the Armed Forces.

(2) The commanders of border troops and internal troops are appointed in accordance with the stipulations of Article 49, paragraph 2.

### *Section IV*

#### *Territorial Administrative Organs of the Ministry of Internal Affairs*

**Article 51.** (1) The directors of the Sofia and regional internal affairs directorates are the territorial administrative organs of the Ministry of Internal Affairs.

(2) The directors implement the policy of the state and are responsible for the national security, public order, and fire safety in the respective territory.

(3) The directors provide the overall management and coordinate the activities of the territorial services of the Ministry of Internal Affairs and of the additional forces of the Ministry placed at their disposal.

(4) The directors inform the other regional state agencies and the local self-governing institutions of the state of national security, public order, and fire safety.

(5) The directors of the Sofia and regional internal affairs directorates are appointed by the minister of internal affairs.

**Article 52.** (1) The chiefs of the National Security, Police, and Fire Fighting services in the Sofia and regional internal affairs directorates directly administer the services and are responsible for their activities.

(2) The service chiefs, as described in paragraph 1, inform the respective directors of the Sofia and regional internal affairs directorates on the situation of the various activities, the condition of the personnel, and the state of the material and technical support of the services.

(3) The chiefs report on the results of the activities of their services to the director of the national service for their area of activities.

### *Section V*

#### *Consultative Organs*

**Article 53.** (1) A Security and Public Order Council is set up at the Ministry of Internal Affairs as the minister's consultative organ.

(2) The chairman of the council is the minister, who appoints a deputy chairman and a secretary.

(3) The council consists of the chief secretary and the secretaries, the directors of the national services, and the chiefs of services of the central administration.

(4) If invited by the chairman, representatives of the regional directorates, the judiciary, the Bulgarian Armed Forces, and other interested state authorities, as well as the organization of employees, as described in Article 82, experts, and private citizens may participate in the meetings of the council.

(5) The Security and Public Order Council passes on the following:

1. Taking general measures aimed at implementing the functions of the Ministry of Internal Affairs;
2. Drafting legal acts relative to the organization and activities of Ministry services;
3. Main trends followed in personnel training;
4. Financial, material, and social support of services and personnel.

**Article 54.** (1) Territorial security and public order councils are set up under the Sofia and the regional internal affairs directorates.

(2) The chairman of the territorial security and public order council is the director of the Sofia or the regional directorate. He appoints a deputy chairman and a secretary.

(3) The council includes the chiefs of the National Security, Police, and Fire Fighting services, the Legal Service, and the commanders of the border detachments and units of internal troops.

(4) By invitation of the chairman, representatives of the judiciary, the local self-governing institutions, the other regional state authorities, the organizations of employees, as described in Article 82, experts, and private citizens may attend the sessions of the council.

**Article 55.** Other public and expert councils or commissions may be set up under the Ministry of Internal Affairs.

#### *Section VI*

#### *Interaction Between the Ministry of Internal Affairs and the Ministry of Defense*

**Article 56.** The minister of internal affairs may request the assistance of the Bulgarian Armed Forces in the following cases:

1. For the protection of targets of strategic or life-support significance;
2. For putting out fires and helping in natural disasters and industrial accidents.

#### *Chapter 4*

#### *Ministry of Internal Affairs Personnel*

#### *Section I*

#### *Personnel Organization*

**Article 57.** (1) The personnel of the Ministry of Internal Affairs consists of the following:

1. Superior managing officials: the chief secretary and the secretaries of the Ministry, the directors of the national services, the commanders of the border and internal forces, and the director of the Central Service for the Struggle Against Organized Crime;

2. Leading officials;

3. Officials of the central administration and the other administrative services;

4. Officials directly in charge of executing the Ministry's functions;

5. Civil administration officials;

6. Auxiliary personnel.

(2) The positions to which officials, as described in paragraph 1, items 2-4, are appointed, must be approved by the Council of Ministers. Qualification levels are determined for the individual positions, but are not to exceed three levels for each position.

(3) The positions of the officials of the civil administration and the auxiliary personnel are determined by the minister of internal affairs.

**Article 58.** (1) The officials described in Article 57, paragraph 1, items 1-4, are assigned the following ranks:

1. Sergeants: sergeant, master sergeant, and chief sergeant of the Ministry of Internal Affairs;

2. Junior officers: second lieutenant, lieutenant, senior lieutenant, and captain of the Ministry of Internal Affairs;

3. Senior officers: major, lieutenant colonel, and colonel of the Ministry of Internal Affairs;

4. Superior officers: major general, lieutenant general, and colonel general of the Ministry of Internal Affairs.

(2) The ranks of the sergeants are assigned by commanders appointed by the minister.

(3) The ranks of junior and senior officers are awarded by the minister of internal affairs, and that of the superior officers, by the president of the Republic, by proposal of the Council of Ministers.

(4) Promotion in rank is done by the authority which has issued the rank, in accordance with the position and the level of qualification.

**Article 59.** (1) Personnel of the Ministry of Internal Affairs must be Bulgarian citizens—men and women—who meet the requirements of age, education, psycho-physical suitability and professional training as set by the law.

(2) The following are unacceptable:

1. Men who have not served their regular military service;

2. Individuals sentenced to deprivation of freedom for malicious crimes of a general nature, regardless of any subsequent rehabilitation.

**Article 60.** (1) Appointments to positions in the Ministry of Internal Affairs are based on examinations. Internal examinations are sponsored only for positions which mandatorily require Ministry service.

(2) A higher qualification grade may be acquired through internal examination.

(3) The conditions and procedure for examinations are defined by the minister.

**Article 61.** (1) The minister of internal affairs issues the orders on the appointment of leading officials and the officials of the central administration, as well as in the initial appointment of other officials to positions which require the holding of officer rank.

(2) The directors of the national services, the commanders of the border and internal troops, and the director of the Central Service for the Struggle Against Organized Crime appoint the officers with the exception of the cases stipulated in paragraph 1.

(3) Other officials are appointed by the chiefs authorized to do so by the minister of internal affairs.

**Article 62.** (1) Citizens who enter the service of the Ministry of Internal Affairs must take an oath.

(2) Refusal to take an oath is an obstruction to assuming the position.

**Article 63.** (1) Officers and sergeants earn a monthly salary consisting of:

1. The basic salary for the position, rank, and degree of qualification;

2. Additional remunerations for work in the Ministry of Internal Affairs, including work under adverse and other specific working conditions.

(2) For seniority service in the Ministry of Internal Affairs, the Bulgarian Armed Forces, and other labor seniority of equal status, supplements to the basic salary is received in the following amounts:

1. For three years, 5 percent;
2. For five years, 15 percent;
3. For 10 years, 20 percent;
4. For 15 years, 25 percent;
5. For more than 20 years, 30 percent.

(3) Officers and sergeants are issued uniforms on an annual basis, or else they are paid its value in nontaxable cash.

(4) The civil administration personnel and auxiliary personnel are paid additional monthly remuneration for work in the Ministry of Internal Affairs, and an annual amount for clothing, which is not taxable.

(5) The amounts of the remunerations, as per this article, are defined by the Council of Ministers.

**Article 64.** (1) Officers and sergeants are paid additional remuneration for guard duty if it does not constitute their main service function.

(2) The amount of their remuneration and the procedure for its payment are determined by the minister of internal affairs.

**Article 65.** (1) Officers and sergeants may be rewarded for achieving high results in the performance of their official duties, for specific major contribution to the implementation of their official tasks, or for lengthy service in the Ministry of Internal Affairs.

(2) The following rewards may be presented to the personnel as described in paragraph 1:

1. A letter of praise;
2. Expression of public gratitude;
3. Monetary award;
4. Badge of Honor.

(3) Such awards may be individual or group awards.

(4) The Badge of Honor is issued by the minister of internal affairs; the other awards are presented by chiefs authorized by the minister.

**Article 66.** (1) Officers and sergeants may be dismissed in the following cases:

1. For reaching the age limit for service in the Ministry of Internal Affairs, which is 55 for women and 60 for men;

2. For retiring on pension;

3. For health or other reasons which make the individual unsuitable to perform his official obligations in the Ministry;

4. On the basis of personal request;

5. In the case of personnel reductions or adoption of an elected position, other than the cases stipulated in Article 84;

6. In cases of disciplinary dismissal, as described in Article 86, paragraph 2.

(2) The dismissal order is issued by the authority which has the right to appoint the individual to the respective position.

(3) The work of officers and sergeants is classified as first category.

**Article 67.** (1) The order of dismissal may be appealed within two weeks of its receipt to the minister of internal affairs, through the issuing authority. Said authority may revoke it as well.

(2) A review of a dismissal order issued by the minister must be submitted within the time limit stipulated in paragraph 1.

(3) The minister must issue a ruling within one month.

(4) A dismissal order may also be appealed in court.

**Article 68.** (1) In the case of dismissals, as described in Article 66, paragraph 1, items 1-5, a one-time monetary compensation is paid based on the length of service. The amount of the compensation is determined by the Council of Ministers.

(2) In the case of an illegal dismissal, the employee has the right to compensation amounting to his monthly salary for the time during which he remained unemployed. If during that time he has found less well-paid employment, he has the right to be paid the differential.

(3) If an illegal dismissal is revoked, the individual is restored to his former position. The individual may assume such a position if he shows up at the respective service within a period of two weeks from receipt of the restoration notification.

## Section II

### Personnel Training

**Article 69.** (1) Ministry of Internal Affairs personnel are trained in the educational institutions described in Article 27.

(2) The officers and sergeants of the border and internal troops are trained in military schools.

**Article 70.** (1) The Higher Institute for the Training of Officers and for Scientific Research for the Requirements of the Ministry of Internal Affairs is a higher educational institution with the status of juridical person and headquartered in Sofia.

(2) The specialties and length of training at the institute, as well as the procedure for acquiring a civil specialty and right to work are defined by the Council of Ministers by proposal of the minister of internal affairs and the minister of science and higher education.

(3) The procedure for enrollment in the institute is based on the stipulations of this law.

(4) The regulations of the higher institute must be approved by the minister of internal affairs.

**Article 71.** (1) The trainees are paid a remuneration in amounts consistent with the remuneration for positions to which they could be appointed after graduating from the institute.

(2) In the course of their training, the trainees may not be used for service in the Ministry agencies, other than for purposes of training and for a period not to exceed two months per calendar year.

**Article 72.** (1) After graduation, the trainees must undergo a six-month period of practical training.

(2) Those who complete the practical training are commissioned officers and are appointed to positions based on their grades and the evaluation of the chief of service in which they underwent their practical training. They undertake to remain in the service of the Ministry for no less than five years.

**Article 73.** (1) The schools for sergeants accept Bulgarian citizens who meet the service requirements of the Ministry of Internal Affairs.

(2) Their training time is 12 months.

(3) After completing their course, the trainees are given the rank of "sergeant" and appointed in the services as defined by the director of the corresponding national service.

(4) The stipulations of Article 71, paragraphs 1 and 2, and Article 72, paragraph 2, apply to the trainees in these schools.

**Article 74.** (1) Specialization centers are organized at the higher institute and at the schools for sergeants.

(2) Specialization centers may be organized also as independent units by proposal of the director of the respective national service.

### **Section III**

#### **Rights and Obligations**

**Article 75.** (1) In the course of the exercise of their functions, the officers and sergeants of the Ministry of Internal Affairs benefit from immunity status.

(2) Officers and sergeants of the Ministry of Internal Affairs may not be subject to preliminary detention without the permission of the minister of internal affairs.

(3) No permission is required if they are caught in the commission of a severe crime. In such cases the minister must be informed immediately.

**Article 76.** (1) Officers and sergeants are mandatorily insured against accident at the expense of the state budget.

(2) Such mandatory insurance does not prevent anyone who wishes to do so from taking any other insurance.

**Article 77.** (1) Officers and sergeants who have suffered nonproperty damages during or because of the performance of their official duties will be paid a single monetary compensation totaling 10 gross monthly wages in the case of severe bodily damage, or six gross monthly wages in cases of medium-severe bodily damage.

(2) The spouse, children, and parents of an officer or sergeant who has died in the course of or as a result of the performance of his official obligations, shall be paid a single monetary compensation of 12 gross monthly wages per entitled person.

(3) In the cases stipulated in paragraph 2, the compensation due for dismissal will be paid as well.

(4) Those entitled to do so may seek compensation on the basis of the general claims procedure.

**Article 78.** (1) The working time of officers and sergeants of the National Security Service, National Police, National Fire Fighting Service, the operative-technical services, the protection, defense, and admission services, shall be 40 hours weekly, divided into daily shifts, based on service requirements.

(2) Other than in the cases stipulated in paragraph 1, the weekly working time of officers and sergeants of the Ministry of Internal Affairs will be 42 hours and 30 minutes, with a five-day workweek.

(3) Cases for which overtime is allowed, as well as the procedure for its remuneration, are defined with a regulation issued by the minister of internal affairs.

(4) Restrictions governing overtime stipulated for state officials apply to the officers and sergeants.

**Article 79.** (1) In performing their official obligations away from their work place, officers and sergeants of the Ministry of Internal Affairs must remain in contact with their superior.

(2) Officers and sergeants must perform, outside their service and outside of their working time, the obligations stemming from the functions of the Ministry of Internal Affairs. They must act to assist any individual who is in danger and to prevent or block illegal actions.

**Article 80.** (1) The officers and sergeants of the Ministry of Internal Affairs are entitled to regular paid annual leave of 35 calendar days, and an extended leave of one day per each two years of service, or 15 days of leave for 20 or more years of service.

(2) Paid leave for sickness and treatment are allowed for a period of time based on the conclusion of the Medical Commission, but not to exceed one year. Such leave may be extended to two years by the minister of internal affairs.

(3) During their leave period officers and sergeants may not be discharged unless they have been sentenced to deprivation of freedom for a malicious crime of a general nature.

**Article 81.** (1) Officers and sergeants of the Ministry of Internal Affairs are forbidden to participate in gatherings, meetings, and demonstrations by political parties and trade union organizations if they are in uniform; this includes nonworking time, unless it pertains to the exercise of trade union rights as per this law.

(2) Officers and sergeants may not engage in propaganda activities in favor or against political parties or candidates for elected positions.

(3) Ministry personnel who are registered as candidates for electoral positions will interrupt the performance of their duties until the elections. They may participate in political activities outside their respective services but only out of uniform.

**Article 82.** (1) Officers, sergeants, and employees of the civilian administration and the auxiliary personnel of the Ministry of Internal Affairs may organize themselves to uphold and defend their professional and socioeconomic rights.

(2) Officers and sergeants may not be members of other trade unions or accept in their organizations representatives of workers and employees outside the Ministry. The organizations of officers and sergeants have no right to join or become part of trade union organizations outside the Ministry.

(3) The organizations of Ministry personnel protect their interests without interfering with the management of the services.

**Article 83.** (1) Ministry of Internal Affairs personnel may hold meetings during their leisure time, also while in uniform, as follows:

1. In premises or areas which belong to the Ministry, allowed by the respective commanders, who determine the conditions for their use;

2. In premises closed to outsiders.

(2) During working time, meetings may be held not to exceed 10 hours annually. The superiors have the right to set the time and place for such meetings.

(3) The organizations of Ministry employees are allowed free use of premises and special areas for communications and other printed matter.

**Article 84.** (1) Officials who hold elective management positions in organizations considered most representative on a national scale, as described in Article 82, are temporarily relieved of their duties on the basis of a petition submitted through the organization.

(2) The total number of those temporarily relieved of their positions and their allocation among the individual organizations are determined by the Minister of Internal Affairs.

**Article 85.** (1) The organizations for assistance and protection of the professional and socioeconomic rights of the personnel of the Ministry of Internal Affairs conclude agreements on securing the rights of their members.

(2) Such agreements include working time, leisure and leave time, payment for overtime, additional remunerations, basic criteria in evaluating professional suitability, and other social and economic rights.

(3) Such agreements are concluded by a commission consisting of the minister of labor and social welfare, who is the commission's chairman, the minister of internal affairs, and the minister of finance or officials authorized by them, and a delegation consisting of the members of the nationally most representative organizations as per Article 82.

#### *Section IV*

##### *Disciplinary and Property Liability*

**Article 86.** (1) The minister of internal affairs issues a regulation which defines the nature of the disciplinary violations for which the following penalties may be applied: reprimand, written warning, fine, censure, demotion, and dismissal.

(2) A disciplinary dismissal is imposed for failure to show up in the service or for other severe violations of service discipline, the nature and consequences of which are incompatible with remaining in the service. This becomes mandatory if the individual is sentenced to deprivation of freedom for the commission of a malicious crime of a general nature or if he is deprived of the right to hold a position in the government.

**Article 87.** (1) Disciplinary punishments are imposed on the basis of a motivated order of the commander, as defined in the regulation as described in Article 86, paragraph 1.

(2) The penalty of disciplinary dismissal is imposed as follows: for sergeants, by the authority who has the right to appoint them to the respective position; for officers, by the minister of internal affairs.

**Article 88.** (1) The penalty of dismissal may not be imposed without requesting the opinion of the disciplinary council of the agency which has the right to impose a disciplinary dismissal. The council consists of an equal number of representatives of the administrative bodies and the organizations, as described in Article 82, but not to exceed eight members. The members of the council elect their own chairman.

(2) The opinion of the disciplinary council is not required in cases of participation in organized interruption of work.

(3) In appearing in front of the disciplinary council, the employee has the right to be assisted by a defender, who is a ministry official.

(4) The rulings of the council are based on secret balloting. In the case of a tie the chairman must make his vote public, in which case his opinion prevails.

**Article 89.** (1) Disciplinary punishments must be imposed no later than two months from the detection of the violation and no later than one year from its commission.

(2) Disciplinary punishments and related official consequences are deleted from the record one year after the order of their imposition has been issued, providing that within that time the official has not been given a disciplinary punishment for another violation.

(3) Such a deletion may not be retroactive.

**Article 90.** (1) Orders on imposing disciplinary penalties, with the exception of dismissals, may be appealed within two weeks from their receipt to the superior commander, who must issue a ruling within one month.

(2) Orders for disciplinary dismissal may be appealed within the same period of time to the minister of internal affairs, who must rule within one month. Within the same period of time requests for the review of orders for disciplinary dismissal of officers must be resolved as well.

(3) Orders on imposing disciplinary dismissal may be appealed in court.

**Article 91.** (1) Officers and sergeants of the Ministry of Internal Affairs assume property liability for damages they have caused to the state as a result of carelessness during or in connection with the implementation of their official obligations.

(2) In the case of deliberate damages or damages resulting from a crime, the liability is based on civil law.

(3) The Ministry has the right to file a claim against employees who have maliciously caused damages, under the respective conditions of paragraph 1 or paragraph 2, in cases of compensation paid for damages caused to citizens resulting from illegal acts, action, or inaction on the part of agencies and officials.

**Article 92.** (1) For harm caused as a result of negligence during or as a result of the implementation of official obligations, the employee is liable to the extent of the amount of the damage but not to exceed one base monthly salary.

(2) For damages caused through carelessness by a leading official, as described in Article 57, paragraph 1, items 1 and 2, in the course of or as a result of the exercise of his leading functions, the liability must be equal to the damages but not to exceed three monthly base salaries.

**Article 93.** (1) The directors of the national services and of the Sofia and regional internal affairs directorates and

other commanders, as authorized by the minister, issue orders on the grounds for and the amount of liability of the employee.

(2) Such an order must be issued within one month of the detection of the damage but no later than one year from the time the damage was caused; if the damage was caused by a leading official, no later than five years from the time the damage was caused.

(3) If within one month of receiving the order the employee objects to the grounds or amount of liability in writing, the Ministry of Internal Affairs may file a claim against him in court.

#### Additional Stipulations

1. The "Armed Forces Regulations" applying to this law are the regulations of the Law on Universal Military Service in the Republic of Bulgaria, and the legal acts related to military service, which are based on that law.

#### Provisional and Concluding Stipulations

2. The following are rescinded: Ukase No. 1670 of 1974 on State Security (DV, No. 65, 1974); Ukase No. 1474 of 1974 on the activities of State Security (unpublished); and Ukase No. 21 of 1991 (unpublished) as well as the legal acts related to their application.

3. In the Law on the People's Militia (published DV No. 89, 1976; amended and supplemented, No. 84, 1977; No. 89, 1979; No. 63, 1983; No. 75, 1988; and No. 21, 1990), the following changes are made:

1. In the heading and throughout the law the words "people's militia" are replaced by the words "National Police."

2. Chapter 3 is deleted.

4. The following amendments are made in the Law on Fire Fighting (published in DV, No. 89, 1979; amended, No. 26, 1988):

1. Throughout the law the words "chief of the Central Administration of Fire Fighting" is replaced with the words "director of the National Service for Fire Fighting."

2. Articles 25-33 are deleted.

5. (1) Ukase No. 2415 of 1987 on the reorganization of the Georgi Dimitrov Higher Special School of the Ministry of Internal Affairs into the Georgi Dimitrov Higher Institute of the Ministry of Internal Affairs (published in DV, No. 60, 1987; amended, No. 59, 1989) is deleted. The Georgi Dimitrov Higher Institute of the Ministry of Internal Affairs is reorganized as the Higher Institute for the Training of Officers and for Scientific Research for the Needs of the Ministry of Internal Affairs.

(2) Trainees enrolled on the basis of the rescinded ukase retain their right to acquire the civilian specialty "Law," and the qualification "jurist" or else the civil specialty "Water Supply and Sewage," with the skill of "water supply and sewer construction engineer."

6. In Ukase No. 324 on the property liability of military servicemen (published in DV, No. 35, 1963; amended and supplemented, No. 88, 1971; No. 5, 1987; and No. 12, 1988), in Article 8 the words "and for the private, sergeant, and officer personnel of the Ministry of Internal Affairs" are deleted.

7. (1) Stipulations governing personnel apply to the officers and sergeants of the National Security Service, National Police, National Fire Fighting Service, Central Service for the Struggle Against Organized Crime, and Special Detachment for the Struggle Against Terrorism, as well as the services of the central administration, the general services, the practical science institutes, and educational establishments of the Ministry of Internal Affairs.

(2) The rules governing the Armed Forces apply to the officers, sergeants, and enlisted personnel of the border and internal forces.

(3) The stipulations of civilian laws apply to the personnel of the civil administration and the auxiliary personnel in as much as the present law does not stipulate otherwise.

8. (1) The personnel of the Ministry of Internal Affairs retain their rights to the position to which they were appointed before the enactment of the present law if they meet the conditions stipulated in it.

(2) In accordance with the stipulations of Article 66, paragraph 3, of this law, the officers and sergeants of the Ministry of Internal Affairs retain their rights to a pension under the stipulations of Articles 6 and 7 of the Law on Pensions (published in IZV., No. 91, 1957; amended, No. 92, 1957; amended and supplemented, No. 104, 1959; No. 51, 1961; Nos. 65 and 109, 1962; DV, No. 103, 1964; No. 92, 1965; Nos. 25 and 101, 1966; No. 102, 1967; Nos. 59 and 97, 1969; Nos. 48 and 63, 1970; Nos. 3 and 61, 1971; Nos. 36 and 65, 1972; No. 53, 1973; No. 34, 1974; Nos. 3, 36, and 52, 1975; Nos. 2 and 63, 1976; No. 80, 1979; No. 90, 1980; No. 9, 1981; No. 28, 1983; Nos. 44 and 69, 1984; Nos. 70 and 81, 1985; No. 49, 1986; Nos. 6, 46, and 61, 1989; Nos. 6, 30, and 31, 1990; and No. 12, 1991).

9. The stipulations concerning the personnel of the Ministry of Internal Affairs also apply to the personnel of the unified investigative apparatus and the system governing areas for the deprivation of freedom of the Ministry of Justice, until corresponding laws have been passed.

10. The provisions of Article 29, paragraph 2, also apply to companies registered prior to the enactment of this law.

11. The minister of internal affairs issues a regulation on the procedure governing appointments, service, and dismissal for the Ministry of Internal Affairs.

12. The execution of this law is assigned to the minister of internal affairs.

## Law on Transfer of State Property

91P20427C Prague HOSPODARSKE NOVINY  
in Czech 28 Feb 91 pp 8-9

["Text" of law dated 26 February adjusting the conditions of transferring state property to private ownership]

[Text]

### LAW of 26 February 1991 on Requirements To Transfer State Property to Other Persons

The Federal Assembly of the Czech and Slovak Federal Republic has adopted the following law:

#### PART ONE. Subject and Extent of This Adjustment

##### Section 1

(1) This law adjusts the conditions of the transfer of state property, which had been under the management of national enterprises, national monetary institutions, national insurance companies or other state organizations (hereinafter only business<sup>(1)</sup>), including their participation in the property management with other legal entities, as well as conditions of transfer of the state participation in such property management, to Czechoslovak or foreign legal entities or private individuals (hereinafter only "privatization").

(2) This law shall be similarly implemented in cases of foreign trade companies and foreign trade special purpose organizations and their management participation in business conducted by other legal entities.

(3) The conditions of the transfer of state property under the provisions of this law do not apply to properties which, according to the constitutional or special laws may only be owned by the state.

##### Section 2

Business property for the purposes of this law is defined as the sum of material and financial assets to which the business holds management rights or which are in its direct ownership, as well as the sum of rights and other material values and obligations of the business.

##### Section 3

(1) Property which is to be returned to legal entities under separate regulations<sup>1</sup> is not subject to this law.

(2) Former church, religious order or congregation, and religious society properties which were transferred to the state after 25 February 1948 are not subject to this law.

(3) In cases of private individuals whose entitlement to property may arise under separate regulations,<sup>2</sup> this law shall apply only under the condition that such entitlement has not been exercised during the time period specified or if such person's claim has been rejected.

#### Section 4

Even under the conditions where the property was proposed or scheduled for transfer of ownership to other legal entities or private individuals according to separate regulations,<sup>3</sup> such assets may not be assigned until it can be shown that these operational units have either not been included or have been removed from the list of properties to which the provisions of these regulations apply.<sup>4</sup>

#### PART TWO. Privatization Projects

##### Section 5

Transfer of property under the provisions of this law is carried out according to the approved business privatization programs or according to an approved privatization project of the state property participation in business.

##### Section 6. Business Privatization Projects

(1) Business privatization projects are determined by the sum of their economic, technical, property, and time requirements and other information containing:

a) business trade name and specification of assets subject to privatization under this project (hereinafter only "privatized property"),

b) information on how the state acquired the private property,

c) definition of the part of property which cannot be used for business purposes, (i.e. uncollectible accounts receivable, unserviceable fixed assets and inventories),

d) appraisal of property being privatized,

e) method of transfer of the property being privatized, including settlement of any claims against such property,

f) in case of a founding of a trading company, determination of its legal form,

g) in case of a founding of a corporation, the method of share distribution, the type of ownership or types of stocks to be issued, as well as any information as to whether and to what extent may investment coupons be used [NOTE: Each citizen is to receive one coupon from the federal government and may purchase additional coupons at a set price; the coupons may later be exchanged for corporate shares],

h) if property is being sold, the method of sale and determination of price and payment conditions,

i) in cases where provisions of paragraph 3, Section 11 apply, determination of shares of privatized property according to paragraph 4, Section 11,

j) method of transfer of rights to industrial or intellectual property negotiated with the Federal Patent Office to the extent that these rights are part of the business assets,

k) time schedule to carry out the privatization of the property.

(2) Business privatization projects may, in addition to items indicated in paragraph 1, include the following:

- a) recommendations concerning the type of business to be conducted,
- b) information concerning individuals who have expressed interest to purchase the business, participate in forming a trading company with the use of the business property, or in purchase of shares of the newly established corporation,
- c) information on current and expected standing of the business on the market [market study],
- d) data on the number and job classification of the employees.

(3) Business privatization projects may also pertain to a part of the business, the entire business, or assets of several businesses.

#### Section 7

(1) The founder or person starting the business (hereinafter the "founder"), to whom the proposals of the business privatization project has been submitted, is responsible for drafting the business privatization proposal.

(2) The proposal of the business privatization project is generally prepared by the business which is being privatized. If the privatization project proposal is prepared by the founder or a person other than the business, the founder will request the business to take a position on the proposal.

(3) The founder may ask the business to prepare the business privatization project proposal and provide an appropriate deadline.

(4) The business shall inform the appropriate [industrial] branch agency [usually ministry] of the business privatization plan.

#### Section 8

(1) The founder judges all presented business privatization projects which have been submitted and presents them, with his stated position and without undue delay, for approval by:

- a) the Federal Ministry of Finance, if the founder is the central federal agency of state administration,
- b) the appropriate republic administration agency in all other cases.

(2) In accordance with paragraph 1, the founder submits the proposals of the business privatization projects which he does not propose to carry out together with the justification of his position.

#### Section 9. Privatization Project of the State

##### Property Participation in Business

(1) The central federal agency of the state administration which is responsible for the state's rights concerning the

property participation in the legal entity's business enterprise, is also responsible for the preparation of the privatization projects for such participation within the deadline established by the Government of the Czech and Slovak Federal Republic and submits the proposals to the Federal Ministry of Finance.

(2) The agency of the republic central administration or the township which is exercising the rights of the state pertaining to the property participation in the legal entity's business enterprise is responsible for preparation of the privatization projects of such participation within the deadline set by the government of the Czech Republic or the government of the Slovak Republic (hereinafter only "republic government") and submitting it to the appropriate agency of the republic administration.

(3) Privatization projects of state property participation in business enterprises (hereinafter only "privatization project with participation") shall contain appropriate and requisite material concerning the business privatization project.

(4) A proposal of a privatization project with participation is generally prepared by the legal entity concerned. Procedures indicated in Sections 7 and 8 apply as appropriate.

#### Section 10. Approval of Privatization Projects

(1) Business privatization projects and privatization projects with participation are approved and publicized by:

a) the Federal Ministry of Finance, in cases where the federal central agency of state administration is the business founder or where it has executory responsibility for state's rights pertaining to the property participation by legal entities,

b) the appropriate republic central administration agency in all other cases.

(2) The Government of the Czech and Slovak Federal Republic or the republic governments may reserve the right to approve business privatization projects and privatization projects with participation.

(3) Privatization projects concerning direct sales outside the public competition or public auctions are subject to approval under the provisions of paragraph 2.

#### PART THREE. Transition of Privatized Property to Capital and Uses of the Fund Assets

##### Section 11

(1) In accordance with the approved privatization project, the fund may close the business without liquidation or withdraw parts of the business assets [from privatization].

(2) In cases where the founder, as of the date of transfer, is the federal central agency of state administration, the privatized property is transferred effective on the date of business closure or on the date of the partial asset withdrawal by the Federal Fund of Nationalized Property established by this law under the provisions of Section 29

(hereinafter only "Fund"). This is not applicable in cases indicated under provisions of Section 42.

(3) If the business founder is the agency of the republic administration agency or a township, the privatized property transfers on the date of business closure or partial asset withdrawal by the Fund of the Czech Republic Nationalized Property or the Fund of the Slovak Republic Nationalized Property (hereinafter only "republic funds") to be governed by the laws of the national councils.

(4) According to paragraph 3, the following is transferred to the appropriate republic fund:

a) the portion of the privatized property located in the territory of the appropriate republic,

b) monetary assets and properties based on the rights and obligations according to location of the organization segment with whose activities these rights and obligations are linked,

c) monetary assets and property based on the rights and obligations which are not tied to the activities of any of the organizational elements according to the share flowing from the value of the privatized property which was transferred to the appropriate republic fund according to subparagraphs a) and b).

(5) Prior to the transfer of property under provisions of paragraphs 2 and 3, the business will use the portions of unserviceable property (Subpara c), Para 1, Section 6) according to the approved privatization project.

(6) The founder will not remove that part of the business property which forms, or which is tied to rights of industrial or other intellectual property (subpara j), para 1, Section 6) according to the approved privatization project. These right are transferred by contract.

(7) If the entire business assets are being transferred to the Fund, or a republic fund, the founding of the trading company or sale of such property must be timed to coincide with the closure of the business without liquidation.

(8) On the day established in the approved privatization project with participation, the federal central agency of the state administration transfers the rights pertaining to the participation to the Fund and the republic administration agencies and townships to the appropriate republic fund.

#### Section 12

(1) Property of the Fund and republic funds (hereinafter only "funds") do not form a part of the state budgets and can be used only for purposes authorized by law.

(2) The fund property may be used in accordance with the approved privatization projects under the following methods of privatization:

a) founding of a corporation or other trade companies<sup>5</sup> and managing of the asset participation in these companies,

b) sale of business property or its part,

c) transfer of the privatized property to townships,

d) transfer of the privatized property for purposes of social security [retirement] or health insurance,

(3) For the purposes of using the property according to paragraph 2, authorization under special regulations<sup>6</sup> is not required.

(4) The fund assets may be used to compensate entitled individuals according to special regulations.<sup>2</sup>

(5) The fund assets may be used to fulfill the obligations of businesses scheduled for privatization.

#### Section 13

Subsidies are not authorized in the sale of fund assets. For the sale of shares, only subsidies specifically authorized by the law on corporations may be granted.

#### Section 14

(1) Sale of privatized assets is carried out by the funds on the basis of a contract closed with the purchaser or at a public auction. If the sale takes place at a public auction, the procedures are commensurate to those in transfer of state properties according to special regulations.<sup>3</sup>

(2) In investing the privatized property as capital assets of a trading company, the funds act in accordance with the special regulations.<sup>5</sup>

#### Section 15

(1) The sale of privatized property or its investment in the capitalization of a corporation, the property rights to these assets as well as any other rights and obligations related to the property being privatized is transferred to the purchaser as of the date the contract becomes effective.

(2) Transfer of the accounts receivable generally follows the legal provisions of ceding the receivables according to special regulations.<sup>7</sup>

(3) The transfer of obligations does not require the creditors assent, but the fund warrants with its assets the fulfillment of the obligations by the purchaser of the privatized property.

(4) The purchaser is required to notify the creditors of the assumption of obligations without undue delay.

#### Section 16

Rights to industrial and other intellectual properties are transferred on basis of a contract between the purchaser and the business.

#### Section 17

Business rights and obligations arising from the labor code governed relations to employees of a business or its organizational element which is effected by the privatization, are transferred to the purchaser.

**Section 18**

If the entire assets of a business are privatized and the contract or legal requirements do not state otherwise with respect to the business property being invested as capitalization of a trading company, the purchaser assumes the entitlement to use the trade name of the business unless contradicted by the law determining the use of trade names. This entitlement is not negated by the change of adding the legal form of the business to the trade name.

**Section 19**

(1) As of the day the contract enters into effect, the fund is required to release and the purchaser to assume the assets included in the privatized property. The transfer of assets is recorded and signed by both parties to contract.

(2) Transfer of the assets also transfers to the purchaser the risk of damages to these assets together with his right of ownership.

(3) To obtain ownership rights to real estate, registration in accordance with the special regulations is required.<sup>8</sup>

**Section 20**

(1) The transaction record (paragraph 1, Section 19) will include all missing items or defects. Unless stated otherwise by the terms of contract, missing are considered those items which have not been transferred to the purchaser although the accounts list them as part of assets being transferred. In judging the defects, their serviceability for business operations at the time of their utilization according to the company accounts will be taken into consideration.

(2) Unless otherwise stated by the terms of contract, the purchaser is entitled to ask for an appropriate discount for missing or defective items included in the record of transaction.

(3) The purchaser may also establish claims to lower payment on basis of obligations which were transferred to him without being recorded in the business accounting records.

**Section 21**

During the transfer of assets and recording of the transaction on the day of the business closure, the persons representing the fund are entitled to act in the name of the business. During this activity, these individuals are responsible to the fund.

**PART FOUR. Investment Coupons****Section 22**

(1) Investment coupons (hereinafter only "coupons") are defined for the purposes of this law as instruments which entitle the holder to purchase stocks subject to sale for such coupons. A coupon is nontransferable and the rights thereto transfer only to rightful heirs.

(2) The coupon may not be amortized.

**Section 23**

(1) The coupons shall include specifically:

- a) Name and birth number of the citizen
- b) Agency which issued the coupon
- c) Purchase price
- d) Expiration date
- e) Date of issue

(2) The coupon issuer is the Federal Ministry of Finance.

(3) Net coupon sale proceeds will be transferred to the appropriate republic fund according to the permanent residence of the coupon purchaser on the date of purchase.

**Section 24**

Every Czechoslovak citizen with a permanent residence in the territory of the Czech and Slovak Federal Republic who has reached the age of 18 on the date of the coupon issue is entitled to receive these coupons.

**Section 25**

(1) Coupons of the appropriate issue may be used:

a) to purchase shares of any corporation included for this purpose in the list of privatized projects, provided the citizen will exercise his right prior to the expiration date indicated in this listing,

b) to gain participation in trade companies established specifically for this purpose after a previous approval by the appropriate republic agency.

(2) Methods indicated in paragraph 1 may be used concurrently.

**Section 26**

In the exchange of coupons, their owner may be represented by a private individual or a legal entity with a power of attorney.

**PART FIVE. Federal National Property Fund****Section 27**

(1) A Federal National Property Fund is hereby established as a legal entity. The Fund shall be inscribed in the company register.

(2) The Fund agencies are the management, the executive committee, and the board of directors.

(3) Property of the Fund are assets transferred thereto according to paragraph 2, Section 11, and profits from its participation in business of trading companies.

(4) Details on and organization of the Fund and its activities are ruled by the by-laws approved by Fund management.

### Section 28

(1) According to the approved privatization project, the Fund makes contracts in its name and takes other legal actions, specifically:

a) acts as founder for corporations and other trading companies or participates in their founding and invests assets which it has obligated for the purpose,

b) obtains shares on basis of its participation in the corporate business operations and carries out duties of a stockholder, including participation in stockholder meetings,

c) carries out the responsibilities of a partner in its participation in companies other than corporations,

d) shares in the business results of trading companies in whose operations it participates and bears the risk in form of profit or loss,

e) sells stocks or shares in companies other than corporations,

f) shares in the residual assets of liquidated companies to the extent of its participation in its operations in case a closure occurs,

g) makes contracts for sale of businesses, their separate plants or parts of their assets while taking advantage of public competition,

h) leases its assets for a specified period of time until they are used in privatization,

(2) The Fund employs professionals whose remuneration is approved by the management.

### Section 29

In implementing activities indicated in Section 28, the Fund incurs certain rights and obligations. The Fund is entitled to demand its rights in the court of law and may be sued for missing out on its obligations or other responsibilities for which it vouches with all its assets.

### Section 30

The highest agency of the Fund is the management board which consists of nine members. The chairman, deputy chairman, and members, selected at the recommendation of the Czech and Slovak Federal Republic Government for a period of five years are approved by the Federal Assembly. Member of the management board may not be a member of either the Czech and Slovak Federal Republic Government, the Czech Republic government, or the Slovak Republic government, representative of the Federal Assembly, or a member of either the Czech or the Slovak National Council.

### Section 31

(1) Functions of the management board include:

a) name and manage the executive committee and oversee its activities,

b) approve the Fund by-laws,

c) approve remuneration of the executive committee members,

d) prepare proposals for the Fund budget and submit for discussion to the Czech and Slovak Federal Republic Government,

e) approve the management board and the executive committee agenda,

f) discuss the annual Fund financial statements and submit to the Czech and Slovak Federal Republic Government for approval, and

g) discuss not later than 30 April the annual Fund activities report for the preceding year.

(2) Budget and Annual Financial Statements are submitted by the Fund to the Czech and Slovak Federal Government for discussion and to the Federal Assembly for approval.

### Section 32

(1) The management board can make decisions in its meeting when a quorum of its members (simple majority), including the chairman or deputy chairman, is present. A majority vote of those present and voting is required to approve decisions. In case of equal number of votes, the chairman acts as a tie breaker.

(2) The chairman or, in his absence, the deputy chairman, signs the documents in the name of the management board.

### Section 33

(1) The Fund activities are carried out, within the framework of management board decisions, by the Fund executive committee (hereinafter only "committee").

(2) The committee acts in the name of the Fund to the extent outlined in the by-laws. The by-laws establish which written legal actions require the signature of two members of the committee. The by-laws further determine to what extent may the committee members act in the name of the Fund and provides power of attorney to act in the name of the Fund. Committee members are entitled to act for the Fund and enter their names in the company register.

### Section 34

(1) The committee consists of nine members named by the management board for a period of five years. Prior to the expiration of their term, the management may recall a member of the committee for a cause (if he is violating his responsibilities and is not capable of carrying out his function properly).

(2) Committee members elect from among them a chairman and not more than two deputy chairman.

(3) Committee members are employees of the Fund.

**Section 35**

(1) The board of directors (hereinafter only the "Board") oversees the activity and management of the Fund by the management board and the committee. According to the subject matter, it critiques the management board, the Government of the Czech and Slovak Federal Republic, the Federal Assembly, or other appropriate agencies on any determined shortcomings.

(2) Prior to submitting the annual budget and financial statement to the Czech and Slovak Federal Republic Government, the management board is required to discuss it with the Board.

**Section 36**

(1) The Board consists of five members elected by the Federal Assembly for a period of five years. The Federal Assembly may recall a member of the Board prior to the expiration of his term. The election and recall votes on a member of the Board are by a secret ballot.

(2) Fund employees may not be elected to Board membership.

**Section 37**

(1) From its members, the Board elects a chairman and deputy chairman.

(2) Section 32 is similarly applicable.

**Section 38**

The functions of the management board member, the committee, and the Board are mutually exclusive.

**Section 39**

Members of the management board, the committee and the Board or the Fund employees may not carry out activities which would be contrary to the interest of the Fund; particularly they may not be members of the corporate bodies in whose business operations the Fund participates. Members of the management board, committee, and the Board may not obtain any Fund assets except stock purchased with coupons.

**Section 40**

The Fund makes compensation for costs related to its activities within the framework of its budget approved by the Federal Assembly.

**PART SIX. Special, Temporary, and Concluding Rules****Section 41**

(1) For the purposes of privatization, including the use of coupons, the Government of the Czech and Slovak Federal Republic will prepare principles, no later than within three months after this law takes effect, which will provide a basis for the appropriate central agencies, state administrations, and townships, to submit to the appropriate government for approval lists of state property participation in businesses of other legal entities which will be included in the privatization.

(2) Lists of businesses submitted for approval shall contain specifically the business trade name, its headquarters, founder, property appraisal, and the number of employees in the business. List of state property participation in business activities of other legal entities submitted for approval shall contain specifically the name of the legal entity, its legal form, type of business, and the extent of the state participation in this enterprise.

(3) The Government of the Czech and Slovak Federal Republic will establish deadlines for preparation of the privatization projects.

**Section 42**

(1) Property of the foreign trade companies, special purpose foreign trade organizations, national monetary institutions, except for the Czechoslovak National Bank and National Savings and Loan Institutions, founded prior to the date of the effectiveness of this law shall be, according to the business privatization project, transferred to the Fund of nationalized property of the republic in which the privatized business has its headquarters and will be invested as capitalization of the corporations founded by this Fund.

(2) If the property of the privatized business is transferred to the Fund of nationalized properties of the Czech Republic, this fund will, after founding a corporation, transfer one third of the shares to the nationalized property fund of the Slovak Republic. If the property of the privatizing business shall be transferred to the nationalized property fund of the Slovak Republic, this fund shall transfer, after the founding of the corporation, two-thirds of the shares to the nationalized property fund of the Czech Republic.

(3) If the businesses indicated in paragraph 1 were transferred to corporations prior to the effective date of this law or have been founded as corporations, state participation in their business operations transfers on the date of approval of the privatization project, two-thirds of their participating shares transferred to the nationalized property fund of the Czech republic and one-third to the nationalized property fund of the Slovak Republic.

**Section 43**

Provisions of this law pertaining of the federal central agencies of state administration also pertain to the Czechoslovak National Bank.

**Section 44**

Business property appraisals, contained in the approved privatization project, replace the appraisals of the non-monetary investments in capitalization of a corporation was carried out by a court expert as required according to special regulations.<sup>9</sup>

**Section 45**

(1) Outside of the usual business management,<sup>10</sup> businesses cannot make contracts to transfer property ownership to which they have the right of management, handle their property participation in legal entity business, nor act as their founder.

(2) Exceptions from the rule under paragraph 1 may be granted in justified cases by the appropriate government. The granted exceptions replace permits according to special regulations.<sup>6</sup>

(3) State property participation in businesses of legal entities may only be handled according to the approved privatization project with participation.

(4) Regulations of paragraphs 1 and 2 do not apply to legal entities indicated in paragraph 2, Section 1, or to budget supported and dues charging organizations.

#### Section 46

(1) The legal status of republic funds, their activities, and methods of using their property will be established by the national council laws which will also determine in which cases may the republic fund assets be used for purposes other than privatization.

(2) Government of the Czech and Slovak Federal Republic, after an agreement with the republic governments, shall establish regulations governing the distribution of the coupons, the various types of coupons, the purchase price of the coupons, method of expressing the extend of entitlement to stocks and the rules for using the coupons.

#### Section 47

(1) If a forfeiture of ownership right to privatized property or its part occurred under the provisions of paragraph 3, Section 2, Law No. [number not given]/1991 Sb. [of the Legal Gazette] on out-of-court rehabilitations it gives rise to entitlement to those individuals under the cited law; method of settlement will be determined by the privatization project for that property.

(2) The person with entitlement may claim his rights through an agency responsible under the provisions of Paragraph 1, Section 10 with respect to the approval of privatization project until 6 month from the date this law went into effect, otherwise the entitlement expires; this person shall also inform the appropriate agency as to which business is holding the item. The appropriate nationalized property fund is responsible, under the provisions of paragraph 1, to carry out the implementation of the privatization project within the time schedule given, but not later than one year from the approval of the privatization project.

(3) Otherwise, for the determination of extent, method of implementation, and settlement of the claim according to paragraphs 1 and 2 appropriate provisions of the Law No. [number not published]/1991 Sb. on out-of-court rehabilitations will apply.

#### Section 48

Superseded are:

1. Section 28 of the Law No. 111/1990 Sb. on National Companies.

2. Legal Provisions No. 364/1990 Sb. on Managing Property Entrusted to a National Company.

#### Section 49

This Law becomes effective on the 1st of April 1991.

#### Footnotes

1. For example, Law No. 298/1990 Sb. on adjustment of some property adjustments of religious orders and congregations and the Olomouc bishopric.

2. For example, Law No. 03/199 Sb. on mitigating the results of some property injustices, in the text of Law No. 456/1990 Sb.

3. Law No. 427/1990 Sb. on transfers of state ownership of certain items to other legal entities or private individuals, within the provisions of the Law No. 541/1990 Sb.

4. CNR [Czech National Council] Law No. 500/1990 Sb. on the jurisdiction of some Czech Republic agencies in the matters of transfers of state ownership of certain items to other legal entities or private individuals. SNR (Slovak National Council) Law No. 474/1990 Sb. on the jurisdiction of some Slovak Republic agencies in the matters of transfers of state ownership of certain items to other legal entities or private individuals.

5. Law No. 104/1990 Sb. on corporations. Law No. 109/1964 Sb., commercial code in the later version of the regulations.

6. Law No. 173/1988 Sb. on joint ventures with foreign asset participation under the version of the Law No. 112/1990 Sb.

7. Law No. 40/1964 Sb., public code. Law No. 109/1964 Sb., commercial code in the later version regulations. Law No. 101/1963 Sb. on legal application in the international trade relations (international commercial code).

8. Law No. 95/1963 Sb. on state notaries public and procedures before the notaries in the later version on of the regulations.

9. Law No. 104/1990 Sb. on corporations.

10. Law No. 109/1964 Sb., commercial code in the later version of the regulations.

#### Decree on Wage Tax Adjustments in 1991

91P20427A Prague HOSPODARSKE NOVINY  
in Czech 20 Feb 91 p 8

["Text" of Federal Republic decree dated 3 January on adjusting tax payments to the federal budget]

[Text]

#### Wage Tax Adjustments in the Year 1991

In accordance with Subparagraph a), Paragraph 1, Section 10, and Paragraph 2, Decree No. 105/1989 of the Sb. [Sbirka Zakonu = Official Gazette] on Tax Payments to the Federal Budget.

**Section 1. Scope**

(1) Adjusted tax rates for excess wages and benefits and the tax rates on wage allocation increases over the base year (hereinafter only rates) are the responsibility of legal entities carrying out commercial activities<sup>1</sup> and private individuals engaged in entrepreneurial activities and entered in the Company Register<sup>2</sup> with the following exceptions:

a) Organizations in which the number of employees during the tax periods for which payments are due does not exceed 25.

b) Civic and special interest associations,<sup>3</sup> except companies and commercial facilities of these associations, employing a larger number of individuals during the tax period than authorized under Para (1) a) above. (2) Number of employees under Para (1) is understood to be:

a) the actual adjusted average registered number of employees during the tax period in question to the extent the company keeps such records, or

b) the highest daily average number of employees, unless the organization is keeping records of the actual average registered number of employees.

**Tax Adjustments for Excess Wages and Other Benefits****Section 2**

The tax base is the amount by which the wages, benefits, and other economic incentives, wage compensations, and similar reimbursements disbursed by the organization during the calendar quarter (hereinafter only wages and other benefits), and reduced according to Section 3, exceed the costs not subject to tax, as determined by the organization according to Section 4.

**Section 3**

The following compensations act to reduce the wage and other benefit costs:

a) Royalty payments under the provisions of the authorship law.

b) Royalty payments for the use of inventions, industrial models, and improvement suggestions for evaluated solutions to specific problems and similar awards (awards for developing new methods in prevention, diagnostics, and cure of people and animals, new ways of protecting plant life, awards for raising new breeds of animals, etc.).

c) Monetary awards (cash payments) disbursed in public and privately held competitions and for given public pledges.

d) Wages and other payments for work, wage indemnity, and similar compensation made from the federal budget (for example, to provide for defense of the national economy or compensations for portion of a graduate's starting pay).

e) Wage indemnity.

f) Equalization wages and other monetary compensations and restitutions established by legal provisions.

g) Domestic labor wages.

h) Compensations made to housing cooperative officials, wage and other personal costs of the housing management centers, and to self-help housing construction in housing cooperatives.

i) Supplemental payments to compensate employees transitioning to other jobs for average wages according to Subparagraphs a) and b), Paragraph 4, Section 37 of the Labor Code.

j) Payments for activities and work carried out after regular hours on basis of part-time contracts in editing and publishing organizations, provided this work was being done under regular employment during 1990.

**Section 4**

(1) Wage and other benefits not subject to tax during the calendar quarters are totals calculated by the organization from the wage tables (Para 2 through 4), increased by 5 percent, and from the amount of wages in excess of the table rates being paid according to Para 5 and 6.

(2) The wage tables are an aggregate of:

a) time and piece-work wages and mixed wages with a piece-work component without the effect of meeting the performance standards (Para 4) cleared during the calendar quarter;

b) amounts which, in case of employees being paid proportionate wages and mixed-wage rates with a sharing component or a consolidated and combined wage, correspond to wage tables used in determining the proportional rate or rates of the consolidated and combined wage tables per hours contracted during the calendar quarters.

(3) If the wage tables implemented during the calendar quarter:

a) by a private individual engaged in entrepreneurial activity and entered in the Company Register<sup>3</sup> is higher than the basic wage tables established by legal provisions<sup>4</sup> by more than 40 percent, this individual will reduce the total wage rates (Para 2) to a ratio corresponding to a percent of the average wage rate arrived at on the basis of wage tables which are increased by 40 percent and by the average wage rates obtained from the wage tables used during the calendar quarter; wage rates steps for individuals are added up and the total is divided by the number of these rate steps,

b) by a legal entity authorized to conduct commercial activities<sup>1</sup> is higher than the basic wage tables used as of December 31, 1990, this entity will reduce the total wage rates (Para 2) to correspond to the ratio calculated on the basis of wage rates in effect on December 31, 1990 and the average wage scale calculated from the wage tables used during the calendar quarter; the wage rate for individual rate steps (classes) are added up during the accounting and the total is divided by the number of these rate steps.

(4) The organization eliminates the effect meeting performance standards by dividing the sum total of piece-work wages and the piece-work rate component of the mixed wages by a coefficient expressing the fulfillment of these standards determined on the basis of the total of standard hours and hours worked under the corresponding type of wages or by using another, more accurate, method.

(5) Organizations determine the share of nonstandard wage items, as a percentage of total wage rates unless otherwise established below (Para 6 and 7), from 1990 totals of these items and the total of the wage rates in the same year. The organization determines total nonstandard wages by subtracting 1990 wages (Para 2 and 4), in compliance with Para 3 and accounted for as wage disbursement for the same year, from authorized total wages and other benefits for 1990 which are calculated according to the legal provisions of the Wage Fund Directives.<sup>5</sup>

(6) Organizations with foreign capital participation and organizations which were not required to calculate the authorized total wages and other benefits for the year 1990 according to the valid legal provisions of the Wage Allocation Directives, will determine the share of nonstandard rate items according to Para 5. Instead of the authorized wages and other benefits provided by the tables, they will use the sum of wages and other benefits for 1990 which have been cleared during 1990 for disbursements from profits or royalty allocations reduced by the amount:

a) subject to supplemental payment for exceeding wage and other benefit costs or standard payment for increase in wage allocations;

b) corresponding to 10 percent of the total reduced under the provisions of Subparagraph a) [above].

(7) In organizations created later than January 1, 1990, the share of the nonstandard rates is 55 percent unless they cannot determine such share according to Para 8, because the appropriate data for the entire year 1990 are not listed within the scope of their records or other documentation.

(8) Organizations may increase the share of nonstandard items in terms of percentage of the total wage rates determined according to Para 5 and 6 or established according to Para 7 for the second and third, or third and fourth calendar quarters if the remaining two calendar quarters of the year are reduced by the same amount.

#### Section 5

(1) The tax rate is established from tax bases (Section 2) which exceed the total of wages and other benefits not subject to this tax:

| [Table as published]     |                                                           |
|--------------------------|-----------------------------------------------------------|
| Tax Rate (in percentage) | Excess Over Nontaxable Wages and Benefits (in percentage) |
| 0                        | up to 3%                                                  |
| 200                      | 3% to 5%                                                  |
| 750                      | Over 5%                                                   |

(2) The excess over the nontaxable wage and benefit amounts is determined by the ratio of the tax base (Section 2) to the total wage and benefit costs not subject to tax.

#### Section 6

Organizations founded or liquidated during the calendar year determine the tax base (Section 2) for the period from the day of founding to the end of the calendar year, or for the period from the first calendar day of the appropriate quarter to the date of liquidation.

#### Tax Adjustments for Wage Increases Over the Preceding Year

#### Section 7

The tax base is the amount of total wages and other benefits which are reduced according to Section 3 and according to the organization's compliance in making disbursements from profits and in paying royalties (hereinafter only wage allocations) for the six months that have exceeded the nontaxable wage allocations which the organization had secured according to Section 8.

#### Section 8

The total nontaxable wage allocations are determined by the organization for the six months by increasing the wages and benefits, which have been reduced under the provisions of Section 3, by 20 percent of the nontaxable total wages and other benefits (Section 4), and calculated for the same time period.

#### Section 9

The payment rate on the basis of this tax base is 750 percent [as published].

#### Section 10

Organizations created or liquidated during six months of the calendar year determine the tax base (Section 7) for the period from the date of their establishment until the end of the calendar year or for the period from the first calendar day of the respective six months period until the date of liquidation.

#### Common and Concluding Provisions

#### Section 11

(1) The organizations will submit their tax calculations by the end of the following calendar month to the agency responsible for tax administration and in whose circuit their headquarters was located on the last day of the calendar quarter. The tax administration agency may, in justified cases, extend the submission of tax reports by no longer than 15 calendar days.

(2) In case the organization is dissolved without being liquidated, its legal representative is responsible for submitting a tax report to the tax administration agency (Para 1) not later than the end of the following calendar month.

(3) In case of the liquidation of the organization, the responsibility for tax reporting continues until the liquidation is complete. After the liquidation, the liquidator is

required to make a tax report to the tax administration agency (Para 1) by the end of the following calendar month.

(4) To the extent that the organizations are doing the tax reports according to appropriate provisions of this decree, it is to be carried out with an accuracy of:

- a) two decimal points for averages and percentages;
- b) four decimal points for coefficients and shares.

(5) Organizations make tax payments from profits unless they decide to use royalty funds.

### Section 12

(1) The payments are due by deadlines established for submission of the tax report.

(2) Organizations will comply with this decree on tax rates when:

- a) exceeding the wage and other benefit costs for the first time during the first six months of 1991;
- b) an increase in wage allocations over the previous year occurs for the first time in the first six months of 1991.

### Section 13

The following are superseded:

1. Czechoslovak Socialist Republic Government Decree No. 38/1989 of the Sb. on Supplemental Payments for Disproportionate Increases in Wages and Other Work Compensations.

2. Czechoslovak Socialist Republic Government Decree No. 209/1989 of the Sb. on Payment Rates in the Wage Area.

### Section 4

This Decree takes effect on the date of publication.

#### Footnotes

1. Section 1 of the Commercial Code
2. Section 13 of the Decree No. 105/1990 Sb. on Individual Private Enterprise.
3. Article II of the Decree No. 103/1990 Sb. which changes and supplements the Commercial Code; Decree No. 83/1990 on Public Assembly.
4. Federal Ministry of Labor and Social Affairs Decree No. 135/1990 Sb. on Employee Awards in Individual Private Enterprises.
5. Federal Ministry of Agriculture and Foodstuffs Decree No. 203/1990 Sb. on Regulating Wage Allocations in State Enterprises, Agro-Foodstuff Complex, Individual Agricultural Cooperatives, and Joint Enterprises. Federal Ministry of Labor and Social Affairs Decree No. 41/1989 Sb. on Regulating Wage Allocations in the Enterprises and Commercial Activities, Housing Management, and Local Industries and Services. Czech Socialist Republic Ministry

of Finance, Prices and Wages Decree No. 111/1989 Sb. on Regulating Wage Allocations in Cooperative Organizations not Associated with the Association of Cooperatives. Federal Ministry of Labor and Social Affairs Decree No. 146/1989 Sb. on Regulating Wage Allocations. Czech Socialist Republic Ministry of Finance, Prices and Wages Decree No. 203/1989 on Regulation Wage Allocations in Cooperative Organizations. Slovak Socialist Republic Ministry of Finance, Prices and Wages Decree No. 10/1990 on Regulating Wage Allocations in Cooperative Organizations. Czech Socialist Republic Ministry of Finance, Prices and Wages Decree No. 10/[number illegible, probably 2777/68] dated January [date illegible, probably 13, 1988] on Regulating Wage Allocations in State Enterprises of the Agro-Foodstuff Complex, Whose Founders are National Committees. Slovak Socialist Republic Ministry of Finance, Prices and Wages Decree No. 6/1144/1989 dated June 20, 1989 on Regulating Wage Allocations in State Enterprises of the Agro-Foodstuff Complex, Whose Founders are National Committees.

### Decree on Increases in Pensions

91P20427D Prague SBIRKA ZAKONU in Czech  
1 Feb 91 pp 209-211

["Text" of Federal Republic decree dated January establishing the increase in social security pension benefits]

[Text]

#### DECREE

#### On Increases in Pensions dated January 1991

The Federal Assembly of the Czech and Slovak Federal Republic Resolved to Publish this Decree:

#### Section 1

This law establishes the increases in social security payments to include pensions for old age, disability, partial disability, for years of service, and for widows and orphans.

#### PART ONE

#### Increases in Pensions

#### Section 2

(1) Effective with the payments due after February 28, 1991, the pensions payable and pensions which were approved before December 31, 1991 are increased by 8 percent.

(2) Another 3 percent is added to the percentage indicated in Para (1) above to pensions approved before December 31, 1978, 2 percent to the pensions approved between January 1, 1979 and December 31, 1985, and another 1 percent to pensions approved between January 1, 1986 and September 30, 1988.

(3) The basis for the pension increases, according to Para (1) and (2), is the monthly payment to which the citizens are entitled as of the date the pension is being increased.

(4) The year of approval of the old age, disability, partial disability, or years of service pensions is understood to be the year of the day on which the pension was approved, provided the entitlement was continuously in effect up until and including the date on which the increased pensions went into effect. The year of approval of widows' and orphans' pensions is understood to be the year of approval in which such pensions were authorized or the year of death of a citizen who himself was not an annuitant.

(5) Also recognized as pensions approved as of September 30, 1988 are pensions being paid with a later effective date, provided the entitlements thereto arose prior to October 1, 1988, they were authorized under the provisions of the Decree No. 121/1975 Sb. [Official Gazette] on Social Security and they were:

a) old age pensions of citizens who were not continuously employed subsequent to the rise of the entitlement to these pensions, or

b) old age, disability or partial disability pension entitlement of citizens who were still receiving health allowances after September 30, 1988.

(6) The minimum amount of the pension increases is:

a) 190 korunas [Kcs] per month in cases of old age, disability, or years of service pensions,

b) Kcs114 per month in cases of widows' pensions,

c) Kcs95 per month in cases of complete orphans' pensions or partial pensions,

d) Kcs57 per month in cases of a one-parent orphans' pensions,

e) one-half of the amounts indicated under subparagraphs a) through d) above in cases of pensions adjusted for other income.

(7) The provisions of paragraph (6), subparagraphs a) and b) do not apply to pensions!) for old age, for years of service, or to widows' pensions reduced because of income from other gainful activity.

(8) Widows' and orphans' pensions are not further increased if they were based on entitlements increased according to Para (1).

### **Section 3. Increases in Pensions which are the Sole Source of Income**

(1) The limits for pensions which are the sole source of income under the provisions of Section 54, Para 1, and Section 68, Para 1, Decree No. 100/1988 Sb. on Social Security and the terms of the Decree no 110/1990 and the Decree No. 180/1990 (hereinafter only Social Security Law), are Kcs 1440 per month and, under the provisions of Section 54, Para 2 and Section 68 Para 2 of the Social Security Law, Kcs 2400 per month.

(2) Pensions payable on the date this Decree went into effect which have been adjusted as the sole source of income, are increased effective with the pension payment due after February 28, 1991.

(3) Old age, handicapped, widows' and complete orphans' pensions which have not been adjusted as being the sole source of income and do not attain the levels established in Para 1, are adjusted at their request not earlier than the pension payments due after February 28, 1991.

### **Section 4. Social Payment Increases**

(1) The levels of social payments under the provisions of Section 52, Para 2, of the Social Security Law, are not more than Kcs 1440 per individual or not more than Kcs2,400 in cases where another family member is also dependent on the pension.

(2) Social payments under the provisions of Section 52, Para 2, of the Social Security Law may be approved up to the totals indicated in Para 1, upon a request not earlier than after February 28, 1991.

### **Section 5. Common Provisions**

(1) In case of parallel entitlements to more than one pension, the entitlement is based on the increase of each of the pensions independently.

(2) The pension increases are also applicable to pensions above the highest amounts or a sum of pensions authorized and above the highest amounts established for parallel pensions or a sum total of pensions and increase of pensions for total disability; the amount of pensions or a sum total of pensions, including increases in pensions for total disability, however, may not exceed the amount of Kcs3,800 even after the increases under the provisions of this Decree.

(3) The increases are combined with the pensions on which they are based and constitute one unit.

(4) The pension increase are pertinent to the pension payments due after the date on which the pension is increased.

### **Section 6**

(1) If the pension is applicable to the date of the payment due during the month which includes the date on which the pensions are increased or if it is adjusted for paralleling another pension or income from other gainful activity, the amount of increase is based on the monthly payments of the pension being paid. Upon the first change of the payable amount of the pension which is linked to the reasons for pension reductions, the pension increase is effective on the date of this change.

(2) If the pension is not being paid during the month into which falls the date on which the pensions are being increased, the amount of increase is established according to the amount of the first pension installment due after the day this decree went into effect.

### **Section 7**

(1) If a pension adjusted as the sole source of income under the provisions of Sections 54 and 68 of the Social Security Law is involved, the amount of increase is based on the amount of pension prior to such adjustment.

(2) In case of partial pensions approved according to international agreements, the amount of increase is determined by the amount of pension being paid by the domestic payer.

#### Section 8

Unless otherwise provided by this Decree, the Social Security Law is similarly applicable to the pension increases.

### PART TWO

#### Conditions and Methods of Regular Pension Increases

##### Section 9

Pensions indicated in Section 1 are increased repeatedly and without delay, but not earlier than after a three month period since that last pension increase, provided that the cost of living increase was at least 10 percent since the last increase or the average wages increased by at least 5 percent

##### Section 10

(1) Fixed element of the pension increases are determined by taking into consideration the cost of living increases and increases in the average wages.

(2) The cost of living increases and increases in average wages are determined according to the statistical data published by the Federal Statistical Office and, for the

purposes of Para 1, also on the basis of the anticipated increases during the subsequent six months.

(3) Fixed amounts and percentages of the pension increases are established by a special law taking into consideration the difference between the actual cost of living and average wage increases and the anticipated increases, in establishing the earlier pension increases.

##### Section 11

The provisions of Section 2, Para 3 and Sections 5 to 8 apply equally to the pension increases under the provisions of Sections 9 and 10.

##### Section 12

Section 160 of the Decree No 100/1988 Sb. on Social Security, in context of the Decree No 110/1990 Sb. is superseded.

### PART THREE

#### Concluding Provisions

##### Section 13

These provisions assume the force of law effective March 1, 1991.

1) Section 3 of the CSFR (Czech and Slovak Federal Republic) Govt. Decree No. 118/1988 on Extraordinary Granting of Old Age Pensions

## Law on Sejm Elections

91A50179A Warsaw *DZIENNIK USTAW* in Polish  
No 59, Item No 252, 3 Jul 91 pp 777-795

[Law dated 28 June governing the electoral law to the Sejm of the Republic of Poland]

[Text]

### Chapter 1. General Principles

Article 1. Elections of deputies to the Sejm of the Republic of Poland are popular, direct, equal, and free, and conducted by secret ballot.

Article 2. Under the principle of proportionality, 460 deputies are elected to the Sejm of the Republic of Poland, with the reservation that:

- 1) 391 deputies are elected from district lists of candidates in multiseat electoral districts;
- 2) 69 deputies are elected from national lists of candidates linked to district lists of candidates.

Article 3. Every voter has one vote.

Article 4. 1. The term of office of the Sejm commences on the day of its first session and continues until the deputies gather for the first session of the subsequent term of office of the Sejm.

4. 2. The president of the Republic of Poland orders elections not later than four months prior to the expiration of the Sejm's term of office, on designating election day on a legal nonwork day during the last month of the expiring term of office of the Sejm. The president's order is published in *DZIENNIK USTAW RZECZYPOSPOLITEJ POLSKIEJ* not later than 115 days before election day.

4. 3. In the order referred to in Paragraph 2, the president simultaneously designates the days on which the activities of the electoral calendar prescribed in the present law expire.

Article 5. 1. In the event of dissolution of the Sejm the president orders, not later than seven days from the date of the dissolution order, new elections to the Sejm, on designating them on a legal work-free day within four months from the date the order to dissolve the Sejm is issued.

5. 2. The president's order is published in *DZIENNIK URZEDOWY RZECZYPOSPOLITEJ POLSKIEJ* "MONITOR POLSKI" not later than 100 days prior to election day; in this event the provisions of Article 4, Paragraph 3, apply correspondingly.

### Chapter 2. Voting Rights of Citizens

Article 6. 1. The right to vote belongs to persons with Polish citizenship who completed 18 years of age on election day (electoral franchise).

6. 2. The right to vote also belongs to persons whose Polish citizenship has not been corroborated and who are not citizens of another country, provided that they have been

permanently residing on the territory of the Polish Republic for at least five years.

Article 7. The following persons are not eligible to vote:

- 1) Those deprived of public rights by a valid judicial ruling;
- 2) Those deprived of voting rights by a ruling of the Tribunal of State;
- 3) Those declared entirely or partially incapacitated by a valid judicial ruling owing to mental illness or mental retardation.

Article 8. To be elected to the Sejm a person must be a Polish citizen who is eligible to vote, if on election day he/she has completed 21 years of age and if he/she has been permanently residing on the territory of the Polish Republic for at least five years.

### Chapter 3. Voters' List

Article 9. 1. Names of persons eligible to vote are recorded on the voters' list.

9. 2. A voter's name may be recorded on only one voters' list.

Article 10. 1. The voters' list is prepared according to the updated registry of voters in a gmina, kept by the gmina office pursuant to guidelines defined in separate regulations.

10. 2. Persons deprived of voting rights are deleted from the voters' list in accordance with notices from courts of law or from the Tribunal of State, transmitted by a procedure specified by the minister of justice.

Article 11. 1. The voters' list is prepared in two copies, separately for each electoral ward, according to the addresses of the voters.

11. 2. The voters' list specifies the voter's name and surname, father's name, date of birth, and address.

11. 3. The voters' list is prepared by the gmina office not later than 14 days before election day, as a task [instructed by the state].

Article 12. 1. Military personnel performing basic or periodic military service, serving as candidates for the career military, or undergoing exercises and military retraining, as well as labor-brigade members doing substitute military service in civil defense outside their home districts are registered on request in the voters' list they select, prepared for the locality in which they are serving. The request is submitted 21 to 14 days prior to election day.

12. 2. The provisions of Paragraph 1 apply correspondingly to police personnel from barracked units.

12. 3. Commanders of military, civil-defense, and police units are obligated to provide military, labor-brigade, and police personnel with the conditions for exercising the rights ensuing from Paragraph 1.

12. 4. The minister of national defense and the minister of internal affairs, upon consulting the State Electoral Commission, shall specify the manner in which the commanders are to perform their obligations referred to in Paragraph 3.

Article 13. A voter lacking an address is registered on the voters' list proper for the locality of his/her actual sojourn upon his/her request submitted to the gmina office preparing said list not later than seven days prior to election day.

Article 14. 1. Voters' lists for hospitals, social care institutions, penitentiaries, and detention centers are prepared by the concerned gmina offices on the basis of rosters of persons whose period of residence in these institutions includes election day.

14. 2. Rosters of the persons referred to in Paragraph 1 are transmitted by directors of the institutions to the gmina offices not later than 14 days prior to election day.

Article 15. 1. information about the inclusion in voters' lists of persons residing temporarily not longer than two months in a given electoral ward as well as of the military, labor-brigade, and police personnel referred to in Article 12, and the persons staying at hospitals, social care homes, penitentiaries, and detention centers is transmitted to the gmina offices proper for the permanent addresses of these persons, so that their names may be struck out from their home voters' lists.

15. 2. A voter who changes his address after the voters' list is prepared receives on demand from the gmina office preparing that list a certificate of the right to vote that authorizes him to vote in his new electoral ward on election day.

15. 3. The gmina office that prepared the list of voters deletes from that list the persons who were issued certificates of the right to vote owing to their change of address as well the persons concerning whom it has received official notice that they were registered in another electoral district.

Article 16. 1. The voters' list is kept by the gmina office and open for public viewing.

16. 2. The village head or burgomaster or city mayor notifies voters by the customary means of the preparation of the voters' list and of the place and time of its availability for public viewing.

Article 17. 1. Polish citizens sojourning abroad who can show a valid Polish passport are registered on the voters' list prepared by the local consulate of the Republic of Poland.

17. 2. The registration is performed on the basis of an application received from the interested party verbally, in writing, by telephone, by telegraph, or by telefax. The application should contain name and surname, father's name, place of sojourn of the voter, and the number and

place and date of issue of the valid Polish passport. The application can be submitted at the latest three days before election day.

17. 3. The State Electoral Commission shall, in cooperation with the minister of foreign affairs, define the manner in which the voters' list referred to in Paragraph 1 is to be prepared and updated.

Article 18. 1. Any citizen can submit to a gmina office, verbally or in writing, a claim about any irregularities in the preparation of the voters' list, and in particular concerning:

- 1) Omission of a voter on the voters' list;
- 2) Registration on the voters' list of a person who lacks the right to vote;
- 3) Inclusion in the voters' list of improper data about the voters registered.

18. 2. The village head or burgomaster or city mayor is obligated to consider the claim within 48 hours from the date of its submission and take a decision concerning revisions of the voters' list.

18. 3. The decision is handed immediately to the claimant and, when it concerns other persons, to those other persons as well.

18. 4. Claims regarding a voters' list which concerns persons referred to in Article 17, Paragraph 1, are considered by the local Polish consul. The consul's decisions on these claims are final.

Article 19. 1. A decision which disregards the claim or results in a deletion from the voters' list may be appealed within 48 hours thereafter by the claimant or the person deleted from said list to the proper district court through the mediation of the village head or the burgomaster or the city mayor. The appeal should be filed together with a copy of the decision in question and the dossier of the case.

19. 2. The court considers the appeal in nonlitigious proceedings, in a bench of one judge and two lay-judges, within three days from the date of filing. A copy of the court's ruling is handed to the appellant and to the village head or burgomaster or city mayor who prepared the voters' list. The court's ruling is final.

Article 20. The State Electoral Commission specifies, in cooperation with the Minister of Internal Affairs, the sample voters' list, the manner of preparation and updating of the list, the sample notice of registration of a voter on the voters' list of another electoral district, and the sample certificate of the right to vote.

Article 21. The voters' list is transmitted not later than on the eve of election day to the chairman of the proper ward electoral commission.

Article 22. The ward electoral commission adds to the voters' list on election day:

1) Persons presenting certificates of the right to vote, on attaching such certificates to the voters' list;

2) Persons omitted on the voters' list if, by showing a notation in their identity cards, they can prove that they are registered permanent residents of the electoral ward concerned, and if the gmina office confirms that it had not been notified of the loss of their right to vote.

#### Chapter 4. Voting

Article 23. Voting can be done only in person.

Article 24. Voting can be done only by a voter who is registered on the voters list, as well as by voters added to that list pursuant to the provisions of Article 22.

Article 25. 1. Voting takes place on the premises of the ward electoral commission without any intermission, between 0600 and 2000 hours.

25. 2. In special cases, especially those warranted by a request of voters, the ward electoral commission may, upon consulting the district electoral commission, fix an earlier hour for the commencement of voting.

25. 3. Voting in electoral wards abroad takes place between 0600 and 2000 hours local time. If local time is such that voting would be completed on the day following the election day in Poland, voting is conducted on the day preceding election day.

Article 26. 1. Before balloting commences, the ward electoral commission checks to see that the voting urn is empty, whereupon it closes it and affixes thereto the commission's seal and determines the number of the ballots received.

26. 2. Once the urn is sealed, it may not be opened until the balloting is over.

26. 3. From the moment balloting commences until it ends, at least three persons belonging to the ward electoral commission should be present on the voting premises, with at least one of these persons being the commission chairperson or his/her deputy.

Article 27. 1. Before balloting, the voter shows the ward electoral commission a document serving to verify his/her identity.

27. 2. A voter who is registered on the voters' list but lacks a document serving to verify his/her identity may call upon two credible witnesses known to the commission's members to confirm his identity. The commission's ruling on the confirmation of identity is final.

27. 3. The voter receives from the commission a ballot. To prevent multiple balloting, the voter confirms receipt of the ballot by signing his name in the appropriate column on the voters' list.

27. 4. The ward electoral commission issues a ballot that is additionally provided with the commission's own seal.

Article 28. A voter who votes abroad receives a ballot only upon showing the ward electoral commission a valid Polish passport.

Article 29. 1. On receiving a ballot a voter enters a site that is screened off to assure secrecy of balloting, on the electoral premises.

29. 2. On the ballot containing district lists of candidates for deputies the voter votes for a particular list by placing an "X" in the box to the left of the name of one of the candidates on that list, which thereby points to that candidate's priority in winning the mandate.

29. 3. Next, the voter casts the ballot into the voting urn, on folding it so that its printed side would not be visible.

Article 30. A disabled person may, at his/her request, be assisted in voting by other persons, with the exception of representatives of political parties.

Article 31. 1. Voting may not be interrupted. Should extraordinary happenings make voting temporarily impossible, the ward electoral commission may discontinue, prolong, or postpone it to the following day. This decision should be immediately made public and conveyed to the district electoral commission and the village head or the burgomaster or the city mayor.

31. 2. In the event of interruption or postponement of voting, the commission seals the aperture of the voting urn and transmits it to the commission's chairperson for safekeeping. Before balloting is recommenced, the commission verifies in writing that the seals remain inviolate.

Article 32. 1. Electioneering in electoral premises is prohibited on election day.

32. 2. Only official notices, and in particular those referred to in Articles 73 and 78, may be posted in electoral premises.

32. 3. On election day, during all the activities of the ward electoral commission, representatives of electoral committees may be present on voting premises upon showing a certificate issued by an authorized member of the electoral committee.

Article 33. Access to voting premises is prohibited to persons who bear arms.

Article 34. 1. The chairman of the ward electoral commission is responsible for maintaining peace and order during the balloting. To this end, he/she has the right to demand of persons disturbing peace and order that they vacate the electoral premises.

34. 2. On the demand of the chairman of the ward electoral commission, the commander of the local police precinct is obligated to provide needed assistance.

34. 3. In the event of a disturbance of peace in electoral premises, the provision of Article 33 does not apply.

**Chapter 5. Electoral Districts and Electoral Wards**

Article 35. 1. In order to conduct the elections, the national territory is subdivided into multiseat electoral districts, hereinafter referred to as "electoral districts," comprising the areas of one or several voivodships or parts of a voivodship.

35. 2. The subdivision into electoral districts, their numbering and boundaries, and the number of deputies elected in each district, as well as the sites of the district electoral commissions, are defined in the Supplement to the present law.

Article 36. 1. The boundaries of electoral districts and the number of deputies elected in each district are determined according to a uniform representation standard.

36. 2. The representation standard is determined for electoral districts by dividing the country's population by the number of the deputies elected in electoral districts, that is, by 391.

36. 3. The number of deputies elected in any electoral district as referred to in Paragraph 1 may not be smaller than seven deputies.

Article 37. 1. The State Electoral Commission presents to the Sejm recommendations concerning changes in the boundaries of electoral districts and in the number of deputies elected therein insofar as such a need arises owing to changes in the basic territorial division of the country or in the population of individual electoral districts.

37. 2. The recommendations referred to in Paragraph 1 are presented by the State Electoral Commission to the Sejm not later than 12 months prior to the expiration date of the Sejm's term of office. The Sejm implements changes in the subdivision of the country into electoral districts not later than 9 months prior to the expiration of its term of office.

Article 38. Information on subdivision into electoral districts in the part thereof concerning these districts is communicated to voters in the form of announcements on posters whose printing and affixing are ordered by the proper voivodes, not later than 90 days prior to election day.

Article 39. Voting is conducted in electoral wards comprising from 500 to 3000 inhabitants each, formed on the area of the gmina. In cases warranted by local conditions, electoral wards comprising a smaller or greater number of inhabitants may be formed.

Article 40. 1. Electoral wards are established in hospitals and social care homes if they house at least 50 voters each for a period comprising election day.

40. 2. Electoral wards are established for voters residing in penitentiaries and detention centers. Failure to establish such a ward may occur solely in warranted cases upon the request of the director of the penitentiary or detention center.

Article 41. 1. Electoral wards are established by the gmina council on the recommendation of the village head or the

burgomaster or the city mayor, upon determining the boundaries and numbering of the wards and the sites of the ward electoral commissions.

41. 2. Resolutions concerning the matters referred to in Paragraph 1 are immediately conveyed to the proper district electoral commission.

Article 42. 1. Electoral wards for Polish citizens sojourning abroad are established by the minister of foreign affairs in coordination with the State Electoral Commission, on designating the sites of the ward electoral commissions.

42. 2. The electoral wards referred to in Paragraph 1 are part of the electoral district proper for Warsaw-Downtown Gmina.

Article 43. 1. Information on the boundaries and numbering of electoral wards and the sites of the ward electoral commissions is made public by the village heads, burgomasters, and city mayors, by putting up posters not later than 35 days prior to election day.

43. 2. The obligation referred to in Paragraph 1 rests on consuls with respect to the electoral wards formed abroad, with the proviso that this obligation should be implemented not later than 21 days prior to election day.

**Chapter 6. Electoral Commissions**

Article 44. Elections are conducted by:

- 1) The State Electoral commission;
- 2) District electoral commissions;
- 3) Ward electoral commissions.

Article 45. 1. Members of electoral commissions forfeit their membership on the day when they sign a consent form for candidacy to the post of a Sejm deputy.

45. 2. Members of electoral commissions may not exercise the role of general or ward representatives of electoral committees.

45. 3. Members of electoral commissions may not, during an electoral campaign, engage in electioneering in favor of specific candidates or candidate lists.

Article 46. 1. Members of electoral commissions are entitled to receive per diems and reimbursement of traveling expenses in accordance with the guidelines and amounts specified by the Chairman of the Council of Ministers in coordination with the State Electoral Commission.

46. 2. Members of electoral commissions are paid a lump-sum salary for the time spent on conducting the voting and determining the results of the balloting and the elections, in accordance with the guidelines and amounts specified by the chairman of the Council of Ministers in coordination with the State Electoral Commission.

46. 3. In connection with the performance of the activities referred to in Paragraph 2, members of electoral commission are entitled to a 3-day unpaid work release from their

normal occupations and professions upon retaining the right to all the attendant job benefits for that time.

46. 4. The guidelines for and amounts of the remuneration of members of the State Electoral Commission are determined by the speaker of the Sejm.

46. 5. The provisions of Paragraph 2 do not apply to members of the State Electoral Commission.

Article 47. Members of electoral commissions are entitled to the legal protection provided for civil servants.

#### A. The State Electoral Commission

Article 48. The State Electoral Commission is a permanent body proper in matters of the preparation, organization, and conduct of elections.

Article 49. The purposes of the State Electoral Commission include, in particular:

- 1) Monitoring adherence to the electoral law;
- 2) Taking the necessary organizational measures relating to the preparation and conduct of elections;
- 3) Cooperating with the proper offices of the general and local government administration with the object of an efficient preparation and conduct of elections;
- 4) Appointing district electoral commissions;
- 5) Examining complaints about the activities of district electoral commissions;
- 6) Registering national lists of candidates for deputies;
- 7) Monitoring the updating of voters' lists and the preparation of these lists;
- 8) Examining periodic reports of the National Electoral Office on changes in the basic territorial division of the country and in the population of electoral districts;
- 9) Determining sample ballots and official forms and electoral prints as well as sample seals of district and ward electoral commissions;
- 10) Determining and announcing the final results of elections to the Sejm;
- 11) Issuing to elected Sejm deputies certificates of election;
- 12) Reporting to the Sejm on elections;
- 13) Implementing other tasks specified in the present law.

Article 50. 1. The State Electoral Commission performs its duties by acting directly or supervising the lower-level electoral commissions established for the period of elections.

50. 2. To accomplish its duties, the State Electoral Commission adopts resolutions and issues guidelines and clarifications binding on the lower-level electoral commissions and the offices of the central and local government administrations, as well as on their subordinate units which perform tasks relating to the conduct of elections.

50. 3. The State Electoral Commission establishes its own operating rules as well as the rules binding on district and ward electoral commissions, upon specifying in particular:

- 1) Operating principles and procedure of the commissions;
- 2) Manner of implementation of their objectives;
- 3) Manner of exercising supervision over adherence to electoral law.

50. 4. To assure supervision over adherence to electoral law, the State Electoral Commission may establish its own inspection team.

Article 51. 1. The State Electoral Commission determines the guidelines and procedure for utilizing the electronic system for the transmission and processing of data on the results of balloting and elections.

51. 2. The minister of communications defines, on the recommendation of the State Electoral Commission, the guidelines and requirements for using telecommunications facilities and systems as well as the public telecommunications network for electoral purposes.

Article 52. The State Electoral Commission is authorized to use an official seal as construed by the regulations governing state seals. The diameter of the seal is 35 mm.

Article 53. 1. The membership of the State Electoral Commission consists of:

- 1) Three justices of the Supreme Court indicated by the Chief Justice of the Supreme Court;
- 2) Three justices of the Constitutional Tribunal indicated by the Chief Justice of the Constitutional Tribunal;
- 3) Three justices of the Superior Administrative Court indicated by the chief justice of the Superior Administrative Court.

53. 2. The president appoints the persons referred to in Paragraph 1 to membership in the State Electoral Commission.

53. 3. Members of the State Electoral Commission elect among themselves the chairman and two deputy chairmen.

53. 4. The membership of the State Electoral Commission is made public and announced in *DZIENNIK URZĘDOWY RZECZYPOSPOLITEJ POLSKIEJ* "MONITOR POLSKI."

Article 54. 1. Changes in the membership of the State Electoral Commission occur owing to:

- 1) Resignation;
- 2) A recommendation by the chief justice who had originally recommended a justice for membership in the Commission;
- 3) Expiration of the term of office of a member of the Constitutional Tribunal or cessation of employment as a judge.

4) Demise.

54. 2. Membership in the State Electoral Commission is complemented in accordance with the provisions governing its establishment.

Article 55. 1. The permanent National Electoral Office is established.

55. 2. The National Electoral Office assists the State Electoral Commission in accomplishing its objectives, providing support services thereto.

55. 3. The director of the National Electoral Office holds the post of Secretary of the State Electoral Commission and attends its sessions in an advisory capacity.

55. 4. The guidelines for the organizational structure and activities of the National Electoral Office are defined in its statute, conferred by the Speaker of the Sejm on the recommendation of the State Electoral Commission.

55. 5. The National Electoral Office operates on the basis of funds allocated from the state budget in the line item concerning the Chancellery of the Sejm.

#### **B. The District Electoral Commissions**

Article 56. 1. The purposes of district electoral commissions include in particular:

- 1) Supervising the adherence to provisions of electoral law by ward electoral commissions;
- 2) Examining complaints about the activities of ward electoral commissions;
- 3) Registering district lists of candidates for deputies;
- 4) Ordering the printing of electoral announcements and providing them to ward electoral commissions;
- 5) Determining the results of the balloting and elections in the electoral district;
- 6) Assuring the proper preparation and conduct of elections in cooperation with the proper voivode and the village heads, burgomasters, and city mayors;
- 7) Executing other duties specified in the present law or recommended by the State Electoral Commission.

56. 2. A district electoral commission may establish its own inspection team with the object of monitoring the activities of ward electoral commissions.

Article 57. 1. The membership of a district electoral commission consists of 12 judges from locally proper appellate, voivodship, and district courts, indicated by the presiding judges of these courts.

57. 2. The State Electoral Commission appoints to membership in district electoral commissions the persons referred to in Paragraph 1 on the basis of a notice presented by the minister of justice, not later than 85 days prior to election day.

57. 3. The first session of the district electoral commission is convened, on behalf of the State Electoral Commission, by the voivode proper for the site of the district electoral commission.

57. 4. At their first meeting the members of the district electoral commission elect from among themselves a chairman and two deputy chairmen.

57. 5. The district electoral commission appoints a commission secretary on the recommendation of the director of the voivodship electoral office proper for the site of the district electoral commission. The commission secretary attends sessions of the commission in an advisory capacity.

57. 6. The membership of the district electoral commission is immediately made public by the conventional techniques.

Article 58. 1. Support services in implementing the purposes of the district electoral commission are provided by the permanent voivodship electoral office operating under the voivodship court, proper for the site of the commission.

58. 2. The director of the voivodship electoral office is appointed and recalled by the voivode in consultation with the director of the National Electoral Office.

58. 3. The organizational structure and operating procedure of the voivodship electoral office are defined by the voivode on the recommendation of the director of the National Electoral Office.

58. 4. The voivodship electoral office operates on the basis of funds allocated from the state budget in the line item concerning the budget of the voivode.

Article 59. 1. Changes in the membership of the district electoral commission follow the procedure prescribed for the appointment of its members. 2. District electoral commissions are dissolved by the State Electoral Commission after accomplishing their prescribed purposes.

#### **C. Ward Electoral Commissions**

Article 60. The purposes of ward electoral commissions include:

- 1) Conducting balloting in the ward;
- 2) Monitoring, on election day, adherence to electoral law at the time and place of balloting;
- 3) Determining the results of balloting in the ward and making them public as well as transmitting balloting records to the proper district electoral commission.

Article 61. 1. The ward electoral commission is appointed by the proper gmina council, not later than 21 days prior to election day, from among voters, on taking into account the recommendations of electoral committees.

61. 2. A ward electoral commission in an electoral ward established abroad is appointed from among voters by the local Polish consul. The related procedure, guidelines, and

schedule of appointment are determined by the State Electoral Commission in consultation with the the minister of foreign affairs.

61. 3. The ward electoral commission consists of the chairman, the deputy chairman, and four to eight members.

61. 4. The membership of the ward electoral commission is immediately made public by the usual method.

61. 5. Support services and assistance to the ward electoral commission in accomplishing its objectives are provided by the village head or the burgomaster or the city mayor.

61. 6. The obligations referred to in Paragraph 5 apply correspondingly to the services and assistance to be provided to directors of penitentiaries, detention centers, hospitals, and social care centers, as well as to consuls.

Article 62. 1. Changes in the membership of the ward electoral commission follow the procedure prescribed for appointments to such membership.

62. 2. The ward electoral commission is dissolved by the district electoral commission after accomplishing its prescribed objectives.

#### **Chapter 7. Nominating the Lists of Candidates for Deputies**

Article 63. 1. The right to nominate district lists of candidates for deputies belongs to voters, political parties and organizations, and social organizations, who and which establish for this purpose national or local electoral committees, hereinafter referred to as "electoral committees."

63. 2. The electoral committees referred to in Paragraph 1 are correspondingly governed by the provisions of the law of 28 July 1990 on political parties (Dz.U., No. 54, Item No. 312)—with the exception of Article 4 thereof—and by the provisions of other laws concerning political parties.

Article 64. 1. District lists of candidates for deputies are nominated by the electoral committees meeting the requirements defined in the present chapter.

64. 2. National lists of candidates for deputies are nominated by the electoral committees which have registered lists of candidates in at least five electoral districts.

Article 65. 1. The electoral committees which intend to nominate lists of candidates in more than one electoral district notify accordingly the State Electoral Commission not later than 75 days prior to election day.

65. 2. The notice referred to in Paragraph 1 is presented in writing and signed by three persons authorized by the electoral committee to make declarations on matters relating to its activities. The notice should specify:

1) The full name of the electoral committee (and eventually its acronym) along with its site and exact address;

2) The full names of the political or social parties and organizations, or of their electoral coalition, forming the

electoral committee, or a description of the group of voters associating themselves to establish the electoral committee;

3) A list of members of the electoral committee;

4) Name, surname, and address of the person representing the electoral committee vis-a-vis the electoral commissions.

65. 3. The name of the electoral committee referred to in Paragraph 2, Point 1, should distinguish it from other electoral committees.

65. 4. The notice referred to in Paragraph 2 may also contain a sample logo or logos of the electoral committee, such as would distinguish it from other electoral committees.

65. 5. The political or social parties or organizations forming a joint electoral committee (an electoral coalition), which intend to nominate a national list of candidates may not establish separate electoral committees for nominating district lists of candidates.

Article 66. 1. The State Electoral Commission, on receiving the notice mentioned in Article 65, Paragraph 2, acknowledges its receipt in writing and publishes information on such notices in a national daily.

66. 2. In the event that the notice is defective the State Electoral Commission immediately summons the representative of the electoral committee to rectify the errors in the notice within 48 hours. If said errors are not rectified, the State Electoral Commission declines to receive the notice. A decision on the matter together with a rationale is immediately handed to the concerned electoral committee representative.

66. 3. The decision of the State Electoral Commission referred to in Paragraph 2 may be appealed by the representative of the electoral committee to the Supreme Court within 48 hours from the date it is issued.

66. 4. The Supreme Court considers the matter in a bench of three justices in nonlitigious proceedings within 3 days from the date the appeal is lodged. The Supreme Court arrives at a ruling and issues it, together with a rationale, to the appellant and the State Electoral Commission. The ruling of the Supreme Court is final.

Article 67. 1. Not later than 63 days prior to election day the State Electoral Commission casts lots for identifying numbers to be assigned to the lists of candidates for deputies nominated on behalf of the electoral committee referred to in Article 65.

2. The State Electoral Commission immediately notifies the proper district electoral commissions and the representatives of electoral committees of the resulting identifying numbers of lists of candidates for deputies.

#### **A. Nominating the District Lists of Candidates for Deputies**

Article 68. 1. A district list of candidates for deputies is nominated to the district electoral commission not later

than 55 days prior to election day. 68. 2. The district list of candidates for deputies is nominated by the representative of the electoral committee or by a person he authorizes, hereinafter referred to as "the representative."

68. 3. The number of candidates for deputies nominated on the list may not be fewer than three candidates, but it may not exceed the overall number of deputies standing for election in the given electoral district.

68. 4. District lists of candidates should specify the name, surname, age, occupation, and address of each candidate. Names of candidates are placed on the list in the sequence determined by the electoral committee nominating the list.

68. 5. Each list of nominations should be accompanied by written declarations of consent of the candidates for deputies to candidacy on the given list of candidates.

68. 6. The representative of the electoral committee or a person he authorizes is empowered to provide explanations concerning the nominated list of candidates.

68. 7. When presenting a list nominated the representative is obligated to provide the appellation of the list (in an abbreviated or acronym form that does not exceed 40 print characters) which is to be printed on the ballot next to the identifying number of the list.

68. 8. The representative may also ask to designate on the list for individual candidates the names or abbreviations of names of the political or other parties or organizations supporting a given candidate. The related request is presented in writing prior to the expiration of the time limit for nominating district lists of candidates for deputies.

Article 69. 1. The nominated district list of candidates for deputies should be signed by the representative of the electoral committee or by a person he authorizes.

69. 2. The nominated district list of candidates for deputies, registered in the name of the electoral committee, as mentioned in Article 65, is accompanied by a written authorization of the list's representative, signed by the representative of the electoral committee.

69. 3. The nominated list of candidates for deputies for a single electoral district is accompanied by a notice that correspondingly meets the requirements of Article 65, Paragraphs 2-4.

69. 4. The district list of candidates for deputies should be supported by personal signatures of at least 5,000 voters resident in the given electoral district.

69. 5. A candidate may stand for election from only one district list and in only one electoral district.

69. 6. The representative proposes designating the district list of the electoral committee by an appellation or its abbreviation and by an identifying number cast by lots pursuant to Article 67 and assigned to the lists nominated by the given committee.

Article 70. 1. If the combined number of voters supporting district lists of candidates for deputies nominated by the

same electoral committee exceeds 50,000, or if the given electoral committee registers its district lists in at least five electoral districts, the presentation by the representative of a certificate from the State Electoral Commission attesting that the requirement of Article 69, Paragraph 4, does not apply to the district lists reported on behalf of that electoral committee will suffice to register the lists in additional electoral districts.

70. 2. As regards an electoral committee formed by an organization representing a national minority, the rights defined in Paragraph 1 apply once lists of candidates in at least two electoral districts are registered, or once at least 20,000 signatures of voters supporting a list of candidates registered in a single electoral district are gathered.

Article 71. 1. The proper district electoral commission immediately registers the district list of candidates for deputies nominated in accordance with the provisions of the present law, prepares a record thereof, and notifies correspondingly the representative of the electoral committee or of the list.

71. 2. If the list of nominations contains major errors that cannot be eliminated, the commission refuses to register it upon indicating the causes of its refusal and immediately notifies thereof the list's representative.

71. 3. If the list of nominations displays other errors, the commission immediately calls on the representative to rectify them within three days. If the indicated errors are not rectified within three days, the electoral commission refuses to register the list in its entirety or with respect to individual candidates. In the latter case, the list is registered with respect only to those candidates who pass the muster, provided that the requirements of the present law are satisfied.

71. 4. The representative has the right to appeal within three days to the State Electoral Commission the decision to refuse registering the list of individual candidates thereon. The ruling on the appeal is final.

Article 72. 1. After registering all the district candidates for deputies, the district electoral commission casts lots, not later than 42 days prior to election day, for the assignment of identifying numbers to the registered lists, with allowance for the sequence of numbers determined pursuant to Article 67.

72. 2. The district electoral commission immediately notifies the electoral committee representatives about the identifying numbers thus assigned to the lists of candidates for deputies registered in a given electoral district.

Article 73. 1. The district electoral commission orders the printing of posters containing information on registered lists of candidates, their appellations, and identifying numbers, as well as the personal information reported on the candidates.

73. 2. The posters referred to in Paragraph 1 should be transmitted to the proper voivodship electoral offices, which attend to putting them up on the area of a given

electoral district not later than 30 days prior to election day. At the same time, one copy of each poster is transmitted to the State Electoral Commission.

Article 74. 1. The district electoral commission deletes from the registered list the names of candidates who:

- 1) Forfeit their eligibility;
- 2) Withdraw consent to candidacy;
- 3) Pass away.

74. 2. If deleting from the registered district list the name of a candidate who has passed away results in leaving fewer than three names of candidates for deputies on the list, the representative may nominate a new candidate within three days afterward. The list is thus complemented not later than 10 days prior to election day. The provisions of Article 69, Paragraph 4, do not apply here.

74. 3. If deleting the name of a candidate from the list is due to a cause other than that mentioned in Paragraph 1, Point 3, or if the list is not complemented within the time limit referred to in Paragraph 2, and there are fewer than three names of candidates on the list, the district electoral commission invalidates the registration of that list. Its ruling on this matter is final.

74. 4. The district electoral commission immediately notifies voters and the representative about deletion of candidates and the decisions referred to in Paragraphs 2 and 3.

Article 75. 1. After the registration of the district lists of candidates, but not later than 38 days prior to election day, representatives of the concerned electoral committees may submit a joint declaration to the district electoral commission concerning the summation of the votes to be cast for their lists in the electoral district, as the rationale for the joint participation of these lists in the allocation of seats in the Sejm (blocs of lists of candidates).

75. 2. The declaration referred to in Paragraph 1 must be in writing. Unless the representatives decide otherwise in the declaration, the seats to be apportioned to joint candidate lists are allocated in direct proportion to the number of votes cast for each of these lists.

75. 3. Information on such blocs of particular lists of candidates is made available to voters by means of the posters referred to in Article 73.

#### **B. Reporting of National Lists of Candidates for Deputies**

Article 76. 1. An electoral committee may nominate to the State Electoral Commission a national list of candidates for deputies not later than 35 days prior to election day.

76. 2. An electoral committee which has registered district lists of candidates in at least five electoral districts is eligible to nominate a national list of candidates.

76. 3. An electoral committee formed by an organization representing a national minority as referred to in Article 70, Paragraph 2, has the right to nominate a national list of

candidates for deputies regardless of the number of district lists of candidates it has registered.

76. 4. The candidates nominated on a national list may be only those who have been registered on district lists of candidates for deputies reported on behalf of a given electoral committee. The national list presented for registration should provide information on the identifying numbers of the districts and the appellations and identifying numbers of the district lists on which the concerned candidates were registered.

76. 5. A national list of candidates must contain at least 35 candidates, and a national list nominated by an electoral committee referred to in Article 70, Paragraph 2, must contain at least 10 candidates.

76. 6. When nominated for registration, a national list of candidates for deputies should specify the appellation or acronym of the reporting electoral committee, and it should be signed by an electoral-committee representative who is authorized to make the related declarations.

Article 77. 1. The registration of national lists of candidates for deputies is correspondingly governed by the provisions of Article 71, Paragraphs 1-3. Decisions to refuse the registration of a national list or of individual candidates on that list may be appealed by the electoral-committee representative within three days afterward to the Supreme Court, which considers the appeal within three days in nonlitigious proceedings upon applying the corresponding provisions of the Code of Civil Procedure. The ruling of the Supreme Court is final.

77. 2. If it becomes necessary to revise the registered national list of candidates, the provisions of Article 74 apply accordingly.

77. 3. Registered national lists of candidates are correspondingly governed by the provisions of Article 75, Paragraphs 1 and 2, with the reservation that the time limit specified in Article 75, Paragraph 1, expires 30 days prior to election day.

Article 78. 1. After registering all the national lists of candidates for deputies the State Electoral Commission makes public an announcement containing information on these lists, their identifying numbers, the appellations or acronyms of electoral committees, the total number of candidates nominated on these lists, and information on not more than 70 candidates per list.

78. 2. The announcement referred to in Paragraph 1 is made public not later than 21 days prior to election day, by being published in a national daily.

78. 3. The announcement referred to in Paragraph 1 is transmitted to all ward electoral commissions.

#### **C. Ward Representatives**

Article 79. 1. Representatives of all electoral committees may designate one ward representative each to the proper ward electoral commission upon issuing them suitable

certificates in accordance with the sample form defined by the State Electoral Commission.

79. 2. The list of the designated ward representatives referred to in Paragraph 1 is transmitted by the electoral-committee representative to the district electoral commission not later than 7 days prior to election day. The list should specify the names and surnames of the ward representatives and name the ward electoral commissions to which the ward representatives are to be assigned.

79. 3. The district electoral commission attends to notifying the ward electoral commissions about the designated ward representatives not later than on the eve of election day.

79. 4. If the need arises to replace a designated ward representative after the expiration of the time limit referred to in Paragraph 2, the electoral-committee representative notifies accordingly the proper ward electoral commission and the district electoral commission not later than on the eve of election day.

#### **Chapter 8. Nominating Petitions for Reporting District Lists of Candidates for Deputies**

Article 80. 1. A voter who signs the nominating petition for a district list of candidates for deputies also jots down his/her name, surname, address, and number of identity card or other documents serving to verify his/her identity.

80. 2. Every page signatures in the nominating petition should contain the appellation of the electoral committee nominating the district list of candidates for deputies, on specifying the identifying number of the electoral district for which the list of candidates is nominated.

80. 3. The proper electoral commission receiving the nomination verifies in the presence of the electoral-committee representative that the number of signatures on the nominating petition for the district list meets the requirements and issues to said representative a confirmation in writing. After counting the signatures of voters the commission stores the lists of these signatures in a safe place, in closed and sealed packets.

80. 4. A voter may sign nominating petitions for more than one district list of candidates.

Article 81. 1. In the event of justified doubts as to the credibility of voters' signatures, the district electoral commission has the right to verify them.

81. 2. Finding that the number of signatures is below the required number results in refusal to accept for registration a district list of candidates, or in invalidating its registration for a given electoral district. The related decision is immediately communicated by the commission to the electoral-committee representative.

81. 3. Doubts as to the credibility of the signatures may be announced not later than 45 days prior to election day.

81. 4. The decision referred to in Paragraph 2 may be appealed within three days afterward by the electoral-committee representative to the territorially proper voivodship court.

81. 5. The voivodship court examines the appeal referred to in Paragraph 4 within 24 hours in nonlitigious proceedings, in a bench of three judges. The court's ruling is final.

#### **Chapter 9. Ballots**

Article 82. The ballot for district lists of candidates for deputies specifies the identifying numbers and appellations of all the lists of candidates registered in a given electoral district, along with the names and surnames of all the candidates registered on each of the district lists, plus the information referred to in Article 68, Paragraph 8.

Article 83. The ballot should provide concise information about the voting procedure and the consequences of faulty balloting (requirements for the validity of the ballot).

Article 84. 1. The ballot may be imprinted on one side only. The size and type of font should be the same for all the lists of candidates for deputies.

84. 2. The seal of the proper district electoral commission is imprinted on the ballot.

84. 3. Sample ballots and the procedure for preparing and delivering ballots to ward electoral commissions are determined by the State Electoral Commission.

#### **Chapter 10. Determining the Results of Balloting in Electoral Wards**

Article 85. Immediately after the balloting is ended the ward electoral commission determines the results of balloting in the ward. Ward representatives of electoral committees may be present during that determination.

Article 86. 1. The commission determines on the basis of the voters' list the number of eligible voters and the number of voters who were issued ballots.

86. 2. The commission determines the number of unused ballots and places these ballots in sealed packets.

86. 3. The commission chairman, in the presence of the commission, opens the voting urn and thereupon counts the ballots it contains.

86. 4. Ballots torn completely in half or into more parts are not considered when determining the balloting results.

86. 5. Should the number of ballots in the urn exceed the number referred to in Paragraph 1, the commission states in a written record the probable cause of this discrepancy.

Article 87. After the number of ballots cast is determined, the ward electoral commission begins to count the number of ballots cast for every individual district list of candidates for deputies, as well as for every individual candidate on these lists.

Article 88. 1. If, on the ballot for district lists of candidates, the symbol "X" is marked in the boxes to the left of the names of two or more candidates from different lists, or if

no such symbol is marked in the box next to the name of any candidate on any list, the ballot is considered invalid.

88. 2. Also invalid are:

- 1) Ballots other than those officially determined;
- 2) Ballots lacking the seal of the ward electoral commission.

88. 3. If the symbol "X" is marked in the box to the left of the names of more than one candidate on the same list, the ballot is considered valid with respect to the concerned district list, but the vote is considered as cast in favor of the candidate for deputy whose name is printed first on that list.

88. 4. Write-ins of additional identifying numbers, of list appellations, or of candidate names on the ballots, as well as other handwritten notation or markings on the ballot entail no legal consequences and do not affect the validity of the ballot.

Article 89. 1. The ward electoral commission prepares two copies of the record of the balloting for district lists of candidates.

89. 2. The record should specify the number of ballots dispensed, the number of unused ballots, and the number of:

- 1) Eligible voters;
- 2) Voters who were issued ballots;
- 3) Ballots cast;
- 4) Valid ballots;
- 5) Invalid ballots;
- 6) Valid ballots cast separately for each list (combined number of votes cast for candidates on a given list, for each list);
- 7) Valid ballots cast for individual candidates on each list.

89. 3. The record specifies the time of commencement and ending of balloting and discusses the instructions and rulings issued as well as other major circumstances relating to the course of the balloting.

89. 4. The record is signed by all the members of the ward electoral commission present during its preparation. The record is stamped with the seal of the commission.

89. 5. Ward representatives of electoral committees have the right to incorporate their comments in the record, on making their criticisms specific.

89. 6. Immediately after the record is prepared the ward electoral commission makes public the results of the balloting for district lists of candidates.

Article 90. 1. The chairman of the ward electoral commission transmits to the district electoral commission data on balloting records by means of a public telecommunication network or through electronic data transmission, and at

the same time immediately dispatches to the district electoral commission in a sealed envelope a copy of the record of the balloting for district lists of candidates.

90. 2. The procedure for the transmission and reception of the records referred to in Paragraph 1 is determined by the State Electoral Commission.

Article 91. 1. Upon completing the activities mentioned in Article 90, Paragraph 1, the chairman of the ward electoral commission transmits immediately to the proper village head or burgomaster or city mayor documents concerning the balloting.

91. 2. Documents from the electoral wards referred to Article 42 are stored by the local Polish consuls.

#### **Chapter 11. Determining the Election Results in an Electoral District**

Article 92. 1. The district electoral commission, on the basis of the information referred to in Article 90, Paragraph 1, determines the preliminary results of elections in the electoral district, whereupon, on the basis of the balloting records received from ward electoral commissions, it begins to determine the number of votes cast for discrete district lists of candidates for deputies as well as to determine the final election results for the electoral district.

92. 2. Representatives of the electoral committees which had nominated the lists of candidates for deputies in the electoral district may be present when determining the results of balloting and elections in the district.

Article 93. 1. Upon determining the number of votes cast in the district for individual district lists, the district electoral commission prepares, on a suitable form, in two copies, a compilation of the number of valid votes cast for discrete district lists and of the overall number of these votes.

93. 2. On the basis of the compilation referred to in Paragraph 1 the district electoral commission begins to determine the number of Sejm seats to be apportioned to discrete district lists. To this end, separately for each list, the number of the valid votes cast for each list in the electoral district is multiplied each time by the number of the deputies to be elected in the district and next the resulting mathematical product is divided by the overall number of ballots cast for all the district lists. The quotient thus derived (in round numbers) shows the number of the Sejm seats to be allocated to a given district list of candidates in an electoral district.

93. 3. If, after completing the procedure referred to in Paragraph 2 separately for every individual district list of candidates, some Sejm seats still remain to be apportioned, the remaining seats are allocated to those district lists of candidates for which the computed quotients show the highest values after the decimal point, upon also making allowance for those lists which have not yet been allocated any seat.

93. 4. If more seats are assigned to a district list than there are the candidates registered on that list, the vacant seats are assigned to other district lists, with priority given to the lists with the highest quotients, in descending order.

93. 5. In the event of "bloc" lists (Article 75), when determining the assignment of seats among discrete district lists, the number of votes cast for these lists is considered to be the overall number of votes for a single list.

Article 94. 1. After the number of seats for every individual district list of candidates is determined in accordance with Article 93, the district electoral commission allocates the seats linked to a given list in an electoral district to the candidates for deputies from that list in accordance with the principles defined in Article 95. 2. Before commencing the allocation of seats to candidates from discrete lists, the chairman of the district electoral commission reports to the State Electoral Commission, through the mediation of a public telecommunications network or an electronic transmission network, on preliminary results of elections in the district concerning the apportionment of seats among the district lists.

Article 95. 1. Seats assigned to a given district list are allocated to the candidates who won the highest number of votes, in descending order.

95. 2. If two or more candidates win the same number of votes authorizing them to be awarded a seat for a given list, the seat is awarded to the candidate whose name comes first on the list.

Article 96. In the event of "bloc" lists (Article 75) first the number of seats to be apportioned to each list is determined according to the rules defined in Article 93, Paragraphs 2 and 3), and then the provisions of Article 95 are applied correspondingly with respect to each list, with allowance for the declaration referred to in Article 75, Paragraphs 1 and 2.

Article 97. 1. Following the final determination of election results in the electoral district, the district electoral commission prepares two copies of the records on elections of deputies to the Sejm in the electoral district.

97. 2. The record should specify the number of the deputies being elected in the district, as well as the number of:

- 1) Eligible voters;
- 2) Voters who were issued ballots;
- 3) Ballots cast;
- 4) Invalid ballots;
- 5) Valid ballots;
- 6) Valid ballots cast for each list;
- 7) Seats apportioned to each list;
- 8) Valid ballots cast for individual candidates from each district list;

9) Names and surnames of the deputies who were allocated seats, upon specifying the identifying numbers of the lists from which they were allocated them.

97. 3. The provisions of Article 89, Paragraphs 4 and 5, apply accordingly.

97. 4. The record is accompanied by the compilation referred to in Article 93.

97. 5. Immediately after preparing the record mentioned in Paragraph 2, the district electoral commission makes public the election results in the electoral district.

Article 98. The record referred to in Article 97 is, together with appendices, immediately transmitted by the chairman of the district electoral commission to the State Electoral Commission by a procedure defined by the latter. Other election documents are stored by the director of the voivodship electoral office proper for the seat of the district electoral commission until such time as suitable instructions arrive from the State Electoral Commission.

#### **Chapter 12. Determining Election Results for National Lists of Candidates for Deputies Announcing the Results of Elections to the Sejm**

Article 99. On the basis of the reports on preliminary results of the elections to the Sejm referred to in Article 94, Paragraph 2, as transmitted by the district electoral commissions, the State Electoral Commission makes public these results concerning the allocation of seats among district lists in electoral districts.

Article 100. 1. The State Electoral Commission, upon receiving the records from the district electoral commissions, and upon verifying the correctness with which the results of elections in electoral districts were determined, commences to allocate seats among national lists of candidates for deputies.

100. 2. The seats to be allocated among the national lists of candidates for deputies are apportioned among those lists, nominated by electoral committees, which won seats for deputies in at least five electoral districts, or whose related district lists won overall at least 5 percent of the valid ballots cast for all the district lists in all the electoral districts.

100. 3. In the case of "bloc" national lists (Articles 75 and 77), when determining the allocation of seats among discrete national lists, the overall number of votes cast for the district lists linked to discrete and "bloc" national lists is considered to be the number of votes cast for a single list. After the overall number of seats to be allocated to the "bloc" lists is determined, the allocation of seats among these lists is performed in accordance with the principles defined in Article 101.

100. 4. The provisions of Paragraph 2 do not apply to the national lists of candidates for deputies nominated by the electoral committees referred to in Article 76, Paragraph 3.

Article 101. 1. Seats are allocated to discrete national lists of candidates for deputies in relation to the overall number of votes cast for the district lists linked to a given national

list of candidates. The State Electoral Commission apportions the seats among the discrete national lists of candidates for deputies as follows:

1) The number of valid ballots cast for the district lists of a given electoral committee which has registered a national list is divided successively by 1.4 (one and four-tenths); 3; 5; 7,... and so forth through a sequence of odd numbers until the moment when the quotients thus derived can be used to rank successively as many highest numbers as there are seats to be allocated among the national lists of candidates for deputies.

2) Each national list of candidates is assigned as many seats as there are successively highest numbers for that list from among the sequence of quotients determined above.

101. 2. If for several lists the quotients are equal to the last of the numbers ranked in the manner given above, and if there are more of those lists than there are seats available for apportionment, priority should be given to the national list of the electoral committee which has won the most seats in the districts. If two or more electoral committees won the same number of seats in districts, priority is given to the committee which wins a greater number of votes nationwide for the district lists it has reported.

101. 3. Seats to be allocated for a given national list of candidates for deputies are won by the candidates from that list in the sequence in which their names are placed on the list—on excluding the candidates who have already won seats in electoral districts.

101. 4. If a national list is assigned more seats than the number of candidates registered on that list, the remaining vacant seats are assigned to other lists, with priority given to the lists with the highest successive quotients.

101. 5. The State Electoral Commission prepares a separate record of elections of deputies from national lists of candidates for deputies. In that record it reports:

1) The number of votes cast for discrete lists;

2) A roster of national lists of candidates for deputies together with the number of votes casts in districts for the lists of discrete electoral committees, on specifying the districts in which these lists won seats and the proportion of votes they won nationwide, and also on naming the electoral committees whose lists are eligible for the allocation of seats among national lists of candidates for deputies;

3) The number of seats allocated to discrete national lists of candidates for deputies;

4) Names and surnames of the deputies who were allocated seats, on specifying the identifying numbers of the national lists from which they won these seats and and of the electoral districts in which they had stood for elections.

Article 102. 1. The State Electoral Commission, after allocating seats among national lists of candidates for deputies, makes public in the form of an announcement the final results of elections to the Sejm.

102. 2. The announcement referred to in Paragraph 1 must contain basic information from the election records reported by the district electoral commissions (Article 97) and from the record of elections of deputies from national lists of candidates for deputies (Article 101, Paragraph 4).

102. 3. The announcement referred to in Paragraph 2 is immediately published at the expense of the State Electoral Commission in a national daily and printed in *DZIENNIK URZEDOWY RZECZYPOSPOLITEJ POLSKIEJ* "MONITOR POLSKI."

102. 4. The State Electoral Commission publishes a statistical report containing specific information on the results of the balloting and elections to the Sejm.

102. 5. The State Electoral Commission determines the mode of the transmission, storage, and accessing of election documents, and in particular of those referred to in Article 91, Article 98, and Articles 100-101.

Article 103. The State Electoral Commission issues certificates of election to the elected deputies to the Sejm.

Article 104. The State Electoral Commission presents to the Sejm at its first session a report on the elections.

### Chapter 13. Validity of Elections

Article 105. 1. On the basis of the report on the elections presented by the State Electoral Commission, the Sejm affirms the validity of elections of deputies if said elections are not contested.

105. 2. In the event the election of a deputy is contested, he/she has the right to participate in the work of the Sejm until the matter is resolved.

Article 106. 1. The election of a deputy or the validity of elections may be contested on the ground of violation of the provisions of the present law concerning balloting, the determination of the results of balloting or elections, or the perpetration of an electoral crime, if said violation or crime may have affected the results of elections.

106. 2. A protest against the election of a deputy or deputies in an electoral district may be lodged by a voter who had been, on election day, registered on the list of voters in one of the electoral wards in the area of the electoral district in question.

106. 3. The protest against the results of elections from national lists of candidates for deputies may be lodged by any voter.

106. 4. If the grounds for the protest are an accusation of an electoral crime, or of a violation by the State Electoral Commission of the provisions of the present law concerning balloting or the determination of the results of balloting or elections, the protest may be lodged by any voter.

106. 5. The Supreme Court does not act on any protests concerning matters with regard to which the present law provides for the possibility of lodging a complaint with or

appealing to a court of law or the State Electoral Commission, respectively, before election day.

Article 107. 1. The protest is presented in writing to the Supreme Court not later than within 7 days from the day on which the final results of elections are made public by the State Electoral Commission. The mailing of the protest at a Polish post office within that time limit is tantamount to lodging it with the Supreme Court.

107. 2. The date on which final results of elections to the Sejm are made public is the day on which the announcement referred to in Article 102, Paragraph 2, is published in a national daily.

107. 3. With regard to the voters mentioned in Article 42, Paragraph 1, the requirements referred to in Paragraph 1 are considered as satisfied if the protest is presented to the local Polish consul.

107. 4. The protester should formulate in his/her written protest accusations or present or indicate the evidence on which he/she bases his/her accusations.

Article 108. 1. The Supreme Court does not act on protests lodged by persons who are not eligible under Article 106, or if the protests are lodged following the expiration of the time limit specified in Article 107, Paragraph 1.

108. 2. If a protest does not meet the requirements referred to in Article 107, Paragraph 1, the Supreme Court does not act on it.

108. 3. If the protest contains an accusation of an electoral crime, the Supreme Court immediately notifies accordingly the Prosecutor General.

Article 109. 1. The Supreme Court considers the protest in a bench of three justices, in nonlitigious proceedings, upon accordingly applying the provisions of the Code of Civil Procedure.

109. 2. The parties in the proceedings are, by virtue of law, the protester, the chairman of the concerned electoral commission or his deputy, and the Prosecutor General.

109. 3. The Supreme Court forms an opinion on the protest and transmits it, together with the dossier of the case, to the Sejm.

Article 110. 1. On examining the accusations contained in the protest and the opinion of the Supreme Court the Sejm decides on the validity of the election of the deputy.

110. 2. In declaring the election of the deputy to be invalid the Sejm at the same time decides on the conduct of by-elections and the extent of the invalidation.

Article 111. 1. By-elections are held by the procedure and in accordance with the guidelines prescribed in the present law, within three months from the date the Sejm passes a resolution for conducting the by-elections.

111. 2. The president's order for by-elections is announced not later than 10 days after the Sejm passes the resolution referred to in Paragraph 1.

111. 3. In ordering the by-elections the president specifies the election timetable, in which he may specify, with respect to discrete electoral activities, shorter time limits than those prescribed in the present law.

Article 112. Balloting in by-elections is conducted solely on national territory.

#### **Chapter 14. Expiration of a Deputy's Mandate and Complementation of the Membership of the Sejm**

Article 113. 1. A deputy's mandate expires owing to:

- 1) Invalidation of his/her elections;
- 2) Refusal to swear the deputy's oath;
- 3) Loss of electoral rights;
- 4) Resignation of mandate;
- 5) Demise.

113. 2. The expiration of a deputy's mandate is confirmed by the Sejm.

Article 114. 1. In the event of the expiration of mandate of a deputy elected from a district list of candidates the Sejm, in confirming the expiration of the mandate, passes a resolution for replacing the deputy with a candidate from the same list who won the next highest number of votes and has not forfeited his/her electoral rights. If there is a tie, the preferred candidate is the one who won the higher number of votes on the district list. In the case of a national list of candidates, the preferred candidate is the one named first on the list.

114. 2. A candidate may relinquish his/her priority right to occupy the seat in favor of another candidate from the same list who won the next highest number of votes. The declaration of relinquishment of priority should be presented to the speaker of the Sejm within seven days from the date the candidate is notified of being awarded the seat.

114. 3. If, in the event of expiration of a deputy's mandate, the adoption of a Sejm resolution to replace him/her with another candidate from the same list is impossible owing to absence of eligible candidates, the seat in question remains vacant until the end of the term of office.

#### **Chapter 15. The Electoral Campaign and Its Funding**

Article 115. The electoral campaign begins on the day the president's order designating the date of elections is issued and is subject to termination 24 hours prior to election day.

Article 116. 1. Voter meetings organized with the object of gathering nominating petitions for lists of candidates for deputies and convened and held as part of the electoral campaign waged on behalf of these candidates are not subject to the provisions of the law of 5 July 1990 Concerning Assemblies (Dz.U., No. 51, Item No. 297).

116. 2. Any voter can collect nominating signatures for the lists of candidates for deputies presented by electoral

committees and disseminate electoral programs, electioneer in favor of the lists of candidates or individual candidates for deputies, and also organize voter rallies.

116. 3. The signatures for nominating petitions referred to in Paragraph 2 may be collected at a place and time and in a manner precluding the application of any pressures whatsoever intended to extort signatures.

Article 117. Starting with the 7th day prior to election day, until balloting is ended, the publicization of the findings of pre-election polls of public opinion concerning the expected conduct of voters and results of elections is prohibited, and so is the publicization of the findings of voters' polls conducted on election day.

Article 118. 1. All election posters, graffiti (slogans), or flyers containing an explicit notation of their origin or identifying their distributor are subject to legal protection.

118. 2. The affixing of election posters is exempt from the provisions of Article 63a of the Code of Petty Offenses.

Article 119. 1. Election posters and graffiti (slogans) may be affixed to walls of buildings and to partitions solely with the consent of the owner or administrator of the real estate.

119. 2. Affixing election posters and slogans outside and inside the buildings of central and local government administrations and courts of law, as well as on the territory of military units, civil defense units, and barracked police units, is prohibited.

119. 3. The village head or the burgomaster or the city mayor may prohibit, by means of an executive order, the affixing of posters and slogans to certain public buildings or specified parts of public areas for reasons relating to the protection of landmarks or environment.

119. 4. The installation of private sound-magnifying facilities with the object of waging the electoral campaign is subject to the applicable regulations governing public order.

119. 5. Posters should be affixed in a manner facilitating their subsequent removal without causing damage.

119. 6. The police are obligated to remove posters and slogans affixed in a manner that may endanger life or health, safety of property, or road traffic.

Article 120. 1. In the event that election posters, slogans, flyers, or other forms of electioneering contain untrue or imprecise data and information, any concerned person has the right to lodge with a district court a request for ruling in favor of the confiscation of such materials or issuing a prohibition or some appropriate temporary order against the publication of such data and information.

120. 2. The district court considers the request referred to in Paragraph 1 within 24 hours, in nonlitigious proceedings in a bench of one judge. The ruling that terminates the proceedings in such a case is immediately communicated by the court to the complainant referred to in Paragraph 1, the proper district electoral commission, and the person or organization obligated to execute the court's ruling. The

ruling of the district court can be appealed within 24 hours to the voivodship court, which is obligated to consider the appeal within 24 hours also. A valid court ruling is subject to immediate execution.

Article 121. 1. Electoral campaigning is prohibited on the area of workplaces and public institutions in a manner and forms interfering with their normal operations.

121. 2. Electoral campaigning is prohibited on the area of military units and other organizational units under the jurisdiction of the minister of national defense as well as among civil-defense units and barracked police units.

Article 122. 1. Electoral committees which registered lists of candidates for deputies are guaranteed equal access to state mass media, pursuant to the provisions of the present law.

122. 2. The Polish Press Agency and Polish Radio and Polish Television present, on principles of equality and without charging a fee, during the period between 50 and 31 days prior to election day, the program assumptions of the electoral committees nominating the lists of candidates for deputies in more than one electoral district.

122. 3. In the last 30 days prior to election day, until the ending of the electoral campaign, Polish Radio and Polish Television grant to the electoral committees which had registered lists of candidates in more than one electoral district, free time slots on national or regional programs for their campaign broadcasts.

122. 4. The chairman of the Committee for Radio and Television shall determine not later than 65 days prior to election day:

1) The terms and scope of the gratis use of the services of Polish Radio and Polish Television to produce the campaign broadcasts referred to in Paragraph 3 and Article 124, Paragraph 1;

2) A price list and rules for using additional services rendered by Polish Radio and Polish Television with the object of notifying voter audiences.

122. 5. The representative referred to in Article 123, Paragraph 2, shall, not later than 65 days prior to election day, notify the representatives of electoral committees about the technical specifications defined by Polish Radio and Polish Television to which must correspond the election broadcasts produced outside these institutions, and he also shall specify the terms and conditions for the utilization of the equipment adapting these broadcasts to the broadcasting standards mandatory at Polish Radio and Polish Television.

122. 6. During the period referred to in Paragraphs 2 and 3 Polish Radio and Polish Television are obligated, in their background programs about the electoral campaign, to present in equal proportions information on the activities of the various electoral committees which registered their candidate lists in more than one electoral district.

Article 123. 1. In national programs of Polish Radio and Polish Television the combined time of disseminating gratis campaign broadcasts for the period starting 30 days before election day and ending with the day on which the electoral campaign is terminated, may not be:

- 1) Shorter than 25 hours or longer than 30 hours, for Polish Television;
- 2) Shorter than 50 hours or longer than 60 hours, for Polish Radio.

123. 2. The allocation of broadcasting time among the electoral committees referred to in Article 70 is performed by the representative for campaign broadcasts, appointed not later than 75 days prior to election day by the chairman of the Committee for Radio and Television.

123. 3. The representative referred to in Paragraph 2 rules on the allocation of broadcasting time, after consulting a council, not later than 48 days prior to election day.

123. 4. The council referred to in Paragraph 3 consist of representatives of the electoral committees referred to in Article 70, one each from each committee.

Article 124. 1. In regional programs of Polish Radio and Polish Television the combined time allocated at no charge for campaign broadcasts, for the entire period starting 30 days prior to election day and ending with the day on which the electoral campaign is terminated, may not be:

- 1) Shorter than 8 hours or longer than 10 hours, in Polish Television.
- 2) Shorter than 25 hours or longer than 30 hours, in Polish Radio.

124. 2. The allocation of broadcasting time among electoral committees which had registered lists of candidates for deputies in the electoral districts to which extends the radius of the radio or television broadcasting of a given Polish Radio or Polish Television station, is performed by regional representatives for campaign broadcasts, appointed, not later than 70 days prior to election day, by the management of the regional stations.

124. 3. Broadcasting time is allocated among electoral committee in proportion to the number of the candidates they register.

124. 4. The representative referred to in Paragraph 2 rules on the allocation of broadcasting time after consulting a council, not later than 38 days prior to election day.

124. 5. The council referred to in Paragraph 4 consists of the representatives of the electoral committees referred to in Paragraph 2, one each from each committee.

Article 125. 1. Irrespective of the broadcasting time granted to it at no fee, any electoral committee which has registered a list of candidates for deputies may additionally broadcast for a fee, twice daily, via Polish Radio or Polish Television, electoral programs lasting for one minute.

125. 2. The combined time of the electoral broadcasting referred to in Paragraph 1 may not exceed 10 minutes of the combined time assigned to a given electoral committee for broadcasting electoral programs at no fee.

125. 3. The director of the national program of Polish Radio or Polish Television and the directors of regional centers of Polish Radio or Polish Television may not refuse broadcasting for a fee the electoral programs referred to in Paragraph 1.

125. 4. The amount of the fees charged for electoral broadcasts as referred to in Paragraph 1 may not exceed 50 percent of fees charged for broadcasting commercials and must be the same for all and determined according to the price list binding on the day on which elections were ordered.

125. 5. The programs referred to in Paragraph 1 are broadcast on the same principles as those applied to commercials by Polish Television.

125. 6. Broadcasting time slots for the programs referred to in Paragraph 1 are determined by the representatives referred to in Article 123, Paragraph 2, and Article 124, Paragraph 2.

Article 126. The decisions of the chairman of the Committee for Radio and Television and of the representatives referred to in Article 123, Paragraph 2, and Article 124, Paragraph 2, may be appealed within 48 hours afterward to the State Electoral Commission. The ruling of the State Electoral Commission is final.

Article 127. Electoral committees have the right to utilize the archival resources of Polish Radio or Polish Television, on following the rules applicable in these institutions.

Article 128. Information, press releases, and electoral appeals and slogans published in the mass media (the print media, or radio, or television) at the expense of an electoral committee, a political party, or another social organization supporting candidates for deputies, and also at the expense of these candidates themselves, must specify the name of the payer and meet the requirements of Article 118, Paragraph 1.

Article 129. 1. Irrespective of the provisions of Articles 31-33 of the Press Law of 24 January 1984 (Dz.U., No. 5, Item No. 24, 1984; No. 41, Item No. 324, 1988; and No. 34, Item No. 187, 1989), untrue or clearly imprecise information concerning the elections and linked to the electoral campaign, when published in the press and in nonperiodical publications, requires immediate rectification, and the time limit for publishing the rectification is 48 hours.

129. 2. In the event of refusal of rectification, the complainant has the right to request a district court to issue an appropriate ruling, and the court is obligated to consider the request within 24 hours in nonlitigious proceedings in a bench of one judge. The related ruling of the court is immediately conveyed to the complainant and to the person obligated to publish the rectification. The ruling of

the district court can be appealed, but within 24 hours, to the voivodship court, which is obligated to consider the appeal within 24 hours also. A valid ruling of the court is subject to immediate execution.

129. 3. As regards the rectification of reports printed in periodical publications, the court names the daily newspaper in which the rectification is to be published, at the expense of the defendant, within not more than 48 hours.

129. 4. In the event of refusal or failure to publish the rectification by the defendant or by a party named in the court's ruling, on the motion of the complainant the court orders publishing the rectification in executive proceedings as detailed in the court's ruling.

Article 130. The exercise of the rights ensuing from the present law does not restrict the possibility of the filing of claims for the exercise of these rights by wronged or injured parties pursuant to the provisions of other laws, and in particular of the Penal Code, the Civil Code, and the Press Law—against persons whose actions during the electoral campaign infringed upon the personal or property rights of others.

Article 131. 1. The expenses of nominating lists of candidates and waging the electoral campaign on their behalf are defrayed from the funds of the electoral committees nominating these lists.

131. 2. Legal entities and individuals may donate funds for the electoral campaign to representatives of electoral committees.

131. 3. The funds donated by legal entities for the electoral campaign can only derive from profits. This also applies to the provision of services at no charge.

131. 4. Fund for the electoral campaign may not be donated if they derive from:

- 1) The state budget and state organizational units;
- 2) The budgets of gminas [townships], local government unions, and municipal associations;
- 3) State economic entities;
- 4) Foreign sources.

Article 132. 1. Representatives of electoral committees may organize public collections of funds for the electoral campaign.

132. 2. The organization of a public collection does not require a permit.

Article 133. 1. The funding of the electoral campaign is made public.

133. 2. An electoral committee which has registered lists of candidates in more than one electoral district submits, within three months from election day, to the State Electoral Commission a financial report containing information on the expenditures incurred in waging the electoral campaign and on the sources of the funds obtained for that purpose.

133. 3. The obligation referred to in Paragraph 1 [i.e., Paragraph 2], also applies to the electoral committee which has registered its list of candidates in only one electoral district. That committee submits its financial report to the appropriate district electoral commission.

133. 4. The State Electoral Commission shall determine the format of the financial report to be submitted by electoral committees.

133. 5. The reports referred to in Paragraph 2 are made public and published in *DZIENNIK URZEDOWY RZECZYPOSPOLITEJ POLSKIEJ* "MONITOR POLSKI," while the reports referred to in Paragraph 3 are made available for public inspection.

Article 134. 1. The expenses referred to in Article 131, Paragraph 1, may not exceed, for any registered district list of candidates in an electoral district, the equivalent of 60 times the average monthly wage paid in the six basic subdivisions of the manufacturing sector for the month preceding the announcement of the president's order designating the date of elections.

134. 2. In the event the ceiling for the expenses referred to in Paragraph 1 is exceeded, the Treasury office proper locally for the seat of the electoral committee imposes a fine amounting to five times the amount exceeded.

134. 3. The ruling imposing the fine and the collection of that fine from the representative of the electoral committee are governed by the corresponding regulations concerning the levying and collection of taxes from physical persons.

Article 135. 1. The State Electoral Commission or a district electoral commission may, on its own initiative or on the proposal of the concerned electoral committee, apply to the locally proper Treasury office with a request to audit the expenditures relating to the electoral campaign waged by electoral committees.

135. 2. The audit referred to in Paragraph 1 is conducted after the proper electoral commission receives a financial report submitted by the electoral committee, or in the event of failure to receive that report within the legally defined time limit.

135. 3. Expenditures of electoral committees are audited in conformity with the corresponding regulations governing tax audits.

135. 4. Representatives of electoral committees are obligated to keep documents connected to the funding of the electoral campaign for at least 6 months after election day.

#### Chapter 16. Special, Interim, and Final Provisions

Article 136. 1. Whoever affixes election posters and slogans in violation of the provisions of Article 116 or violates the provisions of Article 121 is subject to the penalty of a fine.

136. 2. Proceedings in the cases referred to in Paragraph 1 are governed by the regulations on proceedings in cases of petty offenses.

Article 137. 1. The expenses of the organization of preparations for elections and of the conduct of elections are defrayed from the state budget.

137. 2. In connection with elections, the state budget earmarks funds relating to:

1) Implementation of the objectives of the State Electoral Commission as prescribed in the present law and the provision of support services thereto by the National Electoral Office;

2) Implementation of other electoral objectives by the central and local agencies of state administration;

3) Implementation of the purposes of the district electoral commissions and the provision of support services thereto by voivodship electoral offices;

4) Operations of ward electoral offices and the implementation of centrally assigned electoral duties by village heads, burgomasters, or city mayors;

5) The provision of free broadcasting time at no charge and assistance in the production of campaign broadcasts by Polish Radio and Polish Television pursuant to Articles 122-124.

137. 3. Each year the state budget earmarks funds for the operation of the State Electoral Commission, the National Electoral Office, and voivodship electoral offices, as well as for the conduct and updating of permanent registers of voters by village heads, burgomasters, and city mayors, and, during the electoral campaign, for the activities of Polish Radio and Polish Television.

137. 4. A report on the expenditures defrayed from the state budget as relating to the conduct of elections is made public by the State Electoral Commission within four months from election day.

Article 138. The corresponding provisions of laws governing the establishment, revision, and dissolution of employment relationship and the remuneration and other benefits based on that relationship apply to persons employed by the National Electoral Office and the voivodship electoral offices. Also applicable thereto are the provisions of laws governing the rights and responsibilities of persons appointed to executive posts in the state administration under special regulations, and the provisions of the law on employees of state offices.

Article 139. All writings and judicial and administrative proceedings concerning electoral matters are fee-exempt.

Article 140. 1. The provisions of Article 37 do not apply to the first elections ordered on the basis of the present law.

140. 2. In the first elections to the Sejm ordered on the basis of the present law, Polish citizens who are permanent foreign residents and prove their Polish citizenship by showing document other than a valid Polish passport are admitted to voting.

Article 141. 1. The State Electoral Commission that was established under the Law of 7 April 1989 Governing

Elections to the 10th Sejm of the People's Republic of Poland for the years 1989-93 (Dz.U., No. 19, Item No. 102; and No. 36, Item No. 198) is hereby abolished.

141. 2. In the first elections to the Sejm conducted pursuant to the provisions of the present law the president shall, within seven days from the date of publication of the present law, appoint the persons referred to in Article 53 to membership in the State Electoral Commission and convene its first session.

Article 142. 1. The voivodship electoral offices established under the present law also perform duties ensuing from the Law of 8 March 1980 Governing Elections to Gmina Councils (Dz.U., No. 16, Item No. 96) relating to the conduct of elections to gmina councils.

142. 2. The guidelines for performing the duties referred to in Paragraph 1 are established by the General Elections Commissioner in consultation with the director of the National Electoral Office.

Article 143. Computerized findings on the results of balloting and elections remain unofficial in nature until their corroboration by the concerned electoral commissions in the form of records prepared in accordance with the provisions of the present law.

Article 144. Whenever the present law refers to the expiration of the time limit for lodging a complaint or an appeal with a court of law or an electoral commission, it should be construed to mean the day on which the complaint or appeal is lodged with a court or a commission.

Article 145. 1. In the Law of 10 May 1991 Governing Elections to the Senate of the Republic of Poland the following amendments are incorporated;

1) In Article 12:

a) In Paragraph 1 the reference to "Article 69 and Article 71" is deleted;

b) In Paragraph 2 "referred to in the Sejm Electoral Law" is deleted;

2) In Article 18, Paragraph 2 the references to "Articles 118-125" are replaced with references to "Articles 105-112";

3) In Article 21, Paragraph 1, the reference to "Articles 129-149" is replaced with a reference to "Articles 115-135."

145. 2. The president of the Republic of Poland shall order the publication of the text of the Law Governing Elections to the Senate of the Republic of Poland in a form incorporating the amendments referred to in Paragraph 1.

Article 146. The Law of 7 April 1989 Governing Elections to the 10th Sejm of the People's Republic of Poland for the years 1989-93 (Dz.U., No. 19, Item No. 102; and No. 36, Item No. 198) is hereby declared null and void.

Article 147. The present law takes effect on the day of its publication.

**Supplement to the Law dated 28 June 1991—  
Parliamentary Electoral Law of the Polish Republic  
(Item No. 252).**

**List of Electoral Districts**

Electoral District No. 1, Warsaw. Number of deputies to be elected in the district: 17. Seat of the District Electoral Commission: Warsaw.

Electoral District No. 2, Warsaw Voivodship (excluding the capital city of Warsaw). Number of deputies to be elected in the district: 8. Seat of the District Electoral Commission: Legionowo.

Electoral District No. 3, Plock and Skierniewice Voivodships. Number of deputies to be elected in the district: 10. Seat of the District Electoral Commission: Plock.

Electoral District No. 4, Lodz Voivodship. Number of deputies to be elected in the district: 12. Seat of the District Electoral Commission: Lodz.

Electoral District No. 5, Piotrkow Trybunalski Voivodship. Number of deputies to be elected in the district: 7. Seat of the District Electoral Commission: Piotrkow Trybunalski.

Electoral District No. 6, Konin and Sieradz Voivodships. Number of deputies to be elected in the district: 9. Seat of the District Electoral Commission: Konin.

Electoral District No. 7, Radom Voivodship. Number of deputies to be elected in the district: 8. Seat of the District Electoral Commission: Radom.

Electoral District No. 8, Kielce Voivodship. Number of deputies to be elected in the district: 11. Seat of the District Electoral Commission: Kielce.

Electoral District No. 9, Czestochowa Voivodship. Number of deputies to be elected in the district: 8. Seat of the District Electoral Commission: Czestochowa.

Electoral District No. 10, Opole Voivodship. Number of deputies to be elected in the district: 10. Seat of the District Electoral Commission: Opole.

Electoral District No. 11, Wroclaw Voivodship. Number of deputies to be elected in the district: 12. Seat of the District Electoral Commission: Wroclaw.

Electoral District No. 12, Walbrzych Voivodship. Number of deputies to be elected in the district: 8. Seat of the District Electoral Commission: Walbrzych.

Electoral District No. 13, Jelenia Gora and Legnica Voivodships. Number of deputies to be elected in the district: 11. Seat of the District Electoral Commission: Jelenia Gora.

Electoral District No. 15, Kalisz Voivodship. Number of deputies to be elected in the district: 7. Seat of the District Electoral Commission: Kalisz.

Electoral District No. 16, Torun and Wloclawek Voivodships. Number of deputies to be elected in the district: 11. Seat of the District Electoral Commission: Torun.

Electoral District No. 17, Bydgoszcz Voivodship. Number of deputies to be elected in the district: 11. Seat of the District Electoral Commission: Bydgoszcz.

Electoral District No. 18, Poznan Voivodship. Number of deputies to be elected in the district: 14. Seat of the District Electoral Commission: Poznan.

Electoral District No. 19, Gorzow and Pila Voivodships. Number of deputies to be elected in the district: 10. Seat of the District Electoral Commission: Gorzow.

Electoral District No. 20, Szczecin Voivodship. Number of deputies to be elected in the district: 10. Seat of the District Electoral Commission: Szczecin.

Electoral District No. 21, Koszalin and Slupsk Voivodships. Number of deputies to be elected in the district: 9. Seat of the District Electoral Commission: Koszalin.

Electoral District No. 22, Gdansk Voivodship. Number of deputies to be elected in the district: 15. Seat of the District Electoral Commission: Gdansk.

Electoral District No. 23, Olsztyn and Elblag Voivodships. Number of deputies to be elected in the district: 13. Seat of the District Electoral Commission: Olsztyn.

Electoral District No. 24, Ciechanow, Ostroleka, and Lomza Voivodships. Number of deputies to be elected in the district: 12. Seat of the District Electoral Commission: Ostroleka.

Electoral District No. 25, Bialystok and Suwalki Voivodships. Number of deputies to be elected in the district: 12. Seat of the District Electoral Commission: Bialystok.

Electoral District No. 26, Siedlce and Biala-Podlaska Voivodships. Number of deputies to be elected in the district: 10. Seat of the District Electoral Commission: Siedlce.

Electoral District No. 27, Zamosc and Chelm Voivodships. Number of deputies to be elected in the district: 7. Seat of the District Electoral Commission: Zamosc.

Electoral District No. 28, Lublin Voivodship. Number of deputies to be elected in the district: 10. Seat of the District Electoral Commission: Lublin.

Electoral District No. 29, Rzeszow and Tarnobrzeg Voivodships. Number of deputies to be elected in the district: 13. Seat of the District Electoral Commission: Rzeszow.

Electoral District No. 30, Krosno and Przemysl Voivodships. Number of deputies to be elected in the district: 9. Seat of the District Electoral Commission: Przemysl.

Electoral District No. 31, Tarnow Voivodship. Number of deputies to be elected in the district: 7. Seat of the District Electoral Commission: Tarnow.

Electoral District No. 32, Nowy Sacz Voivodship. Number of deputies to be elected in the district: 7. Seat of the District Electoral Commission: Nowy Sacz.

Electoral District No. 33, Krakow Voivodship. Number of deputies to be elected in the district: 13. Seat of the District Electoral Commission: Krakow.

Electoral District No. 34, Bielsko-Biala Voivodship. Number of deputies to be elected in the district: 9. Seat of the District Electoral Commission: Bielsko-Biala.

Electoral District No. 35, the part of Katowice Voivodship comprising the following gminas: Babice, Bobrowniki, Boleslaw, Chrzanow, Klucze, Libiaz, Lazy, Mierzecice, Ogrodzieniec, Olkusz, Pilica, Psary, Siewierz, Tapkowiec, Trzebinia, Wolbrom, and Zarnowice, and towns and cities: Bedzin, Bukowno, Chrzanow, Czeladz, Dabrowa Gornicza, Jaworzno, Libiaz, Lazy, Ogrodzieniec, Olkusz, Poreba, Siewierz, Slawkow, Sosnowiec, Trzebinia, Wolbrom, and Zawiercie. Number of deputies to be elected in the district: 10. Seat of the District Electoral Commission: Sosnowiec.

Electoral District No. 36, the part of Katowice Voivodship comprising the following gminas: Bojszowy, Kobiór, Wry, and the towns and cities: Bierun, Bytom, Chorzow, Katowice, Ledziny, Laziska Gorne, Mikolow, Myslowice, Piekary Slaskie, Ruda Slaska, Siemianowice Slaskie, Swietochlowice, Tychy, and Zabrze. Number of deputies to be elected in the district: 17. Seat of the District Electoral Commission: Katowice.

Electoral District No. 37, the part of Katowice Voivodship comprising the following gminas: Bestwina, Brzeszcze, Czechowice-Dziedzice, Gaszowice, Gieraltowice, Godow, Gorzyce, Krupski Mlyn, Krzanowice, Krzyzanowice, Kuznia Raciborska, Leszczyny, Lubomia, Lyski, Miedzna, Mszana, Nedza, Ornontowice, Pawlowice, Pietrowice Wielkie, Pilchowice, Pszczyna, Rudnik, Rudziniec, Sosniowice, Suszec, Swierklaniec, Swierklany, Toszek, Tworog, Wielowies, Zbroslawice, Zebrzydowice, and towns and cities: Brzeszcze, Czechowice-Dziedzice, Gliwice, Jastrzebie-Zdroj, Kuznia Raciborska, Leszczyny, Orzesze, Pszczyna, Pyskowice, Raciborz, Rybnik, Tarnowskie Gory, Toszek, Knurów, Wodzislaw Slaski, and Zory. Number of deputies to be elected in the district: 13. Seat of the District Electoral Commission: Gliwice.

### Law on Elections to Senate

91A50180A Warsaw *DZIENNIK USTAW* in Polish  
No 58, Item No 246, 2 Jul 91 pp 769-771

[Law dated 10 May governing elections to the Senate of the Republic of Poland]

[Text] Article 1. 1. Elections to the Senate of the Republic of Poland take place upon a corresponding application of the provisions of the Law Governing Elections to the Sejm of the Republic of Poland, unless the present law specifies otherwise.

1. 2. Elections to the Senate take place concurrently with elections to the Sejm.

1. 3. The term of office of the Senate begins and ends at the same time as the term of office of the Sejm.

Article 2. 1. One hundred senators are elected by majority rule in the electoral districts.

2. 2. An electoral district for the Senate is the area of a voivodship.

2. 3. Two senators apiece are elected from each electoral district with the exception of the districts comprising the area of the Warsaw and Katowice voivodships, from which three senators per district are elected.

Article 3. The electoral wards formed for Polish citizens abroad are part of the electoral district comprising the area of Warsaw Voivodship.

Article 4. Elections to the Senate are conducted by:

- 1) The State Electoral Commission.
- 2) The voivodship electoral commissions.
- 3) The ward electoral commissions.

Article 5. 1. The State Electoral Commission, established pursuant to the Law Governing Elections to the Sejm, assures the preparation, organization, and conduct of elections to the Senate, and in particular it:

- 1) Appoints voivodship electoral commissions.
- 2) Considers complaints about the activities of voivodship electoral commissions.
- 3) Announces the results of elections to the Senate.
- 4) Issues certificates of election to elected senators.
- 5) Presents to the Senate a report on the elections.

5.2. The provisions of Articles 49-51 of the Law Governing Elections to the Sejm apply correspondingly.

Article 6. 1. The purposes of the voivodship electoral commissions include in particular:

- 1) Consideration of complaints about activities of ward electoral commissions with regard to the conduct of elections to the Senate.
- 2) Registration of candidates for the senators to be elected in the electoral district.
- 3) Ordering the printing of election announcements and providing them to ward electoral commissions.
- 4) Determining the results of the balloting and the results of the elections of senators in the electoral district.

6. 2. The provisions of Articles 56 and 58 of the Law Governing Elections to the Sejm apply correspondingly.

Article 7. 1. The voivodship electoral commission consists of seven to nine judges of the locally proper voivodship and district courts, named by the presiding judges of these courts.

7. 2. The State Electoral Commission appoints to membership in the voivodship electoral commissions the persons referred to in Paragraph 1, on the basis of a recommendation presented by the minister of justice not later than 85 days prior to election day.

7. 3. The first meeting of a voivodship electoral commission is convened, upon authorization by the State Electoral Commission, by the local voivode.

7. 4. The voivodship electoral commission elects at its first meeting, from among its members, a chairman and two deputy chairmen.

7. 5. The voivodship electoral commission appoints a commission secretary on the recommendation of the director of the local voivodship electoral office. The commission secretary attends the commission's meetings in an advisory capacity.

7. 6. The membership of the voivodship electoral commission is immediately made public by the conventional means.

7. 7. Changes in the membership of the voivodship electoral commission follow the procedure prescribed for appointing its members.

7. 8. The voivodship electoral commission is dissolved by the State Electoral Commission after it completes its prescribed objectives.

Article 8. The ward electoral commissions established to conduct elections to the Sejm perform the same duties with regard to elections to the Senate. Article 9. The right to nominate candidates for senators belongs to voters, political parties and organizations, and social organizations, which establish electoral committees for this purpose. The provisions of Articles 63-66 of the Law Governing Elections to the Sejm apply correspondingly.

Article 10. 1. Nominations of candidates for senators in an electoral district are reported to the proper voivodship electoral commission not later than 55 days prior to election day.

10. 2. An electoral committee may report nominations for only as many candidates for senators as are elected in an electoral district.

10. 3. Nominations of candidates for senators are handled by the representative of the electoral committee. The nomination must meet the requirements defined in Article 65, Paragraphs 2-4, of the Sejm Electoral Law. Each nominating petition must be supported by the personal signatures of at least 3,000 voters resident in a given electoral district.

10. 4. When nominating a candidate for a senator, his/her name, surname, age, occupation, and address should be given.

10. 5. Each nomination should be accompanied by a candidate's written declaration of consent to candidacy in the given electoral district.

10. 6. A candidate may stand for elections in only one electoral district.

Article 11. Standing for elections concurrently to both Sejm and the Senate is not possible.

Article 12. 1. The registration of candidates for senators is correspondingly governed by the provisions of Articles 69 and 71 of the Sejm Electoral Law.

12. 2. Information on registered candidates for senators is made public by the voivodship electoral commission in the form of the announcement referred to in Article 70 of the Sejm Electoral Law.

Article 13. The ballot for candidates for senators in a given electoral district lists in alphabetical order the names of registered candidates and the names of the electoral committees which had nominated them.

Article 14. On the ballot for candidates for senators the voter casts his vote for particular candidates by placing an "X" in the boxes to the right of the names of at most as many candidates as there are senators to be elected in the given electoral district.

Article 15. 1. If the "X" is placed in the boxes to the right of the names of more candidates than there are senators to be elected in a given electoral district, or if no "X" is placed in any box at all, the ballot is considered invalid.

15. 2. Write-ins of additional names or adding any other notation or strike-outs on the ballot do not entail any legal consequences and do not affect the validity of the ballot.

Article 16. The results of the balloting for candidates for senators in the electoral wards referred to in Article 3 are transmitted to the voivodship electoral commission proper for the electoral district comprising the area of Warsaw Voivodship.

Article 17. 1. The two candidates who, one after another, won the two highest totals of valid votes in a two-seat electoral district are considered as having been elected to the Senate.

17. 2. The three candidates who, one after another, won the three highest totals of votes in a three-seat electoral district are considered as having been elected to the Senate.

17. 3. If two or more candidates score the same number of votes entitling them to a Senate seat, and if there are more of these candidates than there are Senate seats available, the tie is resolved by awarding the seat to the candidate who won more votes in a greater number of electoral wards, and if the number of these wards is equal, the tie is resolved by drawing lots by the chairman of the voivodship electoral commission in the presence of commission members and electoral-committee representatives. The course of the drawing is noted in the record of election results.

Article 18. The validity of a senator's election is affirmed by the Senate.

18. 2. The provisions of Articles 118-125 of the Sejm Electoral Law apply correspondingly.

Article 19. 1. A senator's term expires owing to:

- 1) Invalidation of the senator's election.
- 2) Refusal to swear oath.
- 3) Loss of voting rights.
- 4) Resignation from office.
- 5) Demise.

19. 2. The expiration of a senator's term of office is affirmed by the Senate.

Article 20. 1. In the event that a senator's term of office expires, the Senate passes, within not later than six months, a resolution for holding by-elections. No by-elections are held during the last six months preceding the expiration of the term of office of the Senate.

20. 2. By-elections are conducted by the procedure and on the principles prescribed in the present Law, within three months from the date of the Senate's passage of a resolution in favor of by-elections.

20. 3. The president's order designating the date of by-elections is announced not later than within ten days after the Senate passes the resolution in favor of by-elections.

20. 4. In ordering the by-elections the president specifies the electoral timetable, in which he may define for certain activities shorter time limits than those prescribed by law.

20. 5. Voting in by-elections is held only on national territory.

Article 21. 1. The Senate electoral campaign and its funding are governed by the corresponding provisions of Articles 129-149 of the Sejm Electoral Law, with the reservation ensuing from the provisions of the present Article.

21. 2. In regional programs of Polish Radio and Polish Television the combined gratis broadcasting time allocated at their regional centers to the electoral committees which had registered candidates for senators may not be:

- 1) Shorter than three hours or longer than five hours, for Polish Television.
- 2) Shorter than eight hours or longer than 12 hours, for Polish Radio.

21. 3. The expenditures relating to the nomination of candidates for senators and to their electoral campaign may not exceed the equivalent of 20 times the average monthly wage paid in the six principal domains of the manufacturing sector in the month preceding the presidential order designating the election day.

Article 22. The Law of 7 April 1989 Governing Elections to the Senate of the People's Republic of Poland (Dz.U., No. 19, Item No. 103) is hereby declared null and void.

Article 23. The present law takes effect on the same day as the law governing elections to the Sejm of the Republic of Poland.

### Resolutions on Changes to Senate Regulations

#### Resolution to Articles 36, 46, 47

91EP0631A Warsaw MONITOR POLSKI in Polish  
17 Jun 91 Item No 128 p 158

[Resolution of the Senate of the Republic of Poland dated 23 May on changes to the Provisional Senate Regulations]

[Text] Article 1. In the Resolution of the Senate of the Republic of Poland dated 23 November 1990—Provisional Senate Regulations (MONITOR POLSKI, 1991 No. 2, Item No. 11)—changes shall be made as follows:

1) In Article 36:

a) Following Paragraph 5, a new Paragraph 6 shall be added as follows:

"36. 6. The results of roll call votes executed through the use of an electronic device and the results of roll call votes executed through the use of voting cards shall be published in the stenographic transcript."

b) The current Paragraph 6 shall be designated Paragraph 7.

2) Article 46 shall read as follows:

"Article 46. 1. Following the close of debate or the appearance of a committee's reporter, the president of the Senate shall announce that the Senate shall begin voting. As of that moment, one may take the floor only for submission or justification of a formal motion on the method or order of voting.

46. 2. Voting shall take place with the use of an electronic device to record the individual positions of voting senators and is based on:

- 1) Simultaneous pressing of the device's button and raising the hand (open vote), or
- 2) Pressing the device's button upon a roll call in alphabetical order and concurrent disclosure on a lighted board of the position of individual senators (roll call vote).

46. 3. On the motion of the president of the Senate or on the motion of at least 20 senators and in the event of a breakdown in the electronic device, voting shall take place without the use of such equipment and is based on:

- 1) Raising the hand, with a concurrent order by the president of the Senate to the secretary of the Senate to count the votes (open vote), or
- 2) Use of voting cards signed with the senator's given name and surname (roll call vote).

46. 4. A roll call vote shall be taken on the motion of the president of the Senate or on the motion of at least 20 senators.

46. 5. A roll call vote taken with the use of electronic equipment shall take place with the use of a ballot box prepared for that purpose. The senators, in alphabetical order and called by the secretary of the Senate, shall by turns drop their cards into the ballot box. The opening of the ballot box and counting of votes shall be carried out by three secretaries of the Senate named by the president of the Senate.

46. 6. On the motion of the president of the Senate or on the motion of at least 20 senators, a secret vote shall be conducted and shall take place with the use of sealed voting cards. The appropriate regulations of Paragraph 5 shall apply.

46. 7. Voting on personnel matters shall be secret. However, this does not apply to voting on the matter of the composition of Senate committees.

46. 8. The president of the Senate shall announce the results of a vote. The president of the Senate shall announce the result of roll call votes without the use of electronic equipment and the results of secret ballots on the basis of the procedure promulgated by the secretary of the Senate performing the tabulation of votes. Results of votes are final and may not be the subject of discussion."

3) In Article 47, Paragraph 1 shall read as follows:

"47. 1. After conducting debate, the president of the Senate shall put to a vote the committee's position or separately each change in the law proposed by the committee. In the event several committees adopt a position, the most comprehensive motion shall be voted first. Minority motions shall be voted next, followed by other proposals for change, beginning with the most comprehensive."

4) In Article 49, in Paragraph 2, following the words "adopted," the phrase "without reservation" shall be added. Article 2. This resolution shall be effective as of the date of its passage.

President of the Senate: A. Stelmachowski

### Resolution to Article 15

91EP0631B Warsaw MONITOR POLSKI in Polish  
17 Jun 91 Item No 129 p 159

[Resolution of the Senate of the Republic of Poland dated 24 May on changes to the Provisional Senate Regulations]

[Text] Article 1. In the Resolution of the Senate of the Republic of Poland dated 23 November 1990—Provisional Senate Regulations (MONITOR POLSKI 1991 No. 2, Item No. 11 and No. 19, Item No. 128)—changes shall be made in Article 15 as follows:

a) A new point 5) shall be added as follows:

"5) National Defense."

b) Current points 5) through 12) shall be designated points 6) through 13).

Article 2. This resolution shall be effect as of the date of its passage.

President of the Senate: A. Stelmachowski

### Senate Resolution on Provisional Senate Rules

91EP0617A Warsaw MONITOR POLSKI in Polish  
No 2, 15 Jan 91 Item No 11 pp 25-32

[Resolution of the Senate of the Republic of Poland dated 23 November 1990 on Provisional Senate Rules]

[Text]

### Section 1. General Provisions

Article 1.1. The obligations and rights of the senators and the conditions of exercise of their mandates ensue from the provisions of the present law defining the obligations and rights of deputies and senators.

2. The provisional Senate rules, hereinafter referred to as "Senate rules," as detailed below, define in detail the obligations and rights of senators relating to the internal organization and order of work of the Senate.

3. If a generalized reference to an "Article" is made in this text, this concerns the Senate rules.

Article 2. The Senate exercises its obligations and rights bearing in mind the good of the Fatherland and the principles of legal order.

Article 3. In their activities, senators guide themselves by their own conscience and are not subject to the discipline of any political party, grouping, or club.

Article 4.1. The Senate adopts resolutions by a simple majority of votes in the presence of a quorum of at least one-half of its total membership, unless the provisions of the Constitution of the Polish Republic, laws, and Senate rules specify otherwise.

2. The Senate adopts resolutions without unnecessary delays.

Article 5.1. Senators perform their duties by, in particular:

1) Taking part in sessions of the Senate.

2) Taking part in legislative work.

3) Intervening in problem matters, in cases of violation of the dignity and rights of citizens, or of glaring violation of the legal order.

4) Maintaining the needed contact with voters to an extent that does not conflict with the work of the Senate.

5) Taking part in the National Assembly.

2. In verifying the information provided to them, senators avail themselves of the assistance of the authorities and central and local government offices.

3. A senator may not divulge the source of his information in the absence of consent by the concerned party.

**Section 2. Organs of the Senate**

Article 6. The organs of the Senate are:

- 1) The speaker of the Senate.
- 2) The Presidium of the Senate.
- 3) The committees of the Senate.
- 4) The Convention of Seniors.

Article 7. The Presidium of the Senate is formed by: the speaker, three vice speakers, and three senators.

Article 8. The speaker, the vice speakers, and the senators composing the Presidium are elected by the Senate on passing the related resolution by an absolute majority of votes in secret balloting, separately for each candidate.

Article 9.1. The speaker of the Senate:

- 1) Stands guard over the rights and dignity of the Senate.
- 2) Represents the Senate.
- 3) Presents, pursuant to Article 32, Paragraph 2, recommendations on the agenda.
- 4) Convenes sessions of the Senate and chairs and monitors the deliberations.
- 5) Chairs the Presidium of the Senate and directs its activities.
- 6) Supervises the work of committees of the Senate and may recommend to them the consideration of particular matters.
- 7) Convenes the Convention of Seniors.
- 8) Watches over peace and order throughout the domain belonging to the Senate.
- 9) Supervises proper application of the Senate rules.
- 10) Appoints and recalls the Chief of the Senate Chancellery upon consulting the Presidium of the Senate and the Senate Rules and Affairs Committee.
- 11) Performs other activities ensuing from Senate rules.

2. The speaker of the Senate signs on the Senate's behalf letters to outside addressees.

3. The speaker of the Senate may authorize one or more senators to perform specified activities.

Article 10. The Presidium of the Senate:

- 1) Determines the plans of work of the Senate.
- 2) Supervises the timeliness of work of the Senate and its bodies.
- 3) Issues interpretations of Senate rules upon consulting the Senate Rules and Affairs Committee.
- 4) Drafts the agenda for the session of the Senate.
- 5) Recommends to Senate committees the consideration of particular matters.

6) In consultation with the committee chairmen, appoints and recalls permanent consultants to the Senate and determines the guidelines for organizing the provision of consultancy to the Senate and its bodies.

7) Adopts the draft budget of the Senate Chancellery upon consulting the Senate Rules and Affairs Committee, and supervises its implementation.

8) Takes, on the recommendation of senators, appropriate measures to resolve the matters submitted thereto.

9) Adopts decisions on the appointment and activities of the Joint Sejm-Senate Mediation Team.

10) Adopts the statute of the Senate Chancellery upon consulting the Senate Rules and Affairs Committee.

11) Offers recommendations and adopts other decisions envisaged in the Senate rules.

Article 11.1. The agenda and dates of sessions of the Presidium of the Senate are determined by the speaker of the House.

2. Sessions of the Presidium of the Senate are attended by the chief of the Senate Chancellery and persons invited by the speaker of the Senate; they may offer advice but cannot participate in voting.

3. Sessions of the Presidium of the Senate may be attended, without the right to take the floor, by senators who are not its members.

4. Minutes of sessions of the Presidium of the Senate are kept. They are signed by the speaker of the Senate. These minutes constitute the sole official record of sessions of the Presidium, and they are available for scrutiny to any senator.

Article 12. Vice speakers of the Senate:

- 1) Chair the Senate's deliberations in the absence of the speaker.
- 2) Exercise, in the absence of the speaker, the duties entrusted by him or by the Presidium.

Article 13.1. The committees of the Senate are bodies formed to consider and work out matters, both those on their own initiative and those transmitted by the Senate, the speaker of the Senate, or the Presidium of the Senate.

2. Within the scope of their powers, the committees consider and present to the Senate the positions they take on the resolutions passed by the Sejm.

3. The committees also take positions, within the scope of their powers, on the correctness with which laws are introduced and implemented.

4. The committees and the Senate-Sejm Mediation Team, in cooperation with the Senate Rules and Affairs Committee, work out their own procedural rules.

Article 14.1. The Senate establishes and disbands standing committees for particular types of matters and special committees for the resolution of discrete matters.

2. The chairmen and members of the committees are elected and recalled by the Senate.

3. Motions for the formation and dissolution of the committees and the determination of their composition are drafted and presented to the Senate by the Senate Rules and Affairs Committee.

Article 15. The following standing committees are established:

- 1) National Economy.
- 2) Legislative Initiative and Work.
- 3) Culture, Mass Media, Science, and National Education.
- 4) Constitutional.
- 5) Environmental Protection.
- 6) Social Policy and Health.
- 7) Rights of Man and Rule of Law.
- 8) Senate Rules and Affairs.
- 9) Agriculture.
- 10) Local Governments.
- 11) Emigration and Poles Abroad.
- 12) Foreign Affairs.

Article 16.1. The Convention of Seniors, which is an advisory body under the speaker of the Senate, consists of the speaker, the vice speakers, and the chairpersons of standing committees.

2. The Convention of Seniors is convened when a need arises to take major decisions concerning the work of the Senate.

Article 17.1. The Senate elects from among its members six Senate secretaries. Their elections are combined, unless the Senate resolves otherwise.

2. Senate secretaries keep a list of those taking the floor, and they keep minutes of the meetings of the Senate, calculate the results of balloting, and perform other duties as recommended by the speaker of the Senate.

### Section 3. Responsibilities and Rights of Senators

Article 18.1. Before taking office, senators swear a prescribed oath at a Senate meeting.

2. After the oath is recited by a secretary, the senator, on being summoned by the speaker, declares, "I do."

3. An absent senator swears the oath at the next session he attends.

4. Cases of senators who have not sworn the oath within three months from the day of their election are considered by the Presidium of the Senate upon consulting the Senate Rules and Affairs Committee.

Article 19.1. A senator is obligated to attend and take an active part in meetings of the Senate and of the bodies of the Senate to which he is elected.

2. A senator may not without a cogent reason excuse himself from accepting a post in a Senate body.

3. Senators have the right to receive regular assistance from the offices of the Senate.

Article 20.1. Senators confirm their presence at meetings of the Senate and its bodies by signing the attendance list.

2. In the event a senator finds it impossible to attend deliberations, he should justify his absence in writing within the next seven days, in a letter to the speaker of the Senate.

3. Unjustified absence from two meetings of the Senate or three meetings of standing committees in the course of a year is subject to a scrutiny as per Article 22.

4. In the event of an unjustified absence of a senator at a meeting, the attendance list is marked correspondingly.

5. For every unjustified absence of a senator from a plenary meeting 10 percent of the senator's salary is docked, and for every unjustified absence from a committee meeting, 5 percent of the salary is docked.

6. Doubts concerning the matters referred to in Paragraph 5 are resolved by the Presidium of the Senate upon consulting the Senate Rules and Affairs Committee.

Article 21. The Presidium of the Senate may, upon a senator's request, for weighty reasons, grant him a leave from the exercise of senatorial duties. For the duration of the leave the payment of the senator's salary may be subject to a suspension.

Article 22.1. Cases of senators who fail to perform their senatorial duties, as well as of senators who do not conduct themselves in a manner befitting senatorial dignity, are, on the recommendation of the Presidium of the Senate, considered by the Senate Rules and Affairs Committee.

2. On considering the cases referred to in Paragraph 1, the Senate Rules and Affairs Committee may, by passing a resolution:

- 1) Draw the matter to the senator's attention.
- 2) Reprimand the senator.

3. The resolution of the committee may be appealed by the senator, within 14 days from the day it is delivered, to the Presidium of the Senate. The appeal is handed to the speaker of the Senate, who presents it at a meeting of the Presidium of the Senate. The ruling of the Presidium of the Senate is final.

Article 23.1. A recommendation to approve bringing a senator to justice in a criminal case or in a penal-administrative case or to approve his detention is presented to the Presidium of the Senate, which transmits this recommendation for consideration to the Senate Rules and Affairs Committee.

2. The Senate Rules and Affairs Committee notifies the senator whom the recommendation concerns about the nature of that recommendation and the schedule for its consideration by the Committee.

3. The senator whom the recommendation concerns may, in writing or verbally, submit to the Committee an explanation and his or her own recommendations on the matter.

4. Upon considering the matter the Committee resolves upon a report and a proposal, addressed to the Presidium of the Senate, in favor of either accepting or rejecting the recommendation. The ruling of the Presidium of the Senate on penal-administrative cases is final.

5. The Senate expresses its consent to bringing the senator to criminal justice or to his detention pursuant to Article 28, Paragraph 3, of the Constitution of the Republic of Poland.

Article 24. The expiration of a senator's mandate is established by the Senate upon hearing a recommendation of the Senate Rules and Affairs Committee.

Article 25.1. The Presidium of the Senate, the committees of the Senate, or 20 senators, may request the Senate to discuss the presentation, by the Senate, to the speaker of the Senate, of a motion to convene the National Assembly with the object of impeaching the president before the Tribunal of State. The Senate passes a resolution on the motion by a two-thirds majority of votes.

2. The same procedure is followed in the matter of affirming the permanent incapacity of the president of the Polish Republic to exercise his office owing to the state of his health.

3. A notice about the meeting of the Senate on the matters regulated in Paragraphs 1 and 2 is dispatched by the Senate Chancellery to, in addition to the persons mentioned in Article 30, Paragraph 2, also the chairman of the Tribunal of State.

#### **Section 4. How the Senate Constitutes Itself**

Article 26.1. The first meeting of the Senate is convened by the president of the Polish Republic within a month from the last day of elections.

2. The next meeting of the Senate is convened by the speaker of the Senate.

Article 27.1. The first meeting of the Senate is opened by the president, who then calls upon the speaker-senior to chair its deliberations.

2. In the event of a problem, the duties of the chair are exercised by

3. The speaker-senior, before commencing his duties, swears an oath to the Senate.

4. The speaker-senior conducts the elections to the post of speaker of the Senate.

Article 28.1. The speaker-senior receives from the chairman of the State Electoral Commission a report on the elections of the senators.

2. The validity of the elections of the senators is affirmed by the Senate.

3. In the event of doubts as to the validity of these elections, the Senate transmits the matter for consideration to the Senate Rules and Affairs Committee.

4. Until the doubts are cleared up, the concerned senator refrains from participating in the work of the Senate.

Article 29.1. Senators swear the senatorial oath in the alphabetical sequence of their names, whereupon the Senate elects the speaker of the Senate.

2. The senator elected the speaker takes over the chair from the speaker-senior.

3. The speaker of the Senate orders elections of three vice speakers and three senators to membership in the Presidium of the Senate, as well as elections of six secretaries.

#### **Section 5. Proceedings of the Senate**

##### **Chapter 1. Meetings of the Senate**

Article 30.1. The Senate Chancellery transmits to the senators, at the addresses they specify, a notice on the date and anticipated agenda of a meeting not later than seven days in advance.

2. The Senate Chancellery sends separate notices about the dates of Senate meetings to the president, the chairman of the Council of Ministers, and the speaker of the Sejm, and also—when this concerns discussion of the budget and the financial plan and consultations concerning a vote of acceptance of the decisions of the Council of Ministers—the chairman of the Supreme Chamber of Control.

Article 31.1. Meetings of the Senate are open.

2. The right to participate in meetings of the Senate belongs to, in addition to the senators and the persons mentioned in Article 30, Paragraph 2, members of the government, members of the Sejm Presidium, the First Justice of the Constitutional Tribunal, the chairman of the Tribunal of State, the chairman of the Supreme Chamber of Control, the Citizens' Rights Spokesperson, the First Justice of the Supreme Court, and guests of the Presidium of the Senate.

3. The right of access to the deliberating room during meetings of the Senate also belongs to authorized employees of the Senate Chancellery.

Article 32.1. Meetings of the Senate are held in accordance with the agenda specified by a resolution of the Senate or by the Presidium of the Senate.

2. The agenda of discussions for the Senate is determined by the Presidium of the Senate on the recommendation of the speaker, and only items known to the senators from memos distributed not later than seven days prior to the

meeting may be placed on the agenda. In exceptional cases that time limit may be shortened with the consent of the Senate.

3. Committees and senators may present to the Presidium of the Senate, not later than 10 days prior to a meeting, items for inclusion in the agenda, and the failure to include these items requires an explanation when presenting to senators the draft agenda.

4. Legislative initiatives submitted under Paragraph 3 have to follow the procedure envisaged in Articles 58-60.

Article 33.1. On the motion of a senator, offered at the beginning of a meeting, the speaker may propose additions to the agenda.

2. Matters presented by the procedure referred to in Paragraph 1 concern questions, requests for information, or proposals for legislative initiatives, with the reservation that in this last case the senator's motion, conveyed simultaneously in writing to the speaker, is transmitted to the pertinent committees pursuant to Article 58, Paragraph 1, without being discussed on the floor.

3. Matters presented by the procedure referred to in Paragraph 2, other than legislative initiatives, may be discussed on the floor only with the consent of the Senate.

4. Questions asked by the procedure referred to in Paragraph 2 require an answer not later than during the next meeting of the Senate.

Article 34.1. Meetings of the Senate are open.

2. The open nature of meetings of the Senate is assured by, in particular:

1) Prior notification of the general public about the meetings.

2) Enabling the press, radio, and television to publicize reports on the meetings.

3) Enabling the public to observe the deliberations of the Senate in accordance with the rules of order established by the speaker of the Senate.

3. The Senate may, on the recommendation of the Presidium of the Senate or at least 10 senators, vote in favor of a closed meeting if that is required by the good of the state.

4. Deliberations and balloting on the proposal to declare a closed meeting are secret.

5. At a closed meeting no vote on any law may be taken.

Article 35.1. The speaker of the Senate monitors the adherence to Senate rules during the deliberations and to decorum and order in the deliberating room.

2. The speaker of the Senate calls "to order" a senator who disturbs the orderliness of deliberations.

3. The speaker of the Senate calls "to order" with notation in the minutes a senator who commits a severe infraction of the orderliness of deliberations.

4. The speaker of the Senate may decide to exclude a senator from a meeting if that senator disturbs the orderliness of deliberations even though at the same meeting he has already been summoned "to order, with notation in the minutes."

5. In the cases referred to in Paragraph 4 the speaker may order an intermission in the deliberations.

6. The decision of the speaker of the Senate may be appealed by the senator to the Presidium of the Senate, which resolves the matter upon consulting the Senate Rules and Affairs Committee.

7. Until the matter is resolved, the senator does not take part in the meeting at which the decision to exclude him was taken.

8. The Presidium of the Senate notifies the Senate not later than at the next session on the action which it has taken concerning the appeal. The ruling of the Presidium of the Senate is final.

Article 36.1. Minutes of the meeting of the Senate are kept, along with a stenographic record; the minutes and the record are the only official records of the course of the deliberations.

2. The minutes of the meeting of the Senate comprise a brief notation of the course of the deliberations along with, in the appendices, complete text of the resolutions passed, reports presented, and the motions and other materials considered by the Senate.

3. Copies of the minutes and the stenographic record, together with the appendices, are provided to the senators within 21 days after the Senate's session.

4. A senator or any other participant in a session who takes the floor may, not later than by the day the next meeting of the Senate takes place after the minutes of the previous meeting are made available, voice reservations about the minutes or offer amendments thereto. The acceptance or rejection of an amendment is decided by the Senate by a simple majority of votes without discussion.

5. Minutes to which no reservations or amendments are proposed are considered as accepted. The acceptance of the minutes is confirmed by the signature of the speaker of the Senate or the vice speaker chairing the deliberations and by the secretary recording the minutes. The minutes, stamped with the seal of the Senate of the Republic of Poland, are kept in the archives of the Senate.

6. The printing of stenographic records is ordered by the speaker of the Senate.

Article 37.1. The speaker of the Senate may order deletion from the minutes and stenographic report of any locutions impairing the dignity of the Senate or conflicting with the senatorial oath, upon transmitting the matter for consideration to the Senate Rules and Affairs Committee.

2. The decision of the speaker on the matters referred to in Paragraph 1 may be appealed by the discussant to the

Presidium of the Senate, which issues the final ruling upon consulting the Senate Rules and Affairs Committee.

Article 38. An unofficial report on the meetings of the Senate and its committees that is available to the general public is DIARIUSZ SENATU RZECZYPOSPOLITEJ POLSKIEJ, published on the instruction of the speaker of the Senate.

## Chapter 2. Deliberations

Article 39.1. The Senate's deliberations are chaired by the speaker or, in his absence, a vice speaker with the assistance of two Senate secretaries.

2. The speaker of the Senate presents to the Senate for confirmation the draft agenda drawn up by the Presidium of the Senate.

3. Senators may offer motions to expand the agenda by the procedure specified by Senate rules.

Article 40.1. The speaker of the Senate grants the floor on matters concerning the agenda of the meeting.

2. Senators who intends to take the floor concerning a particular item on the agenda sign up with the Senate secretary who keeps a list of speakers and present in writing signed motions concerning legislation or the adoption of a resolution.

3. The speaker of the Senate gives the floor to senators according to the sequence in which their names are recorded by the Senate secretary. The first to take the floor is the presenter of a committee report, and, if the committee whose position is to be discussed is divided about an issue, he is followed by a committee member representing the views of the minority.

4. Before discussing the position taken [by the presenter of a report], senators may ask from the floor brief questions of the presenter concerning the draft law, resolution, or problem discussed. The presenter answers the questions.

5. The speaker of the Senate may draw the attention of the senator who in his floor discussion digresses from the topic of deliberations, by calling upon him, "Please be to the point." After thus twice calling upon a senator the speaker of the Senate may deny him the floor.

Article 41. The topics of deliberations of the Senate are, in particular:

- 1) Laws transmitted by the Sejm.
- 2) Draft laws and plans transmitted, under the Constitution, to the Senate for consideration, and matters ensuing from other legal acts.
- 3) Announcements of legislative initiatives and draft laws constituting the legislative initiative of the Senate.
- 4) Motions offered by committees and senators by the procedure referred to in Article 32, Paragraph 3.
- 5) Questions and various matters presented by the procedure referred to in Article 33, Paragraph 2.

6) Reports of committees and senators.

7) Other matters envisaged in or ensuing from the Senate rules.

Article 42.1. The presenter of a committee report may not speak longer than 20 minutes, and speeches by senators concerning a debate on the floor may not take longer than 10 minutes, unless the speaker of the Senate allows, in view of the importance of the subject debated, a longer time for speeches, or unless, concerning a particular issue, the person on the floor gains the Senate's approval for prolonging the duration of his speech.

2. In a debate concerning a particular topic a senator may take the floor only twice, and the second time he may speak for not longer than five minutes.

3. The speaker of the Senate decides on extending the time of a speech or granting the floor to a speaker for yet another time.

4. The speaker may decide to delete from the minutes of the meeting the comments of a senator whom he has not granted the floor or who has continued speaking after he was denied the floor.

Article 43.1. In addition to the agenda of the meeting, or in connection with a debate, the speaker of the Senate grants the floor only for the presentation of a formal motion, a rebuttal, a personal announcement, or the rectification of a misinterpreted or misquoted comment. In all such cases the floor may be taken for not longer than three minutes.

2. Formal motions include motions to:

- 1) Declare an intermission, adjourn, or end a meeting.
- 2) Declare a meeting closed (in camera).
- 3) Close the list of announced speakers.
- 4) Adjourn or close the questions.
- 5) Pass on to the next item to the agenda.
- 6) Table to a committee.
- 7) Vote without discussion.
- 8) Complement or change the agenda.
- 9) Alter the procedure for chairing deliberations, discussion, and balloting.
- 10) Limit speaking time.
- 11) Determine the presence of a quorum.
- 12) Count the votes.

3. A formal motion should contain a demand together with a concise rationale.

4. The acceptance or rejection of a formal motion is resolved upon by the Senate after hearing the arguments of the presenter of the motion and eventually of one opponent of the motion.

Article 44.1. The speaker may grant the floor outside the regular sequence to the presenter or to the chairman of a committee offering a report.

2. The speaker may grant the floor outside the regular sequence to persons mentioned in Article 30, Paragraph 2, and to guests of the Presidium of the Senate.

3. The speaker may also grant the floor outside the regular sequence to persons mentioned in Article 31, Paragraph 2, if the deliberations concern the office or institution they head.

Article 45.1. After the list of speakers is exhausted, the speaker of the Senate ends the discussion and orders an intermission with the object of enabling the concerned committee to take a position on the proposal offered during the debate.

2. Following the intermission, only the presenters of reports and motions may take the floor.

### Chapter 3. Voting Procedures

Article 46.1. After the debate is closed, or after the presenter ends his speech, the speaker of the Senate announces that the Senate shall commence voting. From then on the floor may be taken only with the object of presenting or justifying a formal motion on the procedure or sequence of the voting.

2. The voting is open and takes place by:

1) Raising hands, and eventually by using vote-counting equipment, or

2) Using ballots signed with the given and last names of senators (voting by name).

3. In the event voting takes place by the procedure referred to in Paragraph 2, Point 1), without using vote-counting equipment, the speaker of the Senate orders the Senate secretaries to count the votes.

4. The Senate decides by a majority of votes whether to choose open balloting with recording the names of senators, on the recommendation of the speaker of the Senate or when a motion to that effect is supported by at least 20 senators. Such voting is held on using a ballot urn prepared for this purpose. Senators are summoned in succession, in alphabetical order of their names, by a Senate secretary to cast their ballots into the urn. The urn is opened and the ballots are counted by three Senate secretaries designated by the speaker of the Senate.

5. On the recommendation of the speaker of the Senate, or upon a motion supported by at least 20 senators, the Senate may decide, by a majority of votes, in favor of secret balloting. Such balloting is conducted with the aid of ballots upon following the procedure prescribed in Paragraph 4.

6. Voting on personal matters is by secret ballot. This does not concern, however, resolutions concerning the composition of Senate committee.

7. The results of the vote are announced by the speaker of the Senate. In the case of voting by open or secret ballot, the speaker announces the results on the basis of a record presented by the Senate secretaries who had counted the ballots. The results of the vote are final and not subject to discussion.

Article 47.1. In the case of proposals for amendments to laws the speaker of the Senate presents for a vote every individual amendment following a debate thereon that begins with the position taken by the concerned Senate committee. In the event that a position is taken by more than one committee, the first motion to be voted on is the most far-reaching one, followed in a sequence from the most to the least far-reaching by other proposals for amendments.

2. The position taken by a committee and the proposals for amendments are presented by the representative of the committee which had prepared the draft Senate resolution.

3. After the amendments are accepted or rejected, the resolution is voted upon as a whole.

Article 48.1. Resolutions, announcements, declarations, and appeals are processed by the procedure described in Article 47.

2. A senator who attends a meeting of the Senate may not refrain from participating in the voting.

3. The speaker of the Senate transmits a resolution accepting a law without any reservations immediately to the president, and a resolution in favor of incorporating certain amendments or rejecting a law, to the speaker of the Sejm.

Article 49.1. The reassumption of a resolution during the same meeting of the Senate is admissible solely in the case that an explicit error is discovered in the previously passed resolution.

2. Reassumption does not apply to a resolution by virtue of which a law presented by the Sejm pursuant to Article 27 of the Constitution is accepted.

### Section 6. Committees and Their Members

Article 50.1. A committee commences its activities after its members are convened by the speaker with the object of constituting the committee.

2. The chairman of the committee organizes its work and is responsible for its activities.

3. In the event of absence of the chairman, his duties, specified in Paragraphs 2 and 5, are performed by a vice chairman.

4. The committee secretary records the minutes and is responsible for the committee's records.

5. On behalf of the committee, its documents are signed by the chairman.

Article 51.1. Meetings of the committee are held at times specified by the committee itself or by its chairman. On the

recommendation of the speaker of the Senate, the Presidium of the Senate, or a written application by one-fourth of the members of the committee, the committee chairman is obligated to convene a meeting with the object of considering a particular matter.

2. Meetings of the committee may be attended, without the right to vote, by senators who are not its members, as well as by Sejm deputies, members of the government, and, with the chairman's consent, representatives of the press, radio, and television.

3. Committee chairmen order the preparation of assessment papers and invite experts and other persons as they see fit to attend committee meetings.

Article 52.1. A senator may be a member of not more than two standing committees, but he/she may also take an active part in the work of other committees, though without the right to vote.

2. Committee resolutions are adopted by a majority of votes in the presence of a quorum of at least one-third of members. In the event of a tie, the chairman casts the deciding vote.

3. In the event of joint deliberations by two or more committees, resolutions may be adopted in the presence of a quorum of at least two-fifths of the members of the deliberating committees.

4. With the consent of the Senate Presidium, a senator may be member of more than two committees.

#### **Section 7. Procedure in Handling Laws Passed by the Sejm**

Article 53.1. The speaker of the Senate transmits the text of a law passed by the Sejm to the proper Senate committee.

2. The committee, upon considering the text, prepares, not later than within two weeks afterward, a draft position of the Senate on the law passed by the Sejm; in that draft position it proposes: —Incorporating certain amendments in the law, or —Rejecting the law, or —Accepting the law without reservations.

3. The committee chairman may request the Senate Presidium to prolong the duration of the time limit referred to in Paragraph 2.

#### **Section 8. Procedure in Case of Draft Budget Law and Draft Financial Plans of the State**

Article 54.1. As presented by the Council of Ministers, the draft budget law and the draft financial plans are transmitted by the speaker of the Senate to the Senate committees.

2. Upon examining these drafts, the Senate committees convey their positions on the matter to the Committee on the National Economy, which prepares a joint report of Senate committees on these drafts. The draft budget of the Senate Chancellery is resolved upon by the Senate Presidium in consonance with Article 10, Point 7.

3. The Committee on the National Economy presents to the Senate the joint report of Senate committees on the drafts considered, along with a draft position of the Senate.

4. The Senate, after holding a debate, votes on the position it is to take on the draft budget law and draft financial plans of the state presented by the Council of Ministers, and transmits the matter to the Sejm.

Article 55. After their passage by the Sejm, the budget law and the financial plans of the state are transmitted by the speaker of the Senate to the Committee on the National Economy, which drafts the Senate's position with regard to: —Proposing specific amendments, or —Accepting the budget and plans without reservations.

Article 56.1. A resolution concerning the budget law and state financial plans passed by the Sejm is adopted by the Senate within 7 days from the day these documents are, after their passage, transmitted by the Sejm.

2. Article 47, Article 48, Paragraph 3, and Article 53, Paragraph 1, apply correspondingly.

Article 57. In matters relating to the drafting of implementation of the budget law or financial plans of the state, the Senate committees may, as part of their information-gathering activities, hold hearings to which they summon representatives of the concerned ministries.

#### **Section 9. Procedure in the Case of Legislative Initiatives of the Senate**

Article 58.1. The Senate proceeds with a legislative initiative:

1) As a result of deliberations during which the necessity of said initiative is demonstrated, by the procedure referred to in Article 41, Points 3) and 5).

2) As a result of the acceptance of a motion offered by a senator for undertaking a legislative initiative by the procedure referred to in 33, Paragraph 2.

3) As a result of the presentation to the Senate Presidium by a committee or 10 senators through the mediation of a specified representative, of a motion for legislative initiative together with a draft law and its rationale, by the procedure referred to in Article 32, Paragraph 3.

2. The speaker of the Senate notifies the speaker of the Sejm and the chairman of the Council of Ministers about the adoption of the legislative initiative.

Article 59.1. The rationale for a draft law should contain:

1) An explanation of the purpose of the law.

2) Description of the actual situation in the domain to be regulated.

3) Indication of differences between the existing and envisaged legal status.

4) Presentation of the expected social, economic, financial, and legal consequences.

5) Presentation of the basic assumptions of the related implementing regulations.

6) Information on the outcome of the related negotiations and consultation on the solutions adopted in the draft law.

2. The Senate Presidium may ask the senator representing the proposers of the draft law to expand its rationale, if it does not meet the requirements of Paragraph 1.

Article 60.1. Proposals presented by the procedure referred to in Article 58, Paragraph 1, are transmitted by the Senate Presidium for consideration to the Legislative Initiative and Work Committee and to the proper committee, which then take a position on the draft and work it out together with a rationale.

2. The committees, after considering the draft law, present to the Senate Presidium their position on initiating the related legislation. Should that position be positive, the Senate Presidium presents, insofar as possible, the draft law for consideration by the next meeting of the Senate. If the committees take a negative position, they present it to the Senate in the form of a report.

3. A resolution passed by the procedure referred to in Article 20, Paragraph 4, of the Constitution is transmitted by the speaker of the Senate to the speaker of the Sejm, upon correspondingly notifying the chairman of the Council of Ministers.

Article 61.1. At a plenary meeting of the Senate the draft law is presented by the senator representing the supporters of the draft law; thereupon the related reports of the Legislative Initiative and Work Committee and the other, concerned Senate committee on the merit of the case are presented.

2. After all the speakers on the list take the floor, the speaker of the Senate orders an intermission with the object of enabling the concerned committee and the Legislative Initiative and Work Committee to take a position on the proposals offered.

3. At the next meeting of the Senate, after the committees' position is presented and all the speakers on the list take the floor, the speaker of the Senate ends the discussion and again orders an intermission, after which only the presenters may take the floor.

4. The voting on the resolution concerning the proposed draft law follows the procedure referred to in Article 47.

#### **Section 10. Procedure in Cases of Nonlegislative Resolutions, Motions, Announcements, Declarations, and Appeals**

Article 62.1. A committee or senators offer to the Senate Presidium motions for adopting a Senate resolution on a particular issue in the form of an announcement, a declaration, a motion, or an appeal, on appending the draft of the resolution.

2. The procedure to be followed in the case of the resolutions referred to in Paragraph 1 is governed correspondingly by the provisions of Section 9.

#### **Section 11. Procedure in Cases of Appointments to Positions in High State Offices**

Article 63.1. The Senate considers the Sejm's proposal to approve the appointment or recall of the chairman of the Supreme Chamber of Control.

2. Before passing the resolution approving said appointment or recall, the Senate may summon the candidate for the position of the chairman of the Supreme Chamber of Control, or the officiating chairman, in order to listen to his explanations and to the answers he may provide to the questions asked by senators.

3. The speaker of the Senate notifies the speaker of the Sejm on the position taken by the Senate concerning any motion to express its consent to the appointment or recall of the chairman of the Supreme Chamber of Control.

Article 64. The Sejm's motion to express consent to the appointment of the Citizens' Rights Spokesman is correspondingly governed by the provisions of Article 63, Paragraphs 2 and 3.

Article 65. The Senate elects two representatives to the National Judiciary Council.

#### **Section 12. The Chancellery of the Senate**

Article 66.1. The Chancellery of the Senate implements organizational-technical duties relating to the activities of the Senate and its committees and grants assistance to senators in exercising their senatorial mandate.

2. The special organizational structure of the Chancellery of the Senate as a state office is defined in the Statute of the Chancellery of the Senate, passed pursuant to Article 10, Point 10), of the Senate rules.

3. The speaker of the Senate issues by means of executive orders the regulations governing employees of the Chancellery of the Senate pursuant to Article 2, Point 1, Article 4, Paragraph 3, Article 7, Paragraph 6, Article 20, Paragraph 4, Article 21, Paragraph 3, Article 22, Paragraph 2, Article 36, Paragraph 7, Article 41, Paragraph 3, and Article 48, Paragraph 1, of the Law of 16 September 1982 Concerning Employees of State Offices (Dz.U., No. 31, Item No. 214, 1982; No. 35, Item No. 187, 1984; No. 19, Item No. 132, 1988; No. 4, Item No. 24, and No. 34, Items 178 and 182, 1989; and No. 20, Item No. 121, 1990).

4. The director of the Chancellery of the Senate shall issue instructions regulating the specific operating procedure of the Chancellery, such as:

1) Organizational rules of the Chancellery of the Senate.

2) Operating rules of the Chancellery of the Senate.

3) Instructions on the handling of Senate business and records as well as on the financial and material management of the Chancellery.

4) Detailed guidelines for granting the pay allowances to employees of the Chancellery of the Senate envisaged in the instructions issued by virtue of Paragraph 3.

Article 67. The scope of activities of the Chancellery of the Senate includes in particular:

1) The drafting and presentation to the Senate Presidium of motions, opinions, and comments concerning matters that represent the subject of the work of the Senate and its bodies, along with paying attention to adhering to the schedule and agenda of the Senate and Senate committees and to the application of Senate rules.

2) Gathering materials on behalf of senators, drafting and presenting to the proper Senate bodies studies and materials of assistance to the activities of the Senate and its bodies, initiating such studies and research, and coordinating the work of Senate experts.

3) Assuring the organizational and technical side of the activities of the Senate and its bodies.

4) Drafting the Senate budget and the reports on its implementation.

Article 68. The director of the Chancellery of the Senate is the official superior of employees of the Chancellery of the Senate, and he/she issues orders and takes decisions on personnel matters.

### Section 13. Final Provisions

Article 69. The present Resolution is subject to publication in *DZIENNIK URZEDOWY RZECZYPOSPOLITEJ POLSKIEJ* "MONITOR POLSKI."

Article 70. Resolution of 4 July 1989 of the Senate of the People's Republic of Poland Concerning Senate Bodies (MONITOR POLSKI, No. 22, Item No. 161, and No. 26, Item No. 206, 1989; and No. 27, Item No. 216, 1990) is hereby declared null and void.

Article 71. The present Resolution takes effect on the day of its passage.

Speaker of the Senate: A. Stelmachowski

### Resolution Governing Currency Exchange Rates

*91EP0614A Warsaw MONITOR POLSKI in Polish No 17, Item No 111, 18 May 91 pp 145-146*

[Resolution No. 71 of the Council of Ministers dated 16 May on rules governing foreign currency exchange rates]

[Text] Pursuant to Article 39, Paragraph 1 of the law of 31 January 1989 on the Polish National Bank (DZIENNIK USTAW [Dz.U.] No. 4, Item No. 22 and No. 74, Item No. 439), the Council of Ministers issues the following order:

Paragraph 1. The president of the Polish National Bank shall set the rate of the zloty with respect to foreign currency, taking into account:

1) The level of currency reserves of the banking system.

2) Changes occurring in mutual relations of currency on the international exchange.

3) The condition of the state balance of payments.

4) International obligations of the state.

5) The prices of currency on the exchange in keeping with the regulations of Article 10 of the law of 15 February 1989—Foreign Currency Law (Dz.U. No. 6, Item No. 33, No. 74, and No. 441).

Paragraph 2. The rate referred to in Paragraph 1 shall be set with respect to the portfolio of available exchange currency in the following proportions to each other:

American dollars—45 percent

German marks—35 percent

Pounds sterling—10 percent

French francs—5 percent

Swiss francs—5 percent

Paragraph 3. The minister of finance and the minister for foreign economic cooperation shall cooperate with the president of the Polish National Bank in setting the level of exchange and changes in it.

Paragraph 4. Resolution No. 11 of the Council of Ministers of 19 January 1990 in the matter of standards for setting rates for gold with respect to foreign currency becomes invalid (MONITOR POLSKI No. 2, Item No. 12).

Paragraph 5. This Resolution shall take effect on 20 May 1991.

President of the Council of Ministers: J.K. Bieliecki

### Executive Order Transforming Banks Into Stock Companies

*91EP0614C Warsaw DZIENNIK USTAW in Polish No 45, 29 May 91, Item No. 196 pp 634-635*

[Executive Order of the Council of Ministers dated 14 May 1991 governing approval for the transformation of certain state banks into stock companies]

[Text] Pursuant to Article 862 of the Law of 31 January 1989, Banking Law (Dz. U. No 4, Item 21, No 54, Item 320, No 59, Item 350, and No 74, Item 439), the following order is issued:

Paragraph 1. Approval is granted for transformation of the following state banks into single-entity corporations of the state treasury:

1) the State Credit Bank in Warsaw into the General Credit Bank, Joint Stock Company in Warsaw;

2) the Great Poland Credit Bank in Poznan into the Great Poland Credit Bank, Joint Stock Company in Poznan;

3) the Industrial-Commercial Bank in Krakow into the Industrial-Commercial Bank, Joint Stock Company in Krakow;

4) the Slask Bank in Katowice into the Slask Bank, Joint Stock Company in Katowice;

5) the Gdansk Bank in Gdansk into the Gdansk Bank, Joint Stock Company in Gdansk;

6) the General Management Bank in Lodz into the General Management Bank, Joint Stock Company in Lodz;

7) the Pomorze Credit Bank in Szczecin into the Pomorze Credit Bank, Joint Stock Company in Szczecin;

8) the Western Bank in Wroclaw into the Western Bank, Joint Stock Company in Wroclaw;

9) the Deposit-Credit Bank in Lublin into the Deposit-Credit Bank, Joint Stock Company in Lublin.

Paragraph 2. The closing balances of the state banks shall become the base opening balances of the single-entity joint stock companies of the state treasury.

Paragraph 3.1. The statutory funds of the transformed state banks shall be entered to cover the capital of single-entity joint stock companies of the state treasury.

2. The remaining property of state banks shall be turned over without compensation to the single-entity joint stock companies of the state treasury that were created as a result of the transformation.

Paragraph 4. This Executive Order takes effect on the day of its publication.

President of the Council of Ministers: J. K. Bielecki

#### **Law on Income Taxes Paid by Legal Persons**

91EP0630A Warsaw *DZIENNIK USTAW* in Polish  
No 49, 11 Jun 91 Item No 216 pp 666-672

[Proclamation of the minister of finance dated 3 June concerning the publication of the uniform text of the law dated 31 January 1989 governing the income taxes paid by legal persons]

[Text]

1. On the basis of the sixth article of the law dated 31 January 1991 on changes in some laws regulating taxing methods (*DZIENNIK USTAW* [Dz.U.] No. 9, Item No. 30), a uniform text of the law dated 31 January 1989 about governing personal income taxes (Dz.U. No. 3, Item No. 12) is proclaimed in the Annex to this Proclamation, including the changes made:

1) by the law dated 29 September 1989 on changes in administering the State Budget in October 1989, and on changes in the Budget Law for the year 1989 and some other laws (Dz.U. No. 54, Item No. 320);

2) by the law dated 28 December 1989 on changes of some laws regulating taxation methods (Dz.U. No. 74, Item No. 443);

3) by the law dated 12 January 1991 on changes of some laws regulating taxation methods (Dz.U. No. 9, Item No. 30);

4) by the law dated 22 March 1991: Law on Public Transactions in Securities and Trust Funds (Dz.U. No. 35, Item No. 155);

as well as changes resulting from regulations proclaimed before the day of proclamation of the uniform text, using continuous numeration of articles, paragraphs, and points.

2. The uniform text given in the Annex to the present Proclamation does not include the following regulations:

1) Articles 22-26 of the law dated 31 January 1989 about income tax paid by legal persons (Dz.U. No. 3, Item No. 12) is as follows:

"Article 22. In Article 10, Section 1, in Point 1 of the law dated 16 December 1972 on turnover tax (Dz.U., No. 43, Item No. 191, 1983, and No. 12, Item No. 50, 1985) the rate of 10 percent is replaced by the rate of 15 percent.

Article 23. In the law dated 26 February 1982 on taxation of units of public economy (Dz.U. 1987 No. 12, Item No. 77) the following changes are made: 1) In Article 3, Section 1, Points 4 and 5 are cancelled and Section 3 is cancelled.

2) In Article 15:

a) In Section 1, the rate of 10 percent is replaced by the rate of 15.

b) In Section 2, the words "after consultation with the pertinent Sejm committee" are cancelled.

c) In Section 3, in the first sentence, the words "after consultation with the pertinent Sejm committee," and the second sentence are cancelled.

3) Chapters 4 and 6 are cancelled.

4) In Article 54, Section 1, Point 1, the words "except tax from supernormative payment of incomes" are cancelled.

5) In Article 57, the rate of 10 percent is replaced by the rate of 15 percent.

6) Article 58 is cancelled.

Article 24. In the law dated 16 September 1982: Cooperative Law (Dz.U. No. 30, Item No. 210; 1983 No. 39, Item No. 176; 1986 No. 39, Item No. 192; 1987 No. 33, Item No. 181; and 1988 No. 41, Item No. 324) the following changes are made:

1) In Article 76, Paragraph 1, the words "At least 10 percent overbalance" are replaced by the words "At least 30 percent overbalance."

2) In Article 78, Paragraph 1, Point 2, the second sentence goes as follows: "Reserve fund is increased by the amount of depreciation of capital goods and other assets, and is decreased by their amortization."

3) In Article 79, Paragraph 1, in the first sentence, the words "and income from sales or liquidation of capital goods" are cancelled.

4) Article 80 is cancelled.

Article 25. 1. The following regulations are no longer valid:

1) In the law dated 16 December 1972 on income tax (Dz.U. 1988 No. 4, Item No. 37; No. 34, Item No. 254; and No. 41, Item No. 325) regarding legal persons, except Article 11, which remains in force until the exemptions provided for in it expire.

2) In the law dated 19 December 1975 on tax abatements by virtue of investments (Dz.U. No. 45, Item No. 230), where concerning legal persons, except for those operating on the basis of regulations concerning the conducting of economic activities on the territory of the People's Republic of Poland, and where concerning small manufacturing by foreign legal and private persons.

25. 2. Regulations issued on the basis of Article 23, Point 1, of the law mentioned in Section 1, Point 1, and on the basis of Articles 51 and 54, Section 2, of the law mentioned in Article 23, concerning temporary income tax exemptions, remain in force until they are replaced by new regulations.

25. 3. Until such time as the issuance of regulations on the basis of Article 10, Paragraph 6 of the present law, regulations issued on the basis of Article 45, Section 2 of the law mentioned in Article 23 remain in force, except that they are applied to all taxpayers subject to taxation according to the rules as defined in the present law.

Article 26. The law takes effect on the day of its proclamation, and is applied to the taxation of incomes received from 1 January 1989."

2) Article 6 of the law dated 29 September 1989 on changes in administering the State Budget in October 1989, and on the change of the Budget Law for the year 1989, and some other laws (Dz.U. No. 54, Item No. 320) is as follows:

"Article 6. The law takes effect on October 1, 1989."

3) Article 12, Section 4, and Article 14 of the law dated 28 December 1989 on the change of some laws regulating principles of the taxation system (Dz.U. No. 74, Item No. 443) is as follows:

"Article 12. 4. Taxpayers who acquired the right to deductions from the income of investment expenses, on the basis of Article 16, Section 1 of the law mentioned in the Article 9, keep the rights to those deductions until their exhaustion."

"Article 14. The law takes effect on January 1, 1990, except for Article 10, which takes effect 30 days after the day of its proclamation."

4) Article 5, Section 6 and 7, and Article 7 of the law dated 12 January 1991 on change of some laws regulating principles of taxation (Dz.U. No. 9, Item No. 30) as follows:

"Article 5. 6. Taxpayers who in the year 1990 incurred expenses described in Article 16, Section 1 of the law mentioned in Article 4, retain their rights to deduction of

those expenses until their exhaustion, with allowance for the regulations of Article 16, Section 3 and 4 of this law.

5. 7. Taxpayers who until December 31, 1990 have, in their own capacity, been accomplishing allocations of expenses for acquisition or manufacturing of property components which are not subject to depreciation according to the regulations in Article 10, Section 5 of the law mentioned in Article 4, appropriate the unallocated amount to the costs of revenue in 1991."

"Article 7. The law takes effect on the day of its proclamation, with validity from January 1, 1991, except Article 2 and Article 3, Points 2 through 10, which take effect 30 days after proclamation."

5) Article 132 of the law dated 22 March 1991: The law of public transactions of securities and trust funds (Dz.U. No. 35, Item No. 155) as follows:

"Article 132. The law takes effect on the day of proclamation." Minister of Finances: signed in his place by A. Podsiadlo Annex to the proclamation dated 3 June 1991 (Item No. 216)

#### **LAW**

**dated 31 January 1989, on income tax paid by legal persons.**

#### **Article 1**

1. 1. The law regulates income tax paid by legal persons, political organizations, and administration units without legal status, except corporations without legal status, called hitherto "taxpayers".

1. 2. Income of taxpayers mentioned in Section 1 from participation in a corporation which is not a legal person, from common ownership, from common possession, or common usufruct of income sources, is taxed separately, each taxpayer in relation to his share. Lacking other evidence, it is accepted that shares of copartners in profits are equal.

#### **Article 2**

Taxpayers mentioned in Article 1:

1) If they have business residence or headquarters on the territory of the Republic of Poland, are subject to tax-paying liability of the whole of their incomes, regardless of the location of sources of incomes.

2) If they do not have their headquarters or business residence on the territory of the Republic of Poland, they are subject to tax-paying liability only of incomes which are drawn on the territory of the Republic of Poland.

#### **Article 3**

That part of the continental shelf located out of territorial waters of the Republic of Poland, in which the Republic of Poland, on the basis of internal law and according to international law, exhibits rights applied to the exploitation and exploration of sea bottom and its ground, as well as their natural resources, is considered a part of the territory of the Republic of Poland, in terms of Article 2.

#### Article 4

1. The following are exempted from income taxes:

- 1) The State Treasury.
- 2) The Polish National Bank.
- 3) Schools of higher education, and research and development units.
- 4) Budget units and institutions, and auxiliary estates of budget units.
- 5) Taxpayers conducting farming and other activities, if revenues from farming, increased by the value of raw products and materials consumed in farming and food production which are derived from their own plant, animal, and forest production, accounts for at least 60 percent of earnings achieved in the tax year from all kinds of activities.

6) International firms and other economical units which are established by a body of state administration together with other countries on the basis of an agreement or contract, unless these agreements or contracts provide otherwise.

7) Enterprises which are subject to the minister of national defense and the minister of internal affairs, if they transfer the means from this exemption to the account of the controlling body, with allocation for development purposes; and enterprises subordinate to the minister of justice which operate in penitentiary establishments and inquisitional arrests, if they transfer the means from this exemption to the account of the controlling body, with allocation for purpose of development of these enterprises and of the organizational units of prison administration.

2. Farming activities, in regards to the law are plant and animal production, including production of seed, nursery, breeding and reproducing materials; vegetable production in greenhouses and on land; production of ornamental plants and cultivated mushrooms; orchard production; animal breeding; and production of reproductive material of animals, birds and insects; farm-industry animal production; and fish breeding.

#### Article 5

1. Subject to taxation, with the reservations of Section 3, is income earned from the source of revenue, and if the taxpayer earns income from more than one source of earnings, then it is the sum of incomes from all the sources of earnings, after deducting deficits, except for deficits from the sale of property goods and property rights, and deficits from sources of earnings which are not subject to or are exempt from income tax.

2. Income from source of earnings, if the regulations in Articles 12 through 15 do not provide otherwise, is the surplus of the amount of revenue from this source over the expense of their derivation achieved during the tax year. If the expense of derivation exceeds the amount of earnings, the difference is a deficit from source of revenue.

3. For taxpayers who, in accordance with valid principles of accounting, draw up a balance sheet and an income statement, subject to taxation is income as described in Section 2, as indicated on the basis of correctly kept books, and decreased by income from revenue sources which are not subject to or are exempt from income tax, and increased by deficits from the sale of property goods and rights, and by expenditures which are not revenue costs as defined in Article 11, if those expenditures were included in revenue costs.

4. If the deficit from sources of revenue is higher than income from remaining sources of revenue, or if the taxpayer does not achieve other incomes other than from that source of revenue which brought the deficit, then that deficit covers [can be used to reduce], in equal parts, the income achieved over the next three tax years.

#### Article 6

1. Revenue sources are:

- 1) Economic activity.
- 2) Letting, subletting, lease, sublease, and other agreements of similar nature.
- 3) Monetary capital and property rights.
- 4) Sale of property goods and rights.
- 5) Other sources.

2. Source of revenue as understood in Section 1 Point 4, is the sale of:

- 1) Real estate or parts of real estate.
- 2) Enterprises or their parts which are capita goods.
- 3) Stock and shares in corporations, and bonds, and also other securities.
- 4) Perpetual land use rights, rights to invention design, and other property rights.

3. Revenues from other sources, as mentioned in Section 1, Point 5, are, in particular, subsidies, subventions, supplementary payments, and other gratuitous benefits, with the exception of those intended for the creation (or acquisition), increase, or improvements of sources of revenue.

#### Article 7

1. Revenues are moneys received, monetary assets, including also the difference in currency exchange, or the value of revenue in kind, increased by price discounts given to shareholders, stockholders or employees, and by the value of gratuitous benefits performed for shareholders and stockholders.

2. For taxpayers who, in accordance with valid principles of accounting, draw up a balance sheet and an accounting of results, revenue owed in the tax year, though not yet actually achieved, is considered to be revenue achieved in that year.

3. The value of revenue in kind is calculated according to market prices. Market prices are determined on the basis of average prices in use in a given locality in sales of items

of the same kind and grade, making allowance for their state and level of depreciation.

#### Article 8

Revenues which are subject to inheritance and bequest taxes are not subject to income tax.

#### Article 9

1. The following are exempted from income tax:

1) Income from farming.

2) Income derived from sale of the whole or part of real estate, which is the component of a farm unit, and is connected with the farming activities of other property goods and rights; this exemption does not include the income derived from the sale of real estate which because of this sale lost its agricultural or forest nature.

3) Income from sources of revenues located outside the territory of the Republic of Poland, in the case of determination that they are subject to taxation of the same kind in a foreign country, and that the foreign country acts on a reciprocity principle toward the same income from sources located on the territory of the Republic of Poland, unless the contract between the Republic of Poland and this country contains different provisions.

4) Income from shares in Polish insurances, obtained by the insurance companies of those countries which do not apply taxation burdens to such revenues derived by Polish insurance companies.

5) Income of legal persons—with an exemption for state enterprises, co-operatives and their associations, and corporations, which conduct economic activities—whose statutory goals are: research activities, scientific-technical activities, educational activities, cultural activities, physical culture and sport activities, conservation of the environment, charity, health protection and social welfare, social and professional rehabilitation of disabled persons, and religious cults—in that part, which was assigned for the statutory goals in the tax year or the following year.

6) Income from shares in profits of legal persons.

7) Income from bonds.

8) Income from sales of goods and property rights in that part, in which this income was spent for the purchase of different property goods and rights, in the tax year or the following year.

9) Income from sales of shares held in corporations and stocks, bonds, and other securities, except if those sales are the subject of economic activities. 10) Income from individual membership fees from members of political, social and professional organizations.

11) Income from economic activities of taxpayers who employ disabled persons, within the scope and regulations determined in a separate law on the employing and rehabilitation of disabled persons.

12) Income from nonstate schools, in order to regulate development of education, if this income is intended for school expenses.

2. If the taxpayer earns his income from agricultural activities and other income, that income from farming activities mentioned in Section 1, Point 1, is considered a part of the whole income, corresponding to its share of total earnings.

3. The minister of finances, by a decree, can exempt from taxation, partially or fully, other than those types of income listed in Section 1; and he can determine the terms of this exemption.

#### Article 10

1. The costs of deriving revenue are all the costs incurred to obtain revenue, except the costs mentioned in Article 11.

2. The following are considered to be the costs mentioned in Section 1:

1) Allocations from depreciation of capital goods, and of the value of nonmaterial goods and legal remedies (allocations for amortization), and also the net value of not fully amortized capital goods liquidated because of depreciation or damage.

2) Partial or total losses of capital goods and working assets, caused by fortuitous events; losses are deductible to the amount which is not covered in virtue of insurance or allocations of amortization.

3) Expenses for research and development studies, and experimental and promotional work, including those completed with negative results,

4) Expenses for standardization and for elaboration and evaluation of invention projects.

5) Wages paid to authors of inventions, labor-saving projects and utility models, and rewards connected with those projects; and also rewards given for achievement of measurable economic effects of promotion of new technical or organizational solutions, which are the results of research, in an amount which is not higher than 6 percent of the value of the effects achieved during three years from the day of the promotion of the solution.

6) Expenses for activities of clubs for labor-saving and invention.

7) Interest from obligations, including loans, and also constant burdens, if they remain in connection with the source of revenues, except as determined in Article 11, Section 1, Points 7, 12, 15 and 17.

8) Dues to organizations, when the taxpayer's membership is obligatory.

9) Taxes, fees, and insurance premiums remaining in connection with the source of revenues, except as mentioned in Article 11, Section 1, Point 9.

10) Allocations for social and housing funds, to the amount determined in separate regulations on institutional social and housing funds in nationalized economic units.

11) Expenses other than those determined in Point 10 incurred indirectly by the employer on behalf of the employees, if they result from the collective labor agreement or other valid legal acts.

12) Outstanding liabilities allocated as uncollectible, and reserves created to cover outstanding liabilities which are deemed likely to be uncollectible, and other reserves, if the obligation to include them in the burden of costs is the result of separate regulations.

13) Costs of functioning of legal persons.

14) Wages for work as members of agricultural production cooperatives and other cooperatives conducting farming production, and also their household members which are paid from the revenues of the cooperative.

15) Expenses for wages of medical personnel of an industrial health service employed in stations which provide preventive and medicinal care of the employees in a given institution.

16) Differences in the rate of exchange.

17) Other expenses, if the obligation of incurring them into the burden of costs is determined by separate laws.

3. The costs of deriving revenues, with the limitations of Section 4, are deductible only in the tax year in which they were incurred.

4. For taxpayers, the costs of deriving revenues mentioned in Article 4, Section 3, are deductible only in the tax year under consideration; that is, the costs of deriving revenues which were incurred in previous years, before the tax year but in connection with revenues in the tax year, and which are determined in terms of the kind and amount of the costs of derivation, and which were credited although not yet incurred, if they are included in the revenues of a given tax year, are also deductible.

5. The Council of Ministers determines by decree which property components are recognized as capital goods; the procedures and date of actualization of their valuation; and the principles and rates of amortization of those property components, including also nonmaterial and legal assets. The chairman of the Central Office of Statistics proclaims the conversion indexes in the POLISH MONITOR, the official gazette of the Republic of Poland, and determines the way in which they are used in actualization of valuation of the value of capital goods.

#### Article 11

1. The following are not included in the costs of deriving revenues:

1) Expenses for the acquisition or production of capital goods and non-material and legal assets in one's own capacity, if those goods and assets are subject to allocations

from depreciation; these expenses are however considered as costs of derivation during the estimation of income from sale of property goods and rights, regardless of time of incurrence.

2) Allocations and payments for different kinds of funds, except for those mentioned in Article 10, Section 2, Point 10, unless the obligation for inclusion of such funds into the burden of costs by the taxpayer, or of making payments into those funds, are provided for in separate laws.

3) Expenses for payment of liabilities, including loans, and remittance of capital remaining from the formation (purchase), increase or improvement of the source of revenue.

4) Expenses for redemption of bonds.

5) Interest from one's own capital, contributed by the taxpayer to the source of revenue.

6) Amounts assigned for distribution between shareholders and stockholders as a share in profits of legal persons, or as dividends.

7) Interest surpluses from loans contracted by cooperative members, shareholders and stockholders which exceed the amount of basic interest rate of credit given to banks by the National Polish Bank.

8) Donations and contributions of all kinds.

9) Income tax, gift and inheritance tax, turnover tax from excessive wastage of products and culpable wastage of products.

10) One-time compensations from work accidents and occupational diseases, and additional social insurance contributions in case of confirmation of worsened work conditions.

11) Execution costs for noncompletion of obligations.

12) Penalties and fines, and interest from those penalties and fines.

13) Penalties, including also stipulated penalties, payments and compensations for:

a) Defects of delivered products, completed works and services.

b) Delay in delivering products free from defects; or delay in fixing defects of products, completed works or services.

c) Overdue, or total or partial damage of means of transportation and loading machines.

d) Underloading of train and auto means of transportation, except for means of transportation for transport of food products susceptible to spoilage, and loads requiring specialized vehicles.

e) Disregard of conservation of nature laws.

f) Nonobservance of orders made by competent control and supervision bodies regarding offenses against work safety and hygiene.

14) Expenses for liquidation of damages caused by fire, as a result of violation of fire prevention principles, and damages in property resulting from failure to observe regulations of property protection identified by the competent body.

15) Interest from past-due loans.

16) Outstanding liabilities deducted as overdue.

17) Interest paid for delay of obligation payments to which regulations from the law on tax obligations apply.

18) Expense allowances, and other obligations for time of business travel by employees, in the amount exceeding those obligations as determined by the rules included in separate regulations on expense allowances and other obligations from business travel.

19) Costs of representation and advertisement in an amount exceeding, in yearly transactions as decreased by turnover tax, in zlotys:

| Above         | Up To         |                                                    |
|---------------|---------------|----------------------------------------------------|
| [0]           | 2,250,000,000 | 2% of turnover                                     |
| 2,250,000,000 | 4,500,000,000 | Z45,000,000 + 1% of surplus above Z2,250,000,000   |
| 4,500,000,000 | 9,000,000,000 | Z67,500,000 + 0.5% of surplus above Z4,500,000,000 |
| 9,000,000,000 |               | Z90,000,000 + 0.2% of surplus above Z9,000,000,000 |

20) Costs of deriving revenue from sources of revenues located on the territory of the Republic of Poland or abroad, if the income from those sources is not subject to taxation or is exempt from income tax.

2. The minister of finances can recognize by decree some kinds of expenses defined in Section 1, and also some kinds of other expenses, as costs of deriving revenues.

#### Article 12

1. Income from the sale of property goods and rights is the difference between the revenue derived from that sale and their value as shown in the balance sheet. If the taxpayer is not required to draw up such a balance, the income from the sale of property goods and rights is the difference between the revenue derived from their sale and the cost of their purchase or manufacture; in the case of property goods and rights obtained by inheritance or donation, income is the difference between revenue from sale and their value on the day of purchase.

2. The difference mentioned in Section 1 is decreased by the costs of sale, if the seller bears it; and in the case of the

sale of property rights and goods obtained by inheritance or donation, it is also decreased by the gift and inheritance tax paid.

#### Article 13

The income from share in the profits of legal persons are loans obtained because of this share, including the amounts allocated for increase of the initial capital (enterprise fund, reserve fund).

#### Article 14

The income from reinsurance shares in Polish insurances is determined to be 50 percent of the final net profit of the foreign insurance company, calculated according to valid reinsurance laws.

#### Article 15

1. If the taxpayer who is in economic relationship with a person who has a residence or lives abroad plans his business in such a way that he does not show profits, or indicates profits smaller than those which are expected if this relationship did not exist, then income from this taxpayer is determined without taking into account the specific burdens resultant from this partnership. If determination of the income on basis of accounting records is impossible, income is determined by assessment.

2. The regulation from Section 1 is applied when the taxpayer, using his economic relationship with a person who is entitled to a special income tax abatement, or if, while completing services for another taxpayer on terms significantly more favorable and deviating from widely used norms at the time and place of completing the service, he transfers the whole or part of his income to a person using abatements or to another taxpayer, and therefore does not show his income in the amount, which should be expected if such relationship did not exist.

#### Article 16

1. Income derived in the tax year, after subtracting the following, with the exceptions stated in Sections 3 and 4, is the basis for calculation of tax:

1) 50 percent of expenses for purchase and installation of machinery and equipment, if they serve for agricultural and food processing activities, except for the production of spirits, alcohol, and tobacco products.

2) Donations for the following purposes: research, scientific-technical, educational, cultural, religious, physical culture and sports, conservation of the environment, charity, health protection and social welfare, professional and social rehabilitation of disabled persons; and also for purposes of housing industry for local self-governments, in an amount not higher than 10 percent of income or without limitation if the result of separate laws; deductions are not possible in cases of donations for natural and legal persons, and for organizational units which do not have legal status which accomplish the above-mentioned purposes in the performance of economic activities, and natural persons for whom these donations would become their personal revenue.

2. The minister of finances can, by decree, recognize donations for other purposes than those mentioned in Section 1, Point 2, as being subject to deductions from income to an amount not higher than 10 percent of that income.

3. Expenses listed in Section 1, Point 1, are deducted from income derived in the tax year in which they were incurred. When those expenses exceed the amount derived in the year of their incurrence, the surplus of expenses is deducted from the income derived in following years.

4. In case of transfer of ownership of capital goods for which deductions were applied, before a five-year period from the completion of an investment project, or of allocation of those capital goods in this period for other needs than those mentioned in Section 1, Point 1, the amounts of tax accrued from expenses deducted from income are subject to reduction proportionally to the number of full months of the five-year period in which the capital goods were not used by the taxpayer for the purposes determined in Section 1, Point 1.

5. The taxpayer is obliged to pay the amounts of tax mentioned in Section 4, by the end of the month following the month, in which the circumstances, determined in this regulation, took place.

#### Article 17

1. Income tax is 40 percent of the base of taxation.

2. The Council of Ministers can determine tax reductions by decree, depending on the kind of activities performed and the conditions of their application.

#### Article 18

1. Taxpayers are obliged without a writ to submit a declaration, according to the established form, on the amount of income derived from the beginning of a year, and taxpayers whose tax-paying liability occurred during the year, are obliged to do so from the date of occurrence of tax-paying liability; they are obliged to pay monthly advances in the amount of the difference between the tax due from income derived from the beginning of a year, or from the date of occurrence of the tax-paying liability, and the sum of advances due for previous months.

2. The monthly advances mentioned in Section 1, for the period from January to November, are paid by the 20th day of each month for the previous month; the advance for December is paid initially in the amount of the advance for November, by the 20th day of that month; the final established advance for December is paid by a date established for a statement of one's income derived in the tax year.

#### Article 19

1. Taxpayers are obliged to give a statement on the amount of income derived in the previous year to revenue boards, according to an established form; initially by March 1 of the following tax year, and in this period, are obliged to pay the difference between the tax due from income shown in the statement and the sum of advances due for the

period from the beginning of the year or date of occurrence of tax-paying liability. The taxpayers are obliged to return the statement of final amount of income by ten days from the date of verification of the yearly financial report, but no later than June 30 of the following tax year. The income tax determined in the statement is tax due in the given year, unless the revenue board issues a decision in which another amount of tax is determined.

2. Taxpayers mentioned in Article 9, Section 1, Point 5, are obliged also to show in the given statement the amount of income spent on purposes listed in this regulation.

3. Taxpayers who are required to draw up a balance sheet and an income statement add the yearly closing, together with calculation of the results, to the statement; in addition, a copy of the report from the general assembly (meeting of partners) which accepts the yearly closing and the copy of the report of the auditing committee, if necessary according to separate regulations.

#### Article 20

1. The regulations of the law apply also to institutions (divisions) of the taxpayer drawing up the balance and the accounting of results on their own.

2. The regulation of Section 1 does not apply to the following:

1) Taxpayers who own institutions (divisions) located exclusively on the territory of the county which is the residence of the taxpayer.

2) Taxpayers whose institutions (divisions) mentioned in Section 1 will close their activities with deficit in the tax year.

3. Taxpayers mentioned in Section 2, Point 2, pay tax due to the account of the revenue board, appropriate for their residence, maintaining, however, the rights of counties to determine a share in tax in separate regulations.

#### Law on Creation of Industry and Trade Ministry

91EP0661A Warsaw RZECZPOSPOLITA (ECONOMY AND LAW supplement) in Polish 1 Aug 91 p VIII

[Law dated 28 June governing the creation of the office of the Ministry of Industry and Trade. Also published in DZIENNIK USTAW No. 66, 29 Jul 91]

[Text] Article 1. The Office of the Minister of Industry and Trade is hereby established.

Article 2. The purposes of the minister of industry and trade include planning the objectives and implementing the policy of the state concerning industry and domestic trade and services with respect to all economic entities regardless of the form of their ownership.

Article 3. The scope of activities of the minister of industry and trade includes, in particular:

1) Supervising the operations of domestic power systems and defining the directions of their development, especially as regards liquid fuels, electrical power systems, and

the natural gas system, and creating the conditions for a more efficient use of energy and fuels.

2) Establishing stockpiles of fuels and materials of basic importance to the economy and managing these resources.

3) Implementing, in accordance with the powers bestowed thereon in the present law, objectives relating to national defense and national security and other objectives defined in separate regulations.

Article 4. The minister of industry and trade represents the State Treasury in managing the property left by shutdown state enterprises and R&D units whose parent agency or supervising agency that minister had been, in the event that said property was not entrusted to another government agency.

Article 5.1. The Ministry of Industry and Trade becomes, on the effective date of the present law:

1) The parent agency of the state enterprises whose parent agencies had previously been the ministers of industry and of the domestic market, with the proviso of Paragraph 2.

2) The supervising agency with respect to R&D and other units previously subordinated to the ministers of industry and of the domestic market.

2. The Council of Ministers shall determine the list of the enterprises whose parent agencies are the voivodes, upon identifying the voivodes.

Article 6.1. The Council of Ministers may issue an executive order defining the specific scope of activities of the minister of industry and trade.

2. The organizational structure of the Ministry of Industry and Trade and the list of the organizational units under the jurisdiction of the minister of industry and trade and the state enterprises for which that minister is the parent agency shall be defined in the statute conferred by the Council of Ministers.

3. The Council of Ministers may issue an executive order defining the guidelines for the formation and management of the stockpiles referred to in Article 3, Point 2.

Article 7.1. The following are hereby abolished:

1) The Office of the Minister of Industry.

2) The Office of the Minister of the Domestic Market.

2. As defined in separate regulations, the powers previously belonging to the ministers referred to in Paragraph 1 are transferred to the minister of industry and trade.

3. The Council of Ministers shall define the guidelines, procedure, and schedule for the takeover by the minister of industry and trade of the matters transferred to his competence under the present law and separate regulations, and the guidelines for eliminating the ministries referred to in Paragraph 1.

4. In matters previously belonging in the competences of the ministers referred to in Paragraph 1, proposals to institute administrative proceedings are subject to consideration, and the current administrative proceedings are continued, by the minister of industry and trade.

Article 8. The following are hereby declared null and void:

1) Law of 23 October 1987 on creating the Office of the Minister of Industry (Dz.U., No. 33, Item No. 172, 1987; and No. 73, Item No. 433, 1989).

2) Law of 23 October 1987 on creating the Office of the Minister of the Domestic Market (Dz.U., No. 33, Item No. 177, 1987; and No. 16, Item No. 74, 1991).

Article 9. The present law takes effect on the day of its publication.

### Law on Trade Unions

91EP0594A Warsaw RZECZPOSPOLITA (ECONOMY AND LAW supplement) in Polish 25 Jun 91 p VIII

[Law dated 23 May on trade unions; also published in Warsaw DZIENNIK USTAW in Polish No. 55, 26 Jun 91, Item No. 234 pp 725-730]

[Text]

### Chapter 1. General Provisions

Article 1.1. A trade union is a voluntary and self-governing organization of laboring people established with the object of representing and protecting their rights and occupational and social interests.

1.2. The trade union's statutory activities are independent of employers, central and local government, and other organizations.

1.3. Central and local government offices and [other] employers are obligated to extend equal treatment to all trade unions.

Article 2.1. The right to establish and join trade unions belongs to all employees, irrespective of the basis of their employment relationship; members of agricultural producer cooperatives; and persons performing labor services on the basis of contracts if they are not employers.

2.2. Persons performing commissioned work have the right to join the trade unions active at the workplace with which they conclude the commission agreement.

2.3. Retirement with a pension or an annuity does not deprive the persons referred to in Paragraphs 1 and 2 of the right to belong to and join trade unions.

2.4. Persons who are unemployed as interpreted by regulations governing employment retain the right to belong to trade unions or, if they are not members of trade unions, have the right to join a trade union in the cases and on the terms defined by the union's bylaws.

2.5. The right to establish and join trade unions at workplaces also belongs to individuals assigned to these workplaces with the object of performing substitute [military] service.

2.6. The trade-union rights of Police and Border Guard personnel are correspondingly governed by the provisions of the present law, with allowance for the restrictions ensuing from other laws.

2.7. The provisions of the present law concerning employees also apply correspondingly to the other persons mentioned in Paragraphs 1-6.

Article 3. No one may suffer negative consequences for belonging or not belonging to a trade union or for holding a trade-union office. In particular, this may not be a requirement for hiring, retaining, or promoting an employee.

Article 4. Trade unions represent employees and other persons referred to in Article 2, and they protect their dignity, rights, and material and moral interests, both collective and individual.

Article 5. Trade unions have the right to represent employee interests on international forums.

Article 6. Trade unions participate in creating favorable conditions of work, existence, and recreation.

Article 7.1. As regards collective rights and interests, trade unions represent all employees regardless of whether or not they belong to trade unions.

7.2. As regards individual matters concerning employment relationship, trade unions represent the rights and interests of their members. On the request of a nonunion employee, a trade union may undertake to protect his rights and interests vis-a-vis the employer.

Article 8. Under the guidelines of the present law and other laws, trade unions monitor adherence to regulations concerning the interests of employees, pensioners, annuitants, and the unemployed and their families.

Article 9. Trade union bylaws and resolutions freely define the organizational structures of trade unions. Property obligations may be undertaken solely by the statutory bodies of the trade union structures having legal entity status.

Article 10. The rules for membership in a trade union and for holding trade union offices are defined by the bylaws and resolutions of statutory trade union bodies.

Article 11.1. Trade unions have the right to form national associations (federations) of trade unions.

11.2. National trade unions and their federations may establish national intertrade union organizations (confederations).

11.3. Trade union organizations, including federations and confederations, have the right to establish and join international employee organizations.

## Chapter 2. Formation of Trade Unions

Article 12.1. A trade union is formed by virtue of a resolution passed by at least 10 persons having the right to establish trade unions.

12.2. The persons who adopt the resolution to establish a trade union pass its bylaws and elect a founding committee numbering three to seven members.

Article 13. The bylaws of a trade union specify in particular:

- 1) The name of the trade union.
- 2) Its address.
- 3) Its territorial and occupational scope of activities.
- 4) The purposes and objectives of the trade union and the ways of accomplishing them.
- 5) Rules for admission and for forfeiture of membership.
- 6) Rights and obligations of members.
- 7) Organizational structure of the trade union specifying which of the union's organizational units have the status of legal entities.
- 8) Manner of representing the trade union and the persons authorized to assume property obligations on behalf of the union.
- 9) Bodies and officers of the trade union, procedures for electing them, and the scope of their powers and their term of office.
- 10) Financing sources of the trade union and the method for determining membership dues.
- 11) Rules for the passage and amendments of bylaws.
- 12) Manner of dissolution of the trade union and liquidation of its assets.

Article 14.1. The founding committee shall, within 30 days from the day the trade union is formed, submit an application for registering the trade union to the pertinent local voivodship court. Should that time limit elapse without results, the resolution to form the trade union is no longer binding.

14.2. The court shall refuse to register a trade union if the requirements of Articles 12 and 13 are not met or if the union's bylaws are inconsonant with the provisions of the present law.

14.3. The court's ruling on the registration of the trade union is subject to appealing to an appellate court.

Article 15.1. The trade union and its organizational units named in the bylaws acquire the status of legal entity on the day of the union's registration.

15.2. Trade union federations and confederations are registered by the Voivodship Court in Warsaw.

Article 16.1. The trade union immediately notifies the proper court about any amendments to its bylaws. The amendments take effect 14 days after the notification, unless the court states earlier that it has reservations about their legality.

16.2. In the event of the reservations referred to in Paragraph 1, the court notifies the trade union accordingly and designates the date on which it will hold a hearing to consider them within 30 days from the date of notification by the trade union about the amendments to the bylaws.

16.3. Article 18, Paragraphs 1 and 3, applies correspondingly.

Article 17.1. The court expunges the trade union from the registry if:

- 1) A body identified in the union's bylaws passes a resolution to dissolve the trade union.
- 2) The workplace in which the trade union has been active so far has become expunged from the pertinent registry owing to its liquidation or bankruptcy, or owing to its organizational-legal transformation such as makes it impossible to continue the trade union's activities.
- 3) The union's membership remains below 10 for more than three months.

17.2. The circumstances indicated in Paragraph 1 are established by the court ex officio or upon the request of the trade union.

17.3. The court's ruling to expunge the trade union from the registry is subject to being appealed in an appellate court.

Article 18.1. Matters concerning the registration of trade unions are considered by the court in accordance with the provisions of the Code of Civil Procedure governing nonlitigious proceedings.

18.2. Matters referred to in Paragraph 1 are considered by the court within 14 days from the date the application is submitted.

18.3. Registration proceedings are exempt from court fees.

18.4. The minister of justice shall issue implementing regulations prescribing the detailed procedure in the matters referred to in Paragraph 1 and the procedure by which the registry of trade unions is maintained.

### Chapter 3. Powers of Trade Unions

Article 19.1. National trade union confederations and the national trade union federation representative of the employees at a majority of workplaces have the right to be consulted on the assumptions and drafts of the legislation and implementing regulations relating to the purposes of trade unions.

19.2. Central and local government offices transmit copies of the assumptions or draft legislation referred to in Paragraph 1 to appropriate statutory bodies of trade unions for consultation upon fixing the response date at a

period of time that is not shorter than 30 days. Failure of the trade union to respond within the specified time limit is interpreted as the relinquishment of its right to express its opinion.

19.3. In the event that the position taken by the trade union is entirely or partially rejected, the concerned central or local government office notifies the union accordingly in writing, upon providing a rationale for the rejection. In cases of a divergence of positions, the trade union may present its position at a session of the concerned Sejm or Senate committee or a local government.

19.4. Trade unions have the right to express publicly their opinion on the assumptions or draft legislation referred to in Paragraph 1 through the mass media, including radio and television.

Article 20.1. The national trade union confederation or the national trade union federation representing the employees of a majority of workplaces has the right to offer proposals for the passage or amendment of laws or other legal acts concerning matters of concern to trade unions. Legislative proposals are addressed by the trade union to the deputies or bodies having the right of legislative initiative. In the case of lower-level legal acts, proposals are addressed to the bodies authorized to issue them.

20.2. The state office to which a proposal is addressed is obligated to respond to the trade union within 30 days and, in the event of a negative response, to append a rationale.

Article 21.1. Under guidelines established by separate regulations, trade unions have the right to engage in collective bargaining and conclude the related agreements as well as other accords mentioned in the provisions of the Labor Law.

21.2. In the labor sectors not covered by collective bargaining agreements, consulting the trade unions is a prerequisite for regulating working conditions and wages.

Article 22.1. The national trade union confederation and the national trade union federation representative of the employees of a majority of workplaces have the right to offer special amendments in matters concerning the labor and social security laws, on the principles and by the procedure defined in the Code of Civil Procedure.

22.2. The organizations referred to in Paragraph 1 have the right to request the Supreme Court to elucidate the provisions of labor and social security laws that elicit doubts or whose application has resulted in conflicting judicial rulings.

Article 23.1. Trade unions monitor adherence to the Labor Law and participate, on principles defined by separate regulations, in monitoring adherence to the regulations and principles governing safety and hygiene of labor.

23.2. If, in the matters referred to in Paragraph 1, in the opinion of a trade union, the central or local government office or another employer has acted unlawfully or in violation of the principles of justice, the trade union may

apply to the proper agency with the demand to eliminate the established irregularity by the proper procedure.

Article 24.1. Income from the economic activity engaged in by a trade union serves to accomplish its statutory objectives and may not be allocated for distribution among its members.

24.2. Trade unions are entitled to the tax exemptions provided for associations.

Article 25.1. An employee who holds an elective trade union office outside his own workplace is entitled to a paid leave, granted under the guidelines and by the procedure specified in the Labor Law Code.

25.2. The employee has the right to work release with retention of the right to a wage for the period of time needed to perform whatever duties are needed in connection the trade union office he holds outside the workplace, if these duties cannot be performed during his leisure time.

#### Chapter 4. Plant Trade Union Organizations

Article 26. The scope of activities of the plant trade union organization includes in particular:

- 1) Taking a position on individual employee affairs to the extent regulated in the provisions of the Labor Law.
- 2) Taking a position vis-a-vis the employer and the worker self-government body at the workplace on matters concerning the collective interests and rights of employees.
- 3) Monitoring the adherence to labor law provisions at the workplace, and in particular the adherence to the provisions and principles of hygiene and safety of labor.
- 4) Directing the activities of the social inspectorate of labor and cooperating with the state inspectorate of labor.
- 5) Attending to the living conditions of pensioners and annuitants.

Article 27.1. Determining the guidelines for the use of the welfare and housing funds, inclusive of the distribution of benefits from these funds for specified purposes, requires consulting the plant trade union organization.

27.2. The assignment of benefits to employees from the funds referred to in Paragraph 1 is done in coordination with the plant trade union organization.

27.3. The remuneration system and the associated rules for granting awards and bonuses are determined and revised in cooperation with the plant trade union organization. The rights of trade unions relating to the formation of plant remuneration systems are defined by separate regulations.

27.4. The guidelines for the cooperation between the employer and the plant trade union organization concerning the determination of work rules, work timetable, and vacation timetable are defined by the Labor Law Code and the attendant implementing regulations.

Article 28. The employer is obligated to provide, when so demanded by the trade union, the information needed to conduct trade union activities, and in particular information on working conditions and guidelines for remuneration.

Article 29.1. In the event of justified suspicion of the existence of a peril to the life or health of employees in the workplace, the plant trade union organization may propose to the employer the conduct of an appropriate study upon simultaneously notifying the proper district labor inspector. The employer is obligated, within 14 days from the date of receipt of the proposal, to notify the plant trade union organization of his response. In the event the study is carried out, the employer makes its findings available to the plant trade union organization together with information on the manner and time limit of elimination of the peril in question.

29.2. If the employer notifies the plant trade union organization of rejecting the proposal referred to in Paragraph 1 or fails to take a position on that proposal within 14 days from the date it is offered, this entitles the plant trade union organization to carry out the needed study at the employer's expense, upon accordingly notifying the employer in writing at least 14 days ahead of the intent to carry out the study, its extent, and the anticipated cost.

29.3. The employer may, within seven days from the day of receipt of the notice referred to in Paragraph 2, request the proper district labor inspector to rule on the relevance of the intended study or its scope. Implementation of the study contrary to the position taken by the inspector relieves the employer of the obligation of defraying the expenses of that study.

Article 30.1. At a workplace at which more than one trade union organization is active, each organization protects the rights and represents the interests of its own members.

30.2. An employee who does not belong to a trade union may specify the plant trade union organization which he desires to protect his employment rights, provided that that organization has previously consented thereto. If the employee in question does not do so, or if the trade union organization he names does not consent to protect his rights, the employer is relieved of the obligation of consulting trade unions on individual matters relative to the employment relationship of the employee in question.

30.3. In matters concerning collective rights and interests of employees, trade union organizations may agree to jointly represent them.

30.4. In matters requiring the conclusion of an agreement or the coordination of the position taken by trade union organizations, these organizations take a mutually agreed upon position. The manner of the determination and presentation of that joint position of the trade unions at the plant is determined by the agreement they conclude in every individual case.

30.5. If trade union organizations do not agree within 30 days upon a common position on matters concerning work

rules, work timetable, or vacation timetable, decisions on these matters are made by the employer or by the appropriate work force self-government body, upon considering the discrete positions taken by the trade union organizations.

30.6. The provisions of Paragraph 1 do not apply to the conclusion or revision of a plant collective bargaining agreement or to an agreement on introducing a plant remuneration system and the attendant rules for granting awards and bonuses, as well as on guidelines for the use of welfare and housing funds.

Article 31.1. The right to work release for the duration of service as a board member of the plant trade union organization applies:

- 1) Partially, to one employee for a monthly total of hours equal to the number of trade union members employed at the workplace, when that number is below 150.
- 2) To one employee when the number of trade union members employed at the workplace ranges from 150 to 500.
- 3) To two employees when the number of trade union members employed at the workplace ranges from 501 to 1,000.
- 4) To three employees when the number of trade union members employed at the workplace ranges from 1,001 to 2,000.
- 5) To one additional employee for every additional commenced 1,000 members at workplaces at which the number of trade union members exceeds 2,000.
- 6) On a part-time basis, and then it can be granted to a greater number of employees in accordance with the principles contained in Points 1-5 above.

[31.2. missing]

[1] missing]

2) [as published] depending on the proposal of the board of the plant trade union organization, the work releases referred to in Paragraph 1 are granted with retention of the right to pay, or without pay. The guidelines for granting work releases are defined by separate regulations.

3) An employee has the right to work release with retention of the right to receive pay for the time required to perform a particular duty associated with the trade union office he holds, if that duty cannot be performed during his leisure time.

Article 32.1. The employer may not, in the absence of consent from the board of the trade union organization, give notice of discharge or terminate the labor relationship of an employee who is a member of the board or the auditing committee of the plant trade union organization during or after his term of office.

32.2. The employer may not, in the absence of consent from the board of the plant trade union organization,

unilaterally revise the working conditions or wages to the disadvantage of an employee who is a member of the board or the auditing committee of the plant trade union committee during the period referred to in Paragraph 1, unless this is permitted by separate regulations.

32.3. The protection envisaged in Paragraphs 1 and 2 also applies to members of a [trade union] founding committee for the period of six months from the date of establishment of the founding committee.

32.4. The provisions of Paragraphs 1-3 apply correspondingly to employees holding elected offices in the bodies of the trade unions organizations active outside the employee's workplace, with the proviso that the consent referred to in these provisions is given by the proper—under the bylaws—body of the trade union organization in which the employee holds or held office.

Article 33. The employer is obligated to provide, on terms defined in an agreement, the plant trade union organization with the premises and facilities it needs to operate at a workplace.

Article 34. The provisions of the present chapter apply correspondingly to the trade union federation comprising the workplace.

#### **Chapter 5. Responsibility for Violating the Provisions of the Present Law**

Article 35.1. Anyone who, in connection with the position he occupies or duties he exercises, commits any of the following, is liable to a fine:

- 1) Hinders the lawful establishment of a trade union organization.
- 2) Complicates the exercise of trade union activities conducted pursuant to the present law.
- 3) Discriminates against employees by reason of their belonging or not belonging to a trade union, or by reason of their performance of trade union duties.

35.2. Also liable to the same fine is anyone who, in connection with the trade union duties he performs, acts in violation of the present law.

35.3. Responsibility for directing an illegal strike is defined by the law on the Resolution of Collective Bargaining Disputes.

Article 36.1. In the event it is found that a trade union body engages in activities conflicting with the present law, the registration court designates a time limit of at least 14 days for adjusting these activities to the binding law. Proceedings are initiated on the application of the concerned voivodship prosecutor.

36.2. In the event the time limit specified in Paragraph 1 elapses without results, the registration court may:

- 1) Impose fines on individual members of the trade union body, in the amount defined in Article 163, Paragraph 1, of the Code of Civil Procedure.

2) Specify to the union's officers a time limit for holding new elections to the trade union body referred to in Paragraph 1, on the penalty of otherwise suspending the activities of that body.

36.3. If the measures referred to in Paragraph 2 prove ineffective, the registration court, upon the recommendation of the minister of justice, rules that the trade union concerned be expunged from the registry of trade unions. Against this ruling an appeal may be filed with the appellate court.

36.4. Article 18 applies correspondingly to the matters referred to in Paragraphs 1-3.

36.5. The trade union that is deleted by a valid court ruling from the registry of trade unions pursuant to Paragraph 3 is obligated to immediately cease its activities and, within at the latest three months from the date that ruling is validated, dissolve itself by the procedure specified in its bylaws.

#### Chapter 6. Special Provisions

Article 37. Disputes between trade unions and employers and their organizations regarding worker interests are resolved under the guidelines defined by a separate law.

Article 38. The provisions of the present law concerning trade unions apply correspondingly to the trade union organizations referred to in Article 11, Paragraphs 1 and 2, with the exception of the provisions of Article 12, Paragraph 1, in the part thereof concerning the number of founders of the trade union, and with the exception of the provisions of Article 17, Paragraph 1, Point 3, in the part thereof concerning the size of trade union membership.

Article 39.1. Employee savings and loan associations or credit union cooperatives may be formed in workplaces; their members may be employees, pensioners, and annuitants, irrespective of their trade union membership. Social supervision over these institutions is exercised by trade unions.

39.2. Credit union cooperatives are repositories of the savings of their members, grant them loans, and provide them with other banking services. Credit union cooperatives have legal entity.

39.3. The activities referred to in Paragraph 2 are non-profit activities. Credit union cooperatives are, to the extent not regulated by the present law, regulated by the corresponding provisions of the Cooperative Law.

39.4. Employee savings and loan associations may be transformed into credit union cooperatives.

39.5. The Council of Ministers shall issue implementing regulations specifying the guidelines for the organization and operations of the associations and cooperatives referred to in Paragraph 1, the related obligations of workplaces, and the specific guidelines for transforming employee savings and loan associations into credit union cooperatives.

#### Chapter 7. Amendments to Binding Regulations; Interim and Final Provisions

Article 40. In the law of 21 November 1967 on mandatory military service in defense of the People's Republic of Poland (Dz. U., No. 30, Item No. 207, 1968; No. 20, Item No. 204, No. 29, Item No. 154, and No. 34, Item No. 178, 1989; No. 30, Item No. 179, No. 34, Item No. 198, No. 355, Item No. 319, and No. 78, Item No. 462, 1990), the following amendments are incorporated:

1) In Article 74:

a) The text of that article is now designated as Paragraph 1.

b) The following Paragraph 2 is added:

"Soldiers in active military service may not establish or join trade unions nor take an active part in the activities of the trade unions to which they had belonged at the moment of their drafting into military service".

2) After Article 154 the following Article 154a is added:

"Article 154a. Draftees who perform their basic military service in civil defense may not establish or join trade unions nor take an active part in the activities of the trade unions to which they had belonged at the moment of their drafting into military service."

Article 41. In the law of 30 June 1970 on the military service of career soldiers (Dz.U., No. 16, Item No. 134, 1970; No. 53, Items 341 and 342, 1972; No. 24, Item No. 142, and No. 47, Item No. 282, 1974; No. 15, Item No. 97, 1979; No. 16, Item No. 78, 1983; No. 20, Item No. 104, No. 34, Item No. 178, and No. 35, Item No. 192, 1989; and No. 4, Item No. 19, 1990), the following Article 48a is added after Article 48:

"Article 48a.1. Professional military personnel do not have the right to form or join trade unions. It is an obligation of the state to guarantee the professional military decent conditions of service and pay.

"2. Appointment to professional military service implies an automatic cessation of membership in trade unions."

Article 42. In the law of 16 September 1982 on employees of state offices (Dz.U., No. 31, Item No. 214, 1982; No. 35, Item No. 187, 1984; No. 19, Item No. 132, 1988; No. 4, Item No. 24, and No. 34, Items 178 and 182, 1989; and No. 20, Item No. 121, and No. 51, Item No. 300, 1990) the following amendments are incorporated:

1) In Article 40:

a) In Paragraph 1, "employees of state offices" is deleted.

b) Paragraph 2 is reworded as follows:

"2. The Council of Ministers issues implementing regulations defining the positions referred to in Paragraph 1."

2) Article 41 is deleted.

Article 43. In the law of 20 March 1985 on the organizational structure of common courts (Dz.U., No. 23, Item No. 138, No. 34, Item No. 198, No. 43, Item No. 253, and No. 53, Item No. 306, 1990), Section IV is deleted.

Article 44. In the law of 20 June 1985 on the Office of the Prosecutor of the Polish Republic (Dz.U., No. 31, Item No. 138, 1985; No. 4, Item No. 24, 1989; and No. 20, Item No. 121, 1990), Chapter 7 is deleted.

Article 45.1. The national trade union confederation and the national trade union federation representative of the employees of a majority of workplaces shall reach by 30 September 1991 an agreement defining the principles for the utilization and distribution of the assets of the Association of Trade Unions transmitted under the guidelines and by the procedure defined in the regulations issued on the basis of Article 61, Paragraph 2, of the law referred to in Article 48, Paragraph 1, of the present law.

45.2. Legal activities exceeding the scope of ordinary administration of the assets referred to in Paragraph 1 are invalid, and the attendant transfer of rights to some of these assets is ineffective, while the benefits derived by third parties owing to these activities are subject to being reimbursed so as to augment these assets to their original size.

45.3. Concerning the related compensation and reappraisal of assets, they are governed by the provisions of the law of 25 October 1990 on the return of the assets forfeited by trade unions and social organizations due to the imposition of martial law (Dz.U., No. 4, Item No. 17, 1991).

45.4. In the event that an agreement is not reached within the time limit specified in Paragraph 1, the rules for the utilization and distribution of the assets referred to in Paragraph 1 shall be defined in an executive order of the Council of Ministers.

Article 46. The registration of trade union organizations done prior to the effective date of the present law retains its validity.

Article 47. Employees elected to the board of the plant trade union organization, who on the effective date of the present law are eligible for work release under previous regulations retain the right to continue to avail themselves of such work releases on the terms defined by those previous regulations, but not longer than until 30 June 1993.

Article 48.1. The law of 8 October 1982 on trade unions (Dz.U., No. 54, Item No. 277, 1985; No. 11, Item No. 84, 1988; No. 20, Item No. 105, 1989; and No. 30, Item No. 179, 1990) is hereby declared null and void.

48.2. Until the Council of Ministers issues the implementing regulations referred to in Article 39, Paragraph 5, of the present law, the regulations issued on the basis of Article 58 of the law referred to in Paragraph 1 remain valid.

Article 49. The present law takes effect after 30 days from the date of its publication.

## Law Governing Employer Organizations

91EP0609B Warsaw RZECZPOSPOLITA in Polish  
26 Jun 91 p IV

[Law dated 23 May governing employer organizations; also published in Warsaw DZIENNIK USTAW in Polish No. 55, 26 June 1991, Item No. 235 pp 730-732]

[Text]

### Chapter 1. General Provisions

Article 1.1. Employers have the right to form, without obtaining prior permission, unions according to their preferences, as well as to join such organizations provided they comply with their charters.

1.2. An employer in the understanding of the law is a physical person or organizational unit employing people for the purpose of conducting economic activity.

1.3. Physical persons or organizational units conducting economic activity employing people temporarily also have the right to form the unions mentioned in paragraph 1.

Article 2. Employer unions have the right to form federations and confederations, as well as to join them, and each union, federation, and confederation has the right to join international employer organizations.

Article 3. Employer unions, their federations, and confederations are self-governing and independent in their charter activities from the bodies of the state administration, the local self-government, or other organizations.

Article 4. Employer unions, their federations and confederations cannot undertake activities that aim to limit the rights of employees to organize themselves into trade unions and activities that aim to exercise control over employee unions.

Article 5. The basic task of employer unions, their federations, and confederations is to protect their rights and to represent the members' interests to employee trade unions, bodies of the government and of the state administrations and before bodies of local self-governments.

Article 6. The assets of employer unions, their federations, and confederations are formed from membership dues, gifts, inheritances, bequests, from their own activities, and the income from the assets of the organization.

### Chapter 2. The Formation of Employer Unions

Article 7.1. An employer union is formed by a resolution to found it made at a founding meeting by at least 10 employers.

7.2. A decision concerning membership in an employer organization of an employer who is a legal person is made by the body authorized to make declarations of its will in its name.

7.3. The founding meeting, which adopts the resolution to found the employer resolution, adopts the charter and elects a founding committee of at least three persons.

Article 8.1. The charter of an employer union should contain in particular:

- 1) the name of the union, the location of its headquarters, and the territorial range of its operations,
- 2) the bodies of the union, the range of their competence, their method of election and removal, and the term in office,
- 3) the basic goals and tasks of the union and the ways and forms of implementing them,
- 4) the way membership is gained and lost,
- 5) the rights and duties of members,
- 6) the way of representing the union and the persons authorized to contract asset obligations in the name of the union,
- 7) the principles for changing the charter, dissolving the union, and the uses of its assets if liquidated,
- 8) the way of obtaining financial resources and the amount of membership dues.

8.2. Unions that intend to form local organization units declare in the charter the organizational structure and the principles for the formation of these units.

Article 9.1. Within 30 days of the date of the founding of the employer union, the founding committee makes an application to register the union with the voivodship court in the appropriate place for the location of the headquarters of the union. If this deadline passes without action, the resolution to form the employer union loses its validity.

9.2. The court rejects registration of employer unions if the requirements set forth in article 7 and 8 are not met or if the charter of the union does not conform to the provisions of the law.

9.3. The decision of the court to register the union is subject to appeal to an appeal court.

Article 10. An employer union acquires the status of a legal person on the date of its registration.

Article 11.1. An employer union immediately informs the court of any change in its charter. The change becomes effective 14 days after the court is informed if the court does not raise any reservations as to its conformity with the law.

11.2. If any reservations are raised, as mentioned in paragraph 1, the court informs the employer union of them and sets a hearing for their examination within 30 days from the day the union reported the change in the charter.

11.3. Article 13, paragraphs 1 and 2 apply appropriately.

Article 12.1. The court removes an employer union from the register when:

- 1) the body indicated in the charter adopts a resolution dissolving the union,

- 2) the number of union members remains below 10 employers for a period longer than three months.

11.2. The court finds the circumstances indicated in paragraph 1 by judicial notice or upon application by the trade union.

11.3. The decision of the court to remove from the register is subject to appeal to an appeal court.

Article 13.1. Issues concerning the registration of an employer union are examined according to the procedures of the provisions of the civil procedure code for non-trial proceedings.

13.2. The court examines the issues, mentioned in paragraph 1, within 14 days from the date an application is made.

13.3. The minister of justice will define by decree the details of the procedures for proceedings regarding the issues mentioned in paragraph 1 and also the models and methods for maintaining a register of employer unions.

Article 14. The provisions of articles 7 through 13 apply appropriately to the federations and confederations mentioned in article 2, except that:

- 1) the number of founders of these organizations can be no less than three,
- 2) these organizations are registered by the Voivodship Court in Warsaw,
- 3) the court removes these organization from the register when the number of members remains less than three for a period longer than three months.

### Chapter 3. Rights of Employer Organizations

Article 15. Employer unions, their federations and confederations have the right to adopt their charters and internal regulations, freely to select their representatives, to form boards, and to establish their programs of action.

Article 16.1. The federations and confederations, mentioned in article 2, have the right to evaluate the plans and proposals for laws and executive acts regarding these laws in the area included in the tasks of employer unions.

16.2. Government bodies and bodies of the state administration and bodies of local self-governments are required to ensure employer organizations the performance of their rights mentioned in paragraph 1 in a manner equal to that of trade unions.

Article 17. Employer unions participate according to the principles defined in separate provisions in the conduct of collective bargaining to reach collective labor contracts and other agreements in the area included in their charter tasks.

Article 18.1. The income from economic activity conducted by employer unions and federations and confederations serves the implementation of their charter goals and cannot be marked for distribution among their members.

18.2. Employer unions, their federations, and confederations have the right to the tax exemptions prescribed for associations.

#### Chapter 4. Responsibility for Violations of the Provisions of the Law

Article 19.1. If it is found that a particular body of an employer union is conducting activities contrary to the law, the registering court sets a deadline, of at least 14 days, for this body to adapt its activities to the binding law. A case is initiated on application by the appropriate voivodship prosecutor.

19.2. If the deadline described in paragraph 1 passes without effect, the registering court can:

1) Adjudge a fine individually imposed on the members of the particular body of the union.

2) Set a deadline for the union officers to hold new elections to the union body mentioned in paragraph 1 under the penalty of a suspension in the activities of this body.

19.3. If the resources defined in paragraph 2 prove ineffective, the registering court on application by the minister of justice can require the removal of the employer union from the register. An appeal of the decision to an appeal court is available.

19.4. Article 13 appropriately applies to the cases, mentioned in paragraph 1 through 3.

19.5. A union removed from the register by a legal valid decision is required to cease immediately its activities, and within a deadline of at most three months from the date the decision became legally valid to complete its liquidation in the manner prescribed in the charter.

19.6. The provisions of paragraphs 1 through 5 apply appropriately to the federations and confederations mentioned in article 2.

#### Chapter 5. Transitional and Final Provisions

Article 20.1. Organizations organizing employers on the basis of current provisions can become employer organizations in the meaning of article 1, paragraph 2 or article 2 after adapting their charter to the provisions of the law and after meeting the requirements prescribed in the law.

20.2. Until the formation on the basis of the provisions of the law of a national representation of employers, but no later than the 30th of September 1991, the Confederations of Polish Employers represents the rights and interests of Polish employers in international relations.

Article 21. The law becomes effective after the passage of 30 days from the date of its announcement.

President of the Republic of Poland: L. Walesa

#### Executive Order on State Possession of Farm Lands

91EP0660A Warsaw RZECZPOSPOLITA (ECONOMY AND LAW supplement) in Polish 1 Aug 91 p VIII

[Executive Order of the Council of Ministers dated 16 July on the state treasury taking possession of real estate comprising farms at the request of the owners entitled to retirement benefits or by virtue of social insurance for farmers]

[Text] As of 14 July—the date of issue No. 65 of DZIENNIK USTAW [Dz.U.]—the Executive Order of 16 July 1991 of the Council of Ministers concerning the transfer to the State Treasury of ownership of the real estate comprising farms at the request of the owners entitled to retirement pensions or annuities from the Farmers' Social Security Fund has become effective. Below is the complete text of this Order.

\* \* \*

Pursuant to Article 58, Paragraph 4, of the law of 20 December 1990 on Farmers' Social Security (Dz.U., No. 7, Item No. 24, and No. 45, Item No. 199, 1991), the following is hereby ordered:

Paragraph 1. This Executive Order defines the procedural rules and guidelines in cases referred to in Article 58, Paragraph 1, of the law of 20 December 1990 on Farmers' Social Security (Dz.U., No. 7, Item No. 24, and No. 45, Item No. 199, 1991), hereinafter referred to as "the law."

Paragraph 2.1. In his application for transfer of ownership of real estate to the State Treasury, the owner should describe said real estate by specifying the location, registration number, and the surface area of the lots whose ownership is to be transferred.

2. The application should be accompanied by:

1) Proof of ownership, and if the real estate is entered in a land register, the actual extract from that register.

2) A copy of the final ruling acknowledging the right to a retirement pension or an annuity from Farmers' Social Security.

3) A declaration to the effect that no agreement has been concluded with the heir, pursuant to Article 84 of the law, concerning the farm which includes the real estate specified in the application.

4) A declaration listing the encumbrances linked to the operation of the farm and their monetary value.

Paragraph 3.1. If the real estate is jointly owned, the transfer of title thereto to the State Treasury can take place only with the consent of the other co-owners, unless their consent is not required pursuant to a valid judicial ruling.

2. The declaration referred to in Paragraph 2, Subparagraph 2, Points 3 and 4, should be submitted by all co-owners. The proper agency for real estate sales at the State Land Fund, hereinafter referred to as "the agency,"

may waive this requirement in cases in which reaching an agreement with a co-owner is extremely complicated.

Paragraph 4. If it is not yet established that it is impossible to sell the real estate specified in the application at a price at least equal to that determined in accordance with the rules of the State Land Fund governing the sales of real estate, the application submitted pursuant to the requirements specified in Paragraphs 2 and 3 represents the basis for initiating the activities envisaged in the regulations issued on the basis of Article 47, Paragraph 3, of the law.

Paragraph 5.1. Before issuing a transfer-of-ownership ruling, the agency of the State Land Fund makes public, by posting for 14 days in the gmina office building and in other customary places notices containing information on the possibility of offering to the applicant proposals for the acquisition of real estate at a price to be determined by the concerned parties. Before posting the notice, the agency shows it to the applicant for transfer of ownership.

2. The provisions of Subparagraph 1 do not apply if the owner submits a declaration to the effect that he is interested in having the real estate transferred to the ownership of the State Treasury without trying to find a buyer at a price higher than the price he or she may obtain from the State Treasury.

3. In the event that it is learned that the real estate can be sold at a price higher than that payable under Paragraph 6, the agency of the State Land Fund immediately notifies accordingly the applicant and names the eventual buyer.

4. In performing the activities referred to in Subparagraphs 1 and 3 the agency of the State Land Fund specifies to the applicant the deadline for reporting the intention to sell the real estate through an agreement with a third party, upon advising that in the event no such report is received, it shall take steps to transfer ownership of the real estate to the State Treasury.

Paragraph 6.1. The price of the real estate whose ownership is transferred to the State Treasury is fixed at 25 percent of its appraised value based on the corresponding application of the price criteria binding on the day the ruling is issued, as defined in the regulations governing the sales of the real estate of the State Land Fund, with the proviso of Subparagraphs 2 and 3.

2. When appraising the value of real estate, no allowance is made for any local reductions in the legal fees involved. The price determined pursuant to Subparagraph 1 may not, however, exceed the price ensuing from the application of such reductions.

3. The price determined in accordance with Subparagraphs 1 and 2 is reduced by the amount of the liens on the real estate concerned, as shown in the land register.

Paragraph 7. After calculating the price pursuant to Paragraph 6 but before issuing the transfer-of-ownership ruling, the agency of the State Land Fund specifies to the parties

concerned a seven-day time limit for perusing the documents relating to the calculation and reporting any reservations.

Paragraph 8. The ruling to transfer ownership to the State Treasury specifies in particular the data on discrete real estate parcels as according to the corresponding entries in the land register, if such entries exist, and it also describes the individual land plots according to the existing land records (inclusive of data on location and surface area) as well as the price to be paid for the real estate and the manner in which it was calculated and the terms and conditions for the transfer of ownership.

Paragraph 9. If ownership cannot be transferred to the State Treasury for reasons concerning the original owner (or co-owner), the latter is responsible for the expenses of the related geodetic survey and of the appraisal of real estate in accordance with the pertinent provisions of the code of administrative proceedings. In all other cases these expenses are borne by the State Treasury.

Paragraph 10.1. The final ruling on the transfer of real estate to the ownership of the State Treasury is the basis for the payment to the previous owner (or co-owners) of the price ensuing from that ruling. The payment is disbursed by the agency of the State Land Fund within 14 days from the day on which the ruling becomes final.

2. If by the day on which the payment is to be disbursed the price per quintal of rye (a mandatory criterion for appraising the worth of the real estate of the State Land Fund) is higher, the authorized previous owner is paid, within 30 days from the day on which he or she receives the compensation, an additional monetary payment proportional to the increase in that price. The agency of the State Land Fund determines *ex officio*, in a separate ruling, the amount of that additional payment.

3. In the event of a delay or postponement of the payment of the compensation or of the additional payment, the authorized previous owner is entitled to receive interest on the money owed him or her.

Paragraph 11.1. If the encumbrance whose value was taken into account pursuant to Paragraph 6, Subparagraph 3, when determining the value of the real estate, had expired after the ownership of the real estate was transferred to the State Treasury, the person (or persons) authorized to receive compensation is (are) entitled to a monetary equalization payment equal to the value of that encumbrance considered when determining the amount of the price to be paid for the real estate. This does not apply to cases in which the encumbrance expires owing to the ending of the State Treasury's or gmina's payments or because the creditor's claim is met by the State Treasury.

2. The right to the equalization payment referred to in Subparagraph 1 and the amount of that payment is determined by the State Land Fund agency in the form of a ruling issued on the request of the owner. The provisions of Paragraph 10, Subparagraphs 1 and 3, apply accordingly.

Paragraph 12.1. If the ruling to transfer the title to real estate to the State Treasury is issued before 1 January 1992, the payment of the compensation is made not later than by 20 March 1992, upon adjusting its size pursuant to Subparagraph 2; the ruling contains appropriate instructions.

2. The value of the compensation referred to in Subparagraph 1 is reappraised in accordance with the indicator of the quarterly cost-of-living increase in retirement pensions applying for the quarter during which 30 days have expired since the ruling to transfer the title to real estate was issued, and with the indicators of the cost-of-living increase mandatory for the successive quarters until the first quarter of 1992 inclusively.

3. The State Land Fund agency determines ex officio, in the form of a separate ruling, the new value of the compensation payment for real estate, as adjusted to the cost-of-living indicator. The disbursement of that payment is not governed by the provisions of Paragraph 10, Subparagraph 3.

Paragraph 13. This Executive Order takes effect on the day of its publication.

#### **Executive Order Governing Product Subsidies**

*91EP0614B Warsaw DZIENNIK USTAW in Polish  
No 43, Item No 191, 24 May 91 pp 618-619*

[Executive Order of the Ministry of Finance dated 11 May on rules and procedures governing the approval of product subsidies]

[Text] Pursuant to Article 19, Item No. 3 of the law dated 5 January 1991—Budget Law (DZIENNIK USTAW [Dz.U.] No. 4, Item No. 18 and No. 34, Item No. 150), the following order is issued:

Paragraph 1.1. The order defines the specific bases and procedures for granting product subsidies to management entities.

1.2. Whenever this order mentions:

1) A management entity, it shall be understood to be legal entities, organizational units that do not have legal status, individuals acting in a management capacity, and individuals acting in the name of units of collectivized management on the basis of an agent agreement or under a commission; a management entity may also be an institution that prepares an independent balance.

2) A product shall be understood to be merchandise as well as services.

3) Sale prices shall be understood to be:

- a) The price for which the product is sold.
- b) The price (payment) for services or regular rate.

Paragraph 2. The order shall not pertain to subsidy for biological progress in plant or animal production, dissemination of agricultural recommendations, combatting infectious animal diseases, obtaining and transport of lime

fertilizer from local sources of supply, maintenance and conservation of equipment for basic land reclamation, or subsidies for residence cooperatives awarded on the basis of separate regulations.

Paragraph 3.1. The basis for calculating the appropriate subsidy (the subsidy basis) shall be:

1) The quantity of sold or bought products—if the subsidy rate was set as a quota or in the form of a difference in prices.

2) Payment from sale of subsidized products (services) calculated according to sale price or value of purchased products—if a percentage subsidy rate was set.

3.2. No subsidy shall be paid for products:

- 1) Sold for export.
- 2) Irregulars (different in quality, substandard).

Paragraph 4.1. Management entities shall receive product subsidies directly from the current account of the appropriate ministry or appropriate local treasury within the limits of the amounts budgeted for this purpose.

4.2. No later than the 28th day of each month, management entities shall prepare an accounting of product subsidies due for the period from the beginning of the year to the end of the past month—on form No. 2096 of the Ministry of Finance.

4.3. Management entities shall file two copies of the accounting with the appropriate treasury department which shall verify the accounting within five days.

4.4. The management entity shall transmit one copy of the product subsidy accounting verified by the treasury department, indicating the bank account number to which the subsidy is to be sent, to the appropriate ministry (treasury) which shall be obliged to transfer the amount of product subsidies due to the account of this entity within 14 days of the date of receiving the accounting.

4.5. Management entities shall prepare a final accounting of product subsidies for the year by 28 February of the following year.

Paragraph 5.1. Management entities may receive—according to the procedure described in Paragraph 4—payment of product subsidies in an amount equal to 1/12 of the budget amount for product subsidies planned for the given year.

5.2. If the management entity has not developed a plan for setting the payment amount for the given year, this amount may be set in an amount equal to the product subsidy amount due for December of the preceding year.

5.3. If there is a change for the given year, cited in Paragraph 2, or a real change in rates after the payment is received, the amount of this payment shall be corrected to the amount resulting from the actual plan or the actual rates.

5.4. If production of a subsidized product is initiated during the year, the appropriate management entity may receive payment for product subsidy amounting to the monthly average planned for the given year.

5.5. The payment received shall be adjusted in the accounting of product subsidies for December of the given year. If subsidizing is discontinued during the year, payment shall be adjusted in the subsidy calculation for the last month in which subsidies were due.

Paragraph 6.1. The management entity is obligated to correct product subsidies due if:

- 1) The subsidized product was returned to the supplier.
- 2) There was a correction in the value or quantity of the sale for reasons other than those described in Point 1.
- 3) Changes were made in subsidy payment for the period for which subsidies were calculated.
- 4) It was discovered during computing the amount of subsidy that incorrect rates were used or a subsidy was received for products that are not subsidized.

6.2. Product subsidies shall be calculated for the month in which circumstances arose that are a basis for correction within the time indicated in Paragraph 4, Item No. 2.

6.3. If the circumstances that are a basis for a correction of product subsidies arose after the final accounting for the given year, the management entity shall return only the excess subsidies received to the budget income account of the appropriate treasury department within 14 days of the day on which the circumstances arose on which this correction is based.

6.4. If it is confirmed during verification that excess subsidy amounts were collected, these amounts together with interest due, shall be returned to the account:

- 1) From which they were received—if the repayment occurs in the same year in which the subsidies were received.
- 2) To the budget income of the appropriate treasury department—if the return occurs in the following year.

Paragraph 7.1. For the purposes of calculating subsidies, management entities receiving product subsidies are obliged to maintain a record (bookkeeping or other) in a manner facilitating the determination of the value and quantity of products sold for which different subsidy rates were set and the amount of the subsidies due.

7.2. If records cited in 7.1 are not kept, subsidies received by the management entity in the given year shall be subject to return in their entirety together with interest due to the account from which they were paid, and if the return is made in the following year, to the budget income account of the appropriate treasury department.

Paragraph 8.1. In setting the amount of product subsidies, the base for subsidies and the amount of product subsidies due shall be rounded off to 1.000 zloty.

8.2. Rounding off to whole amounts shall be done in such a manner that the fractions up to one-half the amount described in Item No. 1 shall be rounded off downward and fractions above one-half shall be raised.

Paragraph 9. The rates of product subsidies set separately for a given year shall be applied in the following year until new rates are set.

Paragraph 10. This Executive Order takes effect on the day of its publication.

Finance Minister (acting): A. Podsiadlo

### **Law on Resolving Collective Bargaining Disputes**

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[Text]

## **Chapter 1**

### **General Provisions**

#### **Article 1**

Employees' collective disputes with an employer or employers can concern working conditions, wages, or social benefits and union rights and freedoms of employees or other groups, who are entitled to the right to organize themselves into trade unions.

#### **Article 2**

1. The employee collective rights and interests indicated in article 1 are represented by trade unions.
2. Employer rights and interests in collective disputes can be represented by the appropriate organization of employers.

#### **Article 3**

1. In a place of work, in which more than one union organization is active, any of them can represent the employees' interests, which are the subject of the dispute, in the collective dispute.
2. If the union organizations active in a place of work so decide, a joint union representation acts in the collective dispute.
3. The provision of paragraph two applies appropriately to the representation of the collective interests in disputes involving multiple places of work.
4. In a place of work, in which no trade union is active, a union organization that the employees ask to represent their collective interests can conduct a collective dispute in the name of the employees.

**Article 4**

1. The assertion of a collective dispute for the purpose of supporting individual employees' demands is not permissible if their settlement is possible through proceedings before a body for settling disputes involving employees' claims.

2. If a dispute concerns the contents of a collective contract for work or other agreement, to which a union organization is a party, the initiation and conduct of a dispute to change the contract or agreement can occur no sooner than the date of termination.

**Article 5**

Places of work as defined in article 3 of the labor code and physical individuals employing individuals for the purpose of conducting economic activities are employers in the meaning of this law.

**Article 6**

The provisions of this law, which speak of employees, apply appropriately to the individuals mentioned in article 2, paragraphs 1 and 2 of the law of 23 May 1991 on trade unions (DZIENNIK USTAW No.[not given] Item [not given])

**Chapter 2****Bargaining****Article 7**

1. A collective dispute exists from the date it is announced by the unit representing the employees' interests to the employer with demands regarding the issues as indicated in article 1, if the employer does not meet all of the demands by the deadline set out in the announcement, no less than three days.

2. In the announcement of the dispute the subject of the demands included in the dispute is to be defined. The unit announcing the dispute can warn that if the demands raised are not met a strike will be announced. The day of the announced strike cannot come before the passage of 14 days from the date of the announcement of the dispute.

**Article 8**

The employer undertakes talks without delay for the purpose of settling the dispute through agreement and simultaneously reports the occurrence of the dispute to the appropriate district labor inspector.

**Article 9**

Talks end with the signing of an agreement by the parties or, if agreement is not reached, with the preparation of a protocol of their differences including a description of the positions of the parties.

**Chapter 3****Mediation and Arbitration****Article 10**

If the party, which initiated the dispute continues the announced demands, the dispute is conducted with the

participation of a person giving guarantees of impartiality, hereinafter called the mediator.

**Article 11**

1. The parties to the collective dispute chose the mediator jointly. The mediator can be an individual from a list established by the minister of labor and social policy in conjunction with the national inter-union organization and the national trade union representing the employees of a majority of the places of work.

2. If the parties to the collective dispute do not agree within five days on the selection of a mediator, further proceedings are conducted with the participation of a mediator selected, on the application of one of the parties, by the minister of labor and social policy from the list mentioned in paragraph 1.

**Article 12**

If the course of the mediation proceedings justifies an assessment that it will not lead to resolution of the dispute before the deadline prescribed in article 7, paragraph 2 and article 13, paragraph 3, the organization which initiated the dispute can organize a single warning strike of no more than two hours.

**Article 13**

1. If in the course of the proceedings, the mediator finds that the resolution of the collective dispute requires detailed or additional determinations in conjunction with the subject of the dispute, he informs the parties of that fact.

2. If in conjunction with the demands included in the dispute it is essential to determine the economic and financial condition of the place of work, the mediator can propose such an analysis be made. If the parties do not decide otherwise the cost of the analysis falls on the place of work.

3. Taking the actions mentioned in paragraphs 1 and 2 empowers the mediator to ask the union organization to change the deadline for the beginning of a strike to provide the time necessary to complete the determinations which can influence the resolution of the dispute.

**Article 14**

The mediation proceedings end with the signing of an agreement by the parties or, if an agreement is not reached, with the preparation of a protocol of the differences including a description of the positions of the parties. These actions are performed with the participation of the mediator.

**Article 15**

The failure to reach an agreement resolving the collective dispute in mediation proceedings confers the right to initiate a strike.

#### Article 16

1. The unit conducting the collective dispute in the interests of the employees can, without making use of the right prescribed in article 15, make an attempt to resolve the dispute by submitting it for resolution to a council for public arbitration.
2. A council for public arbitration under a voivodship court, which includes a court for labor and social insurance, examines the work dispute. The Council for Public Arbitration under the Supreme Court examines a dispute involving multiple places of work.
3. The council consists of the chairman named from among the judges of the court by the president of the court and of six members, of which each party to the dispute names three. The parties should strive to name individuals not directly interested in the resolution of the case.
4. The president of the court immediately sets a date for the session and informs the parties or their representatives of the date.
5. If the resolution of the dispute requires specialized knowledge, the council can draw on the opinions of specialists. The provision of article 13, paragraph 2, the second sentence applies appropriately.
6. The decision of the council is made by a majority vote. If neither of the parties prior to the submission of the dispute to the council for resolution does not decide otherwise, the decision is binding upon the parties.
7. The Council of Ministers will define by decree the detailed procedures for the proceedings before a council of public arbitration.

### Chapter 4

#### Strikes

#### Article 17

1. A strike consists of a collective stoppage by the employees in the performance of their work for the purpose of resolving a dispute concerning the interests indicated in article 1.
2. A strike is a final means and cannot be announced without previously exhausting the possibilities for resolving a dispute according to the rules defined in articles 7 through 14. A strike can be organized without the observance of these rules if the illegal action of the employer prevents the conduct of talks or mediation and also if the employer dissolves the employment relation with the union activist conducting the dispute.
3. In making a decision to announce a strike, the unit representing the employees' interests should take into consideration the relation of the demands to the losses associated with the strike.

#### Article 18

Participation in a strike is by choice.

#### Article 19

1. Stopping work as part of a strike is not permitted at tasks, equipment, and installations where stopping work threatens human life and health or state security.
2. The organization of strikes is not permitted at the Office of State Protection, in units of the police or the armed forces of the Republic of Poland, in prison services, in the border guard, and in organizational units of the fire protection service.
3. The right to strike is not available to employees in bodies of the state authorities, of the government administration and the self-governments, of the courts, or in the prosecutorial offices.

#### Article 20

1. A union organization announces a strike at a place of work after obtaining the agreement of a majority of the employees voting if at least 50 percent of the employees at a place of work participate in the voting.
2. The body of the union indicated in the charter announces a strike involving multiple places of work after obtaining the agreement of a majority of the employees voting at the particular places of work who are to be included in the strike if at least 50 percent of the employees participate in the voting in each of these places of work.
3. The announcement of a strike should occur at least five days before it begins.

#### Article 21

1. During a strike, the supervisor of the place of work cannot be limited in the performance of his duties and in the performance of his rights in relation to the employees not participating in the strike and in areas essential to the protection of the assets of the place of work and the uninterrupted use of those facilities, equipment, and installations where stopping can constitute a threat to human life or health or the restoration of the normal operations of the place of work.
2. The strike organizers are obligated to cooperate with the supervisor of the place of work in the areas essential to protect the assets of the place of work and the uninterrupted operation of the facilities, equipment, and installations mentioned in paragraph 1.

#### Article 22

In the defense of the employees' rights and interests, who do not have the right to strike, a trade union acting in another place of work can organize a solidarity strike no longer than half the working day. The provision of articles 17 through 21 apply appropriately.

#### Article 23

1. The participation of an employee in a strike organized in accord with the provisions of the law does not constitute a violation of employee duties.

2. During a strike organized in accord with the provisions of this law, an employee retains the right to benefits from social insurance and the rights deriving from his relation of work with the exception to the right to wages. The period of stoppage in the performance of work is included in the period of employment at the place of work.

#### **Article 24**

The trade unions decide on the formation and use of strike funds. These funds are not subject to seizure.

#### **Article 25**

1. After exhausting the forms of proceeding defined in chapter 2, forms of protest action, which do not threaten human life or health without interrupting work with the reservation that the binding legal order is observed, other than strikes, can be used in defense of the rights and interests defined in article 1.

2. Farmers have the right to protest actions in the manner established by the trade union for farmers.

#### **Chapter 5**

##### **Responsibility for Violations of the Provisions of this Law**

#### **Article 26**

1. Whoever in conjunction with the position held of the performance of a function:

1) Hampers the initiation or the conduct of a collective dispute in accord with the law;

2) Does not perform his duties defined in this law, is subject to being punished by fine.

2. Whoever directs a strike or other protest action organized in violation of the provisions of this law is subject to the same punishment.

3. The organizer bears responsibility for damages caused by a strike or protest action organized in violation of the provisions of this law in accordance with the principles defined in the civil code.

#### **Chapter 6**

##### **Transitional and Final Provisions**

#### **Article 27**

In the labor code article 241, paragraph 7 now reads:

"7. During registration proceedings and also during the resolution of a dispute by the proceedings defined in paragraphs 3 and 4 concerning the establishment of a contract, the provisions of chapter 2 through 4 of the law of 23 May 1991 on the resolution of collective disputes (DZIENNIK USTAW No. Item [not given]) do not apply."

#### **Article 28**

Collective disputes initiated but not ended before the date this law becomes effective are to be conduct according to its provisions.

#### **Article 29**

This law become effective 30 days after it is announced.

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