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# ***JPRS Report***

## ***Supplement***

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# **East Europe**

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## ***Recent Legislation***

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# East Europe

## Supplement

### Recent Legislation

JPRS-EER-91-181-S

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**Law on Electing President, Vice President**

92BA0049A Sofia DURZHAVEN VESTNIK  
in Bulgarian No 82, 4 Oct 91 pp 1-2

["Text" of "Law on Electing the President and the Vice President of the Republic," adopted by the Grand National Assembly on 17 September and signed by Ivan Glushkov for the chairman of the Grand National Assembly]

[Text]

Ukase No. 297  
of President of the Republic Zhelyu Zhelev  
issued in Sofia on 27 September 1991  
and sealed with the state seal

In accordance with Article 98, Item 4 of the Constitution of the Republic of Bulgaria, I hereby decree that the Law on Electing the President and the Vice President of the Republic, adopted by the Grand National Assembly on 17 September 1991, be published in DURZHAVEN VESTNIK.

**LAW ON ELECTING THE PRESIDENT AND THE VICE PRESIDENT OF THE REPUBLIC**

**Article 1.** The present law defines the procedure for electing the president and the vice president of the Republic.

**Article 2.** (1) The election for president and vice president will take place throughout the country on the same non-working day.

(2) The president and the vice president shall be elected on the same ticket.

**Article 3.** (1) Nominations for president and vice president may be made by the central leaderships of political parties, party coalitions, or a group of no fewer than 5,000 voters.

(2) Parties and party coalitions that may nominate candidates for president and vice president must meet the stipulations of the Law on Political Parties and the Law on Electing National Representatives, Township Council Members, and Mayors.

(3) To nominate candidates for president and vice president, the voters must form an initiative committee of five to seven voters, which must be registered with the Central Electoral Commission.

**Article 4.** The candidates for president and vice president must meet the stipulations of Articles 93-95 of the Constitution of the Republic of Bulgaria.

**Article 5.** Within 50 days of the date scheduled for the election of president and vice president, the National Assembly will appoint a Central Electoral Commission, which will be in charge of the election of the president and the vice president and will consist of 21 members.

**Article 6.** (1) Candidates for president and vice president are registered by the Central Electoral Commission in a special record upon the presentation of the documents listed below:

1. A proposal submitted by the central leadership of the respective party or party coalition, including the candidate's three names, his date of birth, and his place of residence, or
2. A proposal by the initiative committee of voters, with the three names, the date of birth, and the place of residence of each candidate, accompanied by a list of the names, addresses, and signatures of no fewer than 5,000 voters, and
3. A statement to the effect that the candidate has been a resident of the country for the past five years, and
4. A statement by the candidate that he agrees to be registered.

(2) Candidates for president and vice president must be registered no later than 40 days before election day.

(3) In addition to registering the candidates, the parties and the party coalitions must register the respective ballots for their tickets, which must be white in color and have no more than three colored stripes. Any combination of the colors of the national flag is not allowed.

**Article 7.** (1) If the stipulations of the Constitution and the present law are violated, the Central Electoral Commission must refuse to register the candidates and provide an explanation for its refusal. A refusal must be reported immediately to the nominating entity.

(2) Those who have submitted a nomination may appeal the decision of the Central Electoral Commission, as per Paragraph 1, to the Supreme Court within three days of receiving the announcement. The Supreme Court must rule within three days. Its decision may not be appealed.

**Article 8.** The Central Electoral Commission must publish in DURZHAVEN VESTNIK no later than 30 days before election day the lists of candidates, indicating their names, dates of birth, and residences, and the parties, party coalitions, or initiative committees that have nominated them.

**Article 9.** (1) The voting will be done with ballots based on a model determined by the president of the Republic. The ballot must include the following:

1. The number of the electoral district;
2. The name of the respective political party or party coalition, or the words "initiative committee" acting for the voters;
3. The names of the candidates for president and vice president.

(2) Each ticket uses the ballot it has registered.

**Article 10.** The electoral campaign begins on the day the names of the candidates are published in DURZHAVEN VESTNIK and ends 24 hours before election day.

**Article 11.** During the electoral campaign, the principle of equality of the candidates must be observed in the national media's information programs.

**Article 12.** (1) The electoral campaign is financed by the state budget. The amount per ticket may not exceed 200,000 leva and is based on the number of votes cast for each ticket in the election for president and vice president.

(2) Parties and party coalitions may assist their candidates with financial funds.

(3) Candidates for president and vice president are allowed to receive donations for the electoral campaign, contributed by Bulgarian citizens, not to exceed 100,000 leva. Foreign countries, foreign physical and juridical persons, and state and joint enterprises may not make contributions to the electoral campaign.

(4) Candidates for president and vice president who have participated in the electoral campaign must account for the funds they received and refund to the budget the unspent amounts.

**Article 13.** If any one of the registered candidates dies or becomes gravely ill, he may be replaced with another candidate no later than seven days before election day. In such cases, the stipulations of Articles 3-7 shall apply.

**Article 14.** Elections for president and vice president shall be held by electoral district and electoral section, supervised by the electoral commissions that were set up for the last elections for national representatives.

**Article 15.** (1) The results of the first ballot shall be announced by the Central Electoral Commission within 24 hours of the election.

(2) If no candidate has been elected, a Central Electoral Commission shall name the first two candidates on the tickets for which the largest number of votes were cast and hold new elections within the period stipulated in Article 93, Paragraph 4 of the Constitution.

(3) The electoral campaign as per Paragraph 2 shall begin with the listing of the candidates and shall continue until 24 hours before election day.

**Article 16.** (1) If any one candidate with the largest number of votes refuses to participate in the new election, the candidate with the next highest number of votes on the tickets, as stipulated by the Central Electoral Commission, will participate in the election.

(2) In case of death or grave illness of any one of the candidates on the tickets that have obtained the highest number of votes, the Central Electoral Commission shall postpone the election and set a new election date 14 days after the date of the second election. Within three days of

the date of the decision of the Central Electoral Commission, the central leadership of the respective party or party coalition may register a new candidate as per the stipulations of Article 3.

**Article 17.** (1) The final results of the election for president and vice president shall be announced by the Central Electoral Commission within three days of the election and published in *DURZHAVEN VESTNIK* no later than seven days after the holding of the election.

(2) The announcement of the results will be made by ticket for all candidates. If a new election has been held, the results of the initial election shall be announced as well.

**Article 18.** The newly elected president and vice president shall take the oath of office as per Article 76, Paragraph 2 of the Constitution within seven days of the proclamation of the results of the election. They shall be considered in office as of the day of taking the oath of office.

**Article 19.** The newly elected president and vice president must report to the National Assembly, within one month after election day, the sources of their financing and the expenditures they incurred in the course of the electoral campaign. Their statements will be published in *DURZHAVEN VESTNIK* within 15 days.

#### **Additional Stipulation**

1. Samples of documents and ballots for holding elections as per the present law must be approved by the president of the Republic as proposed by the Council of Ministers.

#### **Concluding Stipulations**

2. The respective stipulations of the Law on Electing National Representatives, Township Council Members, and Mayors shall apply on matters not stipulated in this law.

3. The execution of this law is assigned to the Council of Ministers and the Central Electoral Commission for electing the president and the vice president.

#### **Regulation Granting Transitional Patent Protection**

*92BA0050A Sofia DURZHAVEN VESTNIK  
in Bulgarian No 83, 8 Oct 91 pp 1-2*

["Text" of "Regulation Granting Transitional Patent Protection in Accordance With the Agreement on Commercial Relations Between the Government of the Republic of Bulgaria and the Government of the United States of America," adopted by the Council of Ministers on 27 September 1991 and signed by Dimitur Popov, chairman of the Council of Ministers, and Ivan Minev, chief secretary of the Council of Ministers]

[Text]

Resolution No. 190  
of the Council of Ministers  
adopted on 27 September 1991

**Only Article.** The Council of Ministers adopts the Regulation on Granting Provisional Protection of Patents in Accordance With the Agreement on Commercial Relations Between the Government of the Republic of Bulgaria and the Government of the United States of America.

#### Final Stipulation

**Only paragraph.** The present resolution is issued on the basis of Article 5, Paragraph 4 of the Constitution of the Republic of Bulgaria and Article 23 of Ukase No. 1496 of the State Council on the Participation of the Bulgarian People's Republic in International Treaties (DURZHAVEN VESTNIK No. 62, 1975).

#### REGULATION GRANTING TRANSITIONAL PATENT PROTECTION IN ACCORDANCE WITH THE AGREEMENT ON COMMERCIAL RELATIONS BETWEEN THE GOVERNMENT OF THE REPUBLIC OF BULGARIA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA

**Article 1.** A transitional patent protection is granted for products obtained by chemical or microbiological means, and for medicinal, cosmetic, and food substances obtained by chemical or other methods, including products of genetic engineering.

**Article 2.** The transitional protection of such items, as per Article 1, may be requested under the following conditions:

1. That a patent has been issued or requested in the United States.
2. That the product has not been sold on the territory of the Republic of Bulgaria prior to the date of declaration to the Institute for Inventions and Rationalization (INRA).
3. That the petitioner or the patent owner is a citizen of the United States or a company founded in accordance with the laws of the United States and is not controlled by citizens or companies of another country.
4. That the petitioner or patent owner is engaged in substantial commercial activities on the territory of the United States.

**Article 3.** The request for granting transitional protection must be submitted to the INRA through the Bulgarian Chamber of Commerce and Industry and must include the following:

1. A form petition.
2. A form declaration on the existence of the conditions for granting transitional protection as per Article 2, Items 2, 3, and 4.

3. A translation into Bulgarian of the patent or request filed in the United States, in duplicate.
4. A certified copy of the patent or request by the Patent Office of the United States.
5. A document on paid fees.
6. A document on representation.
7. A summary in the Bulgarian language, in duplicate.

**Article 4.** In his request, the petitioner will indicate the number and priority date of the patent granted in the United States or the number and priority date of the request filed in the United States, the name of the invention, and the names of the inventors and of the petitioner (patent owner).

**Article 5.** Within six months of the date of the acknowledgment of the petition as per Article 2, Item 1 by the United States Patent Office, the petitioner will inform the INRA of the fact by sending a certified copy of the patent, accompanied by a translation into the Bulgarian language in duplicate and a summary in the Bulgarian language in duplicate.

**Article 6.** Transitional protection is granted to the following:

1. Patents granted in the United States as of the date of submission of the petition to the INRA as per Article 3 of the present regulation.
2. Patent applications submitted in the United States as of the date the INRA was informed of the issuance of a patent in the United States.

**Article 7.** Under the conditions granting transitional protection, the INRA will issue a patent and a publication, in accordance with the Law on Inventions and Rationalization, when:

1. The stipulations of Article 2 of the present regulation have been observed.
2. No authorship certificate has been issued in the Republic of Bulgaria for any item similar to the item for which transitional protection is requested, prior to the date the request was submitted to the INRA.

**Article 8.** The decision of the INRA to refuse transitional protection may be appealed in accordance with the stipulations of the Law on Inventions and Rationalization.

**Article 9.** (1) The issued patent may be annulled for reasons and in accordance with the procedure stipulated in the Law on Inventions and Rationalization.

(2) Should the patent granted in the United States be proclaimed invalid, it is considered so as of the same date that the patent issued in accordance with the present regulation is considered invalid.

**Article 10.** The patent issued in accordance with the present regulation will be valid until the expiration of the respective patent issued in the United States.

**Article 11.** (1) Transitional protection may be requested as of the date of the enactment of the Agreement on Commercial Relations Between the Republic of Bulgaria and

the United States of America, prior to the date of the enactment of the Law on Patents in the Republic of Bulgaria.

(2) The period for requesting transitional protection must not be less than nine months as of the date of the enactment of the agreement.

**Article 12.** Should changes occur in the legal status of the American patent for which transitional protection has been obtained in the Republic of Bulgaria, the patent owner must inform the INRA of this fact, within a period of three months. The INRA will register the changes in the proper record and make it public.

**Article 13.** (1) Fees for all actions related to transitional protection will be paid in accordance with the Tariff on Fees Collected by the Institute for Inventions and Rationalization (DURZHAVEN VESTNIK No. 73, 1991) as

per the Law on State Fees. The fee for obtaining a Bulgarian ownership certificate will be one-tenth of the fee charged for expert evaluation.

(2) The annual patent fees will be based on the sequential patent year of the American patent.

#### Concluding Stipulations

1. The present regulation is issued on the basis of Article IX of the Agreement on Commercial Relations Between the Government of the Republic of Bulgaria and the United States of America and Item 2(c)V of the accompanying letter and will become effective at the time of the agreement.

2. The execution of the present regulation is assigned to the general director of the Institute for Inventions and Rationalization.

### Law on Management, Housing of Political Parties

92CH0175B Budapest MAGYAR KOZLONY  
in Hungarian No 110, 8 Oct 91 pp 2235-2236

[Law No. 44 of 1991, adopted by the National Assembly at its 17 September session, amending Law No. 33 of 1989 on the functioning and management of parties and assigning of central headquarters for qualified parties]

[Text]

#### Paragraph 1

The following provision shall replace Paragraph 4 Section (1) of Law No. 33 of 1989 concerning the functioning and management of parties (hereinafter: Law):

"Paragraph 4 Section (1) Parties shall accumulate assets from membership dues, state budgetary support payments, real property provided free of charge by the state pursuant to Paragraph 5 of this law, property contributed by business organizations which are not legal entities, or by private persons, bequests based on wills prepared by private persons, business activities pursued by parties pursuant to Paragraph 6, and from the taxed profits of enterprises and single-person limited liability corporations established by parties."

#### Paragraph 2

The following provision shall replace Paragraph 5 Sections (1) and (2) of the Law:

"Paragraph 5 Section (1). Based on this law and pursuant to the provisions of Section (2), real property enumerated in Appendix 3 shall be transferred free of charge from state ownership to parties entitled to receive state budgetary support, pursuant to the ownership shares indicated in Appendix 3.

"Section (2). Pursuant to the provisions of this law the party [as published] is entitled to receive state budgetary support.

"Twenty-five percent of the amount authorized to be expended from the state budget for the support of parties shall be distributed in equal proportions among parties represented in the National Assembly. Parties shall be entitled to receive the remaining 75 percent of the authorized amount in proportion to the votes cast for each party as shown in National Assembly election results, and for the candidates of the parties in the first valid round of elections. No party running in the elections which acquired less than 1 percent of the popular vote shall be entitled to receive budgetary support."

#### Paragraph 3

The Law shall be amended by adding the following Appendix 3:

#### Appendix 3. List of Real Property To Be Transferred to the Ownership of Parties

| Designation of Real Property          | Name of Party                                                     | Ownership Ratio |
|---------------------------------------|-------------------------------------------------------------------|-----------------|
| Budapest 2. No. 3 Bem Square          | Hungarian Democratic Forum                                        | 1/1             |
| Budapest 5. No. 6 Merleg Street       | Alliance of Free Democrats                                        | 1/1             |
| Budapest 5. No. 24 Belgrad Quai       | Independent Smallholders, Agricultural Workers, and Citizen Party | 1/1             |
| Budapest 6. No. 28 Lendvay Street     | Federation of Young Democrats                                     | 1/1             |
| Budapest 8. No. 26 Koztarsasag Square | Hungarian Socialist Party                                         | 1/1             |
| Budapest 12. No. 5 Nagy Jenő Street   | Christian Democratic People's Party                               | 86/100          |
|                                       | Independent Smallholders, Agricultural Workers, and Citizen Party | 14/100          |

#### Paragraph 4

The National Assembly authorizes the government for the free of charge transfer of state property no later than 31 December 1991 as follows:

- real property to the Hungarian Democratic Forum and the Federation of Young Democrats to the extent that in due regard to property defined in Paragraph 3, these parties are treated in a manner identical to the treatment of the rest of the parties under the same Paragraph;
- the ownership of a minimum of 400 or a maximum of 800 square meter gross area share of real property to all parties receiving budgetary support but not listed in Appendix 3. The exact area of real property to be assigned shall depend on the election results of these parties.

#### Paragraph 5

- (1) Real property shall be vacated and transferred without encumbrances under this law. The Government shall effect the ownership transfer no later than 31 December 1991.
- (2) The Government shall remove all encumbrances from property under Section (1) no later than 31 December 1991.

**Paragraph 6**

The acquisition of property under this law shall be exempt from the payment of property transfer dues.

**Paragraph 7**

Law No. 70 of 1990 concerning the termination of management rights held by social organizations shall be amended by adding the following provision:

"Paragraph 7 Section (1) The prohibition to sell or encumber as provided for by this law shall not affect real property transferred from state ownership to the ownership of parties pursuant to the law concerning the functioning and management of parties.

"(2) The Government shall provide for the placement of those who use the real property mentioned in Section (1) free of charge."

**Paragraph 8**

This law shall take force on the day of its proclamation.

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

**Decree on Defense Preparedness Functions**

92CH0129A Budapest MAGYAR KOZLONY  
in Hungarian No 104, 27 Sep 91 p 2,130

[Government Decree No. 124 of 27 September concerning temporary rules for regional national defense management]

[Text] Based on authority granted in Paragraph 12 Section 1 of Law No. 1 of 1976 concerning national defense, the government establishes the following national defense preparedness tasks for the capital city and county national defense committees:

**Paragraph 1**

1. National defense committees in the Capital and in the various counties (hereinafter: national defense committees) shall act as regional agencies of the government in directing the implementation of national defense management tasks delegated under the authority of the mayor and lord mayor (hereinafter jointly: mayor) pursuant to Paragraph 2 Subsection (b) of Law No. 83 of 1990 providing supplemental and temporary rules related to the establishment of autonomous local governmental bodies.

2. The national defense committee shall directly manage the implementation of tasks related to national defense preparedness under the authority of Capital City and county (hereinafter jointly: county) autonomous local governmental bodies.

**Paragraph 2**

1. As part of the management functions established in Paragraph 1 Section 1 and based on decisions made by the government, the national defense committee shall:

- (a) establish regional defense requirements and tasks for mayors, decentralized agencies and agencies operating under the direction of county autonomous governmental bodies within its jurisdiction;
  - (b) designate real property required by armed bodies and by civilian agencies designated to perform defense tasks in case of mobilization, and shall make preparations for the utilization of such property. The national defense committee shall inform the mayor having authority to order the use of such property, by forwarding to the mayor documents evidencing such preparation;
  - (c) determine the material and technical conditions required for the functioning of county administration in times when extraordinary or emergency conditions, or imminent danger exists, and direct activities to establish the required material and technical conditions;
  - (d) determine requirements relative to the obligations of commercial, industrial and agricultural ["economic"] organizations functioning within its jurisdiction pursuant to Paragraph 20 of Law No. 1 of 1976 concerning national defense, and direct the discharge of such obligations;
  - (e) direct the performance of public administrative tasks related to the mobilization of armed forces in a manner consistent with rules established by the government;
  - (f) require heads of agencies participating in defense activities to report on the implementation of preparatory defense tasks;
  - (g) verify and evaluate the defense preparedness of mayors, decentralized agencies and agencies operating under the direction of county autonomous governmental bodies, as well as of organs obligated to perform business, industrial or agricultural ["economic"] services [or to provide] material [supplies] (hereinafter jointly: agencies participating in defense), and in the framework of such action shall obligate the heads of such agencies to discontinue shortcomings in defense preparedness.
2. The national defense committee may require agencies participating in defense to prepare action plans for the performance of national defense tasks.
  3. The national defense committee may require the heads and employees of agencies participating in defense, and of persons designated to implement national defense tasks to attend courses and take part in continued education in order to prepare such persons for the performance of their functions.
  4. To ensure the practical implementation of national defense tasks, the chairman of the national defense committee, jointly with the heads of agencies called upon to perform defense functions may establish rules of practice. Draft rules of practice shall be submitted to the chairman

of the government [as published] for approval 90 days prior to the implementation of such rules.

**Paragraph 3**

The national defense committee may seek information from agencies participating in defense for purposes of planning the mobilization and recruitment of armed forces, and of planning the establishment of material and commercial, industrial and agricultural obligations.

**Paragraph 4**

This Decree shall take force on the day of its proclamation.

[Signed] Dr. Jozsef Antall, prime minister.

**Law on Temporary Ban on Cooperative Property Sale**

*92CH0175A Budapest MAGYAR KOZLONY  
in Hungarian No 108, 5 Oct 91 p 2,200*

[Law No. 40 of 1991 on certain provisional rules for the management of cooperatives adopted by the National Assembly at its 17 September session]

[Text]

Paragraph 1.1. The National Assembly hereby suspends the provisions of Chapter 4 (Paragraphs 35-45) of Law No. 13 of 1989 concerning business organizations and the transformation of business organizations until the new law on cooperatives takes effect or until 30 November 1991, depending on which date occurs first.

1.2. Section 1 shall not apply to small cooperatives whose assets consist exclusively of member-contributed property.

1.3. Section 1 shall not apply to industrial, residential building and maintenance, and savings cooperatives.

Paragraph 2.1. Prior to 30 November 1991, real property owned by cooperatives shall not be sold until resolutions are passed by their respective general meetings pursuant to provisions of separate law concerning the distribution of cooperative property among members, except as provided for in Section 2.

2.2. This restriction need not be enforced if the sale of real property:

- (a) Is based on a valid agreement (founding charter, bylaws, etc.) consummated prior to the effective date of this law;
- (b) Takes place as part of a liquidation proceeding;
- (c) Is consummated to satisfy a demand by a mortgage lender.

2.3. In the event that the sale is based on Section 2 Subsection (a), the resolution of the general meeting required in Paragraph 19 Section 1 of Law No. 1 of 1987 concerning land shall also be attached to the notation in the real property record.

Paragraph 3.1. This law shall take force on the day of its proclamation; the Paragraph 1 provisions shall also be applied to cases in progress.

3.2. When this law takes force, the following legal provisions shall lose force:

- (a) Paragraph 75 Section 1 Subsection (f) of Law No. 3 of 1967 concerning agricultural cooperatives as amended a number of times and
- (b) Paragraph 28 Section 1 Subsection (h) of Decree With the Force of Law No. 32 of 1971 concerning industrial cooperatives, and the words "or excluded" in Paragraph 30 Section 1 of the same law.

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

**Sejm Resolution on Trade Treaty With U.S.***92EP0083C Warsaw MONITOR POLSKI in Polish  
No 27, 30 Aug 91 Item No 191 pp 219-220*

[Resolution of the Sejm dated 26 July concerning the treaty on trade and economic relations between the Republic of Poland and the United States]

[Text] 1. The Sejm of the Republic of Poland affirms its desire to develop close and amicable relations between Poland and the United States and to strengthen the mechanisms of economic cooperation which should promote the growth of Poland and assure its proper place in relations among international partners. The Treaty, while it assures protection for produced goods and intellectual property, should at the same time promote the interest of U.S. companies in investing in Poland.

2. In the light of the comments and recommendations offered during the ratification proceedings, the Sejm places the government under the obligation of taking steps to improve the situation of Polish exporters on the U.S. market by [getting the United States to] increase import quotas and cease to classify Poland as a country with a state-controlled economy.

3. The Sejm is aware of the significance of the burdens that may weigh on the Polish economy as a result of the new regulations, especially through the increases in the fees for utilizing U.S. intellectual property and in the cost of importing medicines and other goods. Such expenses are incurred by every country that is part of the global economic system and accepts world standards concerning the users of protected property. Such encumbrances should be viewed in a balanced light and in close relation to the benefits which the Treaty shall yield.

4. The Sejm recognizes that the provisions of the Treaty cannot be retroactively binding. The provisions of the Treaty concern solely the investments initiated after the Treaty becomes effective. In particular, the provisions of the Treaty may not be grounds for demanding the discarding of the computer software [illegally] utilized by users on the effective date of the Treaty, regardless of the method whereby it was procured.

5. The Sejm accepts that the level of the protection of computer software required by the Treaty is consonant with the extent of protection adopted in the Directive of 14 May 1991 of the European Community. In particular, concerning the question of decompiling computer software, the application of the exceptions specified in Article 6 of the abovementioned Directive is consonant with the provisions of the Treaty.

6. The Treaty may not be interpreted as restricting the rights of the parties to take measures to protect their balance of payments, in accordance with the provisions of multilateral international agreements. The government should provide a practical interpretation of this provision so as to make it possible to take steps to protect Poland's balance of payments.

7. The Sejm acknowledges that the institution of the temporary patent protection of products specified in Supplement No. 1, will remain binding at most until the moment that the [regular] protection of the products enumerated in that Supplement is introduced in Poland. The Treaty requires of Poland the assurance of temporary protection of the products which at present are not covered by patents in accordance with Polish law, and which meet the specific criteria defined in the accompanying letter. This is to be interpreted as meaning that the foreign owner of a patent is entitled to temporary protection if he initiates production in Poland. But as for imported goods, they are not eligible for temporary protection.

8. The Sejm acknowledges that the provisions of the Treaty restricting the possibility of instituting mandatory licenses do not concern measures taken in the public interest, especially measures to promote public health and environmental protection, as well as to promote national security.

9. In connection with the difficulty of a timely introduction of the amendments to Polish laws required by the Treaty, the Sejm expects that the government shall obtain the understanding of the U.S. side that the attendant legislative delays should not be considered as violations of the provisions of the Treaty. At the same time, the Sejm obligates itself to hasten the work on drafting new laws and updating the laws on copyrights, inventions, microchip protection, and combatting of dishonest competition.

10. The Sejm acknowledges that the Treaty does not restrict the freedom of Poland's position with respect to the GATT and the principle of equality as regards legal means of market protection by both parties against any excessive growth in imports.

11. The Sejm deems it necessary to initiate, after ratification, talks with the U.S. side concerning an extension of the deadlines for introducing patent protection for pharmaceuticals, chemicals, and foodstuffs until the deadline for such protection required by the agreement for association between Poland and the European Community.

As the provisions of the Treaty become implemented, questions requiring additional interpretation may arise. Such interpretation should be formulated in cooperation with the U.S. side both before the exchange of the ratification documents and after the Treaty takes effect.

The Sejm of the Republic of Poland expresses its hope that, in the spirit of new active relations of friendship between Poland and the United States, the interpretations indicated in the present resolution shall be acceptable, and a practical way of applying the Treaty so as to promote the growth of Poland on the principle of sovereignty, equal partnership, and bilateral advantages shall be possible.

Speaker of the Sejm: M. Kozakiewicz.

**Sejm Resolution on Belorussian Independence***92EP0081B Warsaw MONITOR POLSKI in Polish  
No 29, 17 Sep 91 Item No 206 pp 239-240*

[Resolution of the Sejm dated 31 August concerning the announcement of the independence of Belorussia]

[Text] Acknowledging the right of all nations to self-determination, the Sejm of the Republic of Poland joyfully welcomes the announcement of the independence of Belorussia on 25 August 1991.

Poland, which turned the freedom and independence of its own statehood into a supreme value, fully understands and appreciates the significance of this historic decision of the Belorussian parliament which fulfills the aspirations of the Belorussian people and is an expression of the right of the Ukraine to freely define its domestic and foreign position.

The Sejm of the Republic of Poland expresses its belief that an independent Belorussia shall stride on the road of democratic changes creating the conditions for a good-neighborly broad intergovernmental cooperation between Poland and Belorussia.

Speaker of the Sejm: M. Kozakiewicz.

### **Sejm Resolution on Ukrainian Independence**

*92EP0081A Warsaw MONITOR POLSKI in Polish  
No 29, 17 Sep 91 Item No 205 p 239*

[Resolution of Sejm dated 31 August concerning the independence of Ukraine]

[Text] Acknowledging the right of all nations to self-determination, the Sejm of the Republic of Poland joyfully welcomes the announcement of independence of the Ukraine on 24 August 1991.

Poland, which turned the freedom and independence of its own statehood into a supreme value, fully understands and appreciates the significance of this historic decision of the Ukrainian parliament which fulfills the aspirations of the Ukrainian people and is an expression of the right of the Ukraine to freely define its domestic and foreign position.

The Sejm of the Republic of Poland expresses its belief that an independent Ukraine shall stride on the road of democratic changes creating the conditions for a good-neighborly broad, intergovernmental cooperation between Poland and the Ukraine.

Speaker of the Sejm: M. Kozakiewicz

### **Law Governing Changes to Budgetary Law**

*92EP0057A Warsaw RZECZPOSPOLITA (ECONOMY AND LAW supplement) in Polish 7 Oct 91 p VIII*

[Law dated 26 September governing changes to the 1991 budgetary law and principles of executing the state budget in 1991; also published in DZIENNIK USTAW No. 86, 1 October: "The Budget After Changes"]

[Text] The stormy course of the work on amending the budgetary law has finally resulted in the text which we print below. It will be published in DZIENNIK USTAW [Dz.U.] No. 86 on 1 October. We present the budgetary law in a version integrated by us (the original text can be found in Dz.U. No. 21 of the current year, together with the schedules, which we are not publishing); the new parts are underlined. The amendment becomes valid on the date of publication, i.e., 1 October, except for the provisions of Article 26.2.

The text of the law dated 26 September 1991 on changes to the budgetary law for 1991 and the principles of executing the state budget in 1991 seems to be made up of two parts. The first, i.e., Article 1, are changes made directly to the original text of the budgetary law, which have been incorporated into our integrated version. No less important are the remaining provisions of the amendment, i.e., Articles 2-8. We are printing them also in the "Amendment" section.

#### **The Law**

Article 1.1. The state budget income is fixed at 289,168,478 million zlotys [Z], made up of:

- 1) Taxes not included in gmina income, Z216,826,200 million.
- 2) Interest and dividends, Z24,154,787 million.
- 3) Customs duty, Z9,590,000 million.
- 4) Payments from profits of financial and insurance institutions, Z15,600,066 million.
- 5) Payments from administration, justice, national defense, and public safety units, Z2,907,263 million.
- 6) Payments from units providing social and cultural services, Z1,450,808 million.
- 7) Receipts from foreign-debt servicing, Z190,000 million.
- 8) Receipts from the sale, renting, and leasing of State Treasury property, Z15,000,000 million.
- 9) Remaining receipts, Z3,449,354.

1.2. Expenditures out of the state budget are fixed at Z293,474,478 million, made up of:

- 1) Subsidies to finance economic tasks, Z35,274,082 million, including:
  - a) Appropriations defined as to objective, Z13,853,000 million.
  - b) Appropriations defined as to grantee, Z7,055,800 million.
  - c) Various subsidies, Z9,044,245 million.
  - d) Subsidies for investments of enterprises, Z5,321,037 million.
- 2) Social insurance, Z25,630,459 million.
- 3) Budgetary sphere expenditures, Z196,442,019 million, including:
  - a) Economic unit expenditures, Z25,034,392 million.
  - b) Science, Z9,765,870 million.
  - c) Education and upbringing, Z30,056,913 million.
  - d) Higher schooling, Z7,728,576 million.
  - e) Culture and arts, Z3,422,026 million.
  - f) Health protection, physical culture and sports, tourism and rest, Z43,266,368 million.
  - g) Social welfare, Z20,770,428 million.

- h) State administration, Z7,613,954 million.
  - i) Costs of privatization and reprivatization of State Treasury property, Z2,950,000 million.
  - j) Administration of justice and the prosecutor general, Z3,697,620 million.
  - k) Public safety, Z10,244,349 million.
  - l) National defense, Z23,492,573 million.
  - m) Other expenditures, Z4,001,006 million.
  - n) Specified-purpose reserves and expenditures not broken down, Z4,397,944 million, including: reserve to finance wage increases, Z1,310,447 million.
- 4) Foreign trade and foreign-debt servicing, Z13,845,780 million.
- 5) Bank settlements, Z13,780,000 million.
- 6) Council of Ministers' general reserves, Z1,020,000 million.
- 7) General subventions for gminas, Z7,482,138 million, including: specified-purpose reserve for indispensable supplementation of general subventions, Z1,143,303 million.
- 1.3. The deficit in the state budget at the end of 1991 amounts to Z4,306,000 million, and the unfavorable balance of foreign credits amounts to Z4,475,000 million.
- 1.4. The following sources for financing the deficit in the state budget and the unfavorable balance of foreign credits are established:
- 1) The central budget surplus obtained in 1990 amounting to Z1,804,700 million.
  - 2) Money taken over from liquidated and abolished specified-purpose funds amounting to Z2,800,000 million.
  - 3) The issuance of treasury certificates amounting to Z4,176,300 million.

Article 2. Receipts, expenditures, and settlements with the state budget of nonbudget funds, are reflected in the following sums:

- 1) The state budget's own revenues constitute Z105,385,187 million, made up of:
  - a) Budgetary plants, Z4,602,100 million.
  - b) Auxiliary farmsteads, Z3,487,407 million.
  - c) Special means, Z1,338,092 million.
  - d) Specified-purpose funds, Z95,957,588 million.
- 2) Expenditures (without payments into the budget) constitute Z153,399,591 million, made up of:
  - a) Budgetary plants, Z9,579,652 million.
  - b) Auxiliary farmsteads, Z5,463,937 million.
  - c) Special means, Z1,294,519 million.
  - d) Specified-purpose funds, Z137,061,483 million.

3) Payments into the budget constitute Z173,282 million, made up of:

- a) Budgetary plants, Z100,987 million.
- b) Auxiliary farmsteads, Z1,730 million.
- c) Special means, Z70,565 million.
- d) Specified-purpose funds [no figure given].

4) Subsidies out of the state budget constitute Z47,111,518 million, made up of:

- a) Budgetary plants, Z5,010,855 million.
- b) Auxiliary farmsteads, Z2,453,788 million.
- c) Special means, Z35,722 million.
- d) Specified-purpose funds, Z39,611,153 million.

Article 3.1. Budgetary and nonbudgetary receipts and expenditures are established for the respective ministry office portions of the state budget and for the voivodes for the year 1991 according to Schedule No. 1.

3.2. Plans for receipts and expenditures of individual state specified-purpose funds are established in accordance with Schedule No. 2.

3.3. The list of central investments executed in 1991 is contained in Schedule No. 3.

Article 4.1. If there are indications during the course of the implementation of the state budget receipts that the budget deficit referred to in Article 1 of the law is growing, the Council of Ministers is granted extraordinary powers to:

- 1) Make the necessary changes in budgetary receipts and expenditures.
- 2) Increase the budget deficit to Z26,000,000 million at the end of 1991 and establish sources to cover the increased deficit, except that the debt of the State Treasury by virtue of the issuance of treasury certificates cannot exceed the sum of Z16,439,000 million.

4.2. The Council of Ministers will inform the Sejm and Senate by 15 November 1991 of the changes referred to in Paragraph 1 that were made.

Article 5. The Council of Ministers is empowered to increase expenditures for the costs of privatizing the State Treasury assets described in Article 1, Paragraph 2, Point 3, by a sum not larger than 10 percent of the above plan receipts from the sale, rental, or lease of State Treasury property.

Article 6. Deleted.

Article 7.1. A subsidy amounting to Z500,000 million is established to finance infrastructural investments in areas particularly threatened by unemployment.

7.2. The Council of Ministers, by way of a directive, will define the principles for the utilization of the funds described in Paragraph 1.

Article 8.1. The minister of finance is empowered to draw short-term bank credits and issue treasury certificates for the purpose of temporarily financing the deficit in the state budget.

8.2. The debt referred to in Paragraph 1 may not exceed Z30,000,000 million of the planned annual expenditures of the state budget.

8.3. The obligations referred to in Paragraph 1 will be repaid out of the current receipts of the state budget.

Article 9. Deleted.

Article 10. Deleted.

Article 11.1. The total sum of the appropriations defined as to objective for products and services is fixed at Z13,853,000 million.

11.2. The scope of products and services covered by the subsidies referred to in Paragraph 1 is defined in Schedule No. 5.

11.3. The minister of finance can make changes in amounts of subsidies in relevant parts of the budget, within the limits of the total sum given in Paragraph 1.

11.4. The Council of Ministers can, by way of a directive, increase—for important social or economic reasons—the amount of the subsidy given in Paragraph 1, if this does not make the deficit in the state budget, as defined in Article 1, Paragraph 3, worse.

11.5. In case the planned expenditures for supplementary payments to medicines for those entitled to receive them are reduced, the Council of Ministers is authorized to increase the expenditures for health protection and specified-purpose benefits to cover treatment costs out of the funds derived from this reduction.

Article 12.1. Subsidies amounting to Z1,813,186 million are established to finance part of the costs of biological progress in plant and animal production, the dissemination of agricultural advice, the combatting of infectious animal diseases, the obtaining and transport of fertilizer lime from local sources, the maintenance and conservation of basic land reclamation equipment, and for water companies.

12.2. The minister of agriculture and food economy, in coordination with the minister of finance, will issue a directive on the sizes of the subsidies referred to in Paragraph 1 and the principles and procedures by which they are granted.

Article 13.1. Expenditures amounting to Z3,028,477 million have been fixed to finance the development of agriculture, including:

- 1) Z1,800,000 million to restructure and modernize agriculture and its environs.
- 2) Z1,000,000 million for direct credits for the procurement of fertilizers and pesticides.
- 3) Z228,477 million to install water pipelines in the countryside.

13.2. The sums obtained from the repayment of the credits referred to in Paragraph 1, Point 2, are designated for the purposes mentioned in Paragraph 1, Points 1 and 2.

13.3. The minister of agriculture and food economy, by way of a directive, will define the principles of the implementation of the budgetary expenditures described in Paragraph 1.

Article 14.1. Subsidies in the amount of Z5,620,000 million are established for housing cooperatives for purposes connected with the maintenance of cooperative housing.

14.2. The subsidies referred to Paragraph 1 can be partially used by the cooperatives to finance half of the costs of installing heat and water consumption meters.

14.3. The Council of Ministers, by way of a directive, will define the principles and procedures for granting the subsidies referred to in Paragraphs 1 and 2.

14.4. The minister of land-use management and construction will make the division of the amounts of the subsidies for the individual voivodships.

Article 15. Subsidies are fixed for the Farm Market Agency for the procurement of interventional farm products, for a total sum of Z2,280,000 million.

Article 16.1. A total sum of obligations is fixed which can be covered by guarantees granted on the basis of Article 23 of the law of 5 January 1991, the budgetary law (Dz.U. No. 4, Item 18, and No. 34, Item 150) and the guarantees granted by the minister of finance to insurance institutions for payments, out of the state budget, of damages by virtue of insurance agreements on amounts due from exports, in an amount not to exceed Z30,000,000 million.

16.2. The minister of finance will specify the insurance institutions and the principles and procedures for granting these institutions the guarantees for payment of the damages referred to in Paragraph 1.

Article 17. The income derived from the sale, rental and leasing of State Treasury property will be allocated as follows:

- a) Expenditures to restructure agriculture, Z1,400,000 million.
- b) To supplement the statutory funds of banks and other financial institutions, Z1,800,000 million.
- c) Participation of the State Treasury in holding companies, Z950,000 million.
- d) Expenditures for the infrastructure of the Polish State Railroads, Z1,400,000 million.
- e) Expenditures to restructure the coal industry, Z1,000,000 million.
- f) Expenditures to create jobs and make loans from the labor fund, Z2,950,000 million.
- g) Costs of privatization, Z1,700,000 million.
- h) Expenditures to implement the housing construction program, Z3,500,000 million.

i) Expenditures to promote export, Z300,000 million.

Article 18.1. Assistance out of the state budget is given for the repayment of part of the interest due on credits granted for:

1) The procurement of farm products, biological progress in agriculture, purchase of land for agricultural purposes and investment outlays to develop it, totaling Z1,350,000 million.

2) The procurement of wheel chairs and automobiles for disabled persons, and for persons caring for disabled persons and the mentally incompetent, totaling Z50,000 million.

18.2. The Council of Ministers, by way of a directive, will define the scope, principles and procedures for granting the assistance referred to in Paragraph 1.

18.3. The funds not utilized in 1991, referred to in Paragraph 1, will carry over to 1992 and will be designated for the assistance grants described in this regulation, according to the principles defined in the directive issued on the basis of Paragraph 2.

Article 19.1. Part of the amounts owed to banks by virtue of the capitalization of interest on housing credits will be repurchased out of the funds of the state budget.

19.2. The Council of Ministers will define the principles and procedures for expending the funds referred to in Paragraph 1.

Article 20.1. The minister of finance will issue bonds denominated in US dollars in the sum of US\$5,559 million to repay the obligations of the State Treasury to banks by virtue of utilizing foreign exchange deposits for balance-of-payment needs.

20.2. The Council of Ministers will set the due date and the conditions for the repayment of bonds, and their interest rate.

Article 21. The minister of finance is authorized to refund the Social Security Agency a sum corresponding to the difference between the contribution for social security generally in effect and the contribution for social security of people employed directly in agricultural production as cooperative members and employees.

Article 22. The minister of finance is authorized to refund insurance institutions a sum resulting from the application of reductions in contributions for transportation insurance for disabled persons who may be entitled to these reductions on the basis of separate regulations.

Article 23. A subsidy for appropriations defined as to grantee is established to finance the costs of current maintenance and repair of the railroad infrastructure, in the amount of Z2,800,000 million.

Article 24. The minister of transportation and navigation is authorized to implement modernization-investment plans on fast-traffic roads up to 15 percent of the planned budgetary expenditures for material services by domestic public roads units.

Article 25. Deleted.

Article 26.1. The allocation of receipts collected by a state budgetary unit for expenditures made in this unit makes it except as stated in Article 26.2. liable for violations of budget discipline.

Article 26.2. State budgetary units which belong to the education and upbringing and health protection sectors can designate receipts obtained after 1 September 1991 for a special fund, which can be used to cover:

1) Costs of basic activity with the exception of wages and salaries and derivatives from wages and salaries.

2) Costs of obtaining additional revenues up to the amount of these revenues.

Article 27.1. Full-time police positions are established in the amount of 109,500, including:

1) In the officer corps, 20,038.

2) In the officer candidate corps, 23,652.

3) In the noncommissioned officer corps, 46,209.

4) In the ranks, 19,601.

27.2. The minister of internal affairs can shift positions between the noncommissioned officer corps and the ranks.

Article 28. Eighty percent of the income obtained from the sale or liquidation of equipment belonging to units under the minister of national defense and the minister of internal affairs, after deducting the costs of the sale or liquidation, is designated for the purchase of new equipment, and 20 percent is transferred to the state budget.

Article 29. Deleted.

Article 30.1. In 1991 the tax on wages and salaries, due on wages stemming from a work contract and from the performance of cottage industry work, paid to workers employed in nonsocialized workplaces and by individuals, is fixed without regard to the taxpayer sequence and without applying family increases, at 17.5 percent, and if the taxpayer is liable for the tax out of his own funds, at 20 percent of the tax base.

30.2. The provisions of the law of 4 February 1949 on the tax on wages and salaries (Dz.U. No. 7, Item 41, from 1956 No. 44, Item 201, from 1959 No. 11, Item 60, and from 1963 No. 57, Item 309) do not apply to the area regulated in par. 1.

Article 31. Deleted.

Article 32.1. In 1991 the gmina council can order the collection of a tax from individuals by garnishment and specify the garnishers and the amount of remuneration for the garnishment.

32.2. In the area regulated in Paragraph 1, the provisions of the law of 19 December 1980 on tax obligations apply (Dz.U. No. 27, Item 11; 1982, No. 45, Item 289; 1984, No. 52, Item 268; 1985, No. 12, Item 50; 1988, No. 41, Item 325; 1989, No. 4, Item 23, No. 33, Item 176, No. 35, Item

192, and No. 74, Item 443; 1990, No. 34, Item 198) with the exception of Article 9, Point 3.

Article 33. The interest rate to calculate the obligatory dividend within the interpretation of the law of 31 January 1989 on the financial management of state enterprises (Dz.U. 1990, No. 26, Item 152, and No. 89, Item 517) for the 1991 tax year is fixed at 22 percent.

Article 34. The National Bank of Poland makes payments out of profits into the state budget for monthly and quarterly periods; the final accounting of these payments will be made within the date specified in Article 77 of the law of 31 January 1989 on the National Bank of Poland (Dz.U., No. 4, Item 22 and No. 74, Item 439).

Article 35. When the moneys due the Central Fund for the Development of Science and Engineering are not paid by the entities described in Article 2, Point 2 of the law dated 27 April 1989 on the Central Fund for the Development of Science and Engineering (Dz.U. No. 25, Item 134, and No. 64, Item 389) the provisions of the law of 19 December 1980 on tax obligations (Dz.U. No. 27, Item 111; 1982, No. 45, Item 289; 1984, No. 52, Item 268; 1985, No. 12, Item 50; 1988, No. 41, Item 325; 1989, No. 4, Item 23, No. 33, Item 176, No. 35, Item 192 and No. 74, Item 443; and 1990, No. 34, Item 198) apply.

Article 36.1. In 1991 payments out of a portion of the balance surplus for bonuses and prizes for workers in cooperatives, and in work cooperatives also for members by virtue of their work input, are made on the basis of the law of 16 September 1982. The cooperative law (Dz.U. No. 30, Item 210; 1983, No. 39, Item 176; 1986, No. 39, Item 192; 1987, No. 33, Item 181; 1988, No. 41, Item 324; 1989, No. 3, Item 12 and No. 6, Item 33; and 1990, No. 6, Items 36 and 37, and No. 14, Item 87) enter into the bases for calculating contributions for social security.

36.2. The principle referred to in Paragraph 1 applies to the payment of bonuses and prizes paid out of the 1990 surplus after 1 January 1991.

36.3. In the cooperatives in which a division of the balance surplus for 1990 was made before 1 April 1991 without taking into account the contributions for social security and the Labor Fund out of the bonuses and prizes paid to employees, and in labor cooperatives also for members by virtue of work input, these contributions constitute a charge against the 1991 income, after income tax is applied. Contributions should be paid in by the end of 1991.

Article 37.1. In 1991, prizes out of the plant prize fund, paid on the basis of the law of 19 July 1985 on annual prizes out of the plant prize fund in state organizational units which are not state enterprises (Dz.U. No. 32, Item 141; and 1989, No. 35, Item 192) are included in the basis for calculating contributions for social security.

37.2. The principle referred to in Paragraph 1 applies to the payment of prizes out of the plant prize fund for the year 1990 made after 1 January 1991.

Article 38. Contributions for social security and the labor fund on prizes and bonuses out of income after income tax is applied for the years 1990 and 1991, paid in cash or in securities, are a charge against the income after the income tax is applied.

Article 39. The law does not violate Article 112, Paragraph 1 of the law of 20 December 1990 on social security for farmers (Dz.U., 1991, No. 6, Item 24).

Article 40. The law becomes effective on the date of publication and is valid from 1 January 1991.

#### Amendment

Article 2.1. The Council of Ministers is authorized to increase the deficit above the sum of Z26,000,000 in case foreign credits are drawn and used in 1991 for health service expenditures, by the amount of the credit drawn, but by no more than the equivalent of US\$200 million.

2.2. Should the authority referred to in Paragraph 1 be exercised, the Council of Ministers will:

1) Make the pertinent changes in the amounts of budgetary incomes and expenditures stated in the budgetary law and in the sources of coverage of the budget deficit.

2) Inform the Sejm and the Senate about the changes made.

Article 3.1. The disposers of the budgetary elements can assume obligations and make expenditures up to 97 percent of the amounts specified by the Council of Ministers on the basis of Article 4, Paragraph 1, Point 1, of the budgetary law for 1991.

3.2. The Council of Ministers may remove the restrictions referred to in Paragraph 1.

Article 4. The taking of money out of bank accounts for wages or salaries in a budgetary unit or in a unit of the nonbudgetary economy without at the same time making the necessary contributions to the Social Security Agency and Labor Fund is a violation of budgetary discipline.

Article 5.1. The directors of units administering the accounts of state budget incomes, who under Article 3, Paragraph 1 of the law of 14 December 1990 on the abolishment and liquidation of certain funds (Dz.U. No. 89, Item 517) assumed the claims of the abolished funds referred to in Article 1 of this law, can cancel the terms of the loan agreement entered into by the disposers of the abolished funds, if:

1) The borrower does not make instalment payments on time.

2) A fixed rate of interest was stated in the agreement.

5.2. The right referred to in Paragraph 1 also applies to the liquidators of funds referred to in Article 5 of the law mentioned in Paragraph 1.

5.3. The new interest rate on loans cannot exceed 50 percent of the rate of refinancing credit, determined by the president of the National Bank of Poland.

5.4. The provisions of the law of 19 December 1980 on tax obligations apply to the collection of the unreturned sums of the loans referred to in Paragraph 1 (Dz.U., No. 27, Item 111; 1982, No. 45, Item 289; 1984, No. 52, Item 268; 1985, No. 12, Item 50; 1988, No. 41, Item 325; 1989, No. 4, Item 23, No. 33, Item 176, No. 35, Item 192, and No. 74, Item 443; and 1990, No. 34, Item 198).

Article 6.1. The disposers of parts of the state budget in which nontaxable receipts to the state budget were planned, are authorized to:

1) Entrust the collection of nontaxable receipts to the state budget to units other than the organs of state administration.

2) Allocate up to 0.5 percent of the collected nontaxable receipts to the state budget to cover the costs connected with the collection of these receipts.

6.2. Units participating in the obtainment of receipts which constitute foreign sources of financing the expenditures of the state budget, are entitled to a commission of up to 0.5 percent of the sums of the foreign credits obtained, to cover the costs connected with the obtainment of these credits. The commission is covered out of the current receipts of the state budget.

6.3. The minister of finance will determine the size of the commission, the units entitled to receive it, and the terms that must be complied with in order to receive the commission.

6.4. The provisions of Paragraph 1, Point 2, do not apply to customs duties and to receipts from the sale of State Treasury property.

Article 7. Defined in the law dated 5 January 1991, the Budgetary Law (Dz.U. No. 4, Item 18 and No. 34, Item 150), are the following:

1) In Article 31, Paragraph 1, the date for submission to the Sejm and the Senate of the draft assumptions of socioeconomic policy is fixed in 1991 for 15 November.

2) In Article 33, Paragraph 1, the date for submission to the Sejm and the Senate of the draft budget law for 1991 is fixed at 15 days after the Sejm approves the assumptions of socioeconomic policy for 1992, and an interim budget no later than 16 December 1991.

Article 8. The law goes into effect on the date of publication, with the exception of Article 1, Point 8 (Article 26.2. in the integrated text).

### Commission Order on Registration of Securities

92EP0083B Warsaw MONITOR POLSKI in Polish  
No 26, 19 Aug 91 Item No 183 p 216

[Order of the chairman of the Securities Commission concerning the management of securities issued for public trading]

[Text] Pursuant to Article 53 of the Law of 22 March 1991 on Public Trading in Securities and Mutual Funds (Dz.U. [DZIENNIK USTAW], No. 35, Item 155), the following is hereby ordered:

Paragraph 1. This order regulates the guidelines and procedure for the registration of the securities issued for public trading, hereinafter referred to as "the registry."

Paragraph 2. The registry is handled by the Securities Commission, hereinafter referred to as "the Commission."

Paragraph 3. Registration takes place once the Commission approves issuing securities for public trading.

Paragraph 4.1. The registration is based on the information provided in the application for issuing securities for public trading, filed by the issuer or by the entity introducing securities into public trading, as well as in the prospectus.

4.2. The following data should be provided for the registry:

- 1) Name and abbreviation and address, together with postal code, of the issuer.
- 2) Date on which issuer was established.
- 3) Issue date of the securities.
- 4) Nature of the securities to be issued for public trading.
- 5) Code of the securities.
- 6) Extent of issue.
- 7) Number of shares retired.
- 8) Par value of the securities.
- 9) Issue price of the securities.
- 10) Value of the issue.

Paragraph 5. Changes in the data referred to in Paragraph 4, Subparagraph 2, are subject to being registered on the basis of the information provided to the Commission by the issuer through the procedure defined in Article 52 of the Law of 22 March 1991 on Public Trading in Securities and Mutual Funds (Dz.U., No. 35, Item 155).

Paragraph 6. The deletion of securities from the registry takes place in the event of:

- 1) Deletion of issuer from the appropriate registry of legal entities.
- 2) Failure to comprise all the shares.
- 3) Buyout of bonds by the issuer.
- 4) Waiver of the Commission's approval of issuance of securities for public trading.

Paragraph 7. The data referred to in Paragraph 4, Subparagraph 2, and Paragraph 5, as well as the information on deletion of securities from the registry are made public at the offices of the Commission.

Paragraph 8. This order takes effect on the day of its publication.

Chairman of the Securities Commission: L.A. Paga. z

**Resolution on Dollar-Denominated Bonds**

92EP0087B Warsaw *MONITOR POLSKI* in Polish  
No 30, 25 Sep 91 Item No 220 p 250

[Resolution No. 133 of the Council of Ministers dated 17 September governing the schedule and conditions for the payment of dollar-denominated bonds and interest]

[Text] Pursuant to Article 20, Paragraph 2, of the 1991 Budget Law of 13 February 1991 (Dz.U., No. 21, Item 89), the Council of Ministers resolves as follows:

Paragraph 1. This resolution defines the timetable and terms for the repayment of and interest on bonds denominated in United States dollars, henceforth referred to as "the bonds," designed to repay the obligations of the State Treasury to the banks by virtue of the utilization of foreign exchange investments for the needs of the balance of payments.

Paragraph 2.1. The interest rate on the bonds is based on the reference rate plus the interest margin.

2.2. The reference rate is defined as the arithmetic mean of the loan interest rates quoted on the first of every month (for a given period of accrued interest) at the London interbank market and rounded off upward to the nearest 1/16. Quotations of loan interest rates are based on the arithmetic mean of the interest charged on six-month loans amounting to \$10 million and rounded off upward to 1/16, granted by: the National Westminster Bank, the Bank of Tokyo, Deutsche Bank, Banque National de Paris, and Morgan Guaranty Trust, as quoted at 1100 hours London time.

Paragraph 3. The interest margin is fixed in the amount of:

- 1) 2 percent for the years 1991-95.
- 2) 0.5 percent starting in 1996.

Paragraph 3. Interest due on the bonds is credited starting on 1 January 1991 at semiannual intervals and payable twice a year, on 2 January and 1 July. In 1991 the first payment of interest will be made on 25 September.

Paragraph 4.1. The bonds are issued in 25 series and redeemed between 1 April 1992 and 1 April 2004.

4.2. Redemption of the bonds will be financed by the state budget annually on 1 April and 1 October, starting on 1 April 1992.

4.3. The last payment of interest will be made on the day the bonds are redeemed, for the period due from 1 January or from 1 July to the day fixed as the bond redemption day.

Paragraph 5. After the redemption period expires, no interest is paid on the bonds.

Paragraph 6. Bond redemption and interest payments are made in Polish zlotys. The amount of payments is determined on the basis of the amount due in United States dollars for that period as converted to Polish zlotys according to the exchange rate of the dollar fixed by the National Bank of Poland for the day the bonds are to be redeemed or interest on them paid.

Paragraph 7. This Resolution takes effect on the day of its publication.

Chairman of the Council of Ministers: J.K. Bielecki.

**Resolution on Agricultural Marketing Agency**

92EP0085A Warsaw *MONITOR POLSKI* in Polish  
No 21, 29 Jun 91 Item No 146, p 182

[Resolution No. 94 of the Council of Ministers dated 26 June governing the determination of the objective range of activities of the Agency for Agricultural Marketing]

[Text] Pursuant to Article 8 of the Law of 7 June 1990 on Establishing the Agency for Agricultural Marketing (Dz.U., No. 39, Item 223), the Council of Ministers hereby resolves as follows:

Paragraph 1.1. The purpose of the Agency for Agricultural Marketing, hereinafter referred to as "the Agency," is to influence the market for farm commodities, semifinished farm products, and foodstuffs, whether on its own initiative or on the recommendation of the Council of Ministers by implementing an interventionist farm policy of the government with the object of stabilizing that market and protecting farm incomes.

1.2. The Agency accomplishes its objectives on its own, upon guiding itself by the rule of not violating the function of the market in the agricultural economy and the food industry.

Paragraph 2.1. The scope of activities of the Agency includes directly influencing the market by intervening in the trading in raw, semifinished, and processed farm products and foodstuffs, as well as indirectly by issuing forecasts of the supply and demand of farm and food products and sponsoring investment and organizational projects relating to the market infrastructure.

2.2. The Agency presents to the Council of Ministers proposals and opinions serving to pursue an interventionist farm policy.

Paragraph 3. The Agency intervenes in the trading of farm products by concluding and implementing civil-law agreements with economic entities at prices adjusted to the actual market situation.

Paragraph 4.1. The Agency engages in intervention procurements of staple and other domestic agricultural commodities and foodstuffs in times of agricultural surpluses.

4.2. The Agency engages in intervention sales of farm products and their processed forms on domestic and foreign markets as part of the state's farm policy.

4.3. The Agency may engage in imports of agricultural commodities and semifinished products and foodstuffs in the event that the market equilibrium is upset or the threat of upsetting it exists, and also in the event that difficulties in supplying the consumer market may arise.

Paragraph 5. The Agency stockpiles agricultural commodities in accordance with the decisions of the Council of Ministers and administers these stockpiles as prescribed by separate regulations.

Paragraph 6. The Agency may grant loan guarantees to economic entities if this will help promote the activities sponsored by the Agency, in accordance with the guidelines of the state's farm intervention policy.

Paragraph 7. The Agency performs analyses of the farm and food market both in this country and—to a limited extent—abroad, and uses the findings of such analyses to determine forecasts, trends, and changes occurring on farm markets.

Paragraph 8.1. The Agency presents to the Council of Ministers proposals and comments concerning the farm market, intervention prices of farm products, foreign trade regulations, and other means of intervening in supply and demand.

8.2. In cases warranted by the situation of agriculture and the agricultural market, the Agency presents to the Council of Ministers and concerned ministers proposals and comments on matters within the Agency's scope of activities.

Paragraph 9. The Agency may engage in business activities and participate in the business activities of other economic entities to the extent corresponding to the Agency's scope of activities.

Paragraph 10. This Resolution takes effect on the day of its publication.

For the Chairman of the Council of Ministers: L. Balcerowicz

### **Proclamation on Order Granting Military Deferments**

92EP0089A Warsaw *DZIENNIK USTAW* in Polish  
No 82, 14 Sep 91 Item No 370 pp 1157-1163

[Proclamation of Minister of National Defense dated 13 September governing publication of the uniform text of the executive order of the Council of Ministers dated 11 December 1989 granting deferments to mandatory military service and recognizing recruits and soldiers as sole family providers]

[Text] Paragraph 1. Pursuant to Paragraph 3 of the Executive Order of the Council of Ministers dated 9 July 1991 that amends the order on granting deferments of mandatory military service and recognizing recruits and soldiers as sole family providers (*DZIENNIK USTAW* [Dz.U.], No. 65, Item 280), the uniform text of the Executive Order of the Council of Ministers dated 11 December 1989 on granting deferments of mandatory military service and recognizing recruits and soldiers as sole family providers (Dz.U., No. 68, Item 413) is published in an appendix hereto. The appendix incorporates the changes introduced by the Executive Order of the Council of Ministers dated 9 July 1991 that amends the order on granting deferments of mandatory military service and recognizing recruits and soldiers as sole family providers (Dz.U., No. 65, Item 280) and the changes resulting from the regulations proclaimed before the publication date of the uniform text. The appendix also continuously numbers the chapters, paragraphs, subparagraphs, and points and arranges them in alphabetical order.

Paragraph 2. The uniform text given in the appendix to this proclamation does not entail the following provisions:

1) The words "changes in the current regulations and the final regulations" in the title of Chapter 5 and Paragraphs 43-45 of the Executive Order of the Council of Ministers dated 11 December 1989 on granting deferments of mandatory military service and recognizing recruits and soldiers as sole family providers (Dz.U., No. 68, Item 413), which read as follows:

"Paragraph 43. The following changes are introduced in the Executive Order of the Council of Ministers dated 7 September 1979 governing the special entitlements of soldiers and persons fulfilling the duties of military service through alternative means and as well as the entitlements of their family members (Dz.U., No. 5, Item 32, 1986 and No. 30, Item, 209, 1988):

1) Paragraph 16 is repealed;

2) in Paragraph 19:

a) Subparagraph 1 gets the wording:

1. The monthly benefits granted in Article 131, Section 1, of the law are paid to the following persons for the following periods:

(1) to the family of a recruit who is recognized as the sole family provider and who was:

a) summoned for mandatory military service for the period lasting from the day of his enlistment in a military unit until the day he is discharged from military service, provided that the head of the military recruitment station furnishes notification of his enlistment or discharge from the service,

b) ordered into alternative service for the period lasting from the day he reports for alternative service until the day he is discharged from this service, provided that the local state administrative organ at the voivodship level furnishes notification of the special character of his employment and of his reporting for or being discharged from this service;

(2) to the family of a soldier recognized as the sole family provider who remained in military service after the decision became effective for the period lasting from the day he submits an application for recognition as the sole family provider, but no earlier than the day he enlists in the service, until the day of his discharge from military service, provided that the chief of the military staff at the voivodship level furnishes notification of the soldier's continuation in military service;

(3) to the family of a recruit who is recognized as the sole family provider and who was left in alternative service after the decision became effective for the same period as in Point 2, provided the local organ of state administration at the voivodship level furnishes notification of the special character of his employment and of the recruit's continuation in the alternative service";

b) in the second sentence of Subparagraph 2, the dash and the words 'an award granted by the minister supervising the postsecondary educational institution, an endowed stipend, and that part of a stipend conditioned on the results attained by the student in his studies' are deleted;

3) in Paragraph 27, the citation 'Paragraphs 19-25' is replaced by the citation 'Paragraph 19, Subparagraph 1, Point 1, Subpoint a), and Point 2, and Subparagraphs 2-7, and Paragraphs 20-25';

4) in Paragraph 34:

a) in Subparagraph 1, the citation 'Paragraphs 19-26' is replaced by the citation 'Paragraph 19, Subparagraph 1, Point 1, Subpoint a), and Point 2, and Subparagraphs 2-7, and Paragraphs 20-26,'

b) in Subparagraph 4, the citation 'Paragraphs 19-25' is replaced by the citation 'Paragraph 19, Subparagraphs 2-7, and Paragraphs 20-25';

5) after Paragraph 34, Paragraph 34a, which reads as follows, is added:

'Paragraph 34a. Brigade members performing mandatory service in civil defense units are eligible for entitlements and free travel on the state transportation system on the same basis as soldiers in mandatory military service';

6) Paragraph 36 is repealed.

Paragraph 44. The Executive Order of the Council of Ministers dated 7 September 1979 on granting deferments of mandatory military service and recognizing recruits and soldiers as sole family providers is annulled (Dz.U., No. 5, Item 31, 1986 and No. 30, Item 209, 1988).

Paragraph 45. The order goes into effect on 1 January 1990."

2) Paragraphs 2 and 4 of the Executive Order of the Council of Ministers dated 9 July 1991 that amends the order on granting deferments of mandatory military service and recognizing recruits and soldiers as sole family providers (Dz.U., No. 65, Item 280) reads as follows:

"Paragraph 2.1. Proceedings in matters referred to in Paragraph 1 of the order mentioned in Paragraph 1 that have not been concluded by a final decision before the present order goes into effect are conducted in the course of time on the principles defined in the order mentioned in Paragraph 1, subject to the changes introduced in the present order.

2.2. Final decisions issued on the basis of the regulations in effect before the present order goes into effect retain binding force."

"Paragraph 4. This order will go into effect seven days after the date of publication."

—Minister of National Defense: P. Kolodziejczyk

#### Appendix to the Declaration of the Minister of National Defense dated 13 September 1991 (Item 370)

#### Executive Order of the Council of Ministers dated 11 December 1989 granting deferments of mandatory military service and recognizing recruits and soldiers as sole family providers

Pursuant to Article 37, Section 6; Article 98, Section 5; Article 139; and Article 167, Section 2; and in connection with Article 103, Section 2; Article 148, Section 5; Article 206, Section 2, Point 2; and Section 3 of the law dated 21 November 1967 on the universal duty to defend the Polish People's Republic (Dz.U. No. 30, Item 207, 1988; No. 20, Item 104, No. 29, Item 154, and No. 34, Item 178, 1989; No. 30, Item 179, No. 34, Item 198, No. 55, Item 319, and No. 78, Item 462, 1990; and No. 55, Item 234, 1991), and also in connection with Article 29, Section 1 of the law dated 17 May 1989 governing the relationship of the State to the Catholic Church in the Polish Republic (Dz.U. No. 29, Item 154; No. 51, Item 297, No. 55, Item 321, and No. 86, Item 504, 1990) the following is hereby ordered:

#### Chapter 1. General Provisions

Paragraph 1. This order defines the detailed conditions for and principles of:

1) Granting deferments of mandatory military service to recruits in consideration of:

- a) the necessity of exercising direct custody over a family member,
- b) operating a farm,
- c) getting an education,
- d) practicing a profession,
- e) supporting a family;

2) recognizing recruits and soldiers as sole family providers;

3) recognizing the necessity of soldiers to assume direct custody of a family member or to operate a farm.

Paragraph 2. Subject to conditions defined in the remaining provisions of this order, "the family members" of a recruit or soldier referred to in this order are understood as the following:

- 1) parents and grandparents;
- 2) wife;
- 3) natural and adopted children, stepchildren, and unrelated children taken for upbringing and support, including children within the framework of a substitute family;
- 4) brothers and sisters;
- 5) a person who raised and supported the recruit for a period of at least three years before the recruit reached his eighteenth birthday.

Paragraph 3. Whenever there is language in this order referring without more precise definition, the following terms are understood as follows:

1) a farm is understood as an area of arable land, together with its buildings or their parts, fixtures, and inventory, if they constitute or could constitute an organized economic unit;

2) minimum wage is understood as the minimum wage of employees for a full month of work as defined by the Minister of Labor and Social Policy on the basis of the Labor Code;

3) a deferment is understood as a deferment of mandatory military service.

## **Chapter 2. Granting Deferments of Mandatory Military Service to Recruits and Their Recognition as Sole Family Providers by the Regional Recruitment Commission**

### **Conditions for the Recognition of a Recruit as Exercising Direct Custody Over a Family Member**

Paragraph 4.1 A recruit is recognized as exercising direct custody over a family member if his place of residence enables him to exercise this custody every day; if there is not another family member who has reached majority, who is of an equal or closer degree of kinship, and who is obligated to exercise custody; and if he in fact exercises this custody.

4.2 The medical commission on disability and employment rules on the ability of a Group II invalid to exercise custody over another family member who is classified as a Group I invalid.

Paragraph 5. The following are family members over whom the exercise of direct custody justifies the granting to a recruit of a deferment of mandatory military service:

1) persons mentioned in Paragraph 2:

- a) those listed under Point 3 who have not reached age 16 or who have been classified as Group I invalid if custody cannot be exercised by the recruit's wife,
- b) those listed under Points 1 and 5 who have reached age 75 or have been classified as Group I invalid,
- c) those listed under Point 4 who have not reached age 16 or have been classified as Group I invalid;

2) the recruit's wife, if she has been classified as Group I invalid.

### **Conditions for Recognizing a Recruit as a Farm Operator**

Paragraph 6.1. A recruit is recognized as a farm operator if he operates a farm containing at least one hectare of arable land that is the property of him or his wife.

6.2. A recruit is also recognized as a farm operator if each of the following conditions is fulfilled:

1) the recruit personally performs the work on a farm containing at least three hectares of arable land that is in the possession of his parents or a person mentioned in Paragraph 2, Point 5, who, within the meaning of Subparagraph 3, cannot independently operate said farm;

2) his place of residence enables him to perform basic work on the farm;

3) there is no other family member on said farm who can operate it.

6.3. Within the meaning of the provisions of the Executive Order, the recruit's family members who cannot independently operate the farm are:

1) the father or man who raised and supported the recruit (Paragraph 2, Point 5) or the recruit's brother, if he has reached 65 years of age or has been classified as Group I or Group II invalid or recognized as long-term disabled for agricultural work;

2) the recruit's brothers and sisters if they fulfill the conditions defined in Paragraph 9, Subparagraph 3:

3) a woman, regardless of the area of arable land on this farm.

6.4. The recruit mentioned in Subparagraphs 1 and 2 is granted a deferment of mandatory military service with the reservation of Subparagraph 5.

6.5. Operation of the same farm as mentioned in Subparagraph 2 constitutes the basis for granting deferments to successive family members who are recruited, provided that the recruit who was earlier granted a deferment under this authority performed fully or partially the mandatory military service (or mandatory service in civil defense, service in armed formations not making up part of the armed forces, or alternative service) or he is performing these forms of service, or in the event he dies or is classified in Group I or Group II of disabled persons, or in the event he is recognized as long-term disabled for agricultural work or as permanently disabled for military service or he is transferred to the reserves immediately after the passing of a disability that temporarily precludes military service. This provision is applied as appropriate in the event that the recruit performs in full or in part alternative service.

6.6. Deferment of mandatory military service in regard to operation of a farm as described in Subparagraph 2 may be granted to a recruit, in spite of his not fulfilling the conditions mentioned in Subparagraph 5, if at least 5 years have passed since the end of the last deferment granted under this authority to a member of his family which resulted in his not performing mandatory military service.

Paragraph 7. Deferment of mandatory military service in regard to operating a farm may also be granted to a recruit in spite of his not fulfilling the conditions defined in Paragraph 6 if during the two year period before he filed an application for a deferment of service, the farm was to a large extent destroyed as a result of a natural disaster, especially fire or flood, and it would be impossible to return it to its previous state without the participation of the recruit.

**Conditions for Recognizing the Recruit as the Sole Family Provider**

Paragraph 8. A recruit who is supporting at least one family member mentioned in Paragraph 2 is recognized as the sole family provider, subject to the reservation in Paragraph 10.

Paragraph 9.1. A wife is recognized as being supported by a recruit if:

1) she is bringing up at least one of the recruit's children or siblings who are less than 8 years of age and she does not receive any income for exercising custody, or

2) she is not gainfully employed and she attends a postsecondary school during the day or is studying at another school on a full-time basis. The provisions of Subparagraph 3, Points 2 and 3, apply as appropriate.

9.2. Parents, grandparents, or persons mentioned in Subparagraph 2, Point 5, are recognized as being supported by the recruit if:

1) they have reached a certain age (65 years of age for men and 60 years of age for women, or, if they are combatants or were disabled in wartime or in the military, 60 years and 55 years respectively) or they are raising at least one of the children or brothers and sisters of the recruit who are less than eight years of age;

2) they do not have an income and there are no other family members obligated to support them.

9.3. Children as well as brothers and sisters are recognized as being supported by the recruit, if:

1) they have not reached their sixteenth birthday; or

2) they are not gainfully employed and they attend a postsecondary school during the day and they are less than 25 years of age, or, if they are 25 years of age, they are in their last year of studies; or

3) they are not gainfully employed, they do not have an income, and they are full-time students:

- a) 19 years of age or less in a vocational school or a school that is preparing its students for a trade,
- b) 20 years of age or less in a college preparatory school concentrating on general studies or an occupation or an equivalent school,
- c) 21 years of age or less in a postsecondary trade school,
- d) 21 years of age or less in technical school or an equivalent school,
- e) 22 years of age or less in a vocational school for graduates of general education liceums,
- f) 22 years of age or less in a postsecondary vocational school that has vocational school or the second year of a general college preparatory school as a prerequisite,
- g) 22 years of age or less in a Level II art school,

h) 23 years of age or less in postsecondary art school for high school graduates or in cultural-educational and library schools,

i) 23 years of age or less in technical pedagogical schools or teachers training schools.

9.4. Brothers and sisters referred to in Subparagraph 3 fulfill the condition of being supported by the recruit if there are no other family members obligated to support them.

Paragraph 10.1. A recruit contributing to the support of a person mentioned in Paragraph 2 who gets income or receives an old-age (or retirement) pension in an amount less than the sum of the monthly benefit for one person, calculated in accordance with the provisions on special entitlements for soldiers and persons fulfilling the military obligation by alternative means and on entitlements for members of their family, is also recognized as a sole family provider. Benefits (supplements) for families, for nursing care, and for orphans are not considered income.

10.2. The condition of contributing to the support described in Subparagraph 1 is recognized if:

1) the income obtained and the pension received by the wife and children of the recruit total less than the amount that monthly benefits would be for a like number of persons entitled to those benefits;

2) the income obtained or old-age (or retirement) pension received by persons referred to in Paragraph 2, Points 1, 4, and 5, total less than the amount that monthly benefits would be for a like number of persons entitled to those benefits and there are no other family members obligated to contribute to their support.

3) the difference between the sum of calculated benefits and the combined income or old-age (or retirement) pension amounts to at least 10 percent of the minimum wage.

**The Procedure for Granting Recruits Deferrals of Mandatory Military Service and for Recognizing Them as Sole Family Providers**

Paragraph 11.1. Application for deferment of mandatory military service in regard to:

1) the necessity of operating a farm may be filed by the recruit;

2) the necessity of exercising direct custody over a family member or for recognition as the sole family provider may be filed by the recruit or a member of his family.

11.2. Application for deferment:

1) with regard to the necessity of exercising direct custody over a family member or for recognition as the sole family provider is made to a village or town mayor (town president) in accordance with the place of permanent or temporary residence of more than two months of the member of the family remaining under the direct custody of or being supported by the recruit;

2) with regard to operating a farm is made to a village or town mayor (town president) in accordance with the location of the farm.

Paragraph 12.1. An appropriate statement must be attached to the application for a deferment of mandatory

military service, if a member of the family is invalid or has been recognized as long-term disabled for agricultural work.

12.2. The provision of Subparagraph 1 is applied as appropriate in a case in which a family member classified as Group II invalid is not able to exercise custody of a Group I invalid.

Paragraph 13.1. The village or town mayor (town president) referred to in Paragraph 11, Subparagraph 2, Point 1 or 2, after receiving an application, sends it along with his opinion to the village or town mayor (town president) who is appropriate in regard to the recruit's place of residence. It is then to be passed on to the regional recruitment commission.

13.2. The regional recruitment commission sends one copy of the statement on deferment of mandatory military service (or long-term military training) or on recognition of the recruit as a sole family provider to the military recruiting station appropriate in regard to the recruit's place of residence. The statement regarding recognition of the recruit as a sole family provider is also sent to the village or town mayor (town president) to whom the application was submitted (Paragraph 11, Subparagraph 2, Point 1 or 2).

Paragraph 14. In cases justified by exceptional social or humanitarian considerations, the recruitment commission may grant the recruit a deferment by way of an exemption, even if only one of the conditions defined in Paragraph 4 has been fulfilled.

Paragraph 15.1. If, after the conclusion of the deliberations of the regional recruitment commission, the recruit submitted an application for a deferment of military service to the village or town mayor (town president), this organ makes a preliminary evaluation of the grounds for granting a deferment and after stating that a basis exists gives its opinion to the head of the appropriate military recruitment station on the recruit's lack of fitness for military service until the next call up.

15.2. In the event referred to in Subparagraph 1, the head of the military recruitment station does not call up the recruit for mandatory military service until the matter is settled by the recruitment commission. The recruit who fulfills the conditions for recognition as a sole family provider who has to support more than two family members or, if his wife is in at least the fourth month of pregnancy, more than one family member also does not undergo conscription.

Paragraph 16. The provisions of Paragraphs 1-15 are applied as appropriate to recruits who are graduates of postsecondary educational institutions and enrolled in long-term military training, provided that in the cases referred to in Paragraphs 4-7 the recruitment commission makes a determination on the granting of a deferment of long-term military training.

### **Chapter 3. The Granting of Deferments of Mandatory Military Service to Recruits by the Head of the Military Recruitment Station**

#### **Granting a Deferment for Educational Purposes**

Paragraph 17.1. Deferments of mandatory military service for educational purposes are granted to recruits enrolled in high school in the daytime system until their studies are finished in these schools.

17.2. Deferments of mandatory military service for educational purposes are granted to recruits enrolled in school in the daytime system in a school that has the completion of secondary school or the possession of a secondary school certificate as a prerequisite, including educational institutions for teachers, until their studies are finished in these schools.

17.3. The deferment of mandatory military service referred to in Subparagraph 2 is granted for completion of just one school and for no longer than until the end of the school year in the calendar year in which the recruit turns 27 years of age.

17.4. A deferment of mandatory military service for educational purposes is granted to recruits enrolled in a night school or correspondence school as described in Subparagraph 1 or 2 until their studies are finished in these schools, not longer however than until the end of the school year in the calendar year in which the recruit turns 23 years of age.

Paragraph 18. Recruits enrolled in schools referred to in Paragraph 17, Subparagraph 2 or 4 are not granted deferments of mandatory military service for educational purposes if it is evident from the school certificate presented that they will not be able to finish their studies before attaining the respective ages defined in Paragraph 17, Subparagraph 3 or 4.

Paragraph 19.1. A recruit enrolled in a school referred to in Paragraph 17, Subparagraph 1, 2, or 4, in order to obtain a deferment for educational purposes is obligated to present a school certificate during his appearance before the recruitment commission or in the military recruitment station if the commission is not functioning or the recruit does not get summoned in the conscription.

19.2. The certificate referred to in Subparagraph 1 should contain the following information:

- 1) the name of the school;
- 2) the student's first and last name, his father's first name, and the student's date and place of birth;
- 3) the course of studies, the class the student is in, the time his studies will last in the school, and the system and mode of studies,
- 4) the class and the name of the school the student attended during the previous school year;
- 5) the place and date the certificate was completed, the school's official seal, and the signature of the school director.

19.3. The head of the military recruitment station may refuse to grant an academic deferment to a recruit who, without justification, failed to appear in the conscription at the prescribed time and place, or failed to present a school certificate on the day of his appearance at conscription or within 10 days of the beginning of the school year in a given school.

Paragraph 20. A recruit who is accepted for studies by one of the schools defined in Paragraph 17, Subparagraph 1, after the conscription is over but before being called up to mandatory military service is obligated—in order to obtain a deferment of this service—to submit the certificate referred to in Paragraph 19, Subparagraph 1, to the military recruitment station that is appropriate in accordance with the recruit's place of permanent residence or temporary residence of more than two months. The certificate must be submitted within 10 days of the beginning of the school year at a given school.

Paragraph 21. A school that enrolls recruits who are taking advantage of deferments of mandatory military service is obliged to give notice of the recruits' disenrollment and submit the reasons therefor to the military recruitment station that is appropriate in accordance with the recruits' affiliation of record within seven days of their disenrollment. The deferment granted is revoked by the head of the military recruitment station.

Paragraph 22. A deferment of mandatory military service for educational purposes is also granted to recruits who are students in postsecondary pastoral seminaries or monastic novices of the Catholic Church as well as to students at religious schools and seminaries of other officially recognized churches and religious groups.

Paragraph 23.1. The provisions of Paragraph 19, Subparagraph 1, and Paragraph 20 are applied as appropriate to the seminarians and novices referred to in Paragraph 22.

23.2. Within 10 days of the beginning of studies (or the novitiate), the schools and seminaries referred to in Paragraph 22 give admission vouchers to recruits as well as to those who are not yet subject to conscription that certify that they have indeed been accepted for studies (or into the novitiate). These vouchers are to be submitted immediately to the appropriate military recruitment station based on the recruits' place of permanent residence or temporary residence of more than two months.

23.3. The certificate referred to in Subparagraph 2 should contain:

- 1) the name of the school (or seminary or monastery);
- 2) the first and last name of the person whom the certificate concerns, his father's name, and the date and place of his birth;
- 3) the place and date the certificate was completed, the official seal, and the signature of the authorized official.

23.4. Seminaries and schools as well as monasteries referred to in Paragraph 22 inform the military recruitment stations (Subparagraph 2) of the disenrollment of

students (novices) within seven days of the date of disenrollment. This does not concern students (novices) transferred to the reserves or recognized as permanently unfit for military service.

#### **Granting of Deferments in Regard to the Practice of a Profession**

Paragraph 24.1. A deferment of mandatory military service in regard to the practice of a profession, with the reservation of Paragraph 25, is granted with the consent of the recruit on the motion of the director of a state enterprise that performs especially important production tasks.

24.2. A deferment in regard to the practice of a profession is granted to the recruit for a period of one year, but not earlier than in the calendar year in which he turns 20 years of age and not later than the end of the calendar year in which he turns 23 years of age.

24.3. Separate regulations define the number of recruits entitled to take advantage of employment-related deferments of mandatory military service in particular enterprises, positions in which deferments are granted, and the military classes of recruits authorized to take advantage of a deferment.

Paragraph 25. A deferment of mandatory military service in regard to the practice of a profession is not granted to a recruit who:

- 1) without justification failed to report for conscription at the prescribed time and place;
- 2) who does not actually work in the position that constitutes the basis for granting him a deferment of mandatory military service or who only works part-time.

Paragraph 26. State enterprises are obliged to notify the head of the appropriate military recruitment station of the termination of the employment of a recruit who was granted an employment-related deferment of mandatory military service or of a change in the position that constituted the basis for granting the recruit this deferment. They are also obliged to provide notification of circumstances defined in Paragraph 25, Point 2. The decision on granting a deferment is revoked by the head of the appropriate military recruitment station.

#### **Granting Deferments in Regard to the Support of a Family**

Paragraph 27. A deferment of mandatory military service in regard to support of family is granted to a recruit who is recognized as a sole family provider if there are more than two family members dependent on his support or more than one family member if his wife is in at least the fourth month of pregnancy.

Paragraph 28. Recruits recognized as sole family providers who were not granted deferments are subject to conscription for mandatory military service according to the principles that apply generally.

Paragraph 29.1. If a recruit recognized as a sole family provider referred to in Paragraph 28 has been summoned to carry out mandatory military service, the head of the military recruitment station immediately notifies a village or town mayor (town president) that he has reported for military service so that monthly benefits will be awarded and paid to the entitled family members. The village or town mayor (town president) to be notified is the one appropriate to the place of permanent residence or temporary residence lasting more than two months of the family member who is dependent on the recruit's support

29.2. The provisions of Subparagraph 1 are applied as appropriate to recruits who are students or graduates of postsecondary educational institutions and who are summoned to go through long-term military training.

29.3. The head of the military recruitment station in whose records the recruit remains informs the voivode authorized to place the given recruit in alternative service that the recruit has been recognized (Subparagraphs 1 and 2) as a sole family provider and that his application for placement in alternative service has been considered favorably.

29.4. The voivode defined in Subparagraph 3 informs the village or town mayor (town president) appropriate according to the place of permanent residence or temporary residence lasting more than two months of the family member who is dependent on the recruit's support of the fact that the recruit has reported for alternative service so that monthly benefits will be awarded and paid to entitled family members.

**Chapter 4. Recognition by the Village or Town Mayor (Town President) or the Voivode of the Necessity of Soldiers Exercising Direct Custody Over a Family Member or Operating a Farm, Their Recognition as the Sole Family Provider, and the Procedure of Military Organs in These Matters**

Paragraph 30.1. Decisions on the necessity of a soldier who is performing mandatory military service to exercise direct custody over a family member or to operate a farm as well as decisions on recognizing him as a sole family provider are issued, with the reservation of Subparagraphs 2 and 3, if the conditions defined respectively in Paragraphs 4-10 and 14 arise.

30.2. Purchase of a farm by the soldier during his performance of mandatory military service does not justify the issuing of a decision on the necessity of operating a farm.

30.3. The following may also be recognized as sole family providers:

1) a soldier performing mandatory military service who before the beginning of this service was not employed because of his studies or for other particularly justified reasons;

2) a soldier whose wife cannot take on employment and who has no other source of income.

Paragraph 31. An application may be filed:

1) by a soldier or, with his written consent, by a member of his family for recognition of the necessity of operating a farm;

2) by a soldier or a member of his family for recognition of the necessity of exercising direct custody over a family member or for recognition as a sole family provider.

31.2. The application is submitted to the appropriate village or town mayor (town president) in accordance with the provision of Paragraph 11, Subparagraph 2, Point 1 or 2.

31.3. The military recruitment station that summoned the soldier to military service, the date service began, the number (or name) of the military unit in which the soldier serves, and the place this unit is stationed must be given in the application. The provisions of Paragraph 12 are applied as appropriate.

Paragraph 32.1. The village or town mayor (town president) issues a decision on:

1) the necessity of the soldier's exercise of direct custody over a family member;

2) the necessity of the soldier's operating a farm;

3) the recognition of the soldier as a sole family provider.

32.2. In the decision on recognizing the soldier as the sole family provider, the family members dependent on his support are specified.

32.3. If a family member submitted the application, the decision is also delivered to the interested soldier.

32.4. The decision is also delivered to the head of the military recruitment station appropriate according to the seat of the organ that issued the decision.

Paragraph 33. After the decision referred to in Paragraph 32, Subparagraph 1, takes effect, the chief of the voivodship military staff:

1) informs the commander of the military unit in which the soldier is performing mandatory military service of the necessity of immediately discharging him from service in the case of the recognition of the necessity of the soldier's exercising direct custody of a family member, operating a farm, or recognition as a sole family provider having more than two dependent family members;

2) informs the village or town mayor (town president) of the necessity of awarding and paying monthly benefits to the entitled family members in the event a soldier is recognized as a sole family provider with not more than two dependent family members and is not to be discharged.

Paragraph 34.1. Soldiers who are discharged from mandatory military service by virtue of exercising direct custody of a family member or operating a farm and who are not transferred to the reserves are referred by the head of the military recruitment station to the regional recruitment commission for review of the case.

34.2. Soldiers discharged from mandatory military service by virtue of recognition as sole family provider who are not transferred to the reserves are granted a deferment by the head of the military recruitment station.

Paragraph 35. If, in the family situation of a soldier performing mandatory military service who has been recognized as the sole family provider, circumstances arise that justify a change in the decision on this matter, the soldier or a member of his family may submit an application for the issuance of a new decision on the basis defined in Paragraph 31.

Paragraph 36.1. The provisions of Paragraphs 30-33 and 35 are applied as appropriate to graduates of postsecondary educational institutions who are undergoing long-term military training and, with the reservation of Subparagraph 2, to brigade members performing mandatory service in the civil defense and, with the reservation of Subparagraph 3, to recruits performing alternative service.

36.2. In the case of the recognition of a brigade member as sole family provider, he is subject to immediate discharge from mandatory service in the civil defense.

36.3. The final decisions referred to in Paragraph 32, Subparagraph 1, that are issued in relation to recruits performing alternative service are sent by the village or town mayor (town president) to the voivode who is appropriate in regard to the seat of the organ that issued the decision. The procedure of the voivodes connected to the execution of these decisions is defined by separate provisions.

#### Chapter 5. Temporary Provisions

Paragraph 37.1. The procedure in matters referred to in Paragraph 1 that have not been concluded in a valid declaration or decision by the day this Executive Order goes into effect proceeds in the course of time according to the principles defined in the present Executive Order.

37.2. A change in the regulations that are in effect in the sphere of the granting of deferments from mandatory military service or the recognition of recruits and soldiers as sole family providers are also considered to be within the meaning of "change of conditions" in the provisions of Paragraph 35.

**Constitution of Romania**

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["Text" of the Constitution of Romania adopted by the  
Constituent Assembly at its 21 November session]

[Text]

**TITLE I. General Principles****Article 1. The Romanian State**

1. Romania is a national state, sovereign and independent, unitary and indivisible.
2. The form of government of the Romanian state is the republic.
3. Romania is a social and democratic state of law in which human dignity, the rights and liberties of citizens, the free development of the human personality, justice, and political pluralism represent supreme values and are guaranteed.

**Article 2. Sovereignty**

1. National sovereignty belongs to the Romanian people who exercise it through their representative bodies and through referendums.
2. No group or individual may exercise sovereignty on his own behalf.

**Article 3. The Territory**

1. The territory of Romania is inalienable.
2. The borders of the country are sanctioned by statutory law, observing the principles and other generally acknowledged norms of international law.
3. Administratively, the territory is organized in communes, cities, and counties. According to the law, some cities are proclaimed municipalities.
4. Foreign populations may not be displaced or colonized on the territory of the Romanian state.

**Article 4. The Unity of the People and Equality Among Citizens**

1. The state is based on the unity of the Romanian people.
2. Romania is the common and indivisible homeland of all its citizens regardless of race, ethnic origin, language, religion, sex, opinion, political allegiance, wealth, or social origin.

**Article 5. Citizenship**

1. Romanian citizenship may be acquired, preserved, and lost under the conditions stipulated by the organic law.
2. Romanian citizenship cannot be taken away from anyone who acquired it at birth.

**Article 6. The Right To Identity**

1. The state recognizes and guarantees for members of the national minorities the right to preserve, develop, and express their ethnic, cultural, linguistic, and religious identity.

2. The protective measures taken by the state to preserve, develop, and express the identity of the members of the national minorities shall be in accordance with the principles of equality and nondiscrimination in relation to the other Romanian citizens.

**Article 7. Romanians Abroad**

The state supports the strengthening of links with Romanians outside the country's borders and works for the preservation, development, and expression of their ethnic, cultural, linguistic, and religious identity, by respecting the legislation of the state of which they are citizens.

**Article 8. Pluralism and Political Parties**

1. Pluralism is a condition and a guarantee of constitutional democracy in Romanian society.
2. Political parties are established and carry out their activity under the conditions of the law. They contribute to the definition and expression of the citizens' political will, respecting national sovereignty, territorial integrity, the rule of law, and the principles of democracy.

**Article 9. Trade Unions**

Trade unions are set up and carry out their activity according to their statutes under the conditions of the law. They contribute to the protection of the rights and the promotion of the professional, economic, and social interests of employees.

**Article 10. International Relations**

Romania maintains and develops peaceful relations with all states and, in this framework, relations of good neighborliness based on the principles and on the other generally accepted norms of international law.

**Article 11. International Law and Domestic Law**

1. The Romania state pledges to fulfill, to the letter and in good faith, its commitments under the treaties to which it is a party.
2. The treaties ratified by Parliament, according to the law, are part of domestic law.

**Article 12. National Emblems**

1. Romania's flag is tricolor; it consists of three vertical stripes: blue, yellow, and red, in this order, from the mast.
2. The national day of Romania is 1 December.
3. The national anthem of Romania is "Romanians, Awake."
4. The coat of arms of the country and the state seal are established by statutory laws.

**Article 13. Official Language**

In Romania, the official language is Romanian.

**Article 14. The Capital**

The capital of Romania is Bucharest municipality.

## **TITLE II. Fundamental Rights, Freedoms, and Duties**

### **Chapter I. Common Provisions**

#### **Article 15. Universality**

1. The citizens enjoy the rights and freedoms granted to them by the Constitution and other laws and have the duties stipulated by them.
2. The law provides only for the future, with the exception of a more favorable penal law.

#### **Article 16. Equality of Rights**

1. Citizens are equal before the law and before public authorities, with no privileges and with no discrimination.
2. No one is above the law.
3. Public, civil, or military offices and posts can be occupied only by persons with Romanian citizenship and residence in the country.

#### **Article 17. Romanians Citizens Abroad**

Romanian citizens abroad shall enjoy the protection of the Romanian state and shall fulfill their duties with the exception of those which are incompatible with their absence from the country.

#### **Article 18. Aliens and Stateless Persons**

1. Aliens and stateless persons residing in Romania shall enjoy the general protection of persons and property guaranteed by the Constitution and other laws.
2. The right to asylum is granted and withdrawn under conditions of the law, observing the international conventions and treaties to which Romania is a party.

#### **Article 19. Extradition and Expulsion**

1. A Romanian citizen may not be extradited or expelled from Romania.
2. Aliens and stateless persons may be extradited only on the basis of an international convention or under conditions of reciprocity.
3. Expulsion and extradition shall be decided upon by the organs of justice.

#### **Article 20. International Human Rights Treaties**

1. Constitutional provisions on the rights and freedoms of citizens shall be interpreted and applied in accordance with the Universal Declaration on Human Rights and with other treaties and pacts to which Romania is a party.
2. If there is disagreement between the pacts and treaties on fundamental human rights to which Romania is a party and domestic laws, then international regulations will have priority.

#### **Article 21. Free Access to Justice**

1. Any person may appeal to the organs of justice for the protection of his legitimate rights, freedoms, and interests.
2. No law can hamper the exercise of this right.

## **Chapter II. Fundamental Rights and Freedoms**

### **Article 22. The Right to Life and to Physical and Mental Well-Being**

1. A person's right to life and to physical and mental well-being are guaranteed.
2. No one shall be subjected to torture or to any kind of inhuman or degrading punishment or treatment.
3. Capital punishment is prohibited.

### **Article 23. Individual Freedom**

1. Individual freedom and personal security are inviolable.
2. The searching, detention, or arrest of a person is allowed only in cases specified by law and according to the procedure specified by law.
3. The period of detention may not exceed 24 hours.
4. A person may be arrested only on the basis of a warrant issued by a magistrate for a maximum of 30 days. The person arrested can file an appeal about the legality of the warrant to the judge who is obliged to make a pronouncement, stating the grounds for his decision. The extension of the arrest period is approved only by a court of law.
5. The person detained or arrested shall be promptly informed, in the language which he understands, of the reasons for his detention or arrest and of the charges against him, as soon as possible; he will be informed of the charges only in the presence of a counsel chosen by him or appointed by the judge.
6. The person detained or arrested must be released if the grounds for these measures cease to exist.
7. A person under preventive arrest has the right to ask for provisional release, subject to judicial monitoring or on bail.
8. A person is considered innocent until the final pronouncement of the sentence.
9. Punishment can be set or applied only under the conditions of the law and on the basis of the law.

### **Article 24. The Right to Defense Counsel**

1. The right to defense counsel is guaranteed.
2. Throughout the trial, the parties have the right to be assisted by a chosen or court-appointed counsel.

### **Article 25. Free Movement**

1. The right to free movement in the country and abroad is guaranteed. The law sets the conditions for the exercise of this right.
2. Every citizen is assured of the right to establish his domicile or residence anywhere in the country, to emigrate, as well as to return to the country.

### **Article 26. Private and Family Life**

1. Public authorities shall respect and protect private and family life.

2. An individual has the right to do what he wants to do, as long as he does not violate the rights and freedoms of other persons, public order, and moral standards.

#### **Article 27. Inviolability of Domicile**

1. The domicile and the residence are inviolable. No one may enter or stay in the domicile or residence of a person without the latter's consent.

2. Exceptions from the provisions of paragraph 1 can be allowed, according to the law, in the following situations:

- a) to serve an arrest warrant or a court decision;
- b) to remove any threat to the life, physical well-being, or property of a person;
- c) to defend national security or public order;
- d) to prevent the spread of an epidemic;

3. Searches may be ordered only by a magistrate and may be carried out only in accordance with the forms stipulated by law.

4. Night searches are prohibited except in cases of in flagrante delicto.

#### **Article 28. Confidentiality of Correspondence**

The confidentiality of letters, cables, and other mail, and of telephone conversations and other means of communication is inviolable.

#### **Article 29. Freedom of Conscience**

1. Freedom of thought and opinion, as well as the freedom of religious belief, may not be restricted in any way. No one can be forced to adopt an opinion or to espouse a religious belief contrary to his convictions.

2. Freedom of conscience is guaranteed; it must be expressed in a spirit of tolerance and mutual respect.

3. The religious sects are free and are organized in accordance with their own statutes, under the conditions of the law.

4. In relations among the sects, all forms, means, acts, or actions of religious feuding are prohibited.

5. The religious sects are autonomous in relation to the state and they enjoy its support, which includes facilitating a religious presence in the Army, in hospitals, penitentiaries, asylums, and orphanages.

6. Parents or guardians have the right to ensure, in accordance with their own convictions, the education of minor children for whom they are responsible.

#### **Article 30. Freedom of Expression**

1. The freedom to express ideas, opinions, and beliefs, and the freedom of creation of any kind—orally, in writing, through images, by means of sound, or by any other means of public communication—are inviolable.

2. Censorship of any kind is prohibited.

3. Freedom of the press also implies the freedom to establish publications.

4. No publication may be banned.

5. The law can compel the mass media organs to make public their sources of financing.

6. Freedom of expression cannot be used to damage the dignity, honor, or private life of an individual or his right to his own image.

7. The law prohibits defamation of the country and the nation; provocation to war or aggression, and to ethnic, racial, class, or religious hatred; incitement to discrimination, territorial separatism, or public violence; and obscene acts, contrary to good morals.

8. The civil responsibility for the information or creation made public will be borne by the editor or the producer, author, or organizer of an artistic show, by the owner of the means of reproduction, the radio station, or the television station, under the conditions of the law. Violations by the press will be specified by law.

#### **Article 31. The Right to Information**

1. A person's right to have access to any information of public interest cannot be curtailed.

2. In accordance with their competencies, public authorities must ensure that citizens receive correct information concerning public affairs and matters of personal interest.

3. The right to receive information must not jeopardize measures to protect the young or national security.

4. The public and private mass media organs must ensure that public opinion receives correct information.

5. The public services of radio and television are autonomous. They must guarantee that significant social and political groups have the right to broadcast. The organization of these services and the monitoring of their activity by Parliament are regulated by statutory law.

#### **Article 32. The Right to Education**

1. The right to education is ensured through compulsory general education, high school and vocational education, higher education, and other forms of instruction and advanced training.

2. The language of instruction, on all levels, is the Romanian language. Under the conditions of the law, an international language can also be the language of instruction.

3. The right of members of ethnic minorities to learn their mother tongue and the right to be taught in this language are guaranteed; the means of exercising these rights are stipulated by law.

4. State education is free, according to the law.

5. Educational institutions, including private institutions, are established and carry out their activity in accordance with the law.

6. The autonomy of universities is guaranteed.

7. The state will ensure freedom of religious education in accordance with the specific requirements of each faith. In the state schools, religious education is organized and guaranteed by law.

#### **Article 33. The Right to Health Care**

1. The right to health care is guaranteed.
2. The state is obliged to take measures to ensure hygiene and public health.
3. The organization of medical assistance and the social insurance system for illness, accidents, childbirth, and recovery, the supervision of the exercise of the medical professions and of paramedical activity, as well as other measures for the protection of the individual's physical and mental health are stipulated in accordance with the law.

#### **Article 34. The Right To Vote**

1. Citizens who are 18 years of age or older as of election day have the right to vote.
2. Retarded or mentally-disturbed persons deprived of the right to vote, as well as persons sentenced by final judicial decision to the loss of voting rights, do not have the right to vote.

#### **Article 35. The Right To Be Elected**

1. Citizens entitled to vote, who fulfill the conditions specified in Article 16, paragraph 3, have the right to be elected, unless they are prohibited from forming political parties on the basis of Article 37, paragraph 3.
2. The candidates must be at least 23 years of age by or on election day to be elected to the Chamber of Deputies or to local bodies and at least 35 years of age to be elected to the Senate or to the office of president of Romania.

#### **Article 36. Freedom of Assembly**

Meetings, demonstrations, parades, or any other form of assembly are free and may be organized and held only in a peaceful manner, without any kind of weapons.

#### **Article 37. The Right To Associate**

1. Citizens may freely associate in political parties, trade unions, and other forms of association.
2. Parties or organizations which by their objectives or activities militate against political pluralism, the principles of the state of law, or the sovereignty, integrity, or independence of Romania, are unconstitutional.
3. Judges of the Constitutional Court, people's defenders, magistrates, active members of the Armed Forces, policemen, and other categories of public employees stipulated by statutory law may not belong to political parties.
4. Associations of a secret nature are prohibited.

#### **Article 38. Labor and the Social Protection of Labor**

1. The right to work cannot be restricted. Professions and jobs may be freely chosen.

2. Employees have a right to the social protection of labor. Protective measures deal with work safety and hygiene, working conditions for women and youth, the setting of a minimum wage for the economy, weekly time off, paid vacation time, work under difficult conditions, and other specific situations.

3. On the average, the normal working day is at the most 8 hours.

4. Women will receive the same pay as men for equal work.

5. The right to collective bargaining and the binding nature of collective agreements are guaranteed.

#### **Article 39. The Prohibition of Forced Labor**

1. Forced labor is prohibited.
2. The following do not constitute forced labor:
  - a) military service or equivalent activities carried out by those who, in accordance with the law, do not perform obligatory military service because of religious reasons;
  - b) work done by a person who has received a sentence, under normal conditions, during the period of detention or while on parole;
  - c) work imposed in a situation created in the wake of a natural disaster or some other danger, as well as work that is included in the normal civil obligations specified by law.

#### **Article 40. The Right To Strike**

1. Employees have a right to strike to protect their professional, economic, and social interests.
2. The law sets the conditions and limits for the exercise of this right as well as the guarantees required for providing essential public services.

#### **Article 41. Protection of Private Property**

1. The rights to own property and to have claims against the state are guaranteed. The content and limitations of these rights are stipulated by law.
2. Private property is ensured equal protection under the law, regardless of who the owner may be. Foreigners and stateless persons cannot obtain the right to own land.
3. No one may be dispossessed, except for a reason of public interest, specified by law, with just and prior compensation.
4. In the case of projects of general interest, public authorities may use the basement of any building, with the obligation of compensating the owner for any damage caused to the soil, the plants, or structures, and for any other damage caused by the authorities.
5. In the case of dispute, the compensations provided for in paragraphs 3 and 4 will be determined by mutual agreement with the owner or by the organs of justice.
6. The right to own property implies an obligation to comply with tasks related to environmental protection and ensuring good neighborliness and to carry out other duties which, by law or tradition, are incumbent upon the property owner.

7. Legally acquired property cannot be confiscated. Property is presumed to have been acquired legally.

8. Items intended for, used for, or resulting from the committing of an infraction or contravention can be confiscated only under the conditions of the law.

#### **Article 42. The Right To Inherit**

The right to inherit is guaranteed.

#### **Article 43. The Standard of Living**

1. The state is obliged to take measures for economic development and social protection which will ensure that citizens will have a decent standard of living.

2. Citizens have the right to a pension, paid maternity leave, medical care in state health units, unemployment aid, and other forms of social assistance provided by law.

#### **Article 44. The Family**

1. The family is based on a marriage which is freely consented to by the spouses, on their equality, and on the right and duty of parents to raise, educate, and instruct their children.

2. The conditions in which marriages may be contracted, dissolved, and annulled are stipulated by law. A religious marriage ceremony can be celebrated only after the civil ceremony.

3. Children born out of wedlock are equal before the law to those born in wedlock.

#### **Article 45. Protection of Children and Youth**

1. Children and youth will enjoy special protection and assistance in realizing their rights.

2. The state will give state allocations for children and aid for the care of sick or handicapped children. Other forms of social protection of children and youth will be determined by law.

3. The exploitation of minors and their use in activities which would be harmful to their health or morals or which would endanger their life or normal development are prohibited.

4. Minors under the age of 15 cannot be hired as employees.

5. Public authorities must contribute to ensuring conditions for the free participation of the youth in the political, social, economic, cultural, and sports life of the country.

#### **Article 46. Protection of the Handicapped**

The handicapped will enjoy special protection. The state will ensure the implementation of a national policy of prevention, treatment, rehabilitation, education, training, and social integration of the handicapped, respecting the rights and duties of parents and guardians.

#### **Article 47. The Right To Petition**

1. Citizens have the right to address petitions to public authorities solely in the name of the signers of the petitions.

2. Legally constituted organizations have the right to petition exclusively in the name of the collectives which they represent.

3. The exercise of the right to petition is exempt from tax.

4. Public authorities have the obligation to respond to petitions by the deadlines and under the conditions specified by law.

#### **Article 48. The Rights of Persons Suffering Damage at the Hands of Public Authority**

1. A person who has suffered damage as a result of the violation of one of his rights by a public authority, through an administrative act, or as a result of the failure to have a request resolved by the legal deadline, is entitled to have the right in question recognized and the act revoked and to receive compensation for the damages.

2. The conditions and limitations for the exercise of this right will be determined by statutory law.

3. The state is materially responsible, according to the law, for the damages caused by judicial errors occurring in penal trials.

#### **Article 49. Restrictions on the Exercise of Certain Rights or Freedoms**

1. The exercise of certain rights or freedoms may be restricted only by law and only if this is necessary, according to the case, in order to: defend national security, public order, health, or public morals, or the rights and freedoms of citizens; investigate a crime; prevent the consequences of a natural disaster or a particularly severe catastrophe.

2. The restriction must be in proportion to the situation which caused it and it may not impinge on the existence of justice or freedom.

### **Chapter III. Basic Duties**

#### **Article 50. Loyalty to the Country**

1. Loyalty to the country is a sacred duty.

2. Citizens entrusted with public functions and military men are responsible for faithfully fulfilling their duties and, for this purpose, they will take the oath required by law.

#### **Article 51. Observance of the Constitution and the Laws**

The respecting of the Constitution, its supremacy, and its laws is obligatory.

#### **Article 52. The Defense of the Country**

1. Citizens have the right and obligation to defend Romania.

2. Military service is compulsory for male Romanian citizens who have reached the age of 20, with the exception of cases defined by law.

3. Citizens up to the age of 35 can be called up for training for active military service.

#### **Article 53. Financial Contributions**

1. Citizens are under obligation to make contributions for public expenditures by means of fees and taxes.
2. The legal taxation system must ensure a just distribution of fiscal duties.
3. Any other levies are prohibited, aside from those stipulated by law for exceptional situations.

#### **Article 54. The Exercise of Rights and Freedoms**

Romanian citizens, foreign citizens, and stateless persons must exercise their constitutional rights and freedoms in good faith, without violating the rights and freedoms of others.

### **Chapter IV. The People's Attorney**

#### **Article 55. Appointment and Role**

1. The People's Attorney is appointed by the Senate for a four-year term, for the purpose of defending the rights and freedoms of the citizens. The organization and operation of the institution of the People's Attorney are established by statutory law.
2. The People's Attorney cannot perform any other public or private function.

#### **Article 56. Discharging Duties**

1. The People's Attorney will discharge his duties ex officio or at the request of persons whose rights and freedoms have been violated, within the limits set by law.
2. Public authorities are under obligation to provide the necessary support to the People's Attorney in the exercise of his duties.

#### **Article 57. Reporting to Parliament**

The People's Attorney reports to the two chambers of Parliament annually or at their request. The reports may contain recommendations concerning the legislation or measures of another nature designed to protect the rights and freedoms of the citizens.

### **TITLE III. Public Authorities**

#### **Chapter I. Parliament**

##### **Section 1. Organization and Operation**

#### **Article 58. Role and Structure**

1. The Parliament is the highest representative body of the Romanian people and the sole legislative authority in the country.
2. The Parliament is made up of the Chamber of Deputies and the Senate.

#### **Article 59. Election of the Chambers**

1. The Chamber of Deputies and the Senate are elected by universal, equal, direct, secret, and freely expressed vote, in accordance with the election law.
2. Organizations of citizens belonging to national minorities that do not win in the elections the necessary number of votes to be represented in Parliament, each have the

right to one deputy seat, in accordance with the election law. Citizens of an ethnic minority may be represented by only one organization.

3. The number of deputies and senators is set by the election law on the basis of the population of the country.

#### **Article 60. Term in Office**

1. The Chamber of Deputies and the Senate are elected for a term of four years, which can be extended by statutory law in case of war or disaster.
2. Elections for the Chamber of Deputies and the Senate are held no later than three months after the expiration of their term or the dissolution of the Parliament.
3. The newly elected Parliament will be convened by the president of Romania no later than 20 days after election day.
4. The term of the chambers is extended up to the date of the legal assembly of the new Parliament. During this period the Constitution cannot be revised and no statutory laws can be adopted, amended, or repealed.
5. Draft laws or legislative proposals on the agenda of the preceding Parliament will be handled by the new Parliament.

#### **Article 61. Internal Organization**

1. The organization and operation of each chamber are determined by their own bylaws. The financial resources of the chambers are specified in the budgets approved by them.
2. Each chamber elects its permanent bureau. The president of the Chamber of Deputies and the president of the Senate are elected for the duration of the term of the chambers. The other members of the permanent bureaus are elected at the beginning of each session. The members of the permanent bureaus can be recalled before the term expires.
3. The deputies and senators can organize in parliamentary groups in accordance with the bylaws of each chamber.
4. Each chamber forms its own permanent commissions and can set up investigative commissions or other special commissions. The chambers can set up their own joint commissions.
5. The permanent bureaus and the parliamentary commissions are formed in accordance with the political configuration of each chamber.

#### **Article 62. Joint Sessions**

1. The Chamber of Deputies and the Senate will meet in separate sessions and in joint sessions. In joint sessions, the proceedings will take place on the basis of a regulation adopted by the vote of the majority of the deputies and senators.
2. The chambers will meet in joint session to:
  - a) receive the message of the president of Romania;

- b) approve the state budget and the state social security budget;
- c) declare general or partial mobilization;
- d) declare a state of war;
- e) suspend or cease military hostilities;
- f) examine the reports of the Supreme Council for the Defense of the Country and the Court of Accounts;
- g) appoint, on the recommendation of the president of Romania, the director of the Romanian Intelligence Service and monitor the activity of this service;
- h) discharge other duties which, in accordance with the Constitution or the bylaws, are executed in joint session.

#### Article 63. Sessions

1. The Chamber of Deputies and the Senate will meet in two regular sessions a year. The first session begins in February and cannot extend beyond the end of June. The second session begins in September and cannot extend beyond the end of December.
2. The Chamber of Deputies and the Senate will also meet in extraordinary sessions, at the request of the president of Romania, the permanent bureau of each chamber, or at least one-third of the deputies or senators.
3. The chambers will be convened by their presidents.

#### Article 64. Juridical Acts and Legal Quorum

The Chamber of Deputies and the Senate adopt laws, decisions, and motions in the presence of a majority of the members.

#### Article 65. The Public Nature of the Sessions

1. The sessions of the two chambers are public.
2. The chambers can decide to hold certain sessions in camera.

### Section 2. The Status of Deputies and Senators

#### Article 66. The Representative Mandate

1. The deputies and senators are at the service of the people in exercising their mandate.
2. Any imperative mandate is null.

#### Article 67. The Mandate of Deputies and Senators

1. The deputies and senators begin to exercise their mandate on the date of the legal convening of the chamber of which they are members, provided that they are validated.
2. The status of deputy or senator ceases on the date of the convening of the newly elected chambers or as a result of resignation, loss of voting rights, incompatibility, or death.

#### Article 68. Incompatibilities

1. No one can be both a deputy and a senator at the same time.

2. The status of deputy or senator is incompatible with the exercise of any public position of authority, with the exception of that of member of the government.

3. Other cases of incompatibility are defined by statutory law.

#### Article 69. Parliamentary Immunity

1. A deputy or senator cannot be detained, arrested, searched, or charged with a penal offense or contravention without the consent of the chamber to which he belongs, after giving him a hearing. The competence for the judgment rests with the Supreme Court of Justice.

2. In the case of a capital crime, the deputy or the senator can be detained and searched. The Ministry of Justice will immediately inform the president of the chamber about the detention and search. If the chamber notified finds that there are no grounds for the detention, it will order the immediate revocation of this measure.

#### Article 70. Independence of Opinions

Deputies and senators cannot be held legally responsible for their votes or for the political views expressed in the exercise of their mandate.

#### Article 71. Compensation and Other Rights

Deputies and senators receive a monthly compensation. The amount of the compensation and other rights are stipulated by law.

### Section 3. Legislation

#### Article 72. Categories of Laws

1. Parliament adopts constitutional laws, statutory laws, and ordinary laws.
2. Constitutional laws are for the purpose of revising the Constitution.
3. The following are regulated by statutory laws:
  - a) the electoral system;
  - b) the organization and operation of the political parties;
  - c) the organization and holding of a referendum;
  - d) the organization of the government and of the Supreme Council for the Defense of the Country;
  - e) martial law and emergency regulations;
  - f) violations of the law, punishments, and the execution of punishments;
  - g) the granting of amnesty or collective pardon;
  - h) the organization and operation of the Higher Council of Magistrates, courts of law, the Public Ministry, and the Court of Accounts;
  - i) the status of public functionaries;
  - j) administrative litigation;
  - k) the general juridical system of ownership and inheritance;
  - l) the general system of labor relations, trade unions, and social aid;
  - m) the general organization of education;

- n) the general operation of religious denominations;
- o) the organization of the local and country-wide administrations, as well as the general system of local autonomy;
- p) the manner of determining exclusive economic zones;
- r) [there is no letter "q"] other areas in regard to which the Constitution calls for the adoption of statutory laws.

#### **Article 73. Legislative Initiative**

1. Legislative initiative can be taken by the government, the deputies, and the senators, as well as at least 250,000 citizens with the right to vote. A legislative initiative from citizens must represent at least one-quarter of the counties of the country, and at least 10,000 signatures in support of this initiative must be obtained in each of these counties or in Bucharest Municipality.
2. Fiscal matters, international issues, amnesty, or pardon cannot be the object of a legislative initiative from citizens.
3. The government exercises its legislative initiative by sending draft laws to one of the chambers.
4. Deputies, senators, and citizens who exercise the right to take legislative initiative can present legislative proposals only in the form required for draft laws.
5. Legislative proposals are submitted for approval, first of all, to the chamber in which they were presented.

#### **Article 74. Approval of Laws and Decisions**

1. Statutory laws and decisions regarding the regulations of the chambers are approved by majority vote of the members of each chamber.
2. Ordinary laws and decisions are approved by majority vote of the members present in each chamber.
3. At the request of the government or on its own initiative, the Parliament can pass draft laws or legislative proposals on an emergency basis, as stipulated in the bylaws of each chamber.

#### **Article 75. Sending Draft Laws and Legislative Proposals From One Chamber to Another**

Draft laws or legislative proposals passed by one of the chambers will be sent to the other chamber of Parliament. If the latter rejects the draft law or legislative proposals, they will be sent to the chamber which approved them for a second debate. A second rejection is final.

#### **Article 76. Mediation**

1. If one of the chambers passes a draft law or a legislative proposal in a version which is different from the one approved by the other chamber, the presidents of the chambers will initiate a mediation procedure through the intermediary of a joint commission with equal representation of both sides.
2. If the commission does not reach an agreement or if one of the chambers does not approve the report of the

mediation commission, the disputed texts will be submitted for discussion to the Chamber of Deputies and the Senate, in joint session, which will approve the final text by majority vote as stipulated in Article 74, paragraphs 1 and 2.

#### **Article 77. Promulgation of a Law**

1. Laws are sent to the president of Romania for promulgation. The promulgation of the law takes place no later than 20 days after it is received.
2. Before promulgating the law, the president can ask Parliament, only once, to reexamine the law.
3. If the president has requested a reexamination of the law or if he has asked that its constitutionality be verified, the promulgation of the law takes place no later than 10 days after the receipt of the law approved after reexamination or after the receipt of the decision of the Constitutional Court which confirmed its constitutionality.

#### **Article 78. Enactment of Laws**

Laws are published in MONITORUL OFICIAL AL ROMANIEI and go into effect on the date of publication or on the date specified in their text.

#### **Article 79. The Legislative Council**

1. The Legislative Council is a specialized consultative organ of Parliament which advises on draft normative acts with a view to the systematization, unification, and coordination of the entire legislation. It keeps the official records of the legislation of Romania.
2. The establishment, organization, and operation of the Legislative Council are stipulated by statutory law.

### **Chapter II. The President of Romania**

#### **Article 80. The Role of the President**

1. The president of Romania represents the Romanian state and is the guarantor of the country's national independence, unity, and territorial integrity.
2. The president of Romania ensures the observance of the Constitution and the normal operation of public authorities. For this purpose, the president acts as a mediator between the powers of the state as well as between the state and society.

#### **Article 81. Election of the President**

1. The president of Romania is elected by universal, equal, direct, secret, and freely expressed vote.
2. The candidate who receives a majority of the votes of the voters registered on the voting lists in the first round of voting is declared to be elected.
3. If none of the candidates receives a majority, there is a runoff between the two candidates who received the most votes in the first round. The candidate who gets the most votes is declared to be elected.
4. No one can serve as president of Romania for more than two terms. These terms can be successive.

#### **Article 82. Mandate Validation and Oath Taking**

1. The results of the elections for the position of president of Romania are validated by the Constitutional Court.

2. The candidate whose election has been validated will take the following oath before the Chamber of Deputies and the Senate, in joint session: "I swear that I will dedicate all my strength and abilities to the spiritual and material development of the Romanian people, that I will respect the Constitution and the laws of the country, and that I will defend democracy, the fundamental rights and freedoms of citizens, and the sovereignty, independence, unity, and territorial integrity of Romania. So help me God!"

#### **Article 83. Term in Office**

1. The term of the president of Romania is for four years and it begins on the day that he is sworn in.
2. The president of Romania will remain in office until the newly elected president is sworn in.
3. The president's term in office can be extended, by statutory law, in the case of war or disaster.

#### **Article 84. Incompatibilities and Immunities**

1. During his term, the president of Romania cannot be a member of a party and is not allowed to have any other public or private position.
2. The president of Romania enjoys immunity. The provisions of Article 70 are applied in an appropriate manner.
3. The Chamber of Deputies and the Senate, in joint session, can decide to accuse the president of Romania with high treason by a vote of at least two-thirds of the deputies and senators. The Supreme Court of Justice has the competence to judge the case, under the conditions of the law. The president is discharged by law on the date that the conviction becomes final.

#### **Article 85. Appointing the Government**

1. The president of Romania designates a candidate for the post of prime minister and appoints the government on the basis of a vote of confidence from Parliament.
2. In the case of a governmental reorganization or if a post becomes vacant, the president dismisses and appoints some members of the government upon the recommendation of the prime minister.

#### **Article 86. Consulting the Government**

The president of Romania can consult the government on urgent and particularly important issues.

#### **Article 87. Participating in Sessions of the Government**

1. The president of Romania can participate in sessions of the government during which issues of national interest concerning foreign policy, national defense, and public order are discussed and in other situations, at the request of the prime minister.
2. The president of Romania presides over the government sessions in which he participates.

#### **Article 88. Messages**

The president of Romania will send messages to Parliament on major political problems of the nation.

#### **Article 89. Dissolving Parliament**

1. After consulting the presidents of the two chambers and the leaders of the parliamentary groups, the president of Romania can dissolve Parliament if Parliament does not give a vote of confidence for the formation of the government within 60 days of the first request, but only after the rejection of at least two requests for investiture.
2. Parliament can be dissolved only once in the course of a year.
3. Parliament cannot be dissolved during the last six months of the term of the president of Romania or during martial law or a state of emergency.

#### **Article 90. Referendum**

The president of Romania, after consulting Parliament, can ask the people to express their will in regard to matters of national interest, by means of referendum.

#### **Article 91. Powers in the Area of Foreign Policy**

1. On behalf of Romania, the president signs international treaties which are negotiated by the government and submits them to Parliament for ratification within 60 days.
2. On the recommendation of the government, the president accredits and recalls the diplomatic representatives of Romania and approves the establishment, closing, or change in the level of diplomatic missions.
3. Diplomatic representatives of other states present their letters of accreditation to the president of Romania.

#### **Article 92. Powers in the Area of Defense**

1. The president of Romania is the commander of the Armed Forces and holds the position of chairman of the Supreme Defense Council of the Country.
2. With the prior approval of Parliament, he can declare partial or general mobilization of the Armed Forces. In exceptional cases, the president's decision can be submitted to Parliament for approval afterwards, no later than five days after he makes it.
3. In the case of armed aggression directed against the country, the president of Romania takes measures to repel the aggression and to inform Parliament immediately, by means of a message. If Parliament is not in session, it will be convened by law within 24 hours of the onset of the aggression.

#### **Article 93. Exceptional Measures**

1. In accordance with the law, the president of Romania can declare martial law or a state of emergency throughout the country or in certain localities, and he asks Parliament to consent to the measure adopted within five days, at the most, after it is taken.
2. If Parliament is not in session, it will be convened by law no later than 48 hours after the declaration of martial law or a state of emergency and will remain in session throughout these periods.

#### **Article 94. Other Powers**

The president of Romania also has the following powers:

- a) he awards decorations and honorary titles;
- b) he awards the ranks of marshal, general, and admiral;
- c) he makes appointments to public positions under the conditions specified by the law;
- d) he grants individual pardons.

#### **Article 95. Suspension From Office**

1. If the president of Romania commits serious offenses which violate provisions of the Constitution, he can be suspended from office by the Chamber of Deputies and the Senate, in joint session, by majority vote of the deputies and senators, after consultations with the Constitutional Court. The president can give Parliament explanations in regard to the actions with which he is charged.

2. The proposal for suspension from office can be initiated by at least one-third of the deputies and senators and is brought to the attention of the president immediately.

3. If the proposal for suspension from office is approved, a referendum on the removal of the president is organized within 30 days, at the most.

#### **Article 96. Vacancy in the Office**

1. The office of president of Romania becomes vacant in the case of resignation, discharge from office, permanent inability to discharge the duties of the office, or death.

2. Within three months of the date on which the vacancy of the position of president of Romania occurred, the government will organize elections for a new president.

#### **Article 97. The Interim Period**

1. If the office of president becomes vacant, if the president is suspended from office, or if he is temporarily unable to discharge his duties, the office will be filled in the interim by the president of the Senate or the president of the Chamber of Deputies, in that order.

2. The powers stipulated in Articles 88-90 cannot be exercised during the interim period of the presidential office.

#### **Article 98. Accountability of the Interim President**

If the person who serves as president of Romania ad interim commits serious offenses which violate the provisions of the Constitution, Article 95 and Article 97 will be applied.

#### **Article 99. Acts of the President**

1. In the exercise of his powers, the president of Romania issues decrees which are published in MONITORUL OFICIAL AL ROMANIEI. Failure to publish makes the decree void.

2. Decrees issued by the president of Romania in the exercise of his powers listed in Article 91, paragraphs 1 and 2, Article 92, paragraphs 2 and 3, Article 93, paragraph 1,

and Article 94, paragraphs a), b), and d) will be countersigned by the prime minister.

#### **Article 100. Remuneration and Other Rights**

The remuneration and other rights of the president of Romania are specified by law.

### **Chapter III. The Government**

#### **Article 101. Role and Structure**

1. In accordance with its program for governing approved by Parliament, the government ensures the implementation of the domestic and foreign policy of the country and exercises the general management of the public administration.

2. In the exercise of its powers, the government cooperates with the social bodies concerned.

3. The government consists of a prime minister, ministers, and other members specified by statutory law.

#### **Article 102. Investiture**

1. The president of Romania appoints a candidate for the position of prime minister after consulting the party holding the absolute majority in Parliament, or, if no such majority exists, he consults the parties represented in Parliament.

2. Within 10 days of his appointment, the candidate for the position of prime minister will ask for a vote of confidence from Parliament regarding the program and the entire list of the government.

3. The program and list of the government are discussed by the Chamber of Deputies and the Senate, in joint session. Parliament expresses confidence in the government by the vote of the majority of the deputies and senators.

#### **Article 103. Oath of Allegiance**

1. The prime minister, ministers, and other members of the government will take the oath specified in Article 82 individually, before the president of Romania.

2. The government as a whole and each member separately will exercise their mandates beginning on the date that they are sworn in.

#### **Article 104. Incompatibilities**

1. The position of member of the government is incompatible with the exercise of any other public function with authority, with the exception of that of deputy or senator. Also, it is incompatible with the exercise of a paid position as a professional representative of a commercial organization.

2. Other incompatibilities are stipulated by statutory law.

#### **Article 105. Termination of the Position of Member of the Government**

Membership in the government is terminated by resignation, discharge from position, loss of electoral rights, incompatibility, or death, as well as in other cases specified by law.

**Article 106. The Prime Minister**

1. The prime minister directs the government and coordinates the activity of its members, respecting the powers assigned to them. Also, he presents to the Chamber of Deputies or Senate reports and statements on government policy which are discussed on a priority basis.
2. If the prime minister is in one of the situations stipulated in Article 105 or is incapable of discharging his duties, the president of Romania will appoint another member of the government as prime minister ad interim to carry out the prime minister's duties until a new government is formed. The interim arrangement, during the period that the prime minister is unable to discharge his duties, ceases when the prime minister resumes his activity in the government.
3. The provisions of paragraph 2 will also be applied accordingly to the other members of the government, upon recommendation of the prime minister, for a period of no more than 45 days.

**Article 107. Acts of the Government**

1. The government adopts decisions and rulings.
2. Decisions are issued for the purpose of organizing the implementation of laws.
3. Rulings are issued on the basis of a special empowerment law within the limits and in the conditions specified by the law.
4. The decisions and rulings adopted by the government are signed by the prime minister, countersigned by the ministers charged with implementing them, and published in MONITORUL OFICIAL AL ROMANIEI. The decision or ruling is void if it is not published. Decisions of a military nature are transmitted only to the institutions concerned.

**Article 108. Accountability of Members of the Government**

1. The government is politically accountable only to Parliament for its entire activity. Each member of the government is politically accountable, jointly with the other members, for the activity and acts of the government.
2. Only the Chamber of Deputies, the Senate, and the president of Romania have the right to call for the prosecution of members of the government for actions carried out in the exercise of their duties. If prosecution is requested, the president of Romania can order that the government members be suspended from their positions. Any government member on trial is suspended from his position. The Supreme Court of Justice has the competence to judge the case.
3. The grounds for accountability and the punishments applicable for members of the government are regulated by a law on ministerial accountability.

**Article 109. The End of the Mandate**

1. The government will exercise its mandate up to the date of the validation of the general parliamentary elections.

2. The government is released on the date on which Parliament withdraws the confidence it has given it or if the prime minister is in one of the situations specified in Article 105 or is unable to carry out his duties for more than 45 days.

3. The provisions of Article 102 are applicable in the situations stipulated in paragraph 2.

4. The government whose mandate has ceased in accordance with paragraphs 1 and 2 will carry out only those actions which are necessary for taking care of public business until the members of the new government are sworn in.

**Chapter IV. Relations Between Parliament and Government****Article 110. Reporting to Parliament**

1. The government and the other organs of public administration, in the framework of the monitoring of their activity by Parliament, must provide the information and documents requested by the Chamber of Deputies, the Senate, or the parliamentary commissions through their chairmen. If a legislative initiative involves the modification of the provisions of the state budget or the state social security budget, the request for information is mandatory.
2. The members of the government have access to the proceedings of Parliament. If their presence is requested, their attendance is mandatory.

**Article 111. Questions and Interpellations**

1. The government and each one of its members are under obligation to respond to the questions or interpellations formulated by deputies or senators.
2. The Chamber of Deputies or the Senate can approve a motion expressing its position on the issue which is the subject of the interpellation.

**Article 112. Censure Motion**

1. The Chamber of Deputies and the Senate, in joint session, can withdraw the confidence given to the government by passing a censure motion by majority vote of the deputies and senators.
2. The censure motion can be initiated by at least one-fourth of the total number of deputies and senators and it is communicated to the government on the date that it is filed.
3. The censure motion is discussed three days after it is presented in the joint session of the two houses.
4. If the censure motion is rejected, the deputies and senators who signed it cannot initiate another censure motion in the same session, with the exception of the case in which the government takes responsibility in accordance with Article 113.

**Article 113. Taking of Responsibility by the Government**

1. The government can take responsibility before a joint session of the Chamber of Deputies and the Senate for a program, a statement of general policy, or a draft law.

2. The government is dismissed if a censure motion, filed within three days of the presentation of the program, is voted under the conditions of Article 112.

3. If the government has not been dismissed in accordance with paragraph 2, the draft law which has been presented is considered to be approved and the program or statement of general policy becomes binding for the government.

4. If the president of Romania requests the reexamination of a law approved in accordance with paragraph 3, the debate on it will take place in a joint session of the two houses.

#### **Article 114. Legislative Delegation**

1. Parliament can pass a special law to empower the government to issue rulings in areas which do not come under statutory laws.

2. The law of empowerment will stipulate, on a mandatory basis, the area and the deadline for issuing rulings.

3. If the law of empowerment requests it, the rulings will be submitted to Parliament for approval, according to legislative procedure, up until the expiration of the deadline for the empowerment. Failure to respect the deadline will cancel the effects of the ruling.

4. In exceptional cases, the government can adopt emergency rulings. They will go into effect only after being sent to Parliament for approval. If Parliament is not in session, it will be convened on a mandatory basis.

5. The rulings are approved or rejected by a law which will also include rulings which are no longer in effect on the basis of paragraph 3.

### **Chapter V. Public Administration**

#### **Section 1. Specialized Central Public Administration**

##### **Article 115. Structure**

1. The ministries are organized only under the subordination of the government.

2. Other specialized bodies can be organized under the subordination of the government or of the ministries or as autonomous administrative authorities.

##### **Article 116. Establishment**

1. The ministries are established and organized and operate in accordance with the law.

2. The government and the ministries can establish, with the approval of the Court of Accounts, specialized bodies subordinate to them, only if the law recognizes this as being within their competence.

3. Autonomous administrative authorities can be established by statutory laws.

##### **Article 117. The Armed Forces**

1. The Army is subject solely to the will of the people for the purpose of guaranteeing the sovereignty, independence, and unity of the state, the territorial integrity of the country, and constitutional democracy.

2. The structure of the national defense system, the organization of the Army, the preparation of the population, the economy, and the territory for defense, and the rules governing military cadres are stipulated by statutory law.

3. The provisions of paragraphs 1 and 2 will be applicable, correspondingly, to the police, the state intelligence services, as well as to other components of the Armed Forces.

4. The organization of military or paramilitary activities outside the framework of a state authority is prohibited.

5. Foreign troops can enter into or pass through the territory of Romania only under the conditions specified by the law.

#### **Article 118. The Supreme Council for the Defense of the Country**

The Supreme Council for the Defense of the Country organizes and coordinates, on a unitary basis, activities related to the defense of the country and national security.

### **Section 2. Local Public Administration**

#### **Article 119. Basic Principles**

Public administration in territorial-administrative districts is based on the principle of local economy and on the principle of the decentralization of public services.

#### **Article 120. Communal and City Authorities**

1. The public administration authorities, which serve as means of implementing local autonomy in the communes and cities, are the elected local councils and the mayors elected in accordance with the law.

2. The local councils and the mayors cooperate as autonomous administrative authorities and handle public affairs in the communes and cities, under the conditions of the law.

3. The authorities stipulated in paragraph 2 can also be set up in territorial-administrative subdivisions of municipalities.

#### **Article 121. The County Council**

1. The county council is the public administration authority in charge of coordinating the activity of the communal and city councils, for the purpose of ensuring public services of interest to the country.

2. The county council is elected and operates in accordance with the law.

#### **Article 122. The Prefect**

1. The government appoints a prefect in each county and in Bucharest municipality.

2. The prefect is the representative of the government on the local level and is in charge of the decentralized public services of the ministries and other central organs in the territorial-administrative units.

3. The powers of the prefect are stipulated by law.

4. The prefect can contest before the disputed claims court any decree of the county council, the local council, or the mayor if he believes that the decree is illegal. The contested decree is suspended by law.

## **Chapter VI. Judicial Authority**

### **Section 1. Courts of Justice**

#### **Article 123. Carrying Out Justice**

1. Justice is carried out in the name of the law.
2. The judges are independent and are subject only to the law.

#### **Article 124. Rules Governing Judges**

1. Judges appointed by the president of Romania are appointed for life, according to the law. The chief justice and the other justices of the Supreme Court of Justice are appointed for a six-year term. They can be reappointed. The promotion, transfer, and punishing of judges can be carried out only by the Higher Council of Magistrates, under the conditions of the law.
2. The position of judge is incompatible with any other public or private position, with the exception of teaching positions in higher education.

#### **Article 125. Courts of Law**

1. Justice is carried out by means of the Supreme Court of Justice and other courts of law stipulated by law.
2. The establishment of extraordinary courts is prohibited.
3. The jurisdiction and the trial procedure are defined by law.

#### **Article 126. The Public Nature of the Debates**

Court sessions are public, except for cases stipulated by law.

#### **Article 127. The Right to an Interpreter**

1. The judicial process is carried out in the Romanian language.
2. Citizens belonging to ethnic minorities, as well as persons who do not understand or speak the Romanian language have the right to be informed on all the documents and items in the file, to speak in court, and to offer conclusions, through an interpreter; this right is ensured free of charge in criminal trials.

#### **Article 128. Contesting Decisions**

The parties involved and the Public Ministry can contest court decisions, under the conditions of the law.

#### **Article 129. Court Police**

The courts of law have a police force at their disposal.

### **Section 2. The Public Ministry**

#### **Article 130. The Role of the Public Ministry**

1. In the judicial area, the Public Ministry represents the general interests of society and defends the legal order as well as the rights and freedoms of the citizens.

2. The Public Ministry exercises its powers through prosecutors in the prosecutor's office, under the conditions of the law.

#### **Article 131. Rules Governing Prosecutors**

1. The prosecutors carry out their activity on the basis of the principles of legality, impartiality, and hierarchical monitoring under the authority of the minister of justice.
2. The position of prosecutor is incompatible with every other public or private position, with the exception of teaching positions in higher education.

### **Section 3. The Higher Council of Magistrates**

#### **Article 132. Structure**

The Higher Council of Magistrates is composed of magistrates who are elected for a four-year term by the Chamber of Deputies and the Senate, in joint session.

#### **Article 133. Duties**

1. The Higher Council of Magistrates proposes to the president of Romania the appointment of judges and prosecutors, with the exception of intern judges, according to the law. In such cases, the sessions are chaired by the minister of justice, who does not have the right to vote.
2. The Higher Council of Magistrates serves as a disciplinary council for judges. In such cases, its sessions are chaired by the chief justice of the Supreme Court of Justice.

## **TITLE IV. The Economy and Public Finance**

### **Article 134. The Economy**

1. The economy of Romania is a market economy.
2. The state is expected to ensure:
  - a) free trade, protection for loyal competition, the creation of a favorable framework for the utilization of all production factors;
  - b) the protection of national interests in economic, financial, and currency activity;
  - c) the stimulation of national scientific research;
  - d) the exploitation of natural resources in accordance with the national interest;
  - e) the restoration and protection of the environment, as well as the preservation of ecological balance;
  - f) the creation of the necessary conditions for improving the quality of life.

#### **Article 135. Property**

1. The state protects property.
2. Property may be public or private.
3. Public property belongs to the state or to territorial-administrative units.
4. Underground resources of any type, lines of communication, air space, water resources that can produce power or can be used in the public interest, beaches, the territorial

sea, the natural resources of the economic zone and the continental shelf, as well as other assets defined by law, are exclusively public property.

5. Publicly owned assets are nontransferable. Under the conditions of the law, they can be given to autonomous managements or public institutions for management or they can be licensed or rented out.

6. Under the conditions of the law, private property is inviolable.

#### **Article 136. Financial System**

1. The formation, administration, use, and monitoring of the financial resources of the state, of territorial-administrative units, and of public institutions will be regulated by law.

2. The national currency is the leu, which is divided into bani.

#### **Article 137. Public Budget**

1. The national public budget incorporates the state budget, the state social security budget, and the local budgets of the communes, cities, and counties.

2. Each year the government prepares the draft state budget and the draft state social security budget which it submits separately to Parliament for approval.

3. If the law on the state budget and the law on the state social security budget are not approved at least three days before the expiration of the budget year, the state budget and the state social security budget for the previous year will continue to be in effect until new budgets are approved.

4. The local budgets are prepared, approved, and executed in accordance with the law.

5. No budgetary expenditure can be approved without stipulating the source of financing.

#### **Article 138. Taxes and Assessments**

1. Taxes, assessments, and any other revenues for the state budget and the state social security budget are established only by law.

2. Local taxes and assessments are established by the local or county councils, within the limits and under the conditions of the law.

#### **Article 139. The Court of Accounts**

1. The Court of Accounts monitors the formation, administration, and utilization of the financial resources of the state and the public sector. Under the conditions of the law, the Court also exercises jurisdictional functions.

2. The Court of Accounts presents an annual report to Parliament on the management accounts of the national public budget in the past budget year, including any irregularities found.

3. At the request of the Chamber of Deputies or the Senate, the Court monitors the management of public resources and reports its findings.

4. The members of the Court of Accounts appointed by Parliament are independent and cannot be removed, according to law. They are subject to the same regulations as judges in regard to incompatibilities.

### **TITLE V. The Constitutional Court**

#### **Article 140. Structure**

1. The Constitutional Court is composed of nine justices, appointed for a nine-year term, which cannot be extended or renewed.

2. Three justices are appointed by the Chamber of Deputies, three by the Senate, and three by the president of Romania.

3. The members of the Constitutional Court elect a president by secret ballot for a three-year term.

4. Every three years, one-third of the members of the Constitutional Court are replaced, under the conditions stipulated by the statutory law of the Court.

#### **Article 141. Conditions for Appointment**

The justices of the Constitutional Court must have superior legal training, high professional competence, and at least 18 years of experience in the legal profession or on university law faculties.

#### **Article 142. Incompatibilities**

The position of member of the Constitutional Court is incompatible with any other public or private position, with the exception of teaching positions on university law faculties.

#### **Article 143. Independence and Irremovability**

The members of the Constitutional Court are independent in the exercise of their mandate and cannot be removed in the course of their term.

#### **Article 144. Duties**

The Constitutional Court has the following duties:

- a) to pronounce on the constitutionality of laws before their promulgation at the request of the president of Romania, one of the presidents of the two chambers of the government, the Supreme Court of Justice, at least 50 deputies or at least 25 senators, as well as, officially, on initiatives for revising the Constitution;
- b) to pronounce on the constitutionality of regulations of Parliament at the request of one of the presidents of the two chambers, a parliamentary group, at least 50 deputies or at least 25 senators;
- c) to decide on exceptions brought before the courts in regard to the unconstitutionality of laws and rulings;
- d) to monitor the observance of the procedure used to elect the president of Romania and to confirm the results of the voting;
- e) to ascertain the existence of circumstances which justify an interim period for the exercise of the office of president of Romania and to communicate its findings to the Parliament and the government;

- f) to advise on the recommendation to suspend the president of Romania from office;
- g) to monitor compliance with the procedure for organizing and holding a referendum and to confirm its results;
- h) to verify the fulfillment of the conditions for the exercise of legislative initiative by the citizens;
- i) to decide on disputes regarding the constitutionality of a political party.

#### **Article 145. Decisions of the Constitutional Court**

1. In cases of unconstitutionality determined in accordance with Article 144, paragraphs a) and b), the law or the regulation is submitted for reexamination. If the law is adopted in the same form by a majority of at least two-thirds of the members of each chamber the objection of unconstitutionality is eliminated and promulgation becomes mandatory.
2. The decisions of the Constitutional Court are binding and are not retroactive. They are published in MONITORUL OFICIAL AL ROMANIEI.

### **TITLE VI. Revising the Constitution**

#### **Article 146. Revision Initiative**

1. The revision of the Constitution can be initiated by the president of Romania upon recommendation of the government, at least one-fourth of the deputies or senators, as well as at least 500,000 citizens with the right to vote.
2. Citizens who initiate the revision of the Constitution must come from at least half the counties of the country and in each of these counties and in Bucharest municipality, at least 20,000 signatures supporting this initiative must be obtained.

#### **Article 147. Revision Procedure**

1. The draft or the recommendation for revision must be approved by the Chamber of Deputies and the Senate by at least a two-thirds majority of the members of each chamber.
2. If no agreement is reached by mediation, the Chamber of Deputies and the Senate, in joint session, will decide by a vote of at least three-fourths of the number of deputies and senators.
3. The revision is final after being approved by a referendum organized within 30 days of the approval of the draft or the recommendation for revision.

#### **Article 148. Revision Limitations**

1. The provisions of the present Constitution concerning the national, independent, unitary, and indivisible character of the Romanian state, the republic as the form of government, territorial integrity, the independence of the system of justice, political pluralism, and the official language cannot be the subject of revision.
2. Similarly, no revision can be made if it results in the elimination of the basic rights and freedoms of citizens or of the guarantees of these rights and freedoms.

3. The Constitution cannot be revised during periods of martial law or a state of emergency or during wartime.

### **TITLE VII. Final and Temporary Provisions**

#### **Article 149. Enactment**

The present Constitution goes into effect on the date of its approval by referendum. On the same date, the Constitution of 21 August 1965 will be and will remain repealed in its entirety.

#### **Article 150. Temporary Conflict of Laws**

1. Laws and all other normative acts will remain in effect, as long as they are not in conflict with the present Constitution.
2. Within 12 months of the enactment of the law on its organization, the Legislative Council will examine the conformity of the legislation with the present Constitution and will make the appropriate recommendations to Parliament or the government, as the case may be.

#### **Article 151. Existing Institutions**

1. The institutions of the Republic in existence on the date that the present Constitution goes into effect will remain in operation until new ones have been established.
2. The members of the new Supreme Court of Justice will be appointed, under the conditions of the law, by the Chamber of Deputies and the Senate, in joint session, upon the recommendation of the president of Romania, within six months of the date that the present Constitution goes into effect.

#### **Article 152. Future Institutions**

1. Within six months of the date of the enactment of the new Constitution, the Constitutional Court and the Court of Accounts will be established.
2. The members of the first Constitutional Court will be appointed for a period of three, six, and nine years, respectively. The president of Romania, the Chamber of Deputies, and the Senate will each appoint one justice for each period.

The Constitution of Romania was adopted in the 21 November 1991 session of the Constituent Assembly by a roll call vote, with 414 votes "for" and 95 votes "against."

Presidents of the Constituent Assembly  
Academician Alexandru Birladeanu and Dan Martian

**Decision on Exchange Rates Consolidation**  
*92BA0212A Bucharest MONITORUL OFICIAL*  
*in Romanian 19 Nov 91 pp 3-4*

["Text" of "Decision on the Consolidation of the Leu Exchange Rates and Extending the Internal Convertibility of the Leu to Currency Transactions on Account," issued in Bucharest on 9 November]

[Text] The Romanian Government decrees:

#### Article 1

The official exchange rate of the leu of 60 lei to \$1 will cease to apply on 11 November 1991.

The exchange rate of the leu will be set on a daily basis in compliance with the procedure established by the Romanian National Bank.

#### Article 2

Enterprises are obligated to sell for lei to the authorized banks, at the day's exchange rate, all the hard currency earned from exports or foreign-based work or services, and from any other transactions conducted with foreign countries.

#### Article 3

Enterprises are entitled to purchase the hard currency required to pay for imports, work, and services, for transfers of capital or any other transactions with foreign countries, from the authorized banks, against lei, at the day's exchange rate.

#### Article 4

Transactions involving hard currency receipts and payments, in conditions other than the ones stipulated in Articles 2 and 3, will be carried out in accordance with the Romanian National Bank regulations.

#### Article 5

Enterprises, with the exception of those operating entirely or partially on private capital, will deposit all their available hard currency into the state currency reserves, against lei.

Enterprises with state and private participation will deposit, against lei, part of their available hard currency, which will be determined in proportion to the state's share in the business.

The currency will be deposited at a rate of 180 lei for \$1.

The enterprises mentioned under paragraphs 1 and 2 will first use the amounts in lei obtained for the deposited hard currency to unfreeze payments, in compliance with the regulations issued by the Romanian National Bank.

Until 31 December 1991 private businesses are entitled to use their available hard currency to make payments in foreign currency, in compliance with the law, or may exchange it at the exchange rate. The businesses mentioned under paragraph 2 may also exercise this right for the available hard currency left at their disposal.

For the purposes of the present article, "available hard currency" refers to the amounts existing in the businesses' foreign currency accounts on 11 November 1991.

The foreign currency remaining at the disposal of businesses as per paragraphs 2 and 4 and not utilized by 31 December 1991 will be taken over into the state's currency reserves at the day's exchange rate.

The banks at which businesses have foreign currency accounts will automatically carry out the operations stemming from the provisions of paragraphs 1, 2, and 7.

#### Article 6

The exchange rate differences involved in operations conducted at the official rate and still in progress at the date of enforcement of the present decision, resulting from the use of the exchange rate, will be settled according to the conditions established by the Ministry of Economy and Finance in conjunction with the Romanian National Bank.

#### Article 7

Failure to deposit or transfer hard currency, or keeping unauthorized amounts of hard currency in foreign accounts constitute violations, unless the conditions are such that the deed becomes a felony, and will be punished by a 10,000 lei fine and confiscation of the amount that was not deposited or transferred or was kept without authorization.

The violations described in paragraph 1 will be verified by the personnel of the Romanian National Bank, the commercial banks authorized for this purpose, and the personnel of the state bodies of financial control.

The provisions of Law No. 32/1968 concerning the establishment and punishment of violations will also be applicable to the violations envisaged in the present decision.

Prime Minister Theodor Stolojan

Bucharest, 9 November

1991 No. 763

#### Decision on Misuse of Export-Import Licenses

92BA0212B Bucharest MONITORUL OFICIAL  
in Romanian 19 Nov 91 p 4

["Text" of "Decision on Measures Regarding Compliance With the Export-Import Licenses System," issued in Bucharest 9 November]

[Text] The Romanian Government decrees:

#### Article 1

Enterprises that engage in foreign trade, regardless of the form of ownership and system of organization, are obligated to unconditionally observe the system governing the issue of export-import licenses and the provisions envisaged in the licenses issued by the Ministry of Commerce and Tourism in keeping with the regulations in effect.

#### Article 2

The failure of businesses to observe the issue system and the provisions envisaged in import-export licenses will incur administrative, civil, or penal punishment of the persons responsible in accordance with the law.

#### Article 3

In special cases involving violation of the system of issuing and the provisions envisaged in import-export licenses, in addition to the punishments stipulated under Article 2, the Ministry of Commerce and Tourism is authorized to withhold import or export licenses from the business in question for a period ranging between two to 10 years or,

according to case, to withdraw any authorization legally given to engage in foreign trade transactions.

At the same time, any illegal activities carried out by enterprises will be made public by the Ministry of Commerce and Tourism.

Prime Minister Theodor Stolojan

Bucharest, 9 November 1991

No. 764

### Criteria for Selecting Units for Privatization

92BA0053A Bucharest MONITORUL OFICIAL  
in Romanian 2 Oct 91 pp 1-7

["Text" of criteria and procedures for selecting commercial companies which will be privatized by sale of stock prior to the organization of private and state-owned resources, issued by the National Privatization Agency, No. 1043/20 of September 1991]

[Text]

#### CRITERIA AND PROCEDURE

1. In accordance with the provisions of Chapter V of Law No. 58/1991, on the basis of proposals from commercial companies, and at the recommendation of the relevant ministries, the National Privatization Agency (ANP) may select up to 0.5 percent of all commercial companies with state social capital for privatization through the sale of stock prior to the organization of Private and State-Owned Resources.

2. The basic criteria on which commercial companies will be recommended and selected will mainly indicate:

- That the commercial company is potentially profitable;
- That the attitude of the employees is favorable to the privatization of the commercial company;
- That the employees and other Romanian and foreign investors are interested in acquiring shares in the commercial company;
- That the activities of the commercial company will not greatly depend on: subsidies, restrictive regulations, the former CEMA market, or a limited number of suppliers or customers;
- That the results of the privatization of the commercial company will have a favorable impact on citizens, employees, investors, and other commercial companies.

The relevant ministries, the prefectures, and Bucharest's City Hall will use the following tools to classify the commercial companies according to these basic criteria:

- A self-estimate of the commercial company resulting from the answers to the questionnaire referring to basic criteria (Annex No. 1);
- Information designed to substantiate the recommendation to privatize the commercial company concerning: the object of activity and structure, the market in which

it operates and its position therein, and economic-financial potential (Annex No. 2).

For this purpose and in keeping with the specific character of the economic sector or subsector in which the commercial companies are operating, the relevant ministries, the prefectures, and Bucharest's City Hall will set quantitative limitations on the classification criteria used to issue recommendations.

3. The following selection procedure will be used:

- a) The commercial companies that wish to participate in the selection will prepare a file with the privatization proposal featuring the contents given in Annex No. 3.
- b) The management council of the commercial company will present the privatization proposal to the council of state delegates or the general meeting of shareholders.

The file with the privatization proposal, approved by the council of state delegates or the shareholders general meeting, will be conveyed to the competent ministry, or as the case may be, the prefecture or Bucharest's City Hall, by 18 October 1991. At the same time, one copy of it will be filed with the ANP county office.

- c) The relevant ministries, prefectures, and Bucharest City Hall will convey the list of recommended commercial companies to the ANP by 30 October 1991. The list will be accompanied by the files received from the commercial companies recommended and by a description of the method used for the recommendation or by the reason for which each commercial company was recommended.
- d) The ANP will do the selection in such a manner as to produce a representative sample of commercial companies privatized by the sale of stock prior to the organization of Private and State-Owned Resources.

4. The commercial companies selected will begin to prepare for privatization and will have an opportunity to become private before the organization of Private and State-Owned Resources.

The commercial companies that sent in privatization proposals and are suitable for privatization, but were not recommended or selected because of number restrictions or because they were not representative, may begin to prepare for privatization, but that will occur after the organization of Private and State-Owned Resources.

5. The practical experience that will be gained by the process of recommending and selecting commercial companies for privatization at this stage will serve to make the necessary improvements in the selection criteria and procedure that will be used to establish annual privatization programs and to channel technical aid from nonrepayable funds.

Theodor Stolojan  
Chairman of the ANP

**Annex No. 1**

*Questionnaire on commercial companies' self-estimation for the purpose of being recommended for privatization through the sale of stock prior to the organization of Private and State-Owned Resources.*

A. If one of the following statements is applicable to the commercial company, the management council will not file a privatization proposal:

A1. The activity of the commercial company significantly pollutes the air, water, or soil;

A2. The privatization of the commercial company will result in significant unemployment at local level.

B. The management council will answer the following questions by a YES or NO and will assign a numerical value of either 0 or 10 to each answer in keeping with the specifics of each question:

B1. Does the activity of the commercial company depend on subsidies?

—For a YES, answer B1 = 0; for a NO, answer B1 = 10.

B2. Are the prices of the products and/or services of the commercial company subject to ceilings or other forms of control resulting from government regulations?

—For a YES, answer B2 = 0; for a NO, answer B2 = 10.

B3. Has the commercial company conducted talks with potential foreign investors?

—For a YES, answer B3 = 10; for a NO, answer B3 = 0.

C. The management council will answer the following questions and will assign to each answer a numerical value between 0—10 (0, 1, 2, 3, ...10) in keeping with the specifications of each question:

C1. Do the employees have a favorable attitude toward the privatization of the commercial company even if they do not intend to purchase shares in it? (A favorable attitude will get a higher numerical value).

—C1 = ...

C2. How interested are the employees in purchasing stock in the commercial company if it is privatized, even if at present they don't have the means to do so? (A higher degree of interest will be assigned a higher numerical value)

—C2 = ...

C3. Is the privatization of the commercial company likely to attract foreign investors? (A higher degree of attraction to investors will be assigned a higher numerical value)

—C3 = ...

C4. What is the degree of horizontal integration of the commercial company? (A lower degree of integration will be assigned a higher numerical value; a degree of integration higher than 75 percent will be assigned a 0)

—C4 = ...

C5. Will the privatization of the commercial company have a positive effect on other state-financed commercial companies? (A more significant positive effect will be assigned a higher numerical value)

—C5 = ...

C6. What are the development prospects of the commercial company's specific market? (Better prospects will be assigned higher numerical values)

—C6 = ...

C7. How do you rate the impact of the privatization of the commercial company on the quality of its products and/or services? (A significant positive impact on quality will be assigned a higher numerical value)

—C7 = ...

C8. Does the commercial company possess modern equipment? (The existence of modern equipment will be marked by a higher numerical value)

—C8 = ...

C9. Was the commercial company dependent on the former CEMA market in the past two years? (A lower degree of dependence for import and/or export will be assigned a higher numerical value; a degree of dependence higher than 50 percent will be assigned a 0)

—C9 = ...

C10. Did the commercial company have business relations with Western partners in the past two years? (More extensive relations will be assigned a higher numerical value)

—C10 = ...

C11. Do the products and/or services of the commercial company comply with the quality norms imposed by domestic regulations, including those concerning environmental protection? (A larger share of products and/or services that do comply will be assigned a higher numerical value)

—C11 = ...

C12. Do the products and/or services of the commercial company comply with the quality norms imposed by foreign regulations, including those concerning environmental protection? (A greater share of products and/or services will be assigned a higher numerical value)

—C12 = ...

**Annex No. 2**

*Information substantiating the proposal for privatization by the sale of stock prior to the organization of Private and State-Owned Resources*

**1. General Information**

1.1.0 Brief history of the commercial company (description)

1.1.1. Serial number of legal act by which the commercial company was established;

1.1.2. State economic unit from which it originated;

1.1.3. The means of establishment of the state economic unit from which it originated? (Year, nationalization, investment after 1948, etc.).

1.2.0 Ownership Rights (description)

1.2.1. Right of ownership and/or utilization of the land, buildings, equipment, etc.;

1.2.2. Public assets for which the right of utilization was ceded by concession, lease, etc.;

1.2.3. Intellectual property (inventions, trade marks, etc.).

1.3.0 Organizational Structure of the Commercial Company (description, structural diagrams)

1.3.1. List of branches, membership in a holding company, etc.;

1.3.2. Organizational diagram;

1.3.3. Geographical location of organizational components (when they operate in different localities).

1.4.0 Basic Activity (description, table)

1.4.1. Object of the basic activity (basic activities);

1.4.2. Percentage of basic activity (activities) of the overall activities of the commercial company (in the years 1988, 1989, 1990, and the first quarter of 1991);

1.4.3. Main groups of products and their share of the basic activity (in 1988, 1989, 1990, and first quarter of 1991).

1.5.0 Technological Process (description)

1.5.1. Type of technology used and presentation of the technological process;

1.5.2. The year in which the commercial company last made significant changes in technology; what were the new technologies and equipment introduced, of what type and what origin were they, etc.

1.6.0 Residual Materials (description)

1.6.1. The residual materials resulting from the technological process and their form of elimination;

1.6.2. Specific air, water, and soil pollution indexes; comparison with the limits established under domestic and international regulations.

## 2. Information on the Market in Which the Commercial Company Operates

2.1.0 Developments in the Specific Market and in the Position of the Commercial Company in That Market (tables for the years 1988, 1989, 1990, and the first quarter of 1991; projections for 1991 and 1992; in million lei and million dollars; for the years 1988-90, translation of dollar convertible rubles will be made at a rate of 1:1)

2.1.1. Sales volume in the specific domestic market (regardless of who the selling firm is) and annual change percentages:

—Sales from domestic production;

—Sales from imports;

—Sales conducted by the commercial company and annual change percentages, share of those sales in the domestic market and in sales from domestic production;

2.1.2. Volume of sales in the specific foreign market (regardless of who the selling firm is and the country of origin) and annual change percentages:

—Sales of the commercial company in foreign markets—including the former CEMA market—and annual change percentages; the share of such sales in the volume of sales in foreign markets.

2.2.0 The nature of the specific domestic and foreign market (description), whether fragmented and with many competitors or concentrated and featuring few competitors.

2.3.0 Customers of the commercial company (table for 1988, 1989, 1990, and first half of 1991; in million lei and million dollars)

2.3.1. Domestic customers—list of major customers, sales, and volumes;

2.3.2. Foreign customers—list of major customers, sales, and volumes.

Note: By major domestic or foreign customer is meant a customer who acquired 10 percent or more of the volume value of the domestic or foreign sales of the commercial company.

2.4.0. Commercial contracts and distribution network (description)

2.4.1. Nature of commercial contracts—long-term or short-term;

2.4.2. Distribution network, intermediaries.

2.5.0. Competitors of the commercial company (table for the years 1988, 1989, 1990, and first half of 1991; in million lei and million dollars respectively)

2.5.1. Major domestic competitors and their share of domestic sales;

2.5.2. Major foreign competitors and their share of foreign sales.

2.6.0. Current advantages of the commercial company over its competitors (description)

2.6.1. In the domestic market;

2.6.2. In foreign markets.

2.7.0. Suppliers of the commercial company (table for the years 1988, 1989, 1990, and first half of 1991; in million lei and million dollars respectively; for the years 1988-90 dollar transferable rubles will be converted at a rate of 1 : 1)

2.7.1. Domestic suppliers—list of major domestic suppliers and percentages;

2.7.2. Foreign suppliers—list of major foreign suppliers and percentages.

Note: By major domestic or foreign supplier is meant a supplier who delivered 10 percent or more of the volume value of domestic or imported supplies.

2.8.0. Foreign investors who expressed an interest in the commercial company (description)

2.8.1. Strategic interest—foreign investors who operate in the same field as the commercial company and can contribute to updating technologies, etc. List of such investors, activities, address;

2.8.2. Financial interest—foreign investors who do not operate in the same field as the commercial company. List of such investors, activities, address.

### 3. Information Regarding the Labor Force

3.1. Average number of staff employees (table for the years 1988, 1989, 1990, and first half of 1991)

—of which, TESA [Technical, Administrative, and Scientific] personnel.

| Code | Index | 1988 | 1989 | 1990 | First Semester 1991 | 1991 Projections | 1992 Projections |
|------|-------|------|------|------|---------------------|------------------|------------------|
|      |       |      |      |      |                     |                  |                  |

Regarding public property assets (balance sheet), the indexes will refer to the situation existing at the end of each year and by the end of the first semester of 1991.

Regarding financial results, the indexes will refer to the situation prevailing each year and in the first semester of 1991.

B. Indexes in absolute magnitude will be expressed in million lei with one decimal.

All the indexes will be expressed in the prices in usage at the time of reporting.

The prices used for 1991 forecasts will be the prices at which the transactions were recorded, and the prices formed after 31 July 1991 will be used for the period remaining to the end of the year.

The forecasts for 1992 may be given in September 1991 current prices or in the prices projected for 1992, whereby a note is to be made of the prices used and the changes taken into calculation.

C. The commercial companies formed by the merger of state enterprises will calculate their indexes for the years 1988, 1989, and 1990 by totaling the balance sheet figures and, according to case, the bookkeeping figures of each state enterprise.

The commercial companies formed by splitting up state enterprises will calculate the indexes for 1988, 1989, and 1990 by dividing the indexes reported by the state enterprise or, according to case, the indexes found in its bookkeeping records.

—If the commercial companies have not yet finalized statistical data series and find it impossible to compile

3.2. Employee structure according to age on 30 June 1990 (table). Total number, men and women separately, at the following group intervals:

up to the age of 30; 31-40; 41-50; 51-55; 56-60; over 60.

3.3. Employee structure on 30 June 1991 according to length of service at the commercial company (which is presenting the privatization proposal) and in the state economic unit from which it originated (table). Total number, men and women separately, at the following group intervals:

up to five years; six-10 years; 11-15 years; 16-20 years; over 20 years.

### 4. Information Regarding Financial Potential

#### Note on General Methodology

A. The indexes will be presented in tables in the following form:

them for all the indexes required, they will include in the tables only the indexes that can be broken down.

#### D. Source of data:

D.1) For the beginning of 1991 and the first semester of 1991 the indexes will be taken from forms 01, "Financial Results and Fiscal Obligations," and 02, "Assets Situation," featured in the Finance Ministry Methodological Norms No. 3108/26 March 1991, and from bookkeeping records.

Indexes with a five-digit code coincide with the indexes coordinated in forms 01 and 02 with the Finance Ministry Methodological Norms No. 3108/1991. The last four code digits indicate the code of the corresponding form and its line number.

Indexes whose code consists of more than five digits will be taken from bookkeeping records or will be processed on the basis of other indexes.

D.2) For the years 1988, 1989, and 1990 the indexes will be taken from the correspondence forms used at the respective dates and from bookkeeping records, processed in accordance with the current organizational structure of the commercial company and with the required structure of presentation of the data.

#### 4.01.00 Financial Results (table)

4.01.01. Revenues from basic activity

4.01.02. Revenues from other activities

4.01.03. Price and tariff differences

4.01.04. Financial revenues

4.01.05. Out of which: revenues from participatory titles  
 4.01.06. Total revenues  
 4.01.07. Out of which: from export  
 4.01.08. Outlays for basic activity  
 4.01.09. Outlays for other activities  
 4.01.10. Financial expenditures  
 4.01.11. Total outlays  
 4.01.12. Sales tax  
 4.01.13. Out of which: paid  
 4.01.15. Expenditures made directly from income  
 4.01.16. Out of which: tax for use of state-owned land  
 4.01.17. Taxable profit  
 4.01.18. Profit tax  
 4.01.19. Out of which: paid  
 4.01.20. Net profit  
 4.01.21. Losses  
 4.01.22. Subsidies for covering losses  
 4.01.24. Overall activity volume  
 4.01.25. Costs of total volume of activities, out of which:  
 4.01.26. Raw and other materials  
 4.01.27. Amortization of fixed assets  
 4.01.28. Salaries (for 1988, 1989, 1990; to the cost of salaries is added the overall payroll tax)  
 4.01.32. Social security contribution  
 4.01.33. Contribution to unemployment fund (4 percent)  
 4.01.38. Investment expenditures  
 4.01.46. Uncovered losses from previous years  
 4.02.00 **Property Situation (table)**  
 4.02.01. Total assets  
 4.02.02. Frozen assets  
 4.02.03. Fixed assets at remaining value  
 4.02.04. Ongoing investments  
 4.02.05. Other frozen means  
 4.02.06. Stockpiles  
 4.02.07. Materials  
 4.02.08. Finished products  
 4.02.09. Unfinished production and semifinished products  
 4.02.10. Anticipated outlays  
 4.02.11. Billed products, work, and service  
 4.02.12. Commodities  
 4.02.13. Other stockpiles

4.02.14. Disposable cash and investments  
 4.02.15. In-house cash and other assets  
 4.02.16. Liquid bank deposits  
 4.02.17. Investment furnishings  
 4.02.18. Other disposable assets  
 4.02.19. Third parties  
 4.02.20. Customers  
 4.02.21. Debtors  
 4.02.22. Discount operations with third parties  
 4.02.23. Other expenditures  
 4.02.24. Payments from and levies on profit  
 4.02.25. Losses  
 4.02.26. Total liabilities  
 4.02.27. Subscribed social capital  
 4.02.28. Paid social capital  
 4.02.29. Internal resources  
 4.02.30. Reserves and financing  
 4.02.31. Liabilities  
 4.02.32. Suppliers  
 4.02.33. Creditors  
 4.02.34. Other liabilities  
 4.02.35. Bank credit and loans  
 4.02.36. Profit and subsidies  
 4.02.37. Profits  
 4.02.38. Subsidies for covering losses

Note: An additional column will be introduced in table 4.02, Assets Situation, regarding the situation prevailing on 30 June 1991, amended to show losses in 1989 and 1990 and nonperforming credits taken over (or which will be taken over) by the state and by commercial banks in accordance with Government Decision No. 447/1991.

**4.03.00.0 Other Categories of Financial Results Required for Examining the Privatization Proposal**

4.03.00.1. Revenues (not including sales tax)  
 4.03.00.2. Expenses (excluding interest)  
 4.03.00.3. Gross profit  
 4.03.00.4. Interest  
 4.03.00.5. Profit tax  
 4.03.00.6. Net profit

Source of data:

4.03.00.1 = 4.01.06 - 4.01.12

4.03.00.2 = 4.01.11 + 4.01.15 - bank interest (included in financial expenses under 4.01.10)

4.03.00.3 = 4.03.00.1 - 4.03.00.2

4.03.00.4 = bank interest included in financial expenses (4.01.10), or from account 550.01 respectively

4.03.00.5 = 4.01.18

4.03.00.6 = 4.01.20 = 4.03.00.3 - 4.03.00.4 - 4.03.00.5

**4.04.00.0 Other Categories of Property Elements Required for the Examination of the Privatization Proposal**

4.04.00.1. Current assets of which:

4.04.00.2. Liquid cash

4.04.00.3. Shares (in the commercial company)

4.04.00.4. Revenues and other incoming sums of money out of which:

4.04.00.5. Debts whose normal payment term has long lapsed, but which may still be made good

4.04.00.6. Uncertain debts (debtors bankrupt, disappeared, etc.)

4.04.00.7. Net fixed assets

4.04.00.8. Fixed assets at inventory value

4.04.00.9. Accumulated amortization

4.04.00.10. Other assets

4.04.00.11. Total assets

4.04.00.12. Current debts

4.04.00.13. Out of which, lapsed debts

4.04.00.14. Current bank debt

4.04.00.15. Debts to suppliers

4.04.00.16. Other current debts (taxes, levies, contributions, unpaid social security, etc.)

4.04.00.17. Medium and long-term debts (over one year)

4.04.00.18. Other payment obligations

4.04.00.19. Overall debts

4.04.00.20. Disposable social capital and other funds (reserves, revenues withheld from profit, etc.)

4.04.00.21. Overall liabilities

Source of data:

4.04.00.1 = 4.04.00.2 + 4.04.00.3 + 4.04.00.4

4.04.00.2 = 4.02.15 + 4.02.16

4.04.00.3 = 4.02.06 - 4.02.11

4.04.00.4 = 4.02.11 + 4.02.17 + 4.02.18 + 4.02.20 + 4.02.21 + 4.04.22 (excluding subscribed but not paid social capital, i.e., balance of account 460, Transactions With Shareholders or Associates)

4.04.00.7 = 4.02.03 + 4.02.04 + balance of account 101, "Land" (under 4.02.05)

4.04.00.10 = 4.02.05 (excluding balance of account 101, "Land") + 4.02.23

4.04.00.11 = 4.04.00.1 + 4.04.00.7 + 4.04.00.10 or 4.02.01 - 4.02.24 - 4.02.25 - subscribed but not paid capital (balance of account 460, Transactions with Shareholders or Associates, included under 4.02.22)

4.04.00.12 = 4.04.00.14 + 4.04.00.15 + 4.04.00.16

4.04.00.14 = Index calculated by totaling the balances of the short-term bank credit accounts and the balances of medium and long-term bank credit that were not paid on term and were not rescheduled (included under 4.02.35)

4.04.00.15 = 4.02.32

4.04.00.16 = 4.02.33 + 4.02.34

4.04.00.17 = Index calculated by totaling the balances of the accounts of medium and long-term (over one year) bank credits that have not come due (which are included under 4.02.35)

4.04.00.18 = Balance of accounts 725 and 742, which are included under 4.02.29 and 4.02.30 respectively

4.04.00.19 = 4.04.00.12 + 4.04.00.17 + 4.04.00.18

4.04.00.20 = 4.04.00.11 - 4.04.00.19

4.04.00.21 = 4.04.00.19 + 4.04.00.20 or 4.04.26 - social capital subscribed but not paid in (balance of account 460 included under 4.02.22) - 4.02.37

**4.05.00.0 Indexes Expressed in Relative Magnitude**

4.05.00.1. Gross profit per 1 leu revenue = Gross profit (4.03.00.3) ÷ Income (4.03.00.1)

4.05.00.2. Net profit per 1 leu revenue = Net profit (4.03.00.6) ÷ Income (4.03.00.1)

4.05.00.3. Fixed net assets (4.04.00.7) ÷ Revenues (4.03.00.1)

4.05.00.4. Circulating assets per 1 leu revenues = (4.04.00.1 - 4.04.00.2) - (4.04.00.12 - 4.04.00.14) ÷ (4.03.00.1)

4.05.00.5. Debt per 1 leu social capital and other resources = (4.04.00.14) + (4.04.00.17) ÷ (4.04.00.20)

4.05.00.6. Net profit per 1 leu assets = Net profit (4.03.00.6) ÷ Assets (4.04.00.11)

4.05.00.7. Net profit per 1 leu social capital and other resources = Net profit (4.03.00.6) ÷ Social capital and other resources (4.04.00.20)

4.05.00.8. Revenue per employee = Revenue (4.03.00.1) ÷ Average number of employees

4.05.00.9. Net profit per employee = Net profit (4.03.00.6) ÷ Average number of employees

**4.06.00.0. Price Index of Output Sold by the Commercial Company**

—October 1990 = 1.00

—June 1991 = ...

—August 1991 = ...

**5. Opinions and other information that the commercial company views as important in support of its privatization proposal, such as, for example, prospects regarding markets, technological updating, profitability, etc.**

\*\*\*

The commercial company may request that the data presented in this annex be kept confidential if it deems that necessary.

### Annex No. 3

*Contents of file containing proposal for privatization by sale of stock prior to the organization of Private and State Property Resources*

1. One page with identifying data about the commercial company:

Name of the commercial company

Registration number in the commercial register

Street and house number

Town

County

Telephone number

Fax number

Telex number

Sector/subsector

Competent ministry

2. One page citing the passage of the decision of the council of state delegates or the general shareholders' meeting, as the case may be, showing approval of the privatization proposal.

3. One page with the answers to the questionnaire in Annex. No. 1 on the commercial company's self-estimation. The answers will be marked on the page in the form given below (by filling in the numerical values assigned to each answer in the spaces under the question codes—from B1 to C12):

| B1 | B2 | B3 | C1 | C2 | C3 | C4 | C5 | C6 | C7 | C8 | C9 | C10 | C11 | C12 |
|----|----|----|----|----|----|----|----|----|----|----|----|-----|-----|-----|
|    |    |    |    |    |    |    |    |    |    |    |    |     |     |     |

4. Pages containing information in support of the privatization proposal, provided in the form of description or tables. The information required and the form in which it is to be given are indicated in Annex No. 2.

### Decision on Pay for Temporarily Unemployed Personnel

92BA0212C Bucharest MONITORUL OFICIAL  
in Romanian 19 Nov 91 p 3

["Text" of "Decision on Payment to Temporarily Unemployed Personnel of Business Enterprises," issued in Bucharest on 7 November]

[Text] The Romanian Government decrees:

#### Article 1

Over the period 1 November 1991-31 March 1992, the personnel of business enterprises that are temporarily unemployed because of the energy shortage, whose individual work contracts are maintained, will receive a tax-free allowance equal to 60 percent of their net monthly tariff pay, indexed, and the state allowance for children.

#### Article 2

(1) The moneys required to pay the allowances envisaged in Article 1 will be made available to the business enterprises by the Ministry of Labor and Social Protection out of the unemployment relief fund, on the recommendation of a ministry or prefecture.

(2) The conditions for establishing the rights of and the transfer of money to business enterprises will be carried out on the basis of the instructions of the Ministry of Labor and Social Protection.

#### Article 3

(1) Business enterprises that find themselves in the situation described in Article 1 will take measures to size their personnel in keeping with effective opportunities for future activities.

(2) The personnel laid off will enjoy the rights envisaged in Law No. 1/1991 on social protection for the unemployed and professional reintegration.

Prime Minister Theodor Stolojan

Bucharest, 7 November 1991

No. 760

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