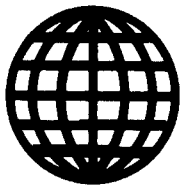


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BULGARIA

Democratic Youth Organ on Benefits of Trade Unions

90BA0173A Sofia MLADZHI in Bulgarian 5 Jun 90
p 3

[Interview with Grozdanka Terzieva, member of the Coordination Council's Executive Committee of the KNSB [Confederation of Independent Trade Unions in Bulgaria], by Branislava Bobanats; place and date not given: "Piece-by-Piece Politics: Can Trade Unions Defend the Specific Interests of Young Workers and Specialists? A Strange Question if the Answer Were Not Presumed"]

[Text] Last week the Confederation of Independent Trade Unions in Bulgaria published its platform on the solution of the socioeconomic crisis. Not counting a few lines dealing with the socially disadvantaged groups and strata of society (their protection is in fifth place among the requirements for the economic reform program supported by the confederation), there is no other place where you will find anything on young people and their specific interests and problems. As a matter of fact, they were not mentioned in another document, either—the general agreement signed by the Confederation of Independent Trade Unions in Bulgaria, the government, and the National Union of Managers in March. We waited then, even though the fact "fueled" the argument of whether young workers and specialists are "useless" to the trade unions. Now, however, we ask: Is this an omission or position? The question is asked of Grozdanka Terzieva. As a member of the Coordination Council's Executive Committee of the KNSB [Confederation of Independent Trade Unions in Bulgaria], she is responsible for defending the specific interests of women and young people. She has had this position for less than one month, and maybe this is why...

[Terzieva] I am not afraid to admit that we are still at the very beginning. Everything is still moving; more often we work piece by piece, as a need arises and not according to the policy of our commission. Actually, it is not yet fully formed, and I will introduce a proposal for work directions at the next committee meeting.

[Bobanats] Let us get ahead then. What will you propose to the confederation's leadership as well as to the young people?

[Terzieva] In our platform, which is very humane, we give solutions to many of the problems, as we see them, because none of the programs proposed by political forces so far satisfy us. I do not think there is anything terrible in that there are no specific clauses directly pertaining to young people. We do not divide workers into "young" and "old." Most of our proposals and requirements, however, are for young people. We are at the threshold of great unemployment, which will inevitably affect them. We insist on the creation of new jobs and new enterprises. We want total and effective

employment and active measures against lasting unemployment. Our main emphasis is on social protection. This is also directed toward young people: young families, mothers, children. Social security, housing, family allowances are all part of this circle of issues. The decision on the minimum wage amount of 165 leva [per month] as of 1 July was published and is registered in the general agreement. Young people surely will not deny that it is in their favor. We defend changes in wage principles (do not forget that PMS [Council of Ministers Decree] 66 was actually detrimental to young people). Our position is that, in the future, market economy wages must correspond not only to the work done, but also to capital, land with which the worker participates, any risk, and any administrative decision.

[Bobanats] But this again sounds like a promise. Both sides know that many of these problems were brought forth more than once, and the result is obvious. You are starting with accumulated negatives. Has the commission tried to persuade young people to give up their doubts on whether trade unions can protect them?

[Terzieva] Yes, this is so. We really do not know if anything we propose and defend will be implemented. It will be difficult because we do not have a magic wand. But, over the past few months, our trade unions have proved that they have been renewed, I am sure of it. A lot has been accomplished. The general agreement, for example, is the first one of its kind in Eastern Europe. Many of the issues have been settled with it, and the clauses registered in it have already been implemented. Perhaps with this step, even more so after the elections, when political passions quiet down and trade union problems emerge in their place, we will prove to the young people that we do defend their interests.

Structure, Functions of Scientific Institutes

90BA0173B Sofia DURZHAVEN VESTNIK
in Bulgarian No 39, 15 May 90 pp 3-4

["Decision No. 102 of the Council of Ministers Bureau of 7 May 1990 for the Transformation of Scientific Organizations at the Bulgarian Academy of Sciences," signed by Andrey Lukanov, chairman of the Council of Ministers, and Pancho Burkalov, chief secretary of the Council of Ministers]

[Text] THE COUNCIL OF MINISTERS BUREAU
DECIDED:

1. To form, effective 1 May 1990, the following corporations on the basis of the International Relations and Socialist Integration Institute:

a) International Relations and Foreign Policy Institute, with headquarters in Sofia. Purpose: To conduct scientific research and provide consultations on theory and practice analyses of Bulgaria's international relations and foreign policy—that is, prevailing conditions, development, and basic trends and prognoses, concentrating

on problems related to the European and Balkan regions, and the priority trends in its relations with developing countries.

b) World Economy and International Economic Relations Institute, with headquarters in Sofia. Purpose: To conduct scientific research and provide consultations on the basic processes in international economic relations both in the world economy and its components such as: East European economies, the economies of the developed industrialized nations, and the economies of the developing nations; analysis of dominating forms of international economic relations and mechanisms for their regulation on the microlevels and macrolevels; East-West economic relations; general European economic cooperation, economic development and cooperation among Third World nations, and interregional economic relations.

The International Relations and Foreign Policy Institute and the World Economy and International Economic Relations Institute will take over part of the credits and debits of the International Relations and Socialist Integration Institute according to the balance sheet of 30 April 1990, as well as its other rights and responsibilities according to a protocol on partitioning.

2. The following separate corporations are formed, effective 1 May 1990, on the basis of the Cybernetics and Robotics Engineering Institute:

a) Applied Cybernetics Institute, with headquarters in Sofia. Purpose: theoretical and applied research in the field of cybernetics engineering; methods, hardware and software for the formation of engineering project management systems, computer and communications networks, electronic design automation, machine building and publishing; methods, hardware and software for processing documents and sound signals.

b) Computer Systems Institute, with headquarters in Sofia and a branch in Pravets. Purpose: basic and scientific-technical research on the design of new structures and systems in computer technology, including personal computers; new methods, materials, and systems for storing large volumes of digital information, as well as the application of such structures, methods, materials, and systems in actual production and general use.

c) Computer Science Institute, with headquarters in Sofia and a branch in Stara Zagora. Purpose: basic, scientific, and applied research in computer science; the development of new information technology, methods, means, and systems for information gathering, processing, and control; the development of new methods and means for artificial intelligence and image recognition.

d) Robot Systems Institute, with headquarters in Sofia, a branch in Plovdiv, and a subdivision named "Scientific and Production Laboratory" [Interrobotsvarka] in Sofia. Purpose: basic, scientific, and applied research and

robotics specialists training; integrated, transportation and storage, and production systems architecture, sensors and adaptation systems, as well as hierarchical automation systems for the design of technological pathways for use in the food industry, power engineering, farming, and machine building.

e) Machine Electronics Institute, with headquarters in Sofia and a branch in Veliko Turnovo. Purpose: scientific and applied research of mechanical systems management and construction; testing, design, production, and implementation of hardware, software, and others in the fields of automation, management, and communications in machine building, power engineering, construction, and farming, as well as teaching and training personnel to work in these fields.

f) Technological Center with testing facility, with headquarters in Sofia. Purpose: engineering, construction, and technology transfer in the field of cybernetics and robotics engineering; development of new technological and construction methods, engineering, licensing, and production of unique instruments, equipment, materials and systems for automation, robotization, and computerization.

3. The newly formed corporations according to item 2 will take over corresponding parts of the Cybernetics and Robotics Engineering Institute's credits and debits according to the balance sheet of 30 April 1990, as well as its other rights and responsibilities according to a partitioning protocol without any additional personnel, "Salaries" funds, facilities, or other resources.

4. As of 1 May 1990, the Central Psychology Laboratory at the Psychology Institute is transformed as a corporation with headquarters in Sofia. Purpose: to study theoretical and experimental problems of modern psychology, such as cognitive and mathematical psychology, personality, social and labor psychology, psycholinguistics, neuropsychology, and others; to develop original and standardize foreign methods and techniques that will help increase the effectiveness of psychological research on a nationwide scale.

The institute will carry out scientific and applied studies focused mainly on psychological problems in education, the optimization of social and work conditions, the development of individual creative potentials, the psychological training for administrators, mental health and aid services, the psychological aspects of modernization and computerization, and the training of highly skilled psychology personnel.

5. As of 1 May 1990, the Central Helminthology Laboratory is transformed into the Parasitology Institute as a corporation with headquarters in Sofia. Purpose: to conduct scientific research on basic problems in parasitology; species, taxonomy, internal structure, and the spread of parasites; functional macromorphology, physiology, and biochemistry of parasites; ecology, development, changeability, and adaptability of parasites; parasite interrelationships and their hosts; dependence and

the role of parasites in biogenocenoses; parasite population dynamics and natural foci of invasion; the use of parasites to fight pests biologically; the biological fight against parasites; interspecies relations and parasite-population distribution inside host populations; the treatment of parasitoses.

6. On the basis of existing divisions under the Bulgarian Academy of Sciences, effective 1 May 1990, without additional personnel, "Salaries" funds, and other resources, the Demographics Institute under the Bulgarian Academy of Sciences is formed as a corporation with headquarters in Sofia. Purpose: to conduct research and analysis of demographic processes and demographic behavior, demographic structures, and work force growth; to provide models and prognoses of demographic processes and structures, the place and role of women in modern society, the family and population growth, historical demographics, and demographic policy.

The chairman of the Bulgarian Academy of Sciences is assigned to implement this decision.

Andrey Lukanov, Chairman of the Council of Ministers

Pancho Burkalov, Chief Secretary of the Council of Ministers

GERMAN DEMOCRATIC REPUBLIC

Journal Surveys Recent Legislation

90GE0151A East Berlin NEUE JUSTIZ in German
May 90 (signed to press 12 Apr 90) pp 214-218

[Report by Joachim Lehmann and Ulrike Rieger: "Survey of Legislation in the First Quarter of 1990"]

[Text] The following article covers legislation published in the Gazette of the GDR, Part I, Numbers 1 through 21. In view of the volume of legal provisions enacted during this quarter, it is possible to refer to only a few regulations that are important in the opinion of the editors, in chronological order, whereby more detailed commentary is impossible due to space limitations.

Ordinance on the Activity of Publication Organs From Other States and Their Correspondents in the GDR of 30 November 1989, with the regulative statute of 22 December 1989 (Gazette I 1990, No. 1 pp. 1,2)

This ordinance deals with the conditions for accrediting permanent and temporary correspondents of publication organs from other states in the GDR, as well as the process, by the Ministry for Foreign Affairs.

Law Modifying the Law Promoting Skilled Trades of 11 January 1990 (Gazette I, No. 3, p. 7)

With the repeal of Sections 2 through 4 of Paragraph 14 of the Law Promoting Skilled Trades of 9 August 1950 (Gazette, No. 91, p. 827) as last amended by the law of 12 March 1958 (Gazette I, No. 20, p. 261), the restriction

on the number of employees in skilled trades and small industry enterprises is repealed.

Law on Travel Abroad by Citizens of the GDR—Travel Act—and the first executive ordinance for it of 11 January 1990 (Gazette I, No. 3, pp. 8, 12)

The provisions of this law and of the executive ordinance apply to private travel abroad by citizens of the GDR at any time as well as entry into the GDR at any time. Stipulated are the conditions and procedure for acquiring a passport and for its revocation.

Judicial review can be requested if an appeal of a decision according to this law is rejected.

Law on Modifying and Amending the Constitution of the GDR of 12 January 1990 (Gazette I, No. 4, p. 15)

This law modifying the Constitution as last amended on 7 October 1974 (Gazette I, No. 47, p. 432) takes into account the new economic reforms and conditions. This pertains to the permissibility of private ownership of certain means of production on the basis of laws, as well as the founding of companies with foreign investment by combines, enterprises, institutions, cooperatives, as well as skilled tradesmen, small businessmen, and other citizens. The joint say of the employees in the management of the company with foreign investment is constitutionally guaranteed.

Ordinance on the Establishment and Activity of Companies With Foreign Investment in the GDR of 25 January 1990 (Gazette I, No. 4, p. 16)

This ordinance concerns the establishment, legal status, economic activity, assets, taxation, and liquidation of companies with foreign investment in the territory of the GDR (cf. on this point W. Buchholz, M. Sternal, and G. Dornberger in NEUE JUSTIZ 1990, Vol 3, pp. 92, 95). Specified are the corporate forms, the legislation applicable to their activity, and the basic contents of the articles of incorporation and of the bylaws. In three regulative statutes issued for this on 21 February 1990 (Gazette I, No. 11, pp. 85, 87, 88), the ordinance is arranged as follows:

- 1st regulative statute—Execution and approval,
- 2nd regulative statute—Principles of pricing,
- 3rd regulative statute—Regulations on accounting and statistics.

Second Ordinance on the Labor Ordinance for Educators of 25 January 1990 (Gazette I, No. 5, p. 24)

The Labor Ordinance for Educators of 29 November 1979 (Gazette I, No. 44, p. 444) was modified with respect to the duties of the educators in pursuing the educational goal. Restrictions deviating from the AGB [Labor Code] concerning the conclusion of employment contracts are dropped, and procedural standards in connection with disciplinary responsibility are no longer subject to special regulations.

Resolution on the Establishment of an Economic Committee of the Council of Ministers of 18 January 1990 (Gazette I, No. 5, p. 29)

Effective 18 January 1990, the Economic Committee is the legal successor to the State Planning Commission, which was dissolved at the same time. It is led by a minister acting as chairman, and it contains six other ministers from various departments. The Economic Committee is a panel whose members act on the committee as a secondary occupation.

Directive on Allowing Specialists in Technical Building Equipment Systems to Pursue Secondary Occupations (TGA Specialists Concessionary Directive) of 4 December 1989 (Gazette I 1990, No. 5, p. 28).

This directive concerns secondary, specialized activity in this area, especially the requirements, nature, and extent of the activities and the amount of remuneration.

Law on Modifying the Law on State Citizenship of the GDR and Ordinance on Modifying the Executive Ordinance for it, both of 29 January 1990 (Gazette I, No. 6, pp. 31, 33)

With this law and the modification ordinance, the loss of state citizenship specified in the State Citizenship Act of 20 February 1967 (Gazette I, No. 2, p. 3) was replaced by the renunciation of state citizenship of the GDR. The introduction of renunciation also means a significant simplification of the process and of administrative costs compared to processing applications for deprivation of citizenship. The changes in the law relate to accommodating formulations resulting from the fact that deprivation of citizenship, revocation of its conferment, and forfeiture as a reason for the loss of state citizenship were revoked.

Directive on Keeping the Register of Companies with Foreign Investment in the GDR of 29 January 1990 (Gazette I, No. 6, p. 34)

This directive stipulates that the State Contract Court is to keep the register of companies on the basis of the Ordinance on the Establishment and Activity of Companies With Foreign Investment in the GDR, the Commercial Code, the GmbH Act, and the Stock Act. Regulations apply to the procedure, including the option of imposing administrative fines for the violation of obligations pertaining to reporting, signatures, or submitting written documents to the register.

Directive on Loans to Local Institutions of 15 January 1990 (Gazette I, No. 6, p. 35)

This directive stipulates the conditions for and classification of loans granted by banks and savings institutions of the GDR to subsidiary, legally competent bodies of the councils of kreises, cities, and parishes in order to create, expand, modernize, and structure their capacities.

Directive on the Revocation of a Legislative Enactment in the Area of Payment of Inventor Remuneration of 18 January 1990 (Gazette I, No. 6, p. 38)

With this directive, the Sixth Regulative Statute for the Innovator Ordinance—Payment of Inventor Remuneration by the Enterprises of 31 January 1986 (Gazette I, No. 6, p. 56) is revoked. For inventions handled in the enterprise after this Sixth Regulative Statute, remuneration may still be undertaken according to this provision, as long as the payment is made by 30 June 1990.

Resolution by the People's Chamber on Guaranteeing the Freedom of Opinion, Information, and Media of 5 February 1990 (Gazette I, No. 7, p. 39)

This resolution, which is intended to implement GDR obligations from international agreements and declarations concerning the fundamental rights in this area, constitutes the legal basis for the comprehensive freedom of opinion, information, and media in the GDR until legal regulations are issued on the media. (The Ordinance on the Registration of Press Products of 15 February 1990 (Gazette I, No. 9, p. 73) was enacted on the basis of this resolution.)

Ordinance on the Granting of State Support and Enterprise Compensation Pay to Citizens During the Period of Work Procurement of 8 February 1990 (Gazette I, No. 7, p. 41), and the First and Second Regulative Statutes of 16 and 22 February 1990 (Gazette I, No. 12, pp. 93, 94)

The aim of the ordinance, which constitutes a transitional regulation until unemployment insurance is introduced, is to provide financial support for citizens who are temporarily unemployed. The payment of state support by the competent Labor Office and of enterprise compensation pay occurs on a staggered basis. The corresponding reaction to the end of the employment relationship, for which the employees themselves are responsible, is a later application of payment of support (without compensation pay). The ordinance stipulates the obligations of the citizens who receive state support. Appeals of negative decisions on the payment of state support or restitution are subject to judicial review upon petition by the party in question.

The regulative statutes contain procedural regulations for the payment, settlement, back payment, repayment, and time limitation for state support, as well as with regard to enterprise compensation pay. Also established are the grounds for claims to support, especially the criteria for reasonableness of an offered activity. (Cf. J. Michas, "Reasonableness of an Activity in Work Procurement" [Zumutbarkeit einer Taetigkeit bei der Arbeitsvermittlung], NEUE JUSTIZ, 1990, Vol 4, pp. 151 ff.)

Ordinance on Granting Early Retirement Allowance of 8 February 1990 (Gazette I, No. 7, p. 42) and the First and Second Regulative Statutes for it of 16 February 1990 (Gazette I, No. 12, pp. 95, 96)

This regulation assumes that in the future structural changes, rationalization measures, and administrative

reforms will increasingly affect older workers as well, who will have significant problems procuring a reasonable job. The level of early retirement allowance of 70 percent of net wages corresponds to the sick-leave allowance after the seventh week of illness. In order to guarantee retirement rights, the early retirement allowance is covered by the required payment to the obligatory social insurance, meaning that the workers and enterprises must make contributions.

The regulative statutes concern individual questions of payment, planning, settlement, financing, compensation, back payment, and restitution of the early retirement allowance. The Second Regulative Statute contains criteria for the reasonableness of other work in the sense of the ordinance, the bases for calculations, and other procedural regulations on granting the early retirement allowance.

Directive on Permitting Private Architects and Engineers of 5 February 1990 (Gazette I, No. 8, p. 50)

This directive concerns permitting and the procedure for pursuing the independent trade of private architect and engineer. It also applies to the establishment of private, semi-state, or cooperative enterprises for engaging in planning, projecting, and design work in the areas of architecture, structural engineering, specialized engineering, and engineering. Judicial review may be requested on decisions in connection with restrictions on, denial of, or withdrawal of permission or project approval. Anyone who engages in activities contrary to the provisions of the directive without a permit can be punished through an administrative fine.

Law on Parties and Other Political Organizations—Party Act—of 21 February 1990 (Gazette I, No. 9, p. 66)

This law specifies the rights and obligations of the citizens of the GDR in the establishment and activity of parties and other political organizations in the GDR. Parties are formed in accordance with the principles of the freedom of association. The law contains stipulations concerning the contents of the bylaws as well as the financing and property foundations of the parties. A party may be banned only because of precisely defined reasons in a procedure before the Great Senate of the Supreme Court of the GDR, to which the ZPO [Rules of Civil Procedure] applies, upon application by the presidium of the People's Chamber, the Council of Ministers, or the attorney-general of the GDR.

Statute of the Patent Office of the GDR—Resolution by the Council of Ministers—of 13 February 1990 (Gazette I, No. 9, p. 60)

The Patent Office of the GDR is the central state organ for the protection of inventions. The statute lays out the new duties and responsibilities in the area of patent protection, protection of industrial prototypes, protection of trademarks, and other types of protection of

industrial innovations. (The Directive on Representation Before the Patent Office of 21 March 1990 (Gazette I, No. 21, p. 208) was enacted on the basis of this statute.)

Law on Modifying the Constitution of the GDR of 20 February 1990 (Gazette I, No. 10, p. 79)

With this modification, Article 23, Sect. 1 of the Constitution was amended to the effect that citizens of the GDR may perform civilian service instead of military service in keeping with enacted legislation.

Ordinance on Civilian Service in the GDR of 20 February 1990 (Gazette I, No. 10, p. 79)

This ordinance specifies the procedure and the type of civilian service to be performed by male citizens of the GDR who reject military service for religious or conscientious grounds. Civilian service consists of social service for the people and can be performed in enterprises and installations in health care, social services, and rescue services, and on the local level. The citizen may petition for judicial review of decisions according to the ordinance. Administrative fines may be imposed on citizens performing civilian service in the event of certain violations of their duties.

Law on Associations—Association Act—of 21 February 1990 (Gazette I, No. 10, p. 75) and the First Executive Ordinance for it—Keeping the Register of Associations—of 8 March 1990 (Gazette I, No. 18, p. 159)

This law stipulates that associations in the GDR can be freely—without a state approval process—formed and can act freely. The registration of associations in the interest of pursuance of the rule of law serves exclusively to confer legal competence on the association and to provide public access to the basic documents of legally competent associations; regardless of the territorial area of activity of the association, this registration is carried out with the kreis court with jurisdiction over the headquarters of the association.

A ban on an association may be pronounced only upon request by the minister for internal affairs, the attorney-general, the member of the bezirk council for internal affairs, and the public attorney of the bezirk as the result of judicial proceedings by the competent bezirk court of first instance.

Ordinance on Retraining Citizens to Ensure Vocational Activity of 8 February 1990 (Gazette I, No. 11, p. 83) and the regulative statute for it—Financial Support of the Citizens—of 16 March 1990 (Gazette I, No. 21, p. 189) (cf. P. Sander, "Legal Questions of Vocational Retraining" [Rechtsfragen der beruflichen Umschulung], in this issue, pp. 218 ff)

This ordinance provides a legal structure for state-organized retraining outside existing employment relationships. In this way, it becomes possible to provide skills to temporarily unemployed workers and thus to

prepare them for resumption of a vocation. The ordinance deals with the essential questions of content and methodology for the retraining measures to be conducted at all qualification stages.

The regulative statute concerns the extent of and procedure for financing the retraining measures. The retraining costs for which the trainer will be reimbursed are spelled out. In the event of culpable violation of the obligations resulting in premature interruption or unsuccessful completion of the retraining measures, restitution of the costs can be demanded.

Ordinance on Work With Personnel Documents of 22 February 1990 (Gazette I, No. 11, p. 84)

This ordinance specifies for the first time the responsibility of state organs and enterprises in dealing with personnel documents as instruments of labor based on personnel-related information. Now subject to provisions of law are what the personnel documents may contain, who may have access to them, and how existing personnel files are to be eliminated. The worker must be guaranteed access to his personnel document upon request.

Directive on Permission to Engage in Independent Work as Assistant in Tax Matters and the Registration of Hourly Bookkeepers of 7 February 1990 (Gazette I, No. 12, p. 92)

This directive specifies the conditions and the procedure for engaging in independent work in this area. Permission depends on proof of corresponding professional qualification and on passing a suitability exam.

Resolution on Establishing the Institution for Trust Management of National Property (Trust Institution) of 1 March 1990 (Gazette I, No. 14, p. 107)

This resolution is for the protection of national property, in that the trust institution assumes trusteeship over the state-owned property found in the fund ownership of enterprises, institutions, and combines, as well as economic planning organs. Until the adoption of a new constitution, this institution of public law is subordinate to the government. (cf. Statute of the Institution for Trust Management of National Property (Trust Institution)—Resolution by the Council of Ministers—of 15 March 1990 (Gazette I, No. 18, p. 167))

Ordinance on Converting State-Owned Combines, Enterprises, and Institutions Into Corporations of 1 March 1990 (Gazette I, No. 14, p. 107)

This ordinance provides detailed specifications on the procedure for converting state-owned combines, enterprises, legally independent institutions, and economic planning organs, as well as other economic entities listed in the register of the state-owned economy, into limited-liability companies (GmbH) or joint-stock companies (AG).

Law on Modifying the Constitution of the GDR of 6 March 1990 (Gazette I, No. 15, p. 109)

The revision of Articles 44 and 45 of the Constitution contains a change in the position of trade unions and in their rights. As non-partisan and independent organizations of workers, they represent their interests and can make demands in the labor disputes. To this end, the right to strike is guaranteed, compensation for damages during labor disputes is excluded, and all forms of lockout are prohibited.

Law on the Rights of Labor Unions in the GDR of 6 March 1990 (Gazette I, No. 15, p. 110)

On the basis of the modification in the constitution (Article 44), this law specifies the fundamental position and the areas of activity of the labor unions. It contains provisions on resolving labor confrontations and collective labor conflicts, on the right to strike, and on the rights and protection of representatives of the labor unions in the enterprises.

Ordinance on the Activity of Citizens Committees and Citizens Initiatives of 1 March 1990 (Gazette I, No. 15, p. 112)

In keeping with this ordinance, citizens committees and citizens initiatives, as grass-roots, democratic movements, may participate in the shaping of societal opinion and in decision-making on a local level. Regulations are set out pertaining to the rights of these organizations and the duty of the leaders or employees of state organs to cooperate with them. To this end, agreements can be concluded.

Ordinance on the Chambers of Industry and Commerce of the GDR of 1 March 1990 (Gazette I, No. 15, p. 112)

This ordinance specifies the position, tasks, organs, and financing of the Chambers of Industry and Commerce of the GDR as commercially autonomous organizations representing the interests of all tradespeople on the basis of regional economies. The Chambers of Industry and Commerce are juridical persons and are subject to the legal supervision of territorially competent state organs. The existing Chambers of Commerce and Trade were disbanded. (The Statute of the Chambers of Industry and Commerce of the Bezirke—Resolution by the Council of Ministers—of 2 February 1983 (Gazette I, No. 6, p. 62) is thus repealed.)

Law on Modifying and Amending the Law on Agricultural Producer Cooperatives—LPG Act—of 6 March 1990 (Gazette I, No. 17, p. 133)

The modifications of and amendments to this law relate to the establishment of the autonomy of the LPGs, especially in order to give shape to intra-cooperative democracy on the basis of the agreed statute. Furthermore, it was determined that LPGs may set up and operate joint enterprises together with other interested parties for processing, refining, and selling agricultural products and installations for rural services. With

respect to land ownership by cooperative farmers, new stipulations were set out on land shares and on the contribution to inventory, including the inheritance right. The involvement of the cooperative farmers in the result of cooperative economic activity is increased by the fact that the LPG can issue shares in the cooperative. The LPG itself decides on the conditions for issue.

Law on the Rights of Owners of Real Estate From the Land Reform of 6 March 1990 (Gazette I, No. 17, p. 134)

This law stipulates that the ownership, use, and sale of real estate from the land reform is regulated on the basis of the provisions of the ZGB [Civil Code] of the GDR. The Real Estate Transaction Ordinance of 15 December 1977 (Gazette I 1978 No. 5, p. 73), with its follow-up provisions, applies to transactions in such real estate.

Law on the Transfer of State-Owned Agricultural Land to the Ownership of LPGs of 6 March 1990 (Gazette I, No. 17, p. 135)

The law regulates the acquisition of ownership over state-owned agricultural land used by LPGs, GPGs [horticultural cooperatives], and other producer cooperatives in the area of agriculture. Exempted is the land of state-owned farms as well as the state-owned land made available in pursuance of the right of cooperative use for small-scale horticultural use and for building owner-occupied homes, and state-owned land transferred to state organs, enterprises, and institutions for their use.

Law on Support for Agricultural Cooperatives Encumbered With Heavy Debts Due to State Regulation of 6 March 1990 (Gazette I, No. 17, p. 135)

This law grants cooperatives that have incurred unreasonably heavy debts for non-standard production on the basis of state stipulations funding from the state budget in order to give them an equal opportunity in development. Detailed stipulations are established for how this funding is to be used and which cooperatives are eligible.

Law on Modifying Legislation on Income, Corporate, and Property Tax—Tax Modification Act—of 6 March 1990 (Gazette I, No. 17, p. 136) and regulative statute for it of 16 March 1990 (Gazette I, No. 21, p. 195)

This law and the regulative statute provide for fundamental changes in the tax code and a comprehensive legal revision. The Council of Ministers was instructed to change the tax laws and other fiscal legislation on the basis of this law and to announce these changes as a revision in the Gazette.

Trade Act of the GDR of 6 March 1990 and First Executive Ordinance—trades requiring permission, special supervision of facilities and activities excluded from price competition—of 8 March 1990 (Gazette I, No. 17, p. 138) and Second Executive Ordinance—trade authorities—of 15 March 1990 (Gazette I, No. 18, p. 169)

The law and first executive ordinance regulate—based on the principle of freedom of trade—the overall process

for engaging in business trades, individual forms of business, and administrative procedures. The party in question has a right to appeal decisions by the trade authorities. A petition for judicial review may be entered against the appeal decision. In the event of violation of the reporting obligation in order to engage in a business trade, the continuation of a trade even though it is prohibited, or pursuit of a traveling trade without a license, administrative fines are permissible.

The second executive ordinance specifies who the trade authorities are (Trade Offices of the councils of kreises or bezirks) and what the responsibilities of these authorities are. The head of the Trade Office can establish mandatory fees in order to impose conditions and request support from the German People's Police if decisions by the Trade Offices encounter resistance or this is expected.

Law on the Establishment and Activity of Private Companies and on Company Investments as well as the First Executive Ordinance for it of 7 March 1990 (Gazette I, No. 17, pp. 141, 144)

This law and the executive ordinance regulates the establishment and activity of private-sector companies, especially small and midsize enterprises in the areas of the small industry, construction, trade, transportation, services, and tourism, in order to promote private initiatives to further develop entrepreneurship. The law specifies the details of the legal forms of companies, the applicable legislation, questions of economic activity, working conditions for the employees, and the possibility of converting enterprises with state investment, private enterprises, and producer cooperatives that have been transferred to state ownership since 1972. A petition for judicial review may be entered against a rejection of appeals under this law.

Law on Assembly—Assembly Act—of 7 March 1990 (Gazette I, No. 17, p. 145)

This law takes into account the freedom of assembly stipulated in Article 28 of the Constitution and is clearly structured as a subjective right of the citizens. Each person has the right to engage in assembly if he is peaceful, non-violent, and unarmed. State permission is no longer required. A reporting obligation to the locally competent councils for demonstrations, rallies, marches, or other forms of expression of will by open-air human assemblies does not involve a permission process. The law also contains specifications on banning assemblies. The leader of the assembly may, after his appeal has been definitively decided on administratively, petition for judicial review with respect to decisions according to the law.

The regulations of the Assembly Act are directly linked to certain regulations of the Party Act, the Association Act, and the Labor Union Act. Administrative fines may be applied in the event of violation of certain stipulations of the law.

Ordinance on the Activity of and on Permitting Attorneys in Private Practice of 22 February 1990 (Gazette I, No. 17, p. 147)

This ordinance specifies the position, tasks, and activity, as well as the permission process for attorneys who are not active in a suboffice of a board of attorneys (attorneys in private practice). The conditions for permissions, the permission process, the rights and obligations of the attorney, and the disciplinary and material responsibility as well as the supervisory role of the minister of justice are laid out. Also specified is the option of petitioning for judicial review in the event that permission is denied or revoked for the attorney.

Ordinance on the Organization of Skilled Trades in the GDR of 22 February 1990 (Gazette I, No. 17, p. 151)

The ordinance establishes who is entitled to pursue a skilled trade or craft and what the position and tasks of the Chambers of Skilled Trades are as the representatives of the interests of all skilled tradesmen or owners of skilled trade-like enterprises within a bezirk.

To this end, the Statute of the Chambers of Skilled Trades was declared to be binding together with the ordinance. As a joint representative of the interests of the Chambers of Skilled Trades, the Council of Skilled Tradesmen of the GDR was established.

Law on the Sale of State-Owned Buildings of 7 March 1990 with Executive Ordinance for it of 8 March 1990 (Gazette I, No. 18, pp. 157, 158)

On the basis of this law, it is possible that private skilled tradesmen and businessmen or citizens of the GDR or foreigners with a permanent residence in the GDR can buy state-owned buildings for business purposes, state-owned single- and dual-family houses for recreational purposes, as well as state-owned joint ownership shares. The rights of the tenants are protected in accordance with the provisions of the ZGB. Buildings, real estate, and joint ownership shares in real estate can be sold and bequeathed. In order to counteract speculation, a term of at least three years must lie between the purchase and sale. The sales contract is concluded by the respective legal entity of the state-owned real estate.

Ordinance on the Tasks, Rights, and Duties of the Labor Offices and of Enterprises in Ensuring the Right to Work of 8 May [as published] 1990 (Gazette I, No. 18, p. 161)

In this ordinance, the Labor Offices are reaffirmed as centrally subordinated state institutions that serve the citizens and the enterprises equally and whose administrative effect on the enterprises is limited to supporting groups of persons worthy of special protection. With legislation on the creation of a civil service, the preservation of state support during the period of job procurement, the preservation of early retirement allowances, and the retraining of citizens in order to ensure vocational activity, the Labor Offices have been given additional and fundamentally new tasks. The ordinance

specifies the position and method of operation of the Labor Offices and the tasks of the Labor Offices of the bezirks and kreises. Appeals of certain decisions by the Labor Offices are permitted. Petitions for judicial review are also possible. The application of administrative fines is possible in the event that managers or leading employees of enterprises neglect their duties.

Ordinance on the Establishment, Activity, and Conversion of Producer Cooperatives in Skilled Trades of 8 March 1990 (Gazette I, No. 18, p. 164)

In conjunction with the comprehensive legal revision, this ordinance specifies the process for establishing PGHs [producer cooperatives in skilled trades], especially the minimum content of the statutes and the form of decision-making. The conversion of PGHs into partnerships or corporations is possible on this basis of this ordinance. Regulations are provided on effecting the conversion, the legal consequences, and the dissolution of the PGH. All decisions by the membership meeting of the PGH in the sense of this ordinance must be adopted by a two-thirds majority.

Fourth Ordinance on Provision of Social Security—Fourth Social Security Ordinance—of 8 March 1990 (Gazette I, No. 18, p. 165)

A change was introduced in the claim to social security support for certain groups of persons, including citizens who have no claim to state support and compensation pay from the enterprise during the period of job procurement and are also unable to receive adequate support from relatives obligated to provide support. Furthermore, the existing regulations on crediting income, assuming the costs of domestic care, and rent subsidies for citizens at retirement age were changed.

Ordinance on Legal Consultants in the GDR (Legal Consultant Ordinance) of 15 March 1990 (Gazette I, No. 18, p. 171)

This ordinance specifies the tasks and authorities of legal consultants, the organizational forms of their activity, the required qualifications, and the tasks of the Ministry of Justice in this regard. A legal consultant may be employed by a company, an administrative organ, or an institution, or in the future may work on a free-lance basis in private practice. Remuneration is paid on the basis of a fees ordinance.

Directive on Keeping the Register for Private and Mixed-Economy Companies and For Corporations Held in Trust of 19 March 1990 (Gazette I, No. 20, p. 183)

The register with the State Contract Court is kept on the basis of this directive. Companies are registered through the Bezirk Contract Court for the territory in which the company is headquartered. The application process and the applicable legislation are specified. Negligence of duties in implementing this directive may be punished by the Bezirk Contract Court through administrative fines.

Directive on Special Requirements of Business Activity by Engineering Offices in the Area of Surveying and Mapping (Gazette I, No. 21, p. 204)

This directive establishes the conditions for pursuance of a trade in the area of surveying and mapping and stipulates the special requirements that must be met by the applicant. The conditions for issuance of the business permit and the expected performance level shall be examined by commissions that are to be created from the inspection divisions of the Geodesic-Cartographic Inspectorate.

Much Separate Civil Law To Be Retained

90GE0156A *Duesseldorf* *HANDELSBLATT in German*
29 May 90 p 6

[Article by "mf": "After the Merger, There Will Be No 'Legal Union' by a Long Way"]

[Text] According to appendix III of the State Treaty between the Federal Republic and the GDR, the Civil Code (BGB) is not among the laws to take effect in the GDR after the union of the two German states. The GDR Civil Code (ZGB) of 19 June 1975 will merely be amended by deletions and some insertions in order to soften the crudest socialist emphases of this body of laws.

To be stricken without replacement, for example, is the preamble to the ZGB, that explains the background of the code. This states, among others: "The civil code of the German Democratic Republic expresses the principles of socialist morality, defined by the views of the working class." If that is true—and it surely is—it is very hard to understand how a few editorial changes could possibly change this socialist law code into a liberal code.

Also to be eradicated are some particularly offensive professions of socialism in the following provisions—although these do not actually include any legal regulations. These include:

- Article 6, paragraph 1, ZGB: The rights and duties of citizens with respect to relations governed by the civil code "are defined by socialist social relationships that are based on the political power of the working class, socialist ownership of the means of production and the management and planning of the national economy by the socialist state."
- Article 17, ZGB: This introductory instruction to the chapter on "Socialist Property" also consists entirely of socialist phraseology designed to show that the civil code, too, is nothing more than a mere superstructure erected on top of socialism.
- Article 20, ZGB: Obviously it was no longer tenable to retain the provision that socialist property is inviolable, and that it is forbidden to acquire and transfer from socialist to personal property items that represent the basis of the economic operation of enterprises. Also in accordance with this regulation, the people's property was not permitted to be either

pawned, pledged or claimed. Privatization would not be possible if this provision had been allowed to stand.

- Article 22, paragraph 1, ZGB: "Socialist property, its augmentation and protection represent the basis for the development of personal property. Work performed for society is the source of personal property."
- Article 46, ZGB: This provision, now to be eliminated, virtually excluded private autonomy, because it stipulated that contractual relations could be further organized as conditions enacted as legal regulations by the respective central state organs.
- Article 68, paragraph 2, sentence 2, ZGB: A contract violating state price instructions may take effect only at the permitted price, that is the administered price.
- Article 69, ZGB: This regulation provides that, in case of a violation of the law or immoral action by one of the partners to the contract, the state may altogether or in part impound the item(s) improperly acquired.
- Article 258, ZGB: This mainly concerns the right of insurance companies in certain circumstances to cancel the insurance contract in writing, giving 1 month's notice.
- Article 452, paragraph 3, ZGB: A piece of land that is personal property may be mortgaged only to guarantee a business claim related to that piece of land and concerns the owner of the piece of land. "It does not apply to claims by lending institutions, state enterprises, state organs and facilities."

In addition to these adjustments to the ZGB, there are also some editorial amendments. Formerly, for example, the property of craftsmen and small traders was deemed "personal" (in other words nonsocialist) only if generated "preponderantly by personal labor." This restriction will be removed.

As per article 62, paragraph 2, ZGB, the legally admissible price is operative if no price or a price higher than legally admissible is agreed. This provision will be replaced as follows: "The price is determined in accordance with the agreements arrived at by the partners. The legal regulations governing state price fixing are not affected." According to the explanation in Appendix III, this is to make sure that price fixing is on principle subject to the freedom of contract.

However, "whenever remunerations are exceptionally fixed by legal regulations, the latter have mandatory effect." Since, according to the state treaty, the GDR will retain the right to control prices when the national economic interest requires it, and this necessity is likely in future to be declared a matter of course, nothing much is going to change in the field of state price policy either.

According to article 448, ZGB, only claims by credit institutions, state enterprises, state organs and facilities as well as socialist cooperatives could be secured by lien. This provision, too, will be amended to the effect that other, non-state creditors will also be able to claim security rights.

The ZGB mortgage law is another provision to be amended. The creation of mortgages will be freed from the obligation to obtain state permission (article 453, paragraph 1, ZGB), and the same applies to the assignment of mortgages (article 454, paragraph 3, ZGB). According to article 454, ZGB, a mortgage may be used only to secure a specific claim (strictly accessory security mortgage). As it appears imperative for the conduct of business relations that the mortgage lien should at least be capable of being used to secure an overdraft, a new article 454a, ZGB, introduces a maximum-sum mortgage.

The above are essentially the ZGB amendments agreed in the state treaty. The extent of the continuing difficulties regarding the establishment of the market economy in the GDR and the obstacles to a legal union, is demonstrated by that which will, among others, remain the law in effect in the GDR:

- According to article 2, ZGB, a GDR judge must still take account of the fact that the civil code is designed to encourage socialist collective relations. "It helps to make prevail the principles of socialist morality—reflecting the ideology of the working class—in the attitude and behavior of the citizens as well as in their mutual relations and their relations with enterprises."

Admittedly, the state treaty stipulates that such "socialism clauses" are to be generally extirpated. Why, though, were they not in fact removed from the ZGB?

Article 10, ZGB, for example, continues to uphold the principle that the rights and duties of enterprises in civil relations are, on the basis of the management and planning of the national economy, determined by their responsibility for the planned supply of the general public as well as for the utilization, growth and protection of socialist property.

In any case, landlord-tenant provisions are not affected at all (see *HANDELSBLATT* of 19 April 1990). According to article 94, ZGB, "the socialist state guarantees the right to housing to each citizen and his family." All housing continues to be subject to state control (article 96, ZGB). The prerequisite for a tenancy agreement is the allocation of housing by the competent authority (article 99, ZGB).

According to article 373, ZGB, a testamentary disposition is null and void if incompatible with the principles of socialist morality. Though this regulation also has been rendered obsolete by the antisocialism clause of the State Treaty, it is bound to perplex the interpreters of the law (mostly SED comrades), because it is still part of the ZGB.

I could continue to list more ambiguities in the State Treaty and its appendices. While such improvisations may just be acceptable with respect to the tax code, because this law serves only the acquisition of state revenues, our all-German future will suffer by the continuing coexistence of a socialist and liberal civil code in

an economic, currency and social union that has not even been conceived as a legal union.

BGB codification took years. The ZGB's adjustment could not be achieved in just a few days. Socialist rudiments remain in that part of the law, which is of the greatest importance for the individual citizen. For that reason alone it would be desirable for the GDR to rapidly accede as per article 23, GG [basic law], and thereby realize the integration of our neighboring state into the unrestricted legal sovereignty of the Federal Republic. Having turned their backs on socialism, GDR citizens are entitled to expect no less, and so are West German citizens and enterprises wishing to participate in the GDR's reconstruction.

HUNGARY

Constitutional Court: Text of Organic Act

90CH0159A Budapest *MAGYAR KOZLONY*
in Hungarian No 77, 30 Oct 89 pp 1283-1298

[“Text” of Law No. XXXII/1989 on the Constitutional Court (passed by the National Assembly on 19 October 1989), and the justice minister's exposition on the draft law]

[Text]

TEXT OF LAW

To develop a rule-of-law state, to protect constitutional order and the basic rights guaranteed by the Constitution, to separate and mutually balance the powers of the individual branches of government, to create a supreme body for constitutional protection—and thereby to implement Section 32/A, Paragraph 6, of the Constitution—the National Assembly hereby enacts the following law:

Chapter I. The Constitutional Court's Jurisdiction

1. The Constitutional Court has jurisdiction:

- a. To prereview the constitutionality of a legislative bill, of a law that has been passed but has not yet been promulgated, of the National Assembly's standing orders, and of particular provisions in international agreements;
- b. To review the constitutionality of a statutory regulation or some other legal instrument of government;
- c. To examine whether a statutory regulation or some other legal instrument of government is in conflict with an international agreement;
- d. To consider complaints of violations of constitutional rights;
- e. To end unconstitutionality that has arisen through omission;

f. To resolve jurisdictional disputes between state organs, between a local government and other state organs, or between local governments mutually;

g. To interpret the Constitution's provisions; and

h. To act in all matters assigned by statute to the Constitutional Court's jurisdiction.

2. The Constitutional Court prepares its own budget and submits it for approval to the National Assembly, as a part of the state budget.

Chapter II. The Constitutional Court's Organization

3. The Constitutional Court has its seat in Esztergom.

4.1. The Constitutional Court is a body comprised of 15 members, including a chief justice and his deputy.

4.2. The members of the Constitutional Court elect from among themselves the chief justice and his deputy, to three-year terms. The chief justice and his deputy may be re-elected, but re-election does not affect their terms of office as members of the Constitutional Court.

5.1. Any Hungarian citizen who is a law-school graduate, has no criminal record, and is over 45 may be elected a member of the Constitutional Court.

5.2. The National Assembly elects the members of the Constitutional Court from among eminent legal scholars, university professors, Academic doctors of political science or law, or from among law-school graduates with at least 20 years of professional experience. The professional experience must have been acquired in positions for which a political-science or law degree is a qualification requirement.

5.3. A person who was a cabinet member or the employee of a political party [at any time] during the four years preceding the election cannot be a member of the Constitutional Court. This also applies to persons who have held a top post in public administration.

6. The candidates for election to the Constitutional Court are proposed by a nominating committee, to which each party caucus in the National Assembly appoints one deputy, and the independent deputies jointly appoint one deputy.

7. The proposed candidates appear for hearings before the National Assembly's Administrative, Legal, and Judicial Committee.

8.1. The National Assembly elects members of the Constitutional Court with due consideration for the Administrative, Legal, and Judicial Committee's recommendations.

8.2. If the National Assembly does not elect the proposed candidates, the nominating committee, pursuant to Section 6, proposes a new list of candidates during the same session of the National Assembly, but not later than within 15 days.

8.3. A member of the Constitutional Court is elected to a nine-year term of office and may be re-elected to a second term.

8.4. A new member of the Constitutional Court must be elected within three months before the expiration of his predecessor's commission. If the National Assembly has been dissolved in the meantime, the election must be held within one month after the newly elected National Assembly's first sitting.

9.1. A member of the Constitutional Court may not be a deputy of the National Assembly or a council member, may not hold office in any other state organ, may not occupy a position of leadership in a special-interest organization, and may not be a member of a political party.

9.2. A member of the Constitutional Court may not engage in political activity other than what stems from the functions assigned to the Constitutional Court's jurisdiction; and he may not make political statements.

9.3. A member of the Constitutional Court may not have any other gainful employment, with the exception of scientific, educational, literary, or artistic activity.

10.1. If any of the personal disqualifications for office pursuant to Section 9 exist when a member of the Constitutional Court is elected, the cause of the disqualification must be removed within 10 days after the election. Until then, the member of the Constitutional Court may not discharge his official duties.

10.2. If the member of the Constitutional Court fails to fulfill within the prescribed time limit his obligation pursuant to Paragraph 1, the full session of the Constitutional Court will render a decision declaring the termination of his membership.

11. When a member of the Constitutional Court is sworn in before the National Assembly, he pledges to unconditionally uphold the Constitution and to discharge his duties conscientiously.

12. The members of the Constitutional Court are independent and render their decisions solely on the basis of the Constitution and the statutes.

13. The chief justice of the Constitutional Court is paid the same salary as the prime minister. The other members of the Constitutional Court, including the deputy chief justice, receive ministerial salaries.

14.1. A member of the Constitutional Court enjoys the same immunity from arrest as a deputy of the National Assembly does.

14.2. Without the consent of the Constitutional Court's full session, a member of the Constitutional Court may not be arrested or prosecuted, and coercive police measures may not be employed against him, except when he has been caught in the act.

14.3. When the Constitutional Court's full session waives a member's immunity from arrest, it also suspends him from discharging his official duties. This suspension may also occur when criminal proceedings have already been instituted against a member of the Constitutional Court who was caught in the act.

14.4. A member of the Constitutional Court cannot be called to account for expressing his opinion or for how he voted in the course of discharging his official duties.

15.1. The commission of a member of the Constitutional Court ceases:

- a. When he reaches the age of 70;
- b. Upon the expiration of his term of office (Section 8, Paragraph 3);
- c. Upon his death;
- d. Upon his resignation;
- e. Upon the declaration of his disqualification for office;
- f. Upon his release from his official duties; or
- g. Upon his impeachment.

15.2. In the case of Paragraph 1, Items a-d, the chief justice of the Constitutional Court establishes and declares the cessation of a member's commission. But the full session of the Constitutional Court decides in the case of Paragraph 1, Items e-g.

15.3. Upon reaching the age of 70, a member of the Constitutional Court retires.

15.4. A member of the Constitutional Court must submit his resignation in writing, to the court's chief justice. The latter is obliged to accept the resignation.

15.5. If a personal disqualification for office (Section 9) arises for a member of the Constitutional Court while he is in office, the cause of the disqualification must be removed. If that does not happen within 10 days after the session of the Constitutional Court establishing the disqualification, the full session renders a decision declaring that the commission of the Constitutional Court's member has ceased. From the Constitutional Court's session establishing the disqualification until the further decision by the Constitutional Court's full session, the member is suspended from discharging his official duties.

15.6. Release from duties may terminate the commission of a member of the Constitutional Court when, through no fault of his own, he is no longer able to discharge his official duties.

15.7. Impeachment may terminate the commission of a member of the Constitutional Court if, through his own fault, he fails to discharge his official duties, if he is found guilty of a felony and his sentence has become final, or if in any other way he has become unworthy of

his office, and therefore the full session of the Constitutional Court impeaches him. The member of the Constitutional Court who for one year has not been participating in its work must be impeached.

16.1. If the commission of a member of the Constitutional Court ceases for the reasons specified in Section 15, Paragraph 1, Items a-b, a new member of the court must be elected in accordance with the provisions of Section 8, Paragraph 4. If the commission ceases for the reasons specified in Section 15, Paragraph 1, Items c-g, the vacancy must be filled within two months.

16.2. The provisions of Sections 5-11 apply to filling the vacancy.

17.1. The chief justice of the Constitutional Court:

- a. Coordinates the activity of the Constitutional Court;
- b. Convenes and presides over the full sessions of the Constitutional Court; c. Represents the Constitutional Court before the National Assembly and other organs; and
- d. Performs the duties assigned to him by statute or by the Constitutional Court's rules of procedure.

17.2. When the chief justice of the Constitutional Court is hindered from discharging his duties, the deputy chief justice substitutes for him.

18.1. The Office of the Constitutional Court handles the court's paperwork and prepares its functions.

18.2. The Constitutional Court's rules of procedure contain provisions regulating the organization and operation of the Office of the Constitutional Court.

Chapter III. Proceedings Before the Constitutional Court

General Procedural Rules

19. Unless the present law or the Constitutional Court's rules of procedure specify otherwise, the provisions of the Code of Civil Procedure on representation by legal counsel, the right to use one's native language, and the disqualification of judges shall apply as appropriate in proceedings before the Constitutional Court.

20. The Constitutional Court acts on the motion of one who is entitled to file a motion.

21.1. In accordance with the distinctions specified in Sections 33-36, the following are entitled to file a motion to institute proceedings pursuant to Section 1, Item a:

- a. The National Assembly, one of its standing committees, or one of its 50 deputies;
- b. The president of the republic; or
- c. The Council of Ministers.

21.2. Anyone may file a motion to institute proceedings pursuant to Section 1, Item b.

21.3. The following may file a motion to institute proceedings pursuant to Section 1, Item c:

- a. The National Assembly, one of its standing committees, or any deputy;
- b. The president of the republic;
- c. The Council of Ministers or one of its members;
- d. The state auditor general;
- e. The chief justice of the Supreme Court; or
- f. The supreme state prosecutor.

21.4. Anyone may file a motion to institute proceedings pursuant to Section 1, Items d-e.

21.5. The organs between which the jurisdictional dispute arises may file a motion to institute proceedings pursuant to Section 1, Item f.

21.6. The following may file a motion to institute proceedings pursuant to Section 1, Item g:

- a. The National Assembly or one of its standing committees;
- b. The president of the republic;
- c. The Council of Ministers or one of its members;
- d. The state auditor general;
- e. The chief justice of the Supreme Court; or
- f. The supreme state prosecutor.

21.7. Proceedings pursuant to Section 1, Items c and e, may also be instituted ex officio.

21.8. Others who are entitled to file motions, besides the ones specified in Paragraphs 1-6, may be authorized by statute to file motions to institute proceedings before the Constitutional Court.

22.1. The written motion to institute proceedings must be filed directly with the Constitutional Court.

22.2. The motion must contain a definite plea, and the reasons on which the plea is based must be stated.

22.3. The same body may file another motion of similar content only if the first plea's underlying reasons have changed significantly.

23.1. The chief justice of the Constitutional Court remits an unauthorized body's motion to the organ entitled to file a motion; he dismisses the obviously unfounded motion.

23.2. The Constitutional Court refers to the competent organ any motion in a case that is not within the court's jurisdiction.

24. Everyone must make available the data that the Constitutional Court requests.

25.1. The Constitutional Court conducts its proceedings either in full session or before benches of three members each.

25.2. The Constitutional Court gathers evidence from the available documents, and by taking the testimony of witnesses and experts when necessary. Other forms and modes of evidence are not admissible in the proceedings.

25.3. The Constitutional Court renders its decisions in closed session, usually by majority vote, except in the cases specified in the court's rules of procedure. The reasons for the decision must be adduced, and a copy of the decision must be served on the body who filed the motion to institute the proceedings.

26. A member of the Constitutional Court is entitled to write a reasoned minority opinion and to attach it to the court records.

27.1. There is no appeal from a decision of the Constitutional Court.

27.2. A decision of the Constitutional Court is binding on everyone.

28.1. Proceedings before the Constitutional Court are exempt from stamp-duty and court costs.

28.2. The Constitutional Court may order the one who filed the motion to pay the court costs if his malice in conjunction with filing the motion to institute proceedings can be established.

29. Detailed provisions regarding the Constitutional Court's organization and procedure are contained in the court's rules of procedure, which the National Assembly enacts, on the Constitutional Court's proposal.

30.1. The Constitutional Court decides in full session the following cases:

- a. Prereview of the constitutionality of the provisions considered questionable in a legislative bill, in a law that has been passed but has not yet been promulgated, or in the National Assembly's standing orders;
- b. Prereview of the constitutionality of the provisions considered questionable in an international agreement;
- c. Review of the constitutionality of a statute;
- d. Examination of a statute's possible conflict with an international agreement;
- e. Interpretation of the Constitution's provisions;
- f. Drafting of the Constitutional Court's rules of procedure;

g. Consent to the arrest and criminal prosecution of, and to the use of coercive police measures against, a member of the Constitutional Court, except when he has been caught in the act;

h. Establishment of the fact that a personal disqualification of a member of the Constitutional Court exists;

i. Establishment of the fact that the commission of a member of the Constitutional Court has ceased because the cause of his disqualification has not been removed;

j. Release of a member of the Constitutional Court from his official duties;

k. Impeachment of a member of the Constitutional Court; and

l. All other cases that the chief justice of the Constitutional Court or three of its members refer to the court's full session.

30.2. The full session of the Constitutional Court comprises all of its members.

30.3. The full session has a quorum when at least 12 of the Constitutional Court's members are present, including the chief justice, or the deputy chief justice when the chief justice is hindered from attending. The chief justice's vote decides a tie vote. If the chief justice is hindered from attending, the provision of Section 17, Paragraph 2, applies.

30.4. The members of the Constitutional Court attend its full sessions and have a vote there. Until the full session of the Constitutional Court goes into closed session, the president of the republic, the prime minister, the speaker of the National Assembly, the chief justice of the Supreme Court, the supreme state prosecutor, the justice minister, and the filer of the motion to institute proceedings may attend the full session and may address the court. Other persons whom the chief justice of the Constitutional Court invites on an ad hoc basis may also attend.

31.1. The three-member benches of the Constitutional Court hear the cases pursuant to Section 1, Items b and c (except when a statute is involved), and the cases pursuant to Section 1, Items d-f.

31.2. The bench has a quorum when all three of its members are present.

31.3. Persons invited by the presiding member of the bench on an ad hoc basis may attend the session of the bench.

32. The Constitutional Court's full session and its three-member benches also hear all other cases that statute or the court's rules of procedure assign to their respective jurisdictions.

Chapter IV. Individual Proceedings

Prereview of Constitutionality

33.1. On the motion of the National Assembly, of one of its standing committees, or one of its 50 deputies, the Constitutional Court prereviews the constitutionality of a legislative bill's provisions that are regarded as questionable.

33.2. If the Constitutional Court finds that the legislative bill's provisions regarded as questionable are indeed unconstitutional, the National Assembly or the organ or person filing the motion remedies the unconstitutionality.

34.1. Before adopting its standing orders, the National Assembly—indicating which provisions it regards as questionable—may send the standing orders to the Constitutional Court for an examination of their compliance with the Constitution.

34.2. If the Constitutional Court finds that the standing orders' provisions regarded as questionable are indeed unconstitutional, the National Assembly remedies the unconstitutionality.

35.1. On the motion of the president of the republic, the Constitutional Court prereviews the constitutionality of the provisions regarded as questionable in a law already passed by the National Assembly but not yet promulgated.

35.2. If the Constitutional Court finds that the provisions regarded as questionable are indeed unconstitutional, the president of the republic may not promulgate the law until the National Assembly has remedied the unconstitutionality.

36.1. Before the ratification of an international agreement, the National Assembly, the president of the republic, or the Council of Ministers may request a prereview of the constitutionality of an agreement's provisions that are regarded as questionable.

36.2. If the Constitutional Court finds that the international agreement's provisions regarded as questionable are indeed unconstitutional, the agreement cannot be ratified until the organ or person concluding it has remedied the unconstitutionality.

Review of Constitutionality

37. A motion to review the constitutionality of a statutory regulation or other legal instrument of government must contain a plea to declare null and void all or a part of the statutory regulation or other legal instrument of government.

38.1. Suspending his own proceedings, a judge may file a motion to institute proceedings before the Constitutional Court if, in deciding the case before him, it is

necessary to apply a statutory regulation or other legal instrument of government that the judge believes to be unconstitutional.

38.2. A party to a pending case may petition the judge to act in accordance with Paragraph 1 if, in the said party's opinion, the statutory regulation that is to be applied is unconstitutional.

39. If a state prosecutor—under his general authority to oversee legality—issues a protest against a statutory regulation of lower order than a decree of the Council of Ministers, or against some other legal instrument of government, and the organ issuing the regulation or legal instrument does not agree with the protest, the organ in question submits the protest to the Constitutional Court for its decision and informs the prosecutor of this, together with the reasons for the submission.

40. If the Constitutional Court finds that the statutory regulation or other legal instrument of government is unconstitutional, it declares null and void all or a part of the statutory regulation or other legal instrument of government.

41. The Constitutional Court publishes its annulling decision in MAGYAR KOZLONY, respectively in the official gazette in which the other legal instrument of government was originally published.

42.1. In the case of Section 40, the statutory regulation or its provision ceases to be in force, and the other legal instrument of government or its provision qualifies as rescinded, as of the day on which the decision is published.

42.2. If a statutory regulation already promulgated but not yet in force is found to be unconstitutional, it will not go into force.

43.1. The statutory regulation or other legal instrument of government that the Constitutional Court has declared null and void may not be applied, from the day on which the Constitutional Court's decision appears in the official gazette.

43.2. Except in the case of Paragraph 3, the annulment of a statutory regulation or other legal instrument of government affects neither the validity of the legal relationships established before the publication of the decision, nor the rights and obligations stemming from such relationships.

43.3. The Constitutional Court orders the reopening of a criminal case that has been closed by a final judicial decision based on the unconstitutional statutory regulation or other legal instrument of government, if the convicted person is not yet free of the disadvantageous consequences of his sentence, and it follows from the annulment of the provision applied in the proceedings that the sentence or punitive measure has to be reduced or waived, or that the convicted person has to be acquitted or his responsibility diminished.

43.4. For reasons of legal security or if the especially important interests of the mover of the proceedings so warrant, the Constitutional Court may depart from the dates specified in Section 42, Paragraph 1, and Section 43, Paragraphs 1 and 2, in specifying when the unconstitutional statutory regulation ceases to be in effect or how it should apply in the given case.

Examination of Possible Conflict With an International Agreement

44. The Constitutional Court examines, ex officio or on the motion of the organs or persons specified in Article 21, Paragraph 3, whether a statutory regulation or other legal instrument of government is in conflict with an international agreement.

45.1. If the Constitutional Court finds that a statutory regulation of the same or lower order than the one promulgating the international agreement, or some other legal instrument of government, is in conflict with the international agreement, then it declares null and void all or a part of the statutory regulation or other legal instrument of government that conflicts with the international agreement.

45.2. The provisions of Sections 41-43 apply to the publication of the court's annulling decision and to the consequences of the annulment.

46.1. If the Constitutional Court finds that a statutory regulation of a higher order than the one promulgating the international agreement conflicts with the agreement, it calls upon the organ or person concluding the agreement to resolve the conflict; with due consideration for the circumstances; it also sets a time limit for the resolution of the conflict.

46.2. The organ or person called upon to resolve the conflict specified in Paragraph 1 must fulfill its/his duty within the set time limit.

47.1. If the Constitutional Court finds that a legislative organ has neglected its duty stemming from an international agreement, it calls upon the remiss organ to fulfill its duty, and it also sets a time limit for the organ to do so.

47.2. The remiss organ must fulfill its legislative duty within the specified time limit.

Complaint of a Violation of Constitutional Rights

48.1. Anyone whose rights guaranteed by the Constitution have been violated as a result of applying an unconstitutional statutory regulation may file a complaint of a violation of his constitutional rights, provided he has exhausted all legal remedies or none were available to him.

48.2. The complaint of a violation of constitutional rights must be filed in writing, within 60 days from the serving of the [injurious] final decision.

48.3. The provisions of Sections 40-43 apply to the proceedings of the Constitutional Court.

Unconstitutionality Manifest in Omission

49.1. When the Constitutional Court establishes, either ex officio or on anyone's motion, that a legislative organ has neglected its legislative duty under authority delegated to it by statute, the court calls upon the remiss organ to fulfill its duty and sets a time limit for it to do so.

49.2. The remiss organ must fulfill its duty within the specified time limit.

Jurisdictional Disputes

50.1. When a jurisdictional dispute arises between state organs other than the courts, between local governments, or between a local government and a state organ other than a court, the organs in question may file a motion with the Constitutional Court to resolve the dispute.

50.2. Without hearing the one who filed the motion, the Constitutional Court decides which organ has jurisdiction in the given case and identifies who must take action in it.

Interpretation of the Constitution's Provisions

51.1. On the motion of one of the organs or persons specified in Section 21, Paragraph 6, the Constitutional Court interprets specific provisions of the Constitution.

51.2. The Constitutional Court publishes its interpreting decision in MAGYAR KOZLONY.

Chapter V. Final Provisions

52.1. The present law becomes effective the day of its promulgation.

52.2. The Constitutional Court will begin to function as of 1 January 1990.

53.1. At the time of establishing the Constitutional Court, the National Assembly will elect for the time being only five members of the Constitutional Court. The elected members will elect from among themselves the court's deputy chief justice.

53.2. Before the present law becomes effective, the nominating committee specified in Section 6 will present to the National Committee a list of candidates for election as members of the Constitutional Court.

53.3. Until all the members of the Constitutional Court are elected, the Constitutional Court will also hear the cases over which its full session has jurisdiction, and the deputy chief justice will discharge the functions of the chief justice until one is elected.

53.4. In the cases in which the full session of the Constitutional Court has jurisdiction, the temporarily five-member Constitutional Court will have a quorum

when at least four of its members are present. The deputy chief justice's vote decides a tie vote.

54.1. After the next parliamentary elections, the new National Assembly will elect, within two months of its first sitting, another five members of the Constitutional Court. The ten elected members in their turn will elect from among themselves the chief justice of the Constitutional Court.

54.2. In the cases in which the full session of the Constitutional Court has jurisdiction, the temporarily ten-member Constitutional Court will have a quorum when at least eight of its members are present, including the chief justice, or his deputy if the former is hindered from attending. The provisions of Section 30, Paragraph 3, apply to deciding a tie vote.

55. The provisions of Section 5, Paragraph 3, do not apply to electing the first ten members of the Constitutional Court.

56. The National Assembly will elect the remaining five members of the Constitutional Court in the fifth year following the court's establishment.

57. The present law does not affect the state prosecutors' rights and obligations, as defined in Chapter V of Law No. V/1972 on the State Prosecutors of the Hungarian People's Republic (hereinafter: the Law on State Prosecutors).

58.1. Law No. I/1984 on the Constitutional Council will be rescinded when the present law becomes effective.

58.2. The motions and complaints filed with the Constitutional Council, and still pending when the present law becomes effective, will be decided by the Constitutional Court.

59.1. The following provisions replace Section 13, Paragraph 1, of the Law on State Prosecutors:

"1. General oversight of legality covers: the statutory regulations and other legal instruments of government issued by the organs of state administration lower than the Council of Ministers or by the councils; the generally binding orders of the aforementioned organs; and their particular decisions in the course of law enforcement. Furthermore, it covers the particular decisions of nonjudicial organs that arbitrate disputes, and the particular decisions of economic and other organs in cases involving employment or membership of a cooperative. Finally, it also covers generally applicable measures issued under authority delegated by statutory regulations."

2. The following Item a is hereby added to Section 13, Paragraph 2, and simultaneously the lettering of Items a-e changes to b-f:

"a. [The state prosecutor] May file a protest against a statutory regulation or other legal instrument of government that conflicts with the Constitution or with a higher-order statutory regulation."

3. In the Law on State Prosecutors, the following Section 13/A is hereby added after the heading "The Protest":

"13/A.1. If the state prosecutor establishes that a statutory regulation or other legal instrument of government, issued by an organ over which he exercises oversight of legality, is in conflict with the Constitution or with a higher-order statutory regulation, he may file a protest with the organ in question, in the interest of resolving the conflict.

"13/A.2. The organ is obliged to study the protest within 30 days. If it finds that the protest is valid, it rescinds, withdraws, or amends the statutory regulation or other legal instrument of government, and informs the state prosecutor of this.

"13/A.3. If the organ does not agree with the protest, it must submit the protest, within eight days of having studied it, to the Constitutional Court for its decision, and must inform the state prosecutor of this."

4. Section 14, Paragraph 2, of the Law on State Prosecutors and, in the same law, the passages "within 30 days in the cases specified in Section 14, Paragraph 2" in Section 15, Paragraph 1, and "furthermore, the ordinances of county councils (or Budapest Municipal Council)" in Section 15, Paragraph 4, are hereby rescinded.

[Signed] Dr. Matyas Szuros, acting president of the republic

Dr. Fodor Istvan, deputy speaker of the National Assembly

JUSTICE MINISTER'S EXPOSITION

General Exposition

1. Constitutional protection can be solved in various forms: through the National Assembly, through its organs, through the regular courts, or through a court created especially for that purpose. A special instrument for constitutional protection is a constitutional court that ensures the separation and mutual balance of the powers of the individual branches of government, by examining the constitutionality of legal norms and by protecting basic constitutional rights; at the same time, because of the limits on its authority, it does not violate Parliament's supremacy.

The demand for constitutional courts in Europe after World War II stemmed from the realization that, in the absence of suitable constitutional safeguards, any form of government, even if based formally on the majority's will, has the potential to develop into a dictatorship. The creation of a rule-of-law state, the protection of constitutional order and basic rights, and the separation and mutual balance of the powers of the individual branches

of government make the introduction of a Constitutional Court in Hungary especially timely.

The Constitutional Court is able to fulfill its functions if, as the supreme organ of constitutional protection, it is not a part of the traditional judicial system but functions as an independent body, with its own budget and with its members elected by the National Assembly.

2. As a special organ of constitutional protection, since 1984 we have had a Constitutional Council, which has the authority only to review the constitutionality of legal norms. In the course of this body's activity, its work has been deservedly criticized on several counts. Due in part to its limited authority (for instance, the Constitutional Council does not have the authority to review the constitutionality of a statute enacted by the National Assembly), to the relatively narrow circle of organs or persons authorized to file motions for instituting proceedings before it, and to the social and political conditions that influence the work of this body, the Constitutional Council has not been able to fulfill even its one function entirely. In the interest of protecting constitutionality as effectively as possible, and of separating and mutually balancing the powers of the individual branches of government, it has become necessary to establish the Constitutional Court, with much broader authority than that of the Constitutional Council.

By enacting Law No. I/1989 on Amending the Constitution, the National Assembly has already adopted the basic constitutional provisions regarding the Constitutional Court's organization and functions. The present draft law on the Constitutional Court (hereinafter: the draft law) serves to implement those provisions.

3. The draft law defines the Constitutional Court's jurisdiction, and its organization and procedures. It does not go into the details of the court's organization, and especially its procedures, leaving the regulation of those questions to the Constitutional Court's rules of procedure that will also be enacted.

As the supreme organ of constitutional protection, the Constitutional Court performs all the functions that the draft law or other statutes (for example, the Law on Referendums and Popular Initiatives) assign to its jurisdiction. The draft law does not enumerate all the functions of the Constitutional Court, naming only the ones not regulated by other statutes. Accordingly, the draft law contains substantive and procedural rules only for these named functions.

To fulfill its functions completely, the Constitutional Court must be independent and free of influence. The draft law wishes to achieve this by regulating the Constitutional Court's budget, the immunity of its members from arrest, their personal and activity-related disqualifications, and also by specifying that the members of the Constitutional Court render their decisions solely on the basis of the Constitution and the statutes.

By prescribing the qualificational requirements for members of the Constitutional Court and regulating the disqualifications for candidates, and also by requiring the candidates to appear at hearings before the National Assembly's committee, the draft law ensures that the members of the Constitutional Court are elected only from among eminent legal scholars or from among law-school graduates with several decades of practical experience.

By establishing the Constitutional Court, the draft law is not creating a supercenter of power. On the principle of the separation of powers, and of checks and balances, the Constitutional Court is intended to play the role of the "pointer on the scales."

The draft law's Final Provisions specify, among other things, the date as of which the Constitutional Court will begin to function, and they also contain transitional provisions. According to these provisions, the National Assembly will elect for the time being only five members of the Constitutional Court when it is established, thereby giving the new National Assembly, different in its composition, an opportunity to elect another five members. The remaining five members will be elected in the fifth year following the establishment of the Constitutional Court.

The draft law was on the agenda of the the trilateral policy-coordinating talks that began on 13 June 1989. The representatives of the three sides in the talks (the Hungarian Socialist Workers Party, the organizations belonging to the Opposition Roundtable, and the organizations and movements that made up the Third Negotiating Side) agreed on the need to establish the Constitutional Court as soon as possible, and on submitting to the National Assembly the draft law, which the three sides accepted by consensus.

Detailed Exposition

Chapter I. The Constitutional Court's Jurisdiction

Ad. 1. As the supreme organ of constitutional protection, the Constitutional Court has limited jurisdiction to prereview, but broad jurisdiction to review, the constitutionality of legal norms. It also has jurisdiction to examine possible conflicts with international agreements, to consider complaints of violations of constitutional rights, to end unconstitutionality arising through omission, to resolve jurisdictional disputes between the organs specified in the draft law, and to interpret the Constitution's provisions.

However, this listing of functions within the Constitutional Court's jurisdiction is incomplete: The court's jurisdiction is much broader, but the draft law does not name those functions of the court that are regulated in other statutes. There is merely a reference to such functions in Section I, Item h.

The Constitutional Court's individual functions that the draft law lists are regulated in greater detail in Chapter IV of the draft law.

Ad. 2. An important guarantee of the Constitutional Court's independence and freedom from influence is that the court itself, rather than the government, prepares the court's budget and submits it for approval to the National Assembly, as a part of the state budget. However, the National Assembly is not bound by the court's proposed budget and may change it in the course of approving the state budget.

Chapter II. The Constitutional Court's Organization

Ad. 3. Taking historical and constitutional traditions into account, and in the interest of lessening the concentration of power in Budapest, the draft law designates Esztergom as the seat of the Constitutional Court.

Ad. 4. According to the draft law, the Constitutional Court is a body comprised of 15 members. The fact that the members appoint from among themselves the officers (the chief justice and the deputy chief justice) of the Constitutional Court, instead of having an outside organ appoint them, also serves to ensure the court's independence and freedom from influence. Election to these offices is only for three-year terms, and not for the given members' terms of office on the Constitutional Court. But the draft law does not bar the re-election of, say, the chief justice, or perhaps even his repeated re-elections, if he has been discharging his duties to everyone's satisfaction.

Ad. 5-6. The purpose of setting the qualificational requirements that one must meet to become a member of the Constitutional Court is to ensure that the members of the court are elected only from among persons worthy of the office, both professionally and as individuals. Therefore the draft law also sets professional qualificational requirements, in addition to such general requirements as, for instance, a law-school degree, no criminal record, Hungarian citizenship, and over 45 years of age. Accordingly, the draft law specifies that the members of the Constitutional Court must be elected from among eminent legal scholars, or from among law-school graduates with at least 20 years of professional experience. There are also further restrictions: By eminent legal scholars the draft law means only university professors and Academic doctors of law or political science, and the 20 years of professional experience must have been acquired in positions for which a political science or law degree is a qualificational requirement.

Another of the draft law's provisions that serve to ensure the impartiality and independence of the Constitutional Court's members is that any persons who was a cabinet member or the employee of a political party, or who has held a top post in public administration (as a state secretary or deputy minister, for instance), at any time during the four years preceding the election is disqualified from being elected a member of the Constitutional

Court. Hence it follows that membership of a party is not a disqualification for election.

A nominating committee consisting of deputies of the National Assembly has the authority to propose candidates for election to the Constitutional Court. The members of the nominating committee are appointed by the party caucuses and the independent deputies in the National Assembly. The draft law does not specify the number of deputies on the nominating committee, because that can change in accordance with the shifts in the balance of political power. This composition of the nominating committee ensures the reconciliation of interests when drawing up the list of candidates. This is important because a seat on the Constitutional Court, although primarily a professional position, is also a political position.

The nominating committee proposes only as many candidates as there are seats to be filled on the Constitutional Court.

Ad. 7-8. In accordance with the newly established practice, the candidates proposed by the nominating committee appear before the National Assembly's Administrative, Legal, and Judicial Committee. At the hearings before this committee, deputies may address questions to the proposed candidates. The Administrative, Legal, and Judicial Committee does not have the right to veto the nominating committee's proposal: After the hearings it must submit the names of all the proposed candidates to a vote by the National Assembly.

When electing members of the Constitutional Court, the National Assembly takes the Administrative, Legal, and Judicial Committee's recommendations into consideration, but the recommendations are not binding on the National Assembly's decision. If the National Assembly does not elect all the candidates, the nominating committee must propose a new list of candidates during the same session of the National Assembly, but not later than within 15 days.

If elected, members of the Constitutional Court serve fixed nine-year terms. A member of the Constitutional Court may be re-elected only once. This solution suitably ensures application of the principle of rotation and also prevents the power structure from becoming rigid.

To ensure the Constitutional Court's smooth and continuous operation, a new member of the court must be elected within three months before the expiration of his predecessor's commission. If the National Assembly has been dissolved in the meantime, the election must be held within one month after the newly elected National Assembly's first sitting.

Ad. 9. To ensure the Constitutional Court's independence and freedom from influence, the draft law specifies the personal and activity-related disqualifications from office for the court's members. Thus, a member of the Constitutional Court may not be a deputy of the National Assembly or a council member, may not hold

office in any other state organ, may not occupy a position of leadership in a special-interest organization, and may not be a member of a political party. Hence, except as specified above, a member of the Constitutional Court may ordinarily be a member, or even an officer, of a voluntary association. Of course, the draft law's provisions regarding disqualifications from office do not mean that a person being considered for nomination as a candidate for election to the Constitutional Court must be free of disqualifications for office at the time of his nomination. Anyone who meets the requirements specified in Section 5 can be considered for nomination, even if at the time of his nomination he happens to be, say, a deputy of the National Assembly or a high government official. Not even a candidate has to remove the cause of his disqualification from office: After all, the disqualifications apply only to actual members of the Constitutional Court. Because it is not certain that the National Assembly will elect the candidate, he cannot be placed in a situation that would force him to give up a secure livelihood for something uncertain. The obligation to remove the causes for disqualification from office arises only when the National Assembly elects a member of the Constitutional Court. In other words, the disqualifications that the draft law specifies in this section apply only to already elected members of the Constitutional Court.

A member of the Constitutional Court may engage in activity of a political nature, provided the activity stems from a function assigned to the court's jurisdiction. But outside these functions, specifically to avoid any doubt as to whether they are being discharged properly and impartially, the member of the Constitutional Court may not engage in political activity and may not make political statements. Naturally, he may also exercise his fundamental human and civil rights: For instance, he may vote, but he may not participate in an election campaign, express an official opinion on political issues, etc.

Any other gainful employment—with the exception of scientific, educational, literary, or artistic activity—is also incompatible with being a member of the Constitutional Court.

Ad. 10. Since the disqualifications from office apply only to members of the Constitutional Court, a member for whom a personal disqualification from office exists at the time of his election to the Constitutional Court must remove the cause of his disqualification within 10 days after his election. Until then, he may not participate in the work of the Constitutional Court.

After his election, a member of the Constitutional Court might do nothing to remove the cause of his disqualification. In that case, once the 10 days have elapsed unsuccessfully, the full session of the Constitutional Court renders a decision declaring the termination of the member's commission.

Ad. 11-14. Like other state leaders, a member of the Constitutional Court is sworn in before the National Assembly when he is elected. In his oath he pledges to unconditionally uphold the Constitution and to discharge his duties conscientiously. The text of the oath is contained in the Constitutional Court's rules of procedure. Also by taking this oath, the member of the constitutional court undertakes to perform his duties independently, and to base his decisions solely on the Constitution and the statutes. The term "statutes" must be interpreted to mean all statutory regulations that are in force and not in conflict with the Constitution.

Since any other gainful employment—with the exception of the activities mentioned earlier—is incompatible with being a member of the Constitutional Court, the members of the court must be given sufficient material recognition to ensure their financial independence. According to the draft law, therefore, the chief justice of the Constitutional Court will be paid the same salary as the prime minister; and the other members of the court, including the deputy chief justice, will receive ministerial salaries. Which also means that the members of the Constitutional Court will be entitled to the perquisites that various statutory regulations provide for ministers, but which are not closely tied to membership in the Council of Ministers (diplomatic passports and use of the departure lounge reserved for the government, for instance).

The provision granting members of the Constitutional Court the same immunity from arrest that the deputies of the National Assembly enjoy also serves to ensure the independence of the court's members. The only difference between deputies and the court's members in terms of their immunity from arrest is that the National Assembly has the authority to waive a deputy's immunity, but only the full session of the Constitutional Court may waive the immunity of one of its members. This provision is intended to rule out dependence upon the National Assembly in this respect.

The draft law suspends a member of the Constitutional Court from discharging his duties when his immunity from arrest has been waived. The member is also suspended when criminal proceedings have been instituted against him on the basis of his being caught in the act of committing a serious crime.

As a safeguard, the draft law also specifies that a member of the Constitutional Court cannot be called to account for expressing his opinion or for how he voted in the course of discharging his official duties and in proceedings before the court.

Ad. 15-16. Besides the commencement of their commissions, one of the most essential questions concerning the Constitutional Court's members is the cessation of their commissions. The draft law enumerates the reasons why the commission of a member of the Constitutional Court ceases.

The most common and most natural reason why the commission of a member of the Constitutional Court ceases is the expiration of his nine-year term of office. In all the other instances of cessation, the member of the Constitutional Court does not serve his full term. This also applies in the case of Paragraph 1, Item a: a member of the Constitutional Court must retire when he reaches 70, regardless of how much he has been able to serve of the nine-year term to which he was elected.

A member of the Constitutional Court may have a disqualification for office not only when he is elected: A disqualification may also arise later, while he is in office. In that case he has 10 days within which to remove the cause of his disqualification. If he fails to fulfill this obligation within the specified time limit, the full session of the Constitutional Court renders a decision establishing that the commission of the Constitutional Court's member has ceased. As a safeguard, incidentally, the member is suspended from discharging his official duties when it is established that a cause for his disqualification has arisen.

To ensure the Constitutional Court's continuous operation and the presence of its required quorum, especially for a full session, the members of the Constitutional Court must participate regularly in its work. It may happen, nevertheless, that a member of the Constitutional Court fails by his absence to discharge the duties of his commission. From the viewpoint of the consequences, however, the draft law makes a distinction between a member who fails to discharge his duties through his own fault, and one who fails to do so through no fault of his own.

If a member of the Constitutional Court is no longer able to discharge his official duties (due to illness, for instance), his commission may be terminated by releasing him from his duties, with due consideration for all the circumstances in the given case.

But if a member of the Constitutional Court fails to discharge his official duties through his own fault (if he goes abroad for several years on a foreign fellowship, for instance), if he has been found guilty of a felony and his sentence has become final, or if in some other way he has become unworthy of his office, the full session of the Constitutional Court may impeach him. (According to Section 11, Paragraph 2, of the Criminal Code, a felony is a willful criminal act punishable by a sentence more severe than two years of imprisonment.) Becoming unworthy of office includes attributable conduct (alcoholism or drug addiction, for instance) that makes the member of the Constitutional Court unfit for office.

The draft law also specifies one case of mandatory impeachment: The member of the Constitutional Court who for one year has not been participating in its work must be impeached.

The draft law also provides for filling the vacancies that arise before the members of the Constitutional Court have served their full terms.

Ad. 17-18. Within the Constitutional Court's organization, the chief justice and the Office of the Constitutional Court have special functions.

The chief justice participates in deciding cases before the Constitutional Court only in its full sessions. Otherwise his duties, besides representing the Constitutional Court, are mainly administrative ones.

The small staff of the Office of the Constitutional Court assists the court in its work, by handling its paperwork and preparing its functions.

Chapter III. Proceedings Before the Constitutional Court

General Procedural Rules

Ad. 19. In order to function, the Constitutional Court requires special procedural rules, most of which will be regulated in the court's rules of procedure. But the draft law itself contains certain procedural rules, and on some questions—while allowing departures by statute or in the court's rules of procedure—it also specifies the application, as appropriate, of the provisions of the Code of Civil Procedure.

Ad. 20-21. The Constitutional Court generally acts on the motion of an organ or person authorized to file a motion to institute proceedings. Exceptionally, in a narrow circle of cases, the court may also act *ex officio*.

The draft law enumerates, separately for each function within the Constitutional Court's jurisdiction, those who are authorized to file a motion to institute proceedings. The circle of those authorized to file motions is the narrowest in the case of instituting proceedings to pre-review the constitutionality of a legal norm. But anyone may file a motion to institute proceedings to review the constitutionality of a legal norm, to end unconstitutionality that has arisen through omission, or—if the conditions specified in the draft law are met—to consider a complaint of a violation of a constitutional right. Very broad is the circle of those who may file a motion for proceedings to examine whether a conflict with an international agreement exists; it includes primarily the central government organs or their heads. The organs involved in a jurisdictional dispute may file a motion for proceedings to resolve the dispute.

Naturally, in those cases when not everyone is authorized to file a motion to institute proceedings before the Constitutional Court, anyone may turn to one who is authorized to file a motion with the request that the latter file a motion to institute proceedings.

Exceptionally, the Constitutional Court may also institute proceedings *ex officio*, because it too may notice that a statutory regulation or other legal instrument of government is in conflict with an international agreement, or that an unconstitutionality has arisen through omission.

Since the draft law does not enumerate or name all the functions within the Constitutional Court's jurisdiction, it likewise does not name all those who are authorized to file motions to institute proceedings; it merely refers to other possible ones.

Ad. 22-23. The draft law specifies the manner in which a motion must be filed and what it must contain. The same body may file another motion of similar content only if the reasons on which his previous motion's plea was based have changed significantly. For instance, it is possible to repeatedly challenge the constitutionality of a statutory regulation, and to repeatedly file motions to institute proceedings to review its constitutionality, if the statutory regulation has been amended in the meantime.

The draft law also contains provisions regarding the disposition of motions that are obviously unfounded, and of motions in cases that are not within the Constitutional Court's jurisdiction.

Ad. 24-26. The Constitutional Court conducts its proceedings either in full session or before benches of three members each, without special forms and modes of evidence, usually on the basis of the available documents and data. Therefore the draft law prescribes that everyone is under obligation to make available the data that the Constitutional Court requests. The only exceptions to this obligation are data classified as state or official secrets, unless the person concerned has been authorized to disclose the official secret.

No matter how great their professional erudition, the Constitutional Court's members cannot be expected to be well versed in every branch of the law and experienced in all legal questions. When considering certain questions, therefore, it will be standard practice for the court to seek the assistance of experts if necessary.

The Constitutional Court renders its decision in closed session—i.e., *in camera*—by majority vote. The decision is served on the one who filed the motion to institute the proceedings.

Ad. 27. A decision of the Constitutional Court is final. Consequently, there is no appeal of its decision. After its publication, the decision is binding on everyone.

Ad. 28. Proceedings before the Constitutional Court are intended to protect the Constitution and the basic rights it guarantees, rather than to decide personal legal disputes. Therefore the proceedings are exempt from stamp-duty and court costs.

But the Constitutional Court may nevertheless order the one that filed the motion to pay the court costs when his malice in filing the motion to institute proceedings can be established (for instance, when he files repeated motions that are similar in their content, although the reasons on which the pleas in his motions are based have not changed at all).

Ad. 29. As already mentioned, the draft law does not intend to regulate all the provisions regarding the Constitutional Court's organization and procedures: It leaves the complete regulation of all such details to the Constitutional Court's rules of procedure. The court's full session drafts the rules of procedure, which the National Assembly then enacts.

Ad. 30-32. The Constitutional Court hears cases either in full session or before benches of three members each. The draft law enumerates the cases over which the full session and the three-member benches, respectively, have jurisdiction. At the same time, the draft law reserves the possibility that statutes or the court's rules of procedure may assign additional cases to the jurisdiction of the court's full session or of its benches.

The Constitutional Court's full session has jurisdiction over most cases, the ones that involve the more important functions of the court. The full session has a quorum when 12 of the court's members are present. The three-member benches decide the more simple cases.

In addition to the members of the Constitutional Court, the persons specified in the draft law, or those who have been invited, may also attend the proceedings before the full session or a three-member bench, until the full session or the three-member bench goes into closed session for its deliberations.

Chapter IV. Individual Proceedings

Prereview of Constitutionality

Ad. 33-36. One of the most important functions of the Constitutional Court is to examine the constitutionality of legal norms. The court discharges this function usually by reviewing the constitutionality of legal norms or, exceptionally and within a limited scope, by prereviewing the legal norms' provisions whose constitutionality is regarded as questionable by those who are authorized to file motions to institute proceedings.

On the motion of the persons or organs specified in the law, the Constitutional Court may exercise its function of prereviewing the constitutionality of provisions regarded as questionable in a draft law, in the standing orders of the National Assembly, in a law already passed by the National Assembly but not yet promulgated, or in an international agreement not yet ratified.

It follows from the principle of the separation of powers that the Constitutional Court's decision establishing that a provision regarded as questionable is indeed unconstitutional is also binding on the National Assembly. The National Assembly can remedy the unconstitutionality in two ways: either by amending and passing, in accordance with the court's decision, the legislative bill, the standing orders, or the law that the president of the republic sent back to the National Assembly before the law's promulgation; or by amending the Constitution.

The president of the republic must promulgate the law that the National Assembly has passed the second time in this manner.

The situation is different when the Constitutional Court establishes that certain provisions of an international agreement awaiting ratification are unconstitutional: The agreement cannot be ratified until the organ or person concluding the agreement has remedied the unconstitutionality. In some instances this will probably take a considerable length of time, because international agreements can be bilateral or multilateral, and the consent of all the parties must be obtained to modify the agreement.

Review of Constitutionality

Ad. 37. The review of constitutionality will be one of the most common functions of the Constitutional Court. A motion may be filed with the Court for a review of constitutionality and, accordingly, for declaring null and void all or a part of a statutory regulation or other legal instrument of government.

According to Law No. XI/1987 on Legislation, the categories of statutory regulations and other legal instruments of government do not include the Supreme Court's principles, landmark decisions, standpoints, and guidelines. Therefore the Constitutional Court does not have the authority to review their constitutionality.

Ad. 38. A judge may also file a motion to institute proceedings before the Constitutional Court for a review of constitutionality, and he must do so if he finds that an unconstitutional statutory regulation or other legal instrument of government will have to be applied in deciding a case before him. In this case the judge must suspend his own proceedings and file a motion to institute proceedings before the Constitutional Court.

The judge might not notice the unconstitutionality. Therefore the draft law allows anyone, in whose opinion the statutory regulation to be applied in the given case is unconstitutional, to petition the judge to file a motion for a review of the statutory regulation's constitutionality. The judge is not bound by the petition. But if he is in agreement with the contents of the petition, he must act as specified above.

Ad. 39. Under his general authority to oversee legality pursuant to Sections 14-15 of the Law No. V/1972 on State Prosecutors, the state prosecutor watches over the legality of the issued legal norms and thereby has a certain Constitution-protecting function as well. Thus, if it comes to the state prosecutor's attention that a statutory regulation of lower order than a decree of the Council of Ministers, or some other legal instrument of government, violates legality, in order to remedy the violation he may file a protest with the organ that issued the given legal norm. If the issuing organ does not agree

with the protest, it submits the protest to the Constitutional Court for its decision and informs the state prosecutor of this, together with the reasons for submitting the protest.

Incidentally, the draft law grants the supreme state prosecutor a direct right to file a motion to institute proceedings before the Constitutional Court for a review of constitutionality.

Ad. 40-41. The Constitutional Court has very broad powers to end the unconstitutionality of a statutory regulation or other legal instrument of government: It can declare null and void all or a part of the statutory regulation or other legal instrument of government that it finds to be unconstitutional.

If the unconstitutionality of the statutory regulation or other legal instrument of government cannot be remedied by declaring the offending provision null and void, and instead the issuance of a new statutory regulation or other legal instrument of government is warranted, then the Constitutional Court declares null and void the entire statutory regulation or other legal instrument of government. But if the unconstitutionality exists only in conjunction with certain provisions whose annulment will not essentially affect the practical application of the statutory regulation or other legal instrument of government, the Constitutional Court declares only those provisions null and void.

The fact that the Constitutional Court publishes its annulling decision in *MAGYAR KOZLONY*, respectively in the official gazette in which the other legal instrument of government was originally published, guarantees the assertion of the court's Constitution-protecting function. Publication of the court's decision is also very important from the viewpoint of prevention.

Ad. 42-43. If the Constitutional Court renders an annulling decision in order to end the unconstitutionality, the unconstitutional statutory regulation or its provision ceases to be in force, and the unconstitutional other legal instrument of government or its provision qualifies as rescinded, as of the day on which the annulling decision was published.

If the Constitutional Court declares unconstitutional a statutory regulation that has already been promulgated but is not yet in force, the given statutory regulation will not go into force, regardless of the date set for it to go into force.

The consequence of publishing the Constitutional Court's annulling decision is that the given statutory regulation or other legal instrument of government cannot be applied as of the day the decision was published.

An annulment may be effective either *ex tunc*—i.e., retroactively to the day the unconstitutional statutory regulation went into force—or *ex nunc*, from the day the annulling decision is published.

According to the draft law, a declaration of unconstitutionality and the resulting annulment affect—except in one case—neither the validity of the legal relationships established before the publication of the decision, nor the rights and obligations stemming from such relationships. Thus the draft law abandons the principle of *ex tunc* unconstitutionality, because then all transactions based on the unconstitutional statutory regulation—and the number of such transactions could reach several tens of thousands—would have to be reviewed. That would be impossible to do in practice, and such a solution could also prejudice rights acquired in good faith. As a general rule, therefore, the draft law accepts the principle of declaring a statutory regulation unconstitutional *ex nunc*.

An exception to the above general rule arises when from declaring a statutory regulation unconstitutional, retroactively to the day it went into force, it follows that the sentence of, or the punitive measure against, a person convicted in a criminal case closed by a final judicial decision has to be reduced or waived, or that the convicted person has to be acquitted or his responsibility diminished. In this instance the Constitutional Court must order the reopening of the criminal case that has been closed by a final judicial decision based on an unconstitutional statutory regulation or other legal instrument of government. Besides the more lenient consideration of the case, a prerequisite for reopening it is also that the convicted person must still be under the disadvantageous consequences of his sentence.

In addition to the case mentioned above, exceptionally it may be warranted to keep the unconstitutional statutory regulation in force for a relatively short time after the Constitutional Court renders its decision, until the organ issuing the statutory regulation remedies its unconstitutionality. Otherwise a legal vacuum might arise that could have consequences far more serious than those of the unconstitutional statutory regulation's continuing application.

Furthermore, it may be warranted to annul an unconstitutional provision retroactively to the day it went into force, or as of a date preceding the Constitutional Court's decision, either with general validity or with validity in a particular case. This must be decided on the basis of the injury, its consequences, its financial repercussions, and its effect upon the rights of the mover of the proceedings. The draft law makes such solutions possible.

Examination of Possible Conflict With an International Agreement

Ad. 44-47. The draft law makes proceedings before the Constitutional Court possible not only in cases of unconstitutionality in the stricter sense, but also when a statutory regulation or other legal instrument of government conflicts with an international agreement.

Conflict with an international agreement may arise in two ways: Either a statutory regulation that is in force

and some other legal instrument of government respectively conflict with an international agreement that has been promulgated and is therefore a part of the domestic legal system; or a legislative duty stemming from an international agreement has been neglected.

If the Constitutional Court finds that a statutory regulation of the same or lower order than the one promulgating an international agreement, or some other legal instrument of government, is in conflict with the international agreement, it declares null and void all or a part of the statutory regulation or other legal instrument of government that conflicts with the international agreement. Regarding the publication of the court's annulling decision and the consequences of the annulment, the draft law refers to the provisions on reviewing the constitutionality of legal norms.

But if the statutory regulation conflicting with an international agreement is of a higher order than the statutory regulation promulgating the international agreement, the Constitutional Court has a choice of two options, with due consideration for the circumstances in the given case. Setting a time limit, the court may call upon the organ or person concluding the international agreement to initiate the agreement's modification. But there could also be an important interest associated with keeping the international agreement unchanged, in which case the court, again setting a time limit, would call upon the organ issuing the higher-order statutory regulation to amend that regulation.

If conflict with an international agreement arises because a legislative organ has neglected its duty stemming from the international agreement, the Constitutional Court calls upon the remiss legislative organ to fulfill its duty, and it also sets a time limit for the organ to do so.

Complaint of a Violation of Constitutional Rights

Ad. 48. The draft law does not enable just anyone to file a motion to institute proceedings before the Constitutional Court, in which the court performs its individual functions: The draft law enables only the enumerated or named persons and organs to do so. The legal institution of a complaint of a violation of constitutional rights is different in the sense that anyone whose rights guaranteed by the Constitution have been violated may file such a complaint with the Constitutional Court, provided that the injury has arisen as a result of applying an unconstitutional statutory regulation, and the plaintiff has exhausted all legal remedies or none were available to him.

Rights guaranteed by the Constitution must be interpreted to mean all the fundamental human and civil rights entrenched in the Constitution; furthermore, the fundamental rights that pertain to the basic principles of the economic, social, and political order, and to which not just individuals are entitled (for instance, the right to competition neutrality and the right to free enterprise).

For example, a complaint of a violation of constitutional rights may be filed against a ministerial decree that violates the rights mentioned above, when there is no legal remedy against such a statutory regulation. The complaint of a violation of constitutional rights must be filed within 30 [as published] days from the serving of the final decision. Since the complaint actually involves the review of the constitutionality of a statutory regulation, in considering the complaint the Constitutional Court proceeds according to the provisions governing the review of constitutionality (Sections 40-43).

Unconstitutionality Through Omission

Ad. 49. Unconstitutionality may arise not only as a result of issuing and applying an unconstitutional statutory regulation, but also through a legislative organ's failure to fulfill a legislative duty under authority delegated to it by statute.

The Constitutional Court may examine, either ex officio or on anyone's motion, whether an unconstitutionality has arisen through omission. If it finds that the unconstitutionality does exist, it calls upon the remiss legislative organ to fulfill its duty, and sets a time limit long enough for it to legislate. The legislative organ must comply with the court's decision.

Jurisdictional Disputes

Ad. 50. Jurisdictional disputes arise in two ways: when two or more organs either claim to have, or claim to lack, jurisdiction in the same case.

If a jurisdictional conflict arises between a court and another organ, it falls under Section 5, Paragraph 1, of Law No. IV/1972 on the Courts, which states: "If the court establishes that it has or lacks jurisdiction in a given case, ... this decision is binding on all other organs."

However, jurisdictional disputes may arise not only between a court and another organ, but also between state organs mutually, between a local government and a state organ, and between local governments mutually. Any of these organs involved may file a motion with the Constitutional Court to have it resolve the dispute.

A jurisdictional dispute may also arise between two legislative organs when, for instance, a local government (in other words, a council) and the Council of Ministers both want to regulate the same subject matter.

According to the draft law, the Constitutional Court resolves the dispute without hearing the one who filed the motion (in other words, solely on the basis of the available data), decides which organ has jurisdiction in the given case, and identifies who must take action in it.

Interpretation of the Constitution's Provisions

Ad. 51. When the Constitutional Court decides concrete cases, it does so on the basis of interpreting the Constitution's individual provisions. But it may also become

necessary for the Constitutional Court to interpret the Constitution's provisions in the abstract (not tied to reviewing the constitutionality of some statutory regulation, for instance).

Therefore the draft law grants the Constitutional Court the authority to interpret the Constitution's individual provisions, on the motion of one of those who are authorized to file a motion to institute such proceedings.

To ensure uniformity in legal practice, the Constitutional Court publishes its interpreting decisions in *MAGYAR KOZLONY*.

The Constitutional Court's authority to interpret the Constitution's individual provisions does not affect the authority of the Council of Ministers or of the Supreme Court to interpret statutory regulations, and to issue guidelines on the principal directions and methods of implementing statutory regulations.

Chapter V. Final Provisions

Ad. 52. The draft law specifies when the law becomes effective, and when the Constitutional Court will begin to function.

Ad. 53-56. Among its transitional provisions, the draft law contains regulations on how the Constitutional Court is to be established.

Thus the National Assembly will elect only five of the Constitutional Court's 15 members when the court is first established, and the five members in their turn will elect from among themselves the court's deputy chief justice.

According to the draft law, the nominating committee will propose a list of five candidates even before the law becomes effective. If elected, the five members temporarily will also hear the cases over which the court's full session has jurisdiction, and the deputy chief justice will discharge the functions of the chief justice.

The draft law entrusts the election of another five members of the Constitutional Court to the new National Assembly that will convene after the next parliamentary elections. And the National Assembly is to elect the remaining five members in the fifth year following the court's establishment.

The purpose of these provisions is to allow new National Assemblies, different in their composition, to elect the additional members of the Constitutional Court. This solution could also ensure the Constitutional Court's complete political legitimization.

The draft law regulates the proceedings of the temporarily ten-member Constitutional Court and specifies how many of the court's members must be present to form a quorum.

Among its transitional provisions, the draft law suspends the applicability of the disqualification under Section 5, Paragraph 3, to electing the first ten members of the Constitutional Court.

Ad. 57-59. As follows also from the provisions of Section 39, the draft law does not affect the state prosecutors' rights and obligations in conjunction with their general oversight of legality.

When established, the Constitutional Court will in practice also take over the broadened jurisdiction of the Constitutional Council, thereby making its further retention superfluous. Therefore the draft law provides for rescinding Law No. 1/1984 on the Constitutional Council.

Among its final provisions, the draft law also sees to the necessary modification and amending of Law No. V/1972 on State Prosecutors.

Court Rules Berend's Remarks About MDF Not Slanderous

25000743G Budapest NEPSZABADSAG in Hungarian
26 May 90 p 4

[Unattributed article: "Ivan T. Berend Did Not Slander the MDF [Hungarian Democratic Forum]"]

[Text] As reported earlier, on behalf of the Hungarian Democratic Forum [MDF] Veszprem County organization, attorney Dr. Balazs Horvath (the interior minister of the Antall government) filed a complaint against Ivan T. Berend on grounds that he slandered the MDF when his remarks indicated the spread of anti-Semitic sentiments in the populist wing of the MDF. Berend made the remarks last fall in an interview granted to the *NEW YORKER* magazine.

The Pest Central District Court, which acted as the court of first instance, ruled on 21 March 1990 that it would not initiate proceedings against Ivan T. Berend, because a legal entity, and thus also a [political] party, cannot be the injured party in the criminal act of slander. Only private persons can. The MDF appealed this ruling. The case was presented to the Budapest Court as the court of second instance. At a council meeting held on 3 May that court issued a final ruling rejecting the appeal. It established at the same time that the court of first instance erred because a legal entity, and thus also a party, can be slandered.

For this reason the Budapest Court examined whether Ivan T. Berend indeed slandered the MDF. It found that no slanderous statement was made.

The freedom of expression includes the right to judge and to critique facts and phenomena. Even if the expression of such views were prohibited on grounds of criminal law, this would infringe upon democracy in public life, and would render value judgments made in political and in public life impossible. Since the manner in which

Ivan T. Berend phrased his opinion is not offensive and does not encroach on the [MDF's] honor, it is within the constitutional framework of the free expression of opinion, and cannot be punished under any circumstances.

Accordingly, the court of second instance discontinued the proceeding for want of a criminal act.

National Assembly Approves New Law on Amnesty

Former Officials Excepted

25000744A Budapest NEPSZABADSAG in Hungarian
13 Jun 90 p 4

["Excerpt" from a report on the legislative proceedings of 12 June 1990]

[Excerpt] [passage omitted] Representative Sandor Olah (FKgP) [Independent Smallholders, Agricultural Workers, and Citizens Party] viewed the fact that the previous government promised amnesty as a "provocation in bad taste," because it provided fertile soil for prison riots thus exercising pressure on the workings of the National Assembly. Gabor Fodor (FIDESZ) [Association of Young Democrats] spoke out in support of young convicts. Several representatives called attention to the shortcomings of the legislative proposal, but did not propose amendments "in order not to hinder legislative work." Following a response from Minister of Justice Istvan Balsai who submitted the legislation, the National Assembly voted on two amendments. The House did not agree to an amendment proposed by Jozsef Torgyan (FKgP) to limit the reach of amnesty so as not to cover manslaughter committed under conditions of emotional stress. On the other hand, it approved an amendment not to grant amnesty to persons who abused their offices, or were involved in bribery or in the misappropriation of funds.

Thereafter, the National Assembly voted 207-34, with 41 abstentions, to adopt the legislative proposal concerning amnesty as amended, which is expected to affect about 3,000 convicts, as reported in our 7 June issue. [passage omitted]

Reduction for Spies, Terrorists

25000744A Budapest NEPSZABADSAG in Hungarian
18 Jun 90 p 5

["Summary" of law: "Amnesty Law: Who Receives Amnesty?"]

[Text] At its 12 June session the National Assembly adopted the amnesty law. By publishing it in MAGYAR KOZLONY the law now goes into effect. It states that the National Assembly exercises public amnesty according to the following provisions:

—Convicts sentenced to less than one year in prison for an intentionally committed crime shall be relieved of having to serve such term, unless they are repeat offenders.

—Convicts sentenced to less than three years in prison for a crime committed as a result of negligence, pregnant women, mothers living together with a child who is under six years of age, mothers and fathers who are the sole supporters of a child less than 14 years of age, women over the age of 55 and men over the age of 60, and persons suffering from a life threatening or incurable disease shall be relieved from having to serve such term.

The sentence of the rest of the convicts shall be reduced by one-third, provided that the term of their sentence does not exceed three years. If the term of the sentence exceeds three years (but does not call for life imprisonment), that term shall be reduced by one-quarter.

Convicts sentenced to the performance of correctional-educational work, or to the performance of correctional-educational work and the payment of a fine shall be relieved from serving and paying such sentence and fine provided that the criminal act was committed prior to 1 June 1990.

No criminal proceeding shall be initiated against persons having committed misdemeanors prior to 1 June 1990, or crimes for which the law does not prescribe a sentence longer than three years in prison except for [crimes and misdemeanors involving] the abuse of office, bribery, and the misappropriation of funds.

Amnesty does not extend to repeat offenders, and to persons convicted for the criminal acts of spying, the passing of state or military secrets; murder; the infliction of injury resulting in permanent impairment, threat to life, or death, forceful rape; public acts of indecency; forced sexual perversion; prison riots; acts of terror; and for the criminal act of overtaking an aircraft. No person shall receive amnesty who has been convicted, or against whom proceedings should be initiated or conducted for violations involving significant quantities of narcotic substances, counterfeit currency, picking pockets, robbery, plundering, insurrection resulting in particularly grave consequences, and force used against public officers, provided that a court of law has sentenced such person to serve concurrent terms and has further provided that any of the criminal acts for which a concurrent term is served involves any one of the above-mentioned criminal acts.

Amnesty does not extend to persons who intentionally committed a crime to the detriment of their children.

The law reduces the punishment of convicts sentenced to a definite prison term for matters covered under the exclusionary provisions by one-eighth of their terms.

Amnesty loses force with respect to persons convicted for the intentional commission of a crime within three years of the effective date of this law.

Ambassador to USSR To Stay in Place

25000745H Budapest NEPSZABADSAG in Hungarian
15 Jun 90 p 3

[Interview with Hungarian Ambassador to Moscow Sandor Gyorke by Laszlo Lengyel; place and date not given: "We Asked How He Likes the Foreign Ministry List of Nominees; Our Ambassador to Moscow, the One Who Stays"]

[Text] Relative to the bulletin announcing the ambassadorial nominees, the fact that Moscow was not included among the planned changes struck the eye. Foreign Minister Geza Jeszenszky confirmed the fact that the government grants a continued vote of confidence to Sandor Gyorke, the current ambassador.

[Lengyel] How did you react to the news?

[Gyorke] With acquiescence and satisfaction. A diplomat who has spent 35 years in this career regards it as a great honor to serve Hungarian foreign policy from such an important post. Accordingly, from a professional standpoint, and also considering the political ramifications, I learned of this decision with joy. I am convinced that these are historic times, and that it makes a difference how our relations with the Soviet Union evolve. Accordingly, I regard as my very important function to properly act as liaison between the Hungarian and the Soviet leadership, and to enforce our national interests. I can say that I am able to accept the recently developed government program with a pure heart and clean conscience.

Insofar as the Hungarian-Soviet relationship is concerned, rearrangement of these contacts is unavoidable and necessary; they must be cleansed from the old burden, and I believe that I am able to play a role in this regard. The form in which we present substantive

changes is very essential. Personally I believe that we must not create confrontation, but must make our partner understand that all we find is unavoidable. The four-month period since my appointment has affirmed my conviction that the Soviet leadership is not disturbed by the change in the Hungarian system, thus, in and of itself the change has not become the source of differences. Thus, we will have no concerns if we endeavor to maintain good neighbor relations, and strive to take into consideration the interests of both sides. This, incidentally, also appears to be proven by the most recent visit of the highest level Hungarian leadership in Moscow.

[Lengyel] The confidence manifested in your person is also noteworthy, because you openly state that you are a member of the Hungarian Socialist Party [MSZP].

[Gyorke] Looking back at my several decades-old diplomatic career I can state that I accept responsibility for everything I have done in my work thus far. I was also convinced before that we must formulate our foreign policy by keeping the interests of the country, the nation, in sight. Incidentally, diplomacy was also the field in which an opportunity for this presented itself during the preceding years. Since the new government sets this as its central goal, the program is acceptable to me by all means, and I am able to represent it.

[Lengyel] How is the mood at the Hungarian colony in Moscow following the change in government?

[Gyorke] I came out [to Moscow] four months ago with the idea that the matter of the colony out here must be settled. [word of] The events that take place at home arrives here with some delay, in a delayed phase, with different emphases. The lack of understanding and uncertainty is far greater. It is my firm goal to formulate a professional and political staff which effectively represents our national interests, the government program. In order to accomplish this we must jointly consider the necessary changes and the need for stability. Part of this is that everyone should learn as fast as possible whether they are counting on his work, and what they expect from each person.

GERMAN DEMOCRATIC REPUBLIC

**Labor Minister Hildebrandt on Unemployment,
State Treaty****Mass Unemployment Threat Viewed**

90GE01694 Hamburg DER SPIEGEL in German
14 May 90 pp 123-126

[Interview with Labor Minister Regine Hildebrandt by DER SPIEGEL editors Dieter Kampe and Hartmut Volz; place and date not given: "Our Situation Is Desperate"]

[Text] Since April, Regine Hildebrandt has been heading the East Berlin Ministry for Labor and Social Affairs. In addition, the Social Democrat is also in charge of building up a network of labor offices in the GDR. Before the turnaround, the doctor of biochemistry was active in the citizens' movement "Democracy Now" before she, together with her husband, joined the SPD in October of last year, "realizing the necessity." In the government coalition, Regine Hildebrandt, 49, is considered the counterpart of CDU economics minister Gerhard Pohl.

[SPIEGEL] Mrs. Hildebrandt, the threatening mass unemployment in the GDR is no longer seriously disputed. It is only on the numbers that the experts disagree—one, two or four million people in this country. How many unemployed do you fear there will be?

[Hildebrandt] I must confess I would like to banish the concept of mass unemployment from my consciousness, because this situation represents for me—as for all GDR citizens—a new and great threat. Therefore I do not mention numbers which no one knows, anyway, cannot even know. I consider the estimate by Heinrich Franke, president of the Nuremberg Federal Labor Office, of 100,000 to 300,000 to be optimistic, but estimates of two million and more are clearly exaggerated.

[SPIEGEL] The threat is becoming reality. Many enterprises are facing collapse.

[Hildebrandt] We have lived for decades in this country without really knowing the concept of unemployment. We had our place of work, albeit poorly paid, but definitely secure. All at once, this security is gone. People in the GDR cannot cope with this phenomenon.

[SPIEGEL] Do you fear unrest, mass demonstrations? The first warning strikes have already begun.

[Hildebrandt] The capacity for endurance of the populace as a whole is relatively great. In my opinion, the will to resistance and revolt is underdeveloped.

[SPIEGEL] Do you want the people to go into the street?

[Hildebrandt] For heaven's sake, of course I don't want demonstrations. My concern is that employees must learn to safeguard their rights and to sue if necessary.

[SPIEGEL] Who is to sue about what and where?

[Hildebrandt] At present, conditions in the GDR are like the early days of capitalism. General directors deal with people, with employees, in a way that is unacceptable to me and should not be tolerated by those concerned.

[SPIEGEL] Who is hit first in the enterprises?

[Hildebrandt] Single mothers who are fired without their fighting back. Or the handicapped who sign their own release papers. Pressure is put on these people until they themselves actually quit. Many groups in our society are in a situation where self-assurance and also motivation are blocked by fears about the future.

[SPIEGEL] Yet pressure is coming. Workers by the thousands go into the streets, like last Thursday. What are you going to do about it?

[Hildebrandt] Immediate measures must be taken, such as lowering of prices, stimulating the retail trade. Beyond that, we must create prospects. The question is, do I finance unemployment or do I finance retraining and instruction? We shall offer rapid qualification programs and employment measures in order to save people from the obligatory departure from a job into unemployment. For example, we must create the preconditions for making a collapsed enterprise into an employment association.

[SPIEGEL] What does that mean?

[Hildebrandt] It means that workers participate at their old place of work in a training program financed with public funds. Even now, 200 million marks are provided in the budget for such retraining.

[SPIEGEL] Do you know even one enterprise in the GDR that could go on without dismissals?

[Hildebrandt] No, actually there is probably hardly an enterprise that can go into the new era of a market economy without healthy shrinkage. But there is a difference whether 10 or 20 percent of the staff have to go or whether an entire enterprise collapses. The one can be managed, the other not.

[SPIEGEL] Which sectors have been hardest hit?

[Hildebrandt] At present shoes, textiles, electronics, and also the foodstuffs and semi-luxury goods enterprises. The tragic thing about it is that tradespeople refuse to even put the products of this firm [as published] into the stores.

[SPIEGEL] Tradespeople hardly accept products from their own country any more, because the customer demands goods from the West. Do you see possibilities of exerting influence on both the trade and consumers?

[Hildebrandt] There are beginnings. As a first measure, for instance, we lowered the prices of expensive Exquisit textiles to move the merchandise out of the warehouses. One simply has to work more flexibly.

[SPIEGEL] This only reduces overproduction of recent weeks. That does not yet ensure jobs.

[Hildebrandt] I am concerned with the influence on prices. It will have to be held under control for a while yet—perhaps through excise duties on Western products and subsidies for a limited time on selected domestic merchandise.

[SPIEGEL] So then, no quick market economy if it is up to the GDR labor minister?

[Hildebrandt] Naturally, I know that this would be problematical. Again, we would not have competitive conditions as they should really be. But if we want to prevent mass unemployment falling upon us like a natural occurrence and mature economic structures being destroyed to an unnecessary extent, one must take such measures during a transition period. That makes better economic sense than letting the whole thing collapse.

[SPIEGEL] The chance for a slow, careful adjustment of the GDR economy to the West German level, that is, transition periods and protective tariffs, has already been missed through the rapid monetary union.

[Hildebrandt] The last word has not been spoken yet on the State Treaty, [and] the conditions of the monetary union. I am concerned with transition regulations over several years, such as were granted to Portugal, Greece, and Spain when they joined the EC. Lothar de Maiziere's government declaration stated: as much market as possible and as much state as necessary. I am going to enforce that.

[SPIEGEL] What, for example?

[Hildebrandt] There is more than enough work. Look at the condition of our cities, Leipzig or Dresden. Look around in the Cottbus brown coal district. Just try to bathe in the Elbe river. The entire country is so run down that immediate action must be taken. There will be work for hundreds of thousands for years. State infrastructure programs must be created...

[SPIEGEL] ...and be paid for by Bonn.

[Hildebrandt] Certainly, but from the day of currency conversion there will be Deutsche mark [DM] savings assets in the GDR, which don't have to flow exclusively into a consumption frenzy.

[SPIEGEL] But rather?

[Hildebrandt] I am thinking of attractive state investment models which can raise private money for financing infrastructure.

[SPIEGEL] Such models wouldn't have a chance even in your own government. Your CDY colleague Pohl, for instance, thinks it will be enough to create legal framework conditions to free up initiative—that is the government's sole task.

[Hildebrandt] I don't believe that Mr. Pohl still judges the situation so simply now. We are all very capable of learning, which the economic and social problems we have to cope with bring in their train. For example, my colleague Sybille Reider, minister for trade and tourism, decided last week on a marketing-promotion package for selling particularly problematical GDR products such as shoes and leather goods. Just for May and June alone, the coalition plans to waive product-specific levies of about 500 million marks.

[SPIEGEL] Even if you were agreed on this within the coalition in East Berlin, would Bonn take part in such expensive subsidies? Finance minister Waigel has already said clearly that the GDR would quickly have to pay for its own social burdens, [and] economics minister Haussmann categorically rejects subsidies for wages.

[Hildebrandt] Then Bonn will also have to carry the costs of mass unemployment. The point is this: If we want to modernize industry, it must not first go into bankruptcy. Transition regulations must be created wherever enterprises have a chance to modernize. We still have motivated employees in the GDR who, with some qualification, are perhaps able to tackle these tasks of the future. Only when people fall into the hole of unemployment, once they have become recipients of social assistance, then one will not be able to rebuild the country with these people.

[SPIEGEL] Quite evidently you cannot solve the problem alone. What about Bonn's support for your ministry?

[Hildebrandt] In a talk with my colleague Norbert Blum I discussed quite a sizeable program on work promotion.

[SPIEGEL] What does it look like?

[Hildebrandt] For instance, right off we need thousands of teachers from the FRG who will teach our people subjects such as English and French. To mention another example, we have an enormous catch-up demand with regard to matters of electronics, text editing and other applications of computer technology. Right off, and Blum promised me his help, we could start a TV campaign to load cast-off computers on trucks and set them up here in collapsing enterprises. Then people who would otherwise lose their jobs could train for half a year, [and] would be meaningfully occupied.

[SPIEGEL] All that sounds a bit like despair.

[Hildebrandt] I see it differently. This country is undergoing radical change. We installed a crisis staff in my ministry who gather ideas on how to prevent a collapse of our economy and mass unemployment, or at least to mitigate it somewhat. We must accept any means to prevent a state of social emergency in the GDR.

[SPIEGEL] You demand a lot—subsidies for entire sectors of industry, employment programs, retraining measures. Have you ever thought about how much all this will cost and who is to pay for it?

[Hildebrandt] That is not my department. My task is to rapidly combat unemployment. Basically, we have enough work in the GDR. But the work must be organized, must be paid for.

[SPIEGEL] That is the decisive point: Who is to pay for it?

[Hildebrandt] I don't understand you. The FRG can't let the GDR collapse. The federal government has to pay for unemployment anyway, we will soon have no more funds for it. Hence Bonn must also invest in work procurement measures or see to it that large enterprises construct production plants here. The FRG will not be able to live with such a run-down, rotted part of Germany, with such an ulcer on its own body. Therefore, promotion and investment must be done now. Only that will deflect mass unemployment, at least from the start.

[SPIEGEL] Are you pressuring Bonn with this scenario?

[Hildebrandt] The pressure will come all by itself. Even now we have over 10,000 unemployed youngsters. Do you think they'll stay in the GDR if they cannot find work, cannot get a place of apprenticeship? If we have here hundreds of thousands of unemployed on the streets who no longer see any prospects in this country—do you think they will patiently wait for social assistance? Oh no, that would produce a new, enormous wave of emigrants. And all that must be prevented now.

[SPIEGEL] Are you threatening with such a new emigration wave?

[Hildebrandt] I am not threatening, I want to stimulate, namely on the Western side; and I want to motivate, on the Eastern side. I don't want to threaten at all.

[SPIEGEL] The threatening catastrophe on the GDR labor market has been in the offing for some time. That is why the Modrow government had already decided on early retirement. Accordingly, women retire at age 55, and men at age 60, voluntarily, of course. But this regulation is now being implemented with massive measures in the enterprises, and often against the will of those concerned. Is that a viable way for you, too?

[Hildebrandt] In principle I find this measure quite sad. But our situation in the labor market is desperate. That hurts me, believe me. But I see no other way.

[SPIEGEL] After the monetary union in July, pensions will be graduated according to years of labor and insurance. Is it correct that, according to the planned regulations of the State Treaty, many pensioners will have to live on DM340? With rising rents and food prices, this would naturally lead to growing poverty. But how do you want to prevent that?

[Hildebrandt] The pension regulation, as it stands now in the State Treaty, is unacceptable to me. We computed it once: 700,000 of our 2.9 million pensioners would get even less money than now if they were not granted a social subsidy to prevent it. According to the proposed

regulations, 300,000 pensioners would receive 1 to 3 marks more than before. All in all, that means that one-third of our pensioners would have to live at the edge of the subsistence level.

[SPIEGEL] Your government's coalition paper lists different figures.

[Hildebrandt] Yes, we had agreed to turn the present subsidies for products and performance into a per capita subsidy. Pensions and low wages were to be raised by 150 to 200 marks, and then the 1:1 exchange was to take place. That is not even mentioned anymore.

[SPIEGEL] Because the total costs of German-German unification are becoming ever more incalculable, evidently one saves at the expense of pensioners.

[Hildebrandt] That is unacceptable to me. I can show you a mountain of letters in which old people describe their lives to me—working all their lives and always cheated, and now, at the end, cheated once again. It is intolerable that a million people are barely kept above the social assistance level.

[SPIEGEL] Spelled out, this really means that over a million pensioners become social assistance recipients.

[Hildebrandt] Yes, that is correct as to the amount of the payments. But that is only the pensioners. The same applies to single mothers. Women are emancipated here, the divorce rate is enormous. Almost all the women work, most of them have several children and only their one income. Now they are among the first to be sent out of the enterprises into unemployment. And they are among the one million people who basically even today, before the monetary union, live at the subsistence level. For that we have no solution at all at the moment.

[SPIEGEL] Are you in agreement with your coalition partners, especially the CDU, in the assessment of the complex of social problems?

[Hildebrandt] We are working all the time. The SPD must remain the social conscience of this government. In principle, the complex of social problems is my constant problem point which must be brought into the State Treaty negotiations.

[SPIEGEL] Probably one can hardly speak of unity in the government coalition. Is that perhaps the fracture point?

[Hildebrandt] We are still negotiating, the results are still open. At least that is what I hope. But the lack of socially securing the GDR population would be the reason for me to give up my work.

[SPIEGEL] Mrs. Hildebrandt, we thank you for this conversation.

Social Impact of Treaty Assessed

90GE0169B Leipzig LEIPZIGER VOLKSZEITUNG
in German 19/20 May 90 p 3

[Interview with Labor Minister Regine Hildebrandt by Dr. Reinhard Zweigler; place and date not given: "It's Bound To Be Expensive, Any Way You Look at It"]

[Text] [Zweigler] How does the minister assess the negotiated State Treaty from her department's view; do you have a good conscience?

[Hildebrandt] Well, [it is] at least a better one than I had feared. You know the discussion about minimum security for our citizens and minimum pensions which, however, we did not get through in the version of the coalition paper. But I think we did find a form of security for every citizen—the 495 marks to which we contribute. You know that after the proposals of the last days we had to fear that one million pensioners would have been stuck at the subsistence level of 330 marks.

[Zweigler] But 495 marks are very little when one considers the FRG standard, where social assistance rates are almost double?

[Hildebrandt] That is correct, but we start from the premise that for a certain time we will continue to have stable rents, energy prices and public rate scales. I think it will stay that way for 1990. In addition, a social assistance law is being introduced which provides subsidies for the needy, such as rent subsidies.

[Zweigler] How will it go on with pensions and social assistance?

[Hildebrandt] In any case, pensions will be made more dynamic, something very new for us. This means that pensions are not raised only every 2 or 3 years by a small amount, but are raised every year according to the growing average income. That is the case in the FRG every year. But if there is a rapid rise in wages in the GDR, we also want to adjust the pensions more rapidly.

[Zweigler] Will the retirement age for women be raised in the GDR?

[Hildebrandt] No, that is not under discussion at the moment. The State Treaty mentions protection of trust for GDR citizens, that means the citizens are assured of those circumstances for which they have prepared themselves during a lifetime. For example, pre-retirement women can assume getting their pensions during the next five years at age 60. The additional pension from the FZR [expansion not given] is also paid. With the monetary union, two pension computation systems are applied in parallel fashion, that of the FRG and ours, whereby the respectively higher amount will be paid.

[Zweigler] Mrs. Minister, recently you gave a very pessimistic prognosis in DER STERN of the development of unemployment in the GDR?

[Hildebrandt] I believe that it was presented more negatively there than I had really intended, but in principle it is true that we must prepare ourselves for very high unemployment numbers. I do not want to participate in the numbers game, it ranges from 100,000 to several million.

[Zweigler] What is being done in your ministry to lower unemployment?

[Hildebrandt] We are about to adapt the law packages, which will come to us with the monetary union, to GDR circumstances. For me, the work promotion law is the decisive tool to finance qualification and retraining instead of unemployment. Because it will be expensive no matter what, every unemployed person will get his money. That is why we must succeed in paying for work promotion instead of unemployment, then we could prevent greater numbers of unemployed. I am thinking, for instance, of qualification associations in enterprises, large sections of enterprises going bankrupt should be converted into such qualification institutions, for with the current concepts of business management academies and business schools we cannot cope with the phenomenon of unemployment.

[Zweigler] Who is to finance the retraining, the state?

[Hildebrandt] Yes, the labor office. That is the crucial point, that we'd better pay for qualification and thus prevent unemployment.

[Zweigler] Our national budget has big holes, is there even money for the unemployed?

[Hildebrandt] Support is just being built up, so there is no money yet from contributions. But for this year we have already earmarked millions in the budget for this purpose. In the long run, unemployment must be financed by joint efforts from East and West. Through money from the structural promotion fund, especially enterprises capable of survival are to be protected from collapse.

[Zweigler] In small and medium-sized enterprises and in trade, 500,000 jobs will be created this year, according to economics minister Pohl?

[Hildebrandt] Yes, we are very much hoping for that. Only, it doesn't go as fast as we had thought. Also, many investors from the West behave more hesitantly than we had been promised. Only, where enterprises do not invest, we have no jobs and no retraining. Probably they are held back from larger-scale investment by the underdeveloped infrastructure, the unfavorable building situation. Through purposeful placing of investors we try to develop those sectors close to our hearts.

HUNGARY

Central Bank Reports on International Financial Situation

90CH0178C Budapest NEPSZABADSAG in Hungarian
12 May 90 p 4

[MTI [Hungarian Telegraph Agency] report: "No Cause for Concern, Hungarian National Bank Says"]

[Text] Hungary's economic performance does not warrant concern that our country might be struggling with financial difficulties. By 8 May of this year, our balance of trade showed a surplus of about \$350 million.

In conjunction with the fact that the Hungarian National Bank has turned to the Bank for International Settlements (BIS) for a bridging loan, because several foreign banks withdrew their short-term deposits in the first quarter of this year, the bank's deputy managing director, Bela Sandor, told MTI [Hungarian Telegraph Agency]: It should be remembered that the balance of trade was in the red during the same periods in recent years.

The senior official of the Hungarian National Bank emphasized that foreign banks are worried because, among the countries of East Europe, Bulgaria has declared insolvency, and some foreign-trade enterprises in the Soviet Union are having difficulties or are late in meeting their obligations. This has led a proportion of the foreign banks not to renew about \$300 million of short-term deposits when those matured in the first quarter of this year. The management of the Hungarian National Bank took note of this process and felt that the reserves of the central bank would decline considerably if this trend continued. Representatives of the Hungarian National Bank have therefore attempted to assure depositors that the Hungarian economy's performance has been decidedly better than expected, and that Hungary would continue to meet its obligations whatever happened. In response to these reassurances, the withdrawal of capital has already stopped in May, and some of the foreign banks have even renewed their short-term deposits.

This year Hungary has already floated more bond issues abroad: in the FRG and Austria, for instance. Following the agreement with the IMF in March, Hungary has also obtained \$400 million, the first tranche of the \$1.0 billion in loans pledged by the EC. According to the deputy managing director, the central bank is now striving to build up its reserves so as to ensure that its solvency is maintained, and it will be using a proportion of the loans for this purpose.

In view of how the financial processes have been developing in the first quarter, the Hungarian National Bank believes that \$300 million in short-term loans will be sufficient until the medium-term loans now being negotiated are signed.

IMF Finds Economic Climate Favorable, Proposes Remedies

90CH0178A Budapest NEPSZABADSAG in Hungarian
8 May 90 p 2

[Report by Peter Sereny, Washington correspondent for NEPSZABADSAG: "According to the IMF, the Economic Climate in Hungary Is Good for Sensible Economic Measures"]

[Text] "Our responsibility for East Europe was very much on our minds," said Michel Camdessus, managing director of the International Monetary Fund, at the press conference he and Michael Wilson, chairman of the Standing Committee of the Board of Governors of the IMF, held jointly in Washington on Tuesday [8 May], to announce the IMF's package plan for raising the member-states' quotas, which will also affect Hungary.

The package plan that the Standing Committee agreed on calls for a 50-percent average increase in the contributions to the IMF's capital. (Which necessarily means that the amounts member-states can borrow from the IMF will also increase.) Within this average, the quotas of several leading industrial countries—including Japan—will be raised separately. Thereby the league table of influence within the IMF, and of actual international economic clout, will change considerably. The United States will rank first, as before. Japan and the FRG will be tied in the second place that has belonged to Great Britain up to now. And, by mutual agreement, Great Britain and France will share the third place.

The IMF's Board of Governors will still have to approve the higher quotas, next month at the latest. Thereafter the legislatures of the 152 member-states, including the Hungarian Parliament, will have to ratify the decision for it to become effective, foreseeably by the end of next year. According to Camdessus, however, the IMF will have until then sufficient resources of its own to support East Europe's reforming economies, while continuing to meet its other obligations, notably loans to developing countries.

One of the compromises behind the package plan is the agreement to adopt only half of the (100-percent) increase in quotas that Camdessus originally recommended. Here the American standpoint prevailed. Contrary to Washington's proposal, however, the package plan brings forward from 1995 to 1993 the next review of quotas. But the plan also incorporates the American proposal that ties the effectiveness of the higher quotas to an amendment of the IMF's by-laws that will permit suspension of the voting and other (e.g., borrowing) rights of any member-state which fails to meet its obligations to the IMF. To pass, a motion to suspend a member-state's rights will require a 70-percent majority vote by the IMF's Board of Executive Directors.

While the Standing Committee was still working on the package plan, the IMF's experts on East Europe briefed

journalists, including the NEPSZABADSAG correspondent, on the region and its countries. Regarding Hungary, the experts acknowledged the signals from Jozsef Antall, the future government's prime minister designate, of his intention to follow his predecessor's policies and adopt measures enabling him to avoid rescheduling of Hungary's debt, and of his wish to fully meet Hungary's debt-servicing obligations. They noted that this obviously reflected Budapest's desire for continued access to capital markets. But they added that, in their opinion, an effective economic program was necessary to retain the lenders' confidence. They also voiced their view that, in the wake of the political changes in recent weeks and months, the climate—including the population's mood—was more favorable, both for corrections and for economic reform.

Newspaper Distribution To Be Placed on Commercial Footing

90CH0178D Budapest NEPSZABADSAG in Hungarian
9 May 90 p 4

[MTI [Hungarian Telegraph Agency] report: "Radical Changes in Newspaper Distribution"]

[Text] In Balatonszeplak, where he was attending the opening session of an international conference on the distribution of newspapers, Ferenc Asztalos, the deputy director general of the Hungarian Post Office, told the MTI [Hungarian Telegraph Agency] reporter that the Hungarian Post Office will soon convert the distribution of newspapers into a market-oriented activity on a commercial footing. (Representatives of the CSFR, GDR, Romanian, and Soviet post offices attended the conference.)

"The Post Office would gladly relinquish its monopoly in this area," Ferenc Asztalos emphasized. "Besides offering rights, however, monopoly also imposes obligations. Among these, allow me to mention that the newspapers also have to be delivered to the small villages in the provinces and to the detached farms of the Southern Alföld. Regrettably, we find that nobody wants to compete with us for those areas."

"Regardless of how strange market-oriented activity without competitors might sound, the conversion to it must be made: Newspapers are being produced and published under market conditions, and that requires greater flexibility than up to now in their distribution. We definitely intend to separate news vending from distribution to subscribers, and to begin the leasing of newsstands. The application of modern information systems and computers will also be indispensable in this area. And we do not even have long to wait for all this. The decisions necessary for the changes to be made can be expected within days," said the deputy director general of the Post Office.

State Assets Agency Vetoes U.S. Joint Venture

90CH0178B Budapest NEPSZABADSAG in Hungarian
12 May 90 p 5

[MTI [Hungarian Telegraph Agency] report: "State Assets Agency Veto; Parties Can Go to Court"]

[Text] The State Assets Agency has prohibited the signing of a contract to found the joint venture that VEGYTEK [Chemical Industry Capital Goods Trading Enterprise] and Amercia's East European Development Corporation are planning.

In a statement sent to MTI [Hungarian Telegraph Agency], the State Assets Agency emphasizes that, if the contract were to go through, the state enterprise's sales and marketing contacts, and the experience stemming from its organization and personnel, would pass without fair consideration to the proposed limited liability company, and hence into the foreign partner's partial ownership.

VEGYTEK and the American corporation are planning the limited liability company as a 50-50 joint venture, to sell and market chemical-industry materials in Hungary and to act as an agent in East-West trade. According to the draft contract, the limited liability company would take over VEGYTEK's sales and marketing staff. It would also lease 77 percent of VEGYTEK's fixed capital and buy, at cost, VEGYTEK's entire stock of goods.

On the basis of the studies conducted by the State Assets Agency, it has been established that the proposed rent for the leased offices and other premises is substantially below the current rates. At the same time, the State Assets Agency is willing to support any solution that is reasonable from the viewpoint of the state as owner. Accordingly, it is also willing to make the limited liability company's formation possible, but only on realistic terms.

Attila Murakozi, VEGYTEK's commercial director, told MTI that he did not agree with the decision. The American corporation would have a \$10 million equity investment in the limited liability company; the Hungarian partner's investment would be the forint equivalent of that amount.

VEGYTEK would not be the only one contributing experience and contacts, through its workers, to the joint venture. The American partner would be doing the same, through the know-how it would be providing. Therefore the partners are planning to ask the court to overturn the State Asset Agency's decision, on the grounds that all statutory regulations have been observed in the course of preparing the joint venture.

Linkup With Western Electricity Grid, Development Proposed

90CH0178E Budapest NEPSZABADSAG in Hungarian
5 May 90 pp 1, 4

[Interview with Gyorgy Hatvany, director general of the Hungarian Power Plants Trust, by Aranka Rehak, Borsod County correspondent; place and date not given: "Transmission Line Links to Europe"]

[Text] The long-distance transmission lines linking Hungary and the countries of West Europe must be developed, so that we may eventually become a member of the West European integrated power grid. This could also ease Hungary's one-sided dependence on energy import. In his opening address at the Borsod County Technical Weeks, that is how Gyorgy Hatvany, director general of the Hungarian Power Plants Trust, summed up the main points of the conceptual plan prepared by the experts of his trust. The objective is to maintain, until the turn of the millenium, the present level of the supply of electricity.

According to the director general, electricity also is a part of the market. If Hungary succeeds in raising electricity rates to the level of international rates—industrial customers now pay only 70 percent, and residential customers merely between 20 and 30 percent, of the going rates in West Europe—the electric power industry will be able to finance development, by borrowing and attracting foreign equity investment.

The conceptual plan takes environmental aspects into account, along with the standards based on European and Hungarian international agreements. Gyorgy Hatvany speaks of the plan as being in line with strategic concepts of the outgoing Ministry of Industry.

[Rehak] But will the conceptual plan meet the requirements of the new Ministry of Industry or Ministry of Environmental Protection?

[Hatvany] I am not a fortune-teller. But these are professional issues that must be divorced from party policy. A government certainly will not come that would set power cuts as its objective.

[Rehak] Did I understand correctly that the trust's conceptual plan agrees by and large with the MDF's [Hungarian Democratic Forum] conceptual plan?

[Hatvany] Among the parties, in my opinion, the MDF has the strongest and best-organized team of experts on electric power. We are in continuous contact with them, and are influencing each other with professional arguments. Their conceptual plan is not foreign to us, and there is not much difference between the two conceptual plans.

[Rehak] How can we avoid letting a few people decide, "behind the country's back" so to speak, what kind of electric power system we are to have?

[Hatvany] The developmental concepts must be presented to the country with utmost openness. We already have tender offers from large Western firms to build power plants in Hungary, financed entirely or partially with Western capital. With each tenderer we are undertaking joint feasibility studies, to be able to select the solution that will be the optimal, technically, environmentally, and financially as well. The characteristics of the power plants that can come into consideration, and the consequences of building them or deciding not to do so, must be made public. In the final outcome, the Hungarian people have the right to decide what kind of power plant the country is willing to accept.

CONTEL Agreement Signed; Other Industry Reports

25000743A Budapest NEPSZABADSAG in Hungarian
25 May 90 p 4

[Unattributed report: "It Happened at the Budapest International Fair: New Telephone Contract—Ikarus With Dollars"]

[Text] We could perhaps regard this as a heavenly sign: The first joint enterprise agreement on the day the new government program was adopted pertains to telephones. Namely, the Hungarian-American Contel Hungaria [Corporation] concluded a struggle that lasted two years and appeared to be unsuccessful, thus breaking the postal monopoly and establishing competition in the Hungarian radio-telephone market which is yet to be born.

At a Budapest International Fair [BNV] press conference held yesterday, [Contel Hungaria] managing director Zsolt Harsanyi said that neither budgetary support nor credit will be required for the firm's planned network investment costing between \$100 million and \$150 million, because Contel has agreed to pay these expenses. In addition, Contel has committed itself to reinvesting 80 percent of its share of profits until 1998 in Hungarian telecommunications and other projects. The radio-telephone company was awarded the right to use frequencies for 15 years, but it did not receive ownership rights, and will pay 50 fillers at current foreign exchange rates for each 100 seconds of conversation time.

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They curse its past and question its future, nevertheless it is a fact that the now 40-year-old Duna Iron works is able to claim significant success after a sluggish period. True, the industrial giant once named after Stalin also felt the winds of privatization, but it is not likely that the 2.5 billion in profits last year, and the large increase in exports to capitalist countries, is the result of this.

But the spectacular development serves as no guarantee that the firm located in Dunaujvaros will continue to maintain its position. At this time already a decline in domestic demand may be seen, the direction in which the Soviet relationship will move cannot be predicted,

and it is questionable whether it is permissible to maintain currently profitable exports at their present level. The people at Dunaujvaros insist that they will not sell the firm to foreigners.

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Although they experience no sales problems, the unpaid accounts of insolvent enterprises still cause headaches for the leaders of the Hungarian Aluminum Industry Trust [MAT]. By now their partners' indebtedness amounts to 1.2 billion forints. And even if MAT is able to finance the bankruptcy of others, they are being forced to terminate relations in a growing number of cases.

This was said at a briefing held by MAT, the organization soon to be transformed. According to their intentions the present trust will reorganize itself into a holding corporation by 31 March 1991. Thereafter the companies [of the holding corporation] will manage themselves independently. But reorganization does not proceed at a very fast pace because MAT is under state administrative supervision. Still pending is the question of how the Hungarian and Soviet parties will cooperate after the Hungarian-Soviet aluminous oxide-aluminum agreement expires, and if they will succeed in adjusting domestic prices to world market prices. MAT also endeavors to attract foreign capital. They can perceive this only if the trust which is transforming into a holding corporation becomes a European firm, while retaining its national character.

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Journalists were welcomed with a surprising statement at the BNV vehicle industry press conference: Ikarus is so well off with contracts that there is a threat they will not be able to satisfy all their customers' demands. At present only one shift is operating, but soon a second shift will have to be started.

Restrictions on exports destined for CEMA countries touched sensitive spots both at the manufacturer and its foreign trading company MOGURT. Last year they delivered 6,000 buses to these countries, 4,000 fewer than in previous years. But last year it became possible to barter about 500 buses in this region at prices far more favorable than those specified in interstate agreements, and this volume may be doubled this year.

\$863 Million Offered for Shipyard Island

25000743C Budapest NEPSZABADSAG in Hungarian
8 Jun 90 p 4

[Unattributed report]

[Text] Envelopes containing bids responding to an international invitation for competitive bids for the utilization of the Obuda shipyard island were opened yesterday

noon. The jury is to evaluate five offers received yesterday. Swiss, Danish, British, and U.S. firms, as well as one registered in Gibraltar, described their business plans and concepts.

The Danish J.P.C. Virum Company will soon hold a separate press conference to report on the kinds of investment projects it plans to implement on the island. Four contestants described their plans only in regard to the utilization of the area, and did not deal with the shipyard. All bids had the common feature of developing the rather well situated island into a recreational center with hotels and entertainment opportunities, including cultural events.

Contestants plan to invest between \$600 million and \$800 million in this enterprise. The highest offer—\$863 million—is the Danish proposal. The Swiss Ingeneering [as published] Consulting Export SA estimates expenses at the level of 850 million Swiss francs. The smallest amount was offered by the U.S. firm Beta Management Systems. Their offer amounts to \$330 million. The British Ergon Design Grupp [as published], Limited offer amounts to 500 million British pounds.

The jury composed of architects, urban planners, persons interested in the protection of historical sites and the environment, and Hungarian bankers will announce its professional opinion on 6 July, and the agreement on the shipyard must be consummated within 60 days thereafter.

Detailed plans contained in the bids also reveal that the future builders intend to utilize the services of Hungarian subcontractors. If the leisure center becomes a reality, it will create between 4,000 and 5,000 jobs.

After the envelopes were opened, shipyard President Adam Angyal held a briefing. He said that today he would meet with representatives of the Swedish shipbuilders JIMM Shipping, who made an offer to the Hungarian firm for shipbuilding. Adam said that if the Swedes maintain their intentions to have ships built, they would do so in the plant on the Vaci Street side, where shipbuilding can be accomplished in the same way it can be on the island.

YUGOSLAVIA

Views of South Korean Businessmen on Joint Ventures

90BA0155B Belgrade EKONOMSKA POLITIKA
in Serbo-Croatian 28 May 90 p 15

[Interview with Yi Sun Ki, president of KOTRA, by B. Korkodelovic; place and date not given: "Three Profits"]

[Text] Recently a delegation of about 40 South Korean businessmen and officials from economic ministries, researchers from scientific institutes, and journalists from economic periodicals visited Belgrade, and in three days made about 200 contacts with Yugoslav partners.

This delegation was headed by Yi Sun Ki, president of the Korean organization for promoting trade (KOTRA), and undoubtedly a person with a very successful career as a state official. In fact, after graduating from the Law School in Seoul and graduate studies at Syracuse University in the United States, Yi Sun Ki worked for a long time in the South Korean "superministry"—the Economic Planning Council, where he was a deputy minister. He was also the chief adviser to the South Korean prime minister and the minister of energy. He became the president of KOTRA, a nonprofit government agency, in September 1986.

[Korkodelovic] Mr. President, please tell us to start with about the main current activities of the institution that you head.

[Yi Sun Ki] KOTRA's main activity is gathering information about trade and the situation in markets, the economic policy of the governments of individual countries, etc. Our activity is intended to provide various services to South Korean businessmen and the government with respect to trade and economic cooperation.

Since Soviet President Mikhail Gorbachev's perestroika has become more and more famous and has had an impact throughout the international community, and especially among the European socialist states, the transformation of the system in those countries has become increasingly more relevant. That is why KOTRA is increasing the number of its trade partners and expanding economic cooperation by opening representations, for instance, "Korean trade centers," in Eastern Europe. We started with Hungary in 1987, and we are now also present in Yugoslavia, Poland, Bulgaria, the Soviet Union, and Czechoslovakia.

In cooperation with the socialist countries, and in the expansion of trade and economic ties in general, the human factor plays the key role among numerous other factors. That is why we must first of all exchange visits by economic delegations or experts, and organize seminars at which experts will provide information on the market situation in their homelands and government policies, but will also state their personal views—on trade, naturally.

[Korkodelovic] Can you tell us something more about KOTRA's activities in the so-called "gray zones," i.e., South Korea's ties with the socialist countries when official state relations did not exist between them?

[Yi Sun Ki] I am not certain, but I think that in this case the "gray zones" mean a transitional period. People approach a world that they do not know with prejudices, and they cannot be completely impartial.

Trade is vital for man, however. He could not exist without it. In that sense, in the so-called "gray zones" KOTRA makes it easier to approach an unknown world, because it offers trade, and trade means a better life. "Will you join us in trade?" is KOTRA's philosophy, which we have applied to date.

KOTRA's activities in the so-called "gray zones" were part of the so-called "Northern Policy," the 7 July 1988 Declaration proclaimed by South Korean President Roh Tae Woo. That policy is based on equal treatment of all states in economic cooperation and the promotion of trade. KOTRA is obliged to expand the market for our products, even in "gray zones" that have not had any relations whatsoever with South Korea... KOTRA's "know-how" also helps in doing that.

[Korkodelovic] In your rich professional career, you have dealt with the issue of joint investments. From what you have learned, what are the best forms for such economic cooperation?

[Yi Sun Ki] According to the experience I have acquired, it is very important to attract foreign capital to assist any country's economic development plans. In that regard, I think that the Yugoslav government's policy on foreign investments is coming at the right time, and deserves praise.

In order to attract foreign investments, it is necessary to create the appropriate "climate." It is thus necessary to introduce incentive measures for foreign investments, and administrative privileges in areas where there is cooperation with foreign investors, and also to improve the infrastructure—apartments, roads, land for industrial facilities, ports, means of communication, and electricity. That is particularly important if the development of the economy is based on exports. I am aware that the governments of Yugoslavia and South Korea are now working on an agreement on guaranteeing investments and on avoiding dual taxation. That sort of "investment climate" is essential in order to attract foreign investment capital. My experience does not apply just to Yugoslavia, but also to East European countries like Hungary, the GDR, Czechoslovakia, and even the Soviet Union. Many other things need to be done in order to eliminate bureaucratic obstacles... Try at any cost to make a foreign investor feel more welcome than he is at home. When you attract foreign investments, you immediately achieve three benefits. First, the owner imports capital, and so you compensate for the shortage. Second, technology comes along with the capital. Third, after the goods are produced, the foreign investor ensures exports to the foreign market. In order to achieve those three profits, you need to simplify the bureaucratic procedure.

I will give you an example. At the beginning of the 1960's, the South Korean economy was at a very low level of development... The five-year development plans required large investments. We could not mobilize the investment fund by ourselves, because we did not have investment savings. That fund consisted of three categories of resources. First, there were public loans from the World Bank, the International Monetary Fund, and other world financial institutions, which were not sufficient. Second, there were private loans from commercial

banks, at higher interest rates, but they were not sufficient either. In the third place, there were foreign investments, for which we had to find the easiest and most favorable ways of attracting them. For the sake of the latter, our government formed "special forces" to solve the problem. They were composed of representatives from all the ministries associated with foreign investments.

We also established the so-called "One Stop Services," so that a foreign investor did not have to go to the

Ministry of Justice for every visa extension or to the Ministry of Trade and Industry to pay duties on goods, but instead obtained those and other services from state officials from various ministries who were gathered in one place.

I would like the Yugoslav government to become aware of the need to create an investment climate that is more favorable than in any other country. In that way, its economic program will also be successfully carried out.

GERMAN DEMOCRATIC REPUBLIC

Changes in Press, Readership Patterns Noted

90GE0159A East Berlin BERLINER ZEITUNG
in German 28 May 90 p 3

[Article by Dr. Holger Haase: "Heavy Turbulence in the Media Marketplace"]

[Text] The decline is tremendous. As late as 1988, 3.8 million copies of the "central press" were not enough even to come close to stilling the hunger for reading material. By early afternoon one could hardly find the newspaper of his choice at the newsstands.

And today? They lie harmoniously side by side until late in the evening. TRIBUENE and NEUE ZEIT, JUNGE WELT and NEUES DEUTSCHLAND. People will soon search in vain for one newspaper: over the weekend, the BERLINER ALLGEMEINE announced its approaching end. The previous NATIONALZEITUNG will merge with DER MORGEN.

Subscribers are abandoning the former central organs. In the period from December through May, the post office registered 1.78 million cancellations for the 9 titles distributed throughout the GDR. That is a decline of 48.8 percent and it is especially painful for the colleagues from NEUES DEUTSCHLAND (down 64.1 percent) and JUNGE WELT (minus 60.8 percent). The only exceptions are the BERLINER ZEITUNG and DER MORGEN. Their number of subscribers did not decline until the time of the price increase in April (see table).

	December 1989	April 1990	May 1990
JUNGE WELT	1,536,000	929,000	617,200
NEUES DEUTSCHLAND	987,000	461,000	354,000
TRIBUENE	409,000	345,000	314,000
BERLINER ZEITUNG	346,000	346,000	327,300
NEUE ZEIT	108,000	98,000	78,200
BAUERN-ECHO	91,000	86,000	56,700
DER MORGEN	57,000	60,000	49,500
BERLINER ALLGE- MEINE	48,000	31,000	22,600
DEUTSCHES SPORTTECHNO	103,000	81,400	66,600

Status as of 9 May 1990. Source: Ministry for Media Policy. (Figures on subscriptions are not identical with the size of the circulation.)

What are the reasons for the difficulties of the central press of the GDR?

Above all, of course, in their changed political role.

The decline of the SED [Social Unity Party of Germany] necessarily led to a decline in circulation for NEUES DEUTSCHLAND. More than a million and a half members turned their backs to this party and appreciably reduced the number of core readers of NEUES DEUTSCHLAND. Beyond that, the former central organ lost its function as official gazette. Suddenly it was for many no longer indispensable to have read this newspaper. And thirdly: faced with the choice of keeping NEUES DEUTSCHLAND or a regional newspaper after the price increases, many decided in favor of their regional paper. The former regional newspapers of the SED lost only 4 percent of their readers after December.

The situation with respect to JUNGE WELT is different. In terms of its profile, its circulation was really much too large until the end of last year. It was kept as a second or third newspaper in numerous households, because its editors closed a gap in the publicistic offerings of the old GDR with fresh reporting that attacked taboos. In a certain sense, then, JUNGE WELT is a victim of the new freedom of information in our country. On the other hand, its reputation as a former central organ of the FDJ [Free German Youth] may well have done considerable damage in its actual target group, the young readers. That is a problem with which the former FDGB [Free German Trade Union Federation]-mouthpiece TRIBUENE is confronted in a similar form.

In general, it appears that scarcely any newspaper is well served when it was a central organ until recently. The BERLINER ALLGEMEINE, for example, suffered a dramatic loss of subscribers despite its name change: down 52.9 percent. Whereby one reason is the factual self-dissolution of the NDPD [National Democratic Party]. The NEUE ZEIT was not able to gain from the election victory of the CDU [Christian Democratic Union] on 18 March. It also had to accept substantial losses (minus 27.5 percent).

DER MORGEN, the former organ of the LDPD [Liberal Democratic Party of Germany], on the other hand, is the only central newspaper that was able to gain subscribers until April. The main reason for the wave of cancellations that then began may also be the price increase. In contrast, the BERLINER ZEITUNG benefited from its firm roots in the Berlin region. After all, it sells 86 percent of its circulation here.

The decline in circulation of the supraregional newspapers is explainable not only on the basis of the past. As indicated, the doubling or tripling of newspaper prices in particular plays a decisive role. For example, 35 percent of the cancellations of the BAUERN-ECHO went into effect on 1 April. At the same time, however, there was no getting around the increasing of the prices that had been in effect since the 1950's. Beginning in April, the loss of the subsidies that had been paid until that time threatened to tear large holes in the accounts of the publishing houses. The SED alone made 332 million marks available to its party press last year, including between 13 and 20 million marks to each individual

regional newspaper. They must now accumulate these sums themselves—primarily through more advertising and a higher price. Not everyone is prepared to tolerate that.

Another reason why readers are turning away from their central newspapers involves distribution problems. To be delivered to all districts in time by the postal service, papers such as the BAUERN-ECHO or DER MORGEN must accept a very early copy deadline. But that leads to a loss of topicality, forcing many readers to get information in other newspapers and if need be to do without the paper from Berlin.

There is quite a lot happening in marketing, however. According to the information of the BERLINER ZEITUNG, about 50 competitors between Fichtelberg and Ruegen have applied for the establishment of a private newspaper or magazine distribution business. The Media Ministry is saying that in the future private and state marketing systems can complement one another quite well.

But not all the problems of the central daily newspapers are of their own making. The strong presence of the Western competition is naturally causing difficulties. No fewer than 23 daily newspapers, 42 weeklies and 240 magazines from the FRG are now registered for distribution in the GDR. In Berlin, MORGENPOST, TAGESPIEGEL and the West-BERLINER ZEITUNG together sell 200,000 copies daily.

At the same time, the Western publishing houses are attempting to secure for themselves market shares of the titles now in existence in the GDR. Publishing houses from the FRG or (as in the case of the Berliner Verlag) Western Europe will participate in at least 28 regional and supraregional daily newspapers of the GDR. According to information of the BERLINER ZEITUNG, the Springer Verlag is now negotiating for participation in at least eight publishing houses in the GDR, the Bauer-group for at least seven and Gruner + Jahr, the WAZ [WESTDEUTSCHE ALLGEMEINE ZEITUNG] and the FRANKFURTER ALLGEMEINE for at least five each. For the time being, they are not to exceed 50 percent in any case.

But the wind of competition is also blowing from their own country. According to surveys by the University of Leipzig, almost 50 new newspapers and weeklies were founded in the GDR by mid-March. One of them is the TAZ [TAGESZEITUNG] of the GDR (initial circulation 60,000 copies, now about 45,000), which is also attempting to establish itself as a supraregional newspaper. There is not yet any stability in the new publications: whereas some titles are indeed registered with the appropriate councils but have not yet been published, others such as the GERAER STADT-ANZEIGER or the MEINIGER TAGEBLATT soon had to give up.

But the central daily newspapers are under the most pressure from the 26 established regional papers. Overall they were able to maintain their readership almost at the

level of the previous year—primarily at the expense of the publications issued in Berlin.

As before, the former district newspapers of the SED have the greatest influence. After declaring themselves politically independent last January, they were transferred from ownership by the PDS to national property at the beginning of March. And this was done with a clause that is supposed to make it more difficult for subsequent private investors—from the FRG, for example—to hold more than 49 percent of the capital of these newspaper companies.

The number of cancellations for these newspapers ranges from 7 percent (OSTTHUERINGER NACHRICHTEN in Gera) to 1.7 percent (THUERINGER ALLGEMEINE in Erfurt) of the December subscriptions.

In the case of other regional papers in this connection, there are substantially greater deviations that do not necessarily have to do with the basic political orientation. Thus, the DEMOCRAT close to the CDU (Mecklenburg/Near Pomerania) lost 17.2 percent of its subscribers, whereas the UNION (Saxony), also close to the CDU, was able to raise the number of its subscribers by one-third.

The forthcoming reform of the Laender will ensure the beginning of a concentration process precisely for the regional newspapers, which as a consequence will also be dangerous to central newspapers. This concentration process may well begin between the former papers of the LDPD and NDPD, which differ little either in terms of property relations or their basic political line. There was already such a fusion in Thuringia in mid-May.

Something similar is also to be expected in the future for other regional newspapers. A restriction of the distribution area to district borders that soon will no longer exist ultimately makes little sense. So newspapers will come into being for Saxony, Thuringia, etc. that may very easily attain the importance of the supraregional newspapers of the FRG (such as the FRANKFURTER RUNDSCHAU or the SUEDEUTSCHE ZEITUNG).

It will get crowded in the media market of the GDR.

Education Minister Interviewed on Policy

90GE0137C Frankfurt/Main FRANKFURTER
RUNDSCHAU in German 10 May 90 p 35

[Interview with Hans Joachim Meyer, GDR minister of education, by Jutta Wilhelmi; place and date not given: "They Systematically Cured Teachers of Individual Action"]

[Text] [Wilhelmi] The GDR's educational system is up for grabs. Is there nothing that could be preserved? I am thinking of the standardized school, which has a long pedagogical reform tradition in Germany.

[Meyer] But our problem consists of the fact that a positive approach, rooted in the German educational

tradition, has been perverted. The standardized school approach was the equality of educational opportunities. The perversity of the standardized school consists in the uniformity of the personality image. What you presently experience here is an extraordinary swing of the pendulum to the other side, so extreme that quite substantial groups of parents are in favor of removing the educational responsibility from the state's province.

[Wilhelmi] Is that a fortuitous development?

[Meyer] No, and most of all it is completely unrealistic. Everyone knows that in all the West European countries' privately supported schools, of which I am definitely in favor, constitute only a small percentage. Of course, my main interest is the reform of public education. And it is also necessary to create respective basic conditions for independently supported schools, with the latter fulfilling two essential functions. First: they can represent, beyond the generally accepted, state-approved educational goals, specific educational interests. The church schools being a classic example.

[Wilhelmi] So this would be possible?

[Meyer] I think it would be possible and positive. And the other function of independent schools consists of representing an experimental realm for alternative school models; that is for a circle of parents and students who are willing risk and experiment with a new educational concept, to bring about an enriched educational scene. This might have a positive effect on the public schools, which is not normally a great experimenter. Of course, the chief task is the reform of the public school system.

And the first concern is to approach the teachers.

[Wilhelmi] Does the plan call for restoring a tripartite school system and a selection [between them] at 10 years of age?

[Meyer] There prevails in this country a great desire for differentiation and flexibility. Which is understandable after the rigid school system of the past. But keep in mind that we do not stand divorced of context in the educational scene. And we participate in the European and in the all-German educational debate, specifically that of the FRG, which is taking a controversial course anyhow. I do not think I am obliged to take sides in this controversy primarily. Not because I do not have an opinion of my own but because it would obstruct reform efforts which, I feel, are largely acceptable to everyone.

Since we continue to have a mostly standardized school situation we can begin by placing greater emphasis on differentiation and flexibility and test these within the still existing school system. I am also fully prepared to try out a variety of transitions depending upon what parents and students want, in a distinct sphere offering a fair exchange, fair choices.

[Wilhelmi] Where do you want to start with reform?

I want to correct something. We are not just now beginning. During the past weeks a great deal has been done. And it would be presumptuous if I were not to state this at the outset. I am sure you know that to many people in this country education, as it has long been practiced, was a great oppression, frequently also for religious reasons. But also for many people, who perceive themselves as Marxists, this educational system was a catastrophe.

Since the turn of events an extraordinary number of study teams, discussion forums, teacher and parent forums have participated in the discussion of educational policy. It has become extremely involved. That is the very favorable aspect. In the ministry as well as in research and teaching institutions in the field of pedagogy a different way of thinking is taking shape. This definitely gives us something to build on.

I do not want to ignore the fact, though, that after the upheaval in November there is no great measure of insecurity among teachers. They wanted the free space. Their experience is the same as all of society's: To begin with they experience the threat that accompanies a free space. In subjects like German and History even experienced teachers with a clear concept do not find it all that easy, given the general excitement, to instruct in such explosive subjects. This is more than teachers can deal with. And, of course, they have no experience with regard to seizing this opportunity to act independently. They were systematically cured of this.

[Wilhelmi] What can be done?

[Meyer] What can be done is to approach teachers and to encourage them and to guide them to collaboration. We need experience in communication, we must learn to enter into dialogue with students.

[Wilhelmi] How will this look in actual practice? Will advisors be sent out to the schools?

[Meyer] We will utilize the existing system of advisors to bring teachers together; we will have many rounds of discussions with the teachers. We must provide practical assistance. Groundwork has to be laid. I don't think much of perfectionism in pedagogic processes. We cannot afford to do that anyhow. The teachers must quickly find out: Something is being done up there, they are laying it on the table, and there is even a feedback effect. I feel this is important.

[Wilhelmi] The polytechnical school has been here longer than the SED [Socialist Unity Party of Germany] era. A working apprenticeship and active learning has been demanded by reform pedagogues as early as the twenties. Will it remain part of your schools?

[Meyer] I like to think back to the rough, solidary manner in which I was accepted (in the factory—the editor). That is an experience I would not want to miss. It was just so grotesquely different from what you had anticipated. At the same time our students experienced

the unbelievable sloppiness, the lack of productivity, the grotesquely wretched state of our economy.

But, of course, there are also more positive approaches. I would like to mention the polytechnical centers where in collaboration with industry, shops were created where children learned something really practical, where they were not placed before the workbench to file screws, for days and weeks at a time. This produced the opposite effect.

We are working on a new concept for this. Unfortunately, we are finding out at present that industry is starting to pull out the foundation from under us. We are resisting this, are trying with measures still under development, with constitutional and fiscal means, to preserve our foundation for polytechnical instruction.

Right now, our industry has an every-man-for-himself attitude and the boat is filled to capacity. People are unbelievably shortsighted and believe anything connected with teaching, with research and science can be unloaded and the operation's productive apparatus saved. It is obvious that an economy could do nothing more foolish than that. We are cutting the ground under our own feet, expecting to stand on it tomorrow. I hope we succeed in putting a stop to this.

[Wilhelmi] It looks like you want to preserve an independent educational profile in the GDR?

[Meyer] Once we have achieved a certain level of differentiation and flexibility in our school system, a decision for one or the other will surely become an issue. Different models are available. This will then be the responsibility of the national cultural minister in this part of Germany...I emphasize in this part of Germany. I am assuming that we are laying the groundwork for something that the people in this part of Germany will then continue and support. The very specific nature of our educational system might be taken into consideration. One could imagine that certain front positions, very much hardened in the FRG during the past decades, might possibly soften somewhat again. That could be called a success.

PDS Official Interviewed on Foreigner Policy
90GE0137B East Berlin NEUES DEUTSCHLAND
in German 11 May 90 p 7

[Interview with Helga Adler by Heinz Jakubowski; place and date not given: "Foreigners—A Good One Percent of the Population"]

[Text] The PDS [Party of Democratic Socialism] has submitted a discussion proposal for a new foreigner policy. NEUES DEUTSCHLAND discussed this with Helga Adler, chairperson of the commission "Interest Groups, Working Pools, and Foreigner Policy" at the party's executive committee.

[Jakubowski] The Germans especially in the GDR are totally preoccupied with themselves. Therefore, what type of effect can such a discussion proposal have at this time?

[Adler] The daily events, for one, demonstrate that this is certainly a current, even burning problem. The PDS feels it has a particular responsibility to counteract the national giddiness and to prevent the exclusion of foreigners. After all, for many years many of them have not only accomplished much in our country but also for our country.

[Jakubowski] Do we begin at zero-hour?

[Adler] Not exactly. But previous contradictions, obstacles or even discriminations must be overcome. If, on the one hand, the GDR previously has received credit internationally for solidarity efforts, then pragmatism and regimentation as well as primarily the limitations placed on its own people largely produced merely an abstract internationalism. Alien fellow citizens as equal and respected human beings of our community—unfortunately, this is not a matter of course generally speaking.

[Jakubowski] How many foreigners are there in the GDR?

[Adler] Currently, approximately 180,000 live, work, or study over here. This corresponds to a good one percent of the total population. By comparison: In Switzerland there are 15, in the FRG, and France about eight percent.

[Jakubowski] And what can we expect?

[Adler] For one, the alien representatives of the Council of Ministers will shortly renegotiate the intergovernmental agreements with Vietnam, Mozambique, and Angola. The number of individuals from these countries living here is likely to decrease. For another, foreigners from many states show great interest in settling in our country.

[Jakubowski] What is the PDS's position on this?

[Adler] We consider the increasing internationalization of life to be an objective process. Principally this should apply: Foreigner policy is an element of internal policy and not only of international policy. And—an up-to-date foreigner policy must constitutionally provide the guarantees of such basic rights as peace, work, domicile, or environment to all citizens of a state, to the foreigners, therefore, with total equality. We do not merely want a policy for foreigners but one that is shaped through their own participation—in one word: integration. In my opinion, the communal voting right does full justice to this but it requires the right to participation in general elections for everyone who has permanent residency in the GDR.

[Jakubowski] What all does integration mean?

[Adler] For instance, the vested right to preserve one's own language and culture and to introduce the national identity into the social life of our country. There is a lot that can be done: Establishment of friendship among nations, national clubs for all to popularize customs and traditions, access to the media, literature, national restaurants, movies...and naturally personal contacts and friendships among completely normal neighbors, which each one of them understands to be an enrichment of his own culture.

[Jakubowski] Certainly this will not come about automatically....

[Adler] To be sure. Therefore, we quickly need a clear organization of the legal situation of foreign fellow citizens, all the way into the constitution. This must equally agree with the conventions of international law and with CSCE resolutions.

Therefore, we are advocating a new foreigners act and on its basis an asylum procedure act as well. Both of these must be submitted as soon as possible to the People's Chamber. By the way, we do not accept in its present form the newly ratified law of the FRG. Jointly with the committed individuals in the FRG we should introduce something into the legislation of a future Germany that is better than what we had previously—both here and there. We feel it is very urgent at the moment that foreign working people or students no longer become the victims of the free market economy. Any attempts to dodge the applicable intergovernmental agreements are unlawful.

[Jakubowski] How does the PDS itself handle like-minded foreigners?

[Adler] We offer them membership in our party. And there were quite a few candidates on 6 May on the PDS list.

HUNGARY

World Bank Initiates Revisions in Textbooks To Reflect Changes

25000743F Budapest NEPSZABADSAG in Hungarian 5 Jun 90 p 5

[Article by Gy. Sz. E.: "Schoolbooks To Change Outlook"]

[Text] At the initiative of the Economic Development Institute of the World Bank, the National Education Institute and the Textbook Publishing Enterprise jointly organized a conference at the education center of the Budapest Bank, Incorporated, beginning yesterday. The conference was called for by the new needs and opportunities for textbook publishing and supply. Along with experts from East European countries and from a few developing countries, British, French, Belgian, Spanish, Austrian, German, and Swedish businessmen and representatives of the most significant textbook publishers of West Europe were present at the four-day conference.

The conference is timely because in Hungary and in the countries of the former "socialist bloc" the just completed or ongoing change in systems also forces fundamental changes in education, many of which are tied to textbooks. Their renewal, in many instances their exchange, is indispensable, just as their outward appearance requires modernization, and this cannot be dealt with independent from endeavors to economize. Interestingly, there are far fewer textbooks in the West than what we have, for instance. In Hungary there are about 4,500 (!) kinds of textbooks for basic, intermediate, and high-level education being sold. This means 30 million copies each year, which is too much as well as wasteful; at the same time it also amounts to too little, if we are looking for novel, alternative publications. A pluralistic society would like to fill the latter type of textbook, for which demand is increasing, with a different content, a different spirit and method, but many obstacles must be removed before this can be realized.

This forum represents the first step in preparing new textbook development programs in East European countries, and in developing international cooperation.

No Significant Increase in Professional 'Brain Drain' Seen

90CH0198B Budapest VILAG in Hungarian 10 May 90 pp 22-23

[Unattributed article: "Losing Them Would Be Our Loss; Disappearing Intelligentsia"—first paragraph is VILAG introduction]

[Text] During their campaign, several parties tried to call attention to the alarming tendency of our demographic decline. There were not nearly as many, however, to bring up the problem of our withering professional intelligentsia. The issue got lost in the avalanche of catchy slogans, even though to a great extent this is what will determine the success of our political and economic transformation.

The brain drain, or the syphoning off of gray matter, is what they commonly call the phenomenon whereby a significant segment of a country's professional intelligentsia is forced indirectly or directly to put their knowledge to profitable use abroad. The extent of mental and material loss this drain causes the mother country is difficult to measure. It has been six months now since the adoption of the decree by the Council of Ministers rescinding earlier statutory provisions governing the rights of Hungarian citizens to work abroad. Already back then some had voiced concern about the prospect of losing many of our highly qualified intellectuals, just when their expertise would be the most needed.

For decades, only the privileged were allowed to seek employment abroad, armed with the hope that even if only for a short period they would get properly compensated for their labor, talent, and diligence. The state's monopoly on employment was much more distinctly felt in this area than anywhere else in the economy. TESCO,

or the Bureau for International Scientific Cooperation, was—as the trustee of this monopoly—in charge of managing the affairs of those travelling abroad under the terms of various interstate agreements. Private employment seekers first had to struggle their way through a strict, maze-like permit-approval system before they could go out into the world at large.

This anti-liberal labor market policy was complemented by a no more liberal financial system. This meant that after they had obtained the necessary permits—from the ministries and the capital city or local councils—those going to take up employment abroad were also assessed such financial obligations as having to make monthly social insurance and pension fund contributions in hard currency, and offering the Hungarian National Bank the option of purchasing 20 percent of their foreign earned income, something which that institution never failed to magnanimously accept. Statute No. 105/1989 adopted in October, has—among other things—put an end to the above-mentioned system of mandatory home deposits and offerings and all the concomitant permit restrictions. Theoretically, this has opened the way for anyone to take up employment abroad.

The new regulation has also forced the institutions with broad former powers in this area to make some necessary adjustments. The interstate agreements they had overseen have since expired, and many of them have not been extended. Accordingly, TESCO has also had to adjust its profile. Under the name HUNGAROWORK it has set up a subsidiary, whose function is to manage the affairs of private job seekers. Perhaps it was the less than positive memory of the predecessor or mother institution that led the new head of the bureau to decide not to overwhelm the press with too many details at the time the establishment of the firm was announced. After a half a year, we still know nothing about them other than the fact that they process cases of about 10 clients a month. As for prying into the details of their relationship with TESCO, I have been sternly advised against doing so by bureau spokesman Tamas Foldi.

While the old employment referral structure is spectacularly falling apart, the decision adopted six months ago has prompted a spawning of new enterprises ready to serve anyone wishing to try his fortune abroad in accordance with the new regulatory conditions. Of course, there are not too many clients whom they actually encourage to make the move. The expectations of the world market are high. In some countries—where it would otherwise be relatively easy to find work—wages are so low that even to a Hungarian they do not appear attractive. Elsewhere, the willingness may be there to accept them, but there is also a large supply of manpower to compete with. In the third type of country—where the really well-paying jobs would be—the demand is virtually insignificant. It is no wonder that in these countries of highly developed work cultures the state itself sets strict limits on the number of guest workers it accepts in order to protect its domestic job market.

In this all-national competition only those with a functional knowledge of the language and some specialized professional expertise can stand a good chance of finding what they are looking for. Yet these are also the very people we need the most here at home.

The rescission of earlier regulations six months ago has only theoretically opened the way to a free flow of manpower. The tightest bottleneck today is no longer the bureaucratic labyrinth of our domestic authorities, but the process of obtaining the foreign permits necessary to fill the job one hopes to apply for. Just as important as having excellent professional qualifications is the existence of personal ties. Since in the past few decades, most foreign contacts have been between members of the scientific and research community and their foreign colleagues and not between simple skilled workers and the company owners and personnel bosses of foreign countries—understandably—this liberalization can only make an impact among white-collar workers.

Since there is no central record to consult, we have asked some of our larger research institutions about the changes that might have occurred in the ratio of people accepting employment abroad since last October. To our surprise, the situation was not nearly as dramatic as many had expected a half a year ago. At least, the last six months have not produced any noticeable changes compared with the situation before, and there have been no significant shifts in ratios. The experts' explanation is that those who have wanted to leave at all cost have already found a way to attain what they were looking for, despite the complicated administrative procedures. Those who have stayed have not been decisively influenced by the fact that the earlier barriers have been torn down. At our larger research institutions, the number of people choosing to move abroad each year has remained within the two-digit range.

The picture would be favorable if it reflected a stable situation. But as we well know, a great many people have adopted a wait-and-see attitude. Faith in the coming changes and optimism about the future have for now eclipsed the alternative of employment abroad. Whether this will be a lasting condition, or we are facing a future filled with disappointments—and concomitant emigration waves—would be difficult to predict today. It has, however, already come to light that many of the ideologically committed leading experts of the past are already in the advanced phases of negotiation with respected Western firms, exploring the possibilities of future employment. (The information that has recently been made public about Deputy Finance Minister Zsigmond Jarai is that in the future he will be working as a director of a London bank.)

The South African, and the less frantic, but still spectacular Australian employment fever that has flared up in the past few weeks still indicates a sense of anxiety. Today this could still be remedied without a doubt. The question is: Will there be enough time, opportunity, and will?

[Box, p. 23]

In this past year, poor compensation for white-collar work and the hopeless housing situation have led many to look for alternative solutions. In addition to internal manpower migration and career changes, more and more people have opted to look for solutions abroad. The extent of this emigration—which may be considered somewhat more ideal than internal migration in that it usually means employment in one's own field—can best be illustrated by some statistics. We have found that last year between 15,000-20,000 people chose to seek employment abroad. Their length of stay varied significantly, ranging from only a few months to several years.

Since the data collected in earlier years are to be analyzed in terms of the regulations that were in force at the time, we need to distinguish between interstate and inter-enterprise agreements on the one hand, and private job seekers on the other. The largest "buyers' market" of that period was the Eastern bloc with its construction projects in Tengiz, Yamburg, and the CSFR. In the West, our job seeking compatriots seemed to favor the Federal Republic of Germany and Austria. Nearly half of these workers were employed as manual labor.

With the waning of the age of large socialist investments, the above-outlined ratios are expected to change significantly. Presumably, the neighboring countries will be accepting fewer and fewer manual laborers, and if they do decide to import manpower from Hungary, they will be selecting more and more on the basis of professional qualifications.

POLAND**Rate of Disease Development in Population Viewed**

90P20055A Warsaw SLUZBA ZDROWIA in Polish
No 16, 22 Apr 90 p 16

["Excerpts" from unattributed GAZETA KRAKOWSKA article; published under the rubric "From Different Places"]

[Text] Indicators referring to the state of health of Polish society are simply alarming. Above all, circulatory system disorders (the cause of over 52 percent of deaths), and tumors (close to 20 percent) take a tragic toll. Tuberculosis continues to be a societal problem here. Last year, over 18,000 new cases of tuberculosis were noted. Almost 1.2 million people are in the care of tuberculosis and lung ailment clinics, including almost 86,000 persons undergoing treatment because of this disease. Respiratory tract diseases take fourth place in the cause of death. Digestive tract disorders are high on the list of causes of death. Especially noteworthy is a substantial increase in the mortality rate of men from cirrhosis of the liver, a consequence of alcohol abuse. Each year, approximately 9,000 to 10,000 new cases of work-related illness are reported. These are mainly cases of hearing damage caused by noise, contagious and invasive diseases, collier's lung disease, and also chronic diseases of the vocal chords. Infant mortality continues to be high, at 16.1 per 1000 live births.

Treatment of Mace Victims Reviewed

90P20055B Warsaw SLUZBA ZDROWIA in Polish
No 16, 22 Apr 90 p 16

["Excerpts" from unattributed GAZETA KRAKOWSKA article; published under the rubric "From Different Places"]

[Text] More and more often, physicians are contemplating how to best save people who are victims of gas canister ["bron gazowa," akin to Mace] attacks. The majority of these canisters are filled with a paralyzer, usually chloracetophenon. Because of this, it does not appear in Polish pharmacopoeia. This indicates that it is not a psychotropic preparation used in our medicine. There is no doubt that such agents have an effect on a person's health. This is true especially if the person so affected is not in the best of health, is an asthmatic, or has allergies. In the case of people suffering from heart arrhythmia or having pacemakers, an electric shock may be the cause of stopping the heart's action, says Dr. Andrzej Wisniewski, chief of the Krakow ambulance service.

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