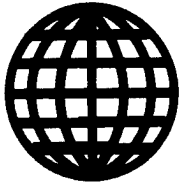


JPRS-EER-90-164-S  
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# ***JPRS Report***

## ***Supplement***

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CONTENTS

18 December 1990

**CZECHOSLOVAKIA**

Directive on Principles of Private Enterprise Accounting [*HOSPODARSKE NOVINY 27 Jun*] ..... 1

**HUNGARY**

National Assembly Resolution on Regional Prefectures [*MAGYAR KOZLONY 14 Aug*] ..... 21

National Assembly Resolution on County Names, Seats [*MAGYAR KOZLONY 14 Aug*] ..... 21

Law on Local Government; 'Legislative Intent' of Draft Law [*MAGYAR KOZLONY 14 Aug*] ..... 21

**POLAND**

Executive Order on Customs Supervision, Collection of Customs Dues [*DZIENNIK USTAW 6 Sep*] .... 51

Law on Changes to 1989 Employment Law [*DZIENNIK USTAW 23 Aug*] ..... 54

Finance Ministry Notice on Foreign Bank Operations [*GAZETA BANKOWA 28 Oct-3 Nov*] ..... 55

**Directive on Principles of Private Enterprise Accounting**

91CH0058A Prague HOSPODARSKE NOVINY  
(supplement) in Czech 27 Jun 90 pp 1-13

["Text" of Federal Ministry of Finance Directive No. V/2-4900 on the Principles of Private Enterprise Accounting]

[Text] To define the obligation pursuant to Section 25 of Law No. 105/1990 Sb. on Private Enterprise, the Federal Ministry of Finance hereby issues the following Directive on the Principles of Private Enterprise Accounting:

**PART I**

**INTRODUCTORY PROVISIONS**

**Section 1**

1. Entrepreneurs liable for a fixed amount of personal income tax, or who deduct expenses as a percentage of their revenue, keep records according to Part II of the present Principles.
2. Entrepreneurs who are not entered in the register of firms use single-entry bookkeeping, according to Part III of the present Principles.
3. Entrepreneurs who are entered in the register of firms pursuant to Section 13, Paragraph 1, of Law No. 105/1990 Sb. on Private Enterprise use double-entry bookkeeping according to Part IV of the present Principles.
4. Unless the agency administering personal income tax prescribes only the obligation to keep records, the present Principles apply analogously also to farming entrepreneurs, to gainfully self-employed doctors, other providers of health care, certified public accountants, and providers of legal services or other similar specialized services governed by special regulations.
5. Generally binding regulations on the information systems of organizations<sup>1</sup> do not apply to entrepreneurs.

**PART II**

**THE RECORDS OF THE ENTREPRENEURS  
SPECIFIED IN SECTION 1, PARAGRAPH 1**

**Section 2**

1. In accordance with the provisions of the Personal Income Tax Law, the agency that administers personal income tax may require entrepreneurs to keep records.
2. The entrepreneur who has an employee keeps a record of the employee's earnings (employee's individual earnings record), in accordance with the provisions of the regulations governing tax withholding.
3. The provisions of Parts III, IV, and V of the present Principles do not apply to these entrepreneurs.

**PART III**

**PRINCIPLES OF SINGLE-ENTRY BOOKKEEPING  
FOR SECTION 1, PARAGRAPH 2,  
ENTREPRENEURS**

**Section 3**

**General Provisions**

1. In single-entry bookkeeping, monetary transactions are recorded in the Cash Journal, separately from accounting for the entrepreneur's business assets (physical assets and receivables) and for the liabilities stemming from his business.
2. The journal in single-entry bookkeeping is the Cash Journal. In it are recorded the increases and decreases in the amount of cash on hand and on current account with the bank, the inflow of revenue and the disbursement of expenses, and it also shows the balance of owner's equity.
3. If necessary, the following subsidiary journals are kept to account for the entrepreneur's physical assets, receivables, and liabilities:
  - a) Plant and Equipment Journal (Plant and Equipment Journal cards);
  - b) Inventory Journal (Inventory Journal cards);
  - c) Employees' Individual Earnings Records;
  - d) Receivables and Payables Journal; and
  - e) Order Book or Job (Installation) Cost Journal.
4. When the entrepreneur obtains his license, his capital is the sum of the value of the items (especially of the buildings, machinery and equipment, means of transport, and inventories) and of the amount of money he puts into his business, less what he may owe his creditors. For the purpose of determining his capital, items in the nature of fixed assets are valued at their depreciated value, while inventory items are valued at their procurement cost.
5. As a continuing concern, the entrepreneur determines his equity as the sum of his fixed assets, inventories, cash and receivables, less his liabilities that include his accounts payable.

**Section 4**

**The Cash Journal**

1. The Cash Journal (hereinafter: the Journal) is intended for recording:
  - a) Cash income and cash expenditure;
  - b) Income and expenditure through the bank; and
  - c) Transit entries (especially transfers between the cashier's office and the bank).

2. Only financial transactions may be entered in the Journal. It is not permitted to enter in the Journal transactions in the nature of notices to pay, tax assessments, sent and received invoices, etc.

3. In principle, the entries in the Journal are made in chronological order by date, on the basis of accounting documents, in a breakdown by income and expenditure.

4. The Journal must contain at least the following:

a) A record of the cash and valuables on hand (income, expenditure);

b) A record of the activity in the current account, and possibly also in the foreign currency account, with the bank;

c) A record of total revenue;

d) A record of total expenses, at least in the following breakdown by types of expense:

da) Materials purchases;

db) Purchases of small tools and equipment in use;

dc) Merchandise purchases;

dd) Employees' earnings and tax withheld;

de) Sickness insurance premiums and social security contributions;

df) General overhead (as defined in Section 28, Paragraph 7, of the present Principles); and

dg) Selling expenses;

e) A record of other disbursements that must not affect the entrepreneur's profit, are not expenses for the entrepreneur in the sense of the Personal Income Tax Law and are listed in Paragraph 5;

f) A record of transit items (income, expenditure); and

g) A record of owner's equity.

5. Disbursements that are not expenses for the entrepreneur in the sense of the Personal Income Tax Law are particularly:

a) Deductions from the employees' earnings that are not in the nature of tax withholding (thrift plan deductions, loan installments, and garnishments, for instance);

b) Personal income tax installments (the entrepreneur's);

c) Withdrawals for the entrepreneur's personal use; and

d) Bonuses paid from profit to the entrepreneur's employees.

6. The transactions specified in Paragraph 4, Subitems dd) and de), and in Paragraph 5, Items a) and b), must be entered also in the Receivables and Payables Journal.

7. Amounts in foreign currencies are recorded in the Cash Journal as their equivalents in Czechoslovak currency (Kcs). Conversion is at the "average" rate in the current list of exchange rates. The exchange rate profit resulting from the conversions is entered at the end of the annual accounting period as revenue. The exchange rate loss resulting from the conversions is entered at the end of the annual accounting period and is charged to general overhead.

8. The Journal is closed at the end of each year. At the annual closing of accounts, or in case of a possible extraordinary closing, the closing entries are made in the Journal—i.e., the fixed assets' accrued depreciation is entered, and cash is withdrawn for the entrepreneur's personal use or is transferred to his withdrawals account. After these transactions, a line is drawn under the entries in the Journal, and the entries in it are footed.

9. The balances of cash and of transit items are carried forward to the following year.

## Section 5

### The Current Account and Cash Transactions

1. The entrepreneur opens a separate current account in domestic currency, and perhaps also a foreign currency account, with the appropriate bank. Funds for the entrepreneur's personal use may not be deposited on these accounts.

2. Entries in the [entrepreneur's record of the] current account and possible foreign currency account are made basically in accordance with the bank statements.

3. The entrepreneur is required to make out cashier's documents for the payments received. The documents must be prenumbered in sequence, without gaps.

4. Valuables are postage stamps, revenue stamps, vouchers for motor fuels and lubricants, etc. The increases, decreases and the balance of valuables are entered in the Cash Journal's record of cash on hand.

## Section 6

### Accounting for Physical Assets

1. Buildings, machinery and equipment, means of transport, and other plant assets whose acquisition cost is at least Kcs5000 per item and which have a service life longer than one year, are considered fixed assets.

2. Fixed assets are recorded:

a) In the Plant and Equipment Journal, or

b) On Plant and Equipment Journal cards.

3. The journal or journal card specified in Paragraph 2 must contain:

- a) The name or description of the fixed asset;
- b) Its acquisition cost;
- c) The year and month of purchase, or of acceptance and commissioning if the fixed asset was acquired through capital construction;
- d) The annual rate of depreciation, in percent;
- e) The amount of the depreciation for the given tax period; and
- f) The month and year, and the manner in which the fixed asset was retired.

4. Generally binding legal regulations determine the method of depreciating fixed assets.

5. If the entrepreneur uses leased buildings, machinery and equipment for his business, he enters the rent paid in the Cash Journal as rent expense.

6. Small tools and equipment in use applies, respectively, to items of whatever service life whose procurement cost per item is less than Kcs5000, and to items of whatever procurement cost whose service life is shorter than one year.

7. The accounts for small tools and equipment in use (in the Plant and Equipment Journal or on Plant and Equipment Journal cards) must contain:

- a) The name and description of the item or of the group of functionally similar items;
- b) The date of procurement;
- c) The number of items;
- d) The procurement cost; and
- e) The date and manner of disposal.

8. The method of accounting for inventories (materials, goods, and merchandise) must be one that permits sufficiently detailed accounting for inventories in the Inventory Ledger or on the Inventory Ledger cards. The entries in accounting for inventories are only in units of quantity, together with the price per unit, and perhaps also in currency units.

9. The entrepreneur chooses the method of accounting for livestock, with due consideration for the species. The chosen method must provide a reliable record of the stock's level, of the weight gain and offspring, and of the decreases and losses. The accounting is either in units of currency, or only in the number of head, but giving also the price per head or per unit of weight.

10. If material purchased for cash is intended for one or more specific orders, it is entered only on the job cost sheets.

11. All other incidental expenses in conjunction with the procurement of stock (freight, for instance) are charged to general overhead.

12. Material supplied by a customer and accepted for processing or repair is entered in the Order Book or directly on the job cost sheet.

## Section 7

### Payroll Accounting

1. The earnings of the entrepreneur's employees are recorded in the Employees' Individual Earnings Records, in accordance with the wage regulations that are in force.

2. The entries in the Employees' Individual Earnings Records are based on accounting documents from which the following must be evident:

- a) The computation of gross earnings;
- b) The determination of sickness insurance benefits [sick pay];
- c) The determination of the payroll deductions, including the income tax withheld; and
- d) The amount or amounts advanced against earnings.

3. The entrepreneur must document the disbursement of the employees' earnings.

## Section 8

### Accounting for Receivables and Payables

1. Receivables and payables are entered in the Receivables and Payables Journal or, if necessary, in several journals in accordance with the entrepreneur's business activities, and by debtors and creditors within each activity.

2. The Receivables and Payables Journal is intended for keeping a record of the debts owed the entrepreneur by individuals, other entrepreneurs or organizations, and of the debts the entrepreneur owes. For example, the journal's accounts include:

- a) The accounts receivable from individual customers, for goods or services supplied on credit;
- b) The accounts payable to individual suppliers, for goods or services received on credit;
- c) The advances given and received;
- d) The valuables issued to the entrepreneur's employees;
- e) The claims for shortages and damage;
- f) The credits provided by the bank; and
- g) Other claims and liabilities (for instance, remittances of the tax withheld from the employees' earnings).

3. Accounting for receivables and payables must be lucid to provide a clear record of the receivables and payables, and also of their receipt or payment (settlement). Routine checks of the balances in the individual debtors' and creditors' accounts should identify the accounts that are overdue.

### Section 9

#### Accounting for Orders

1. The entrepreneur enters the accepted orders in his Order Book. The incurred direct costs or total cost (Section 28, Paragraphs 5, 6, and 7, of these Principles) is charged to each order in the book. Possible other costs, necessary to document the price at which the order is being sold, are likewise entered.

2. Job (installation) cost sheets may be used if there are many jobs. The sheets are numbered in sequence. After the completion of a job, the sheet is attached to the cashier's document, to the copy of the invoice, or to some other document in the case of goods for stock.

### PART IV

#### PRINCIPLES OF DOUBLE-ENTRY BOOKKEEPING

#### FOR PARAGRAPH 1, SECTION 3, ENTREPRENEURS

### Section 10

#### General Provisions

1. The books in double-entry bookkeeping are:
  - a) The Journal or the schedule of [computer] input data;
  - b) The General Ledger (or Ledger of General Accounts); and
  - c) Subsidiary ledgers.
2. Transactions are entered in the Journal in chronological order.
3. The Journal or file of original document copies provides documentary proof that all transactions have been recorded in their proper amounts or for the given accounting period.
4. Postings to the General Ledger are based, in terms of their real content, on the corresponding subsidiary ledgers' accounts.
5. The General Ledger's accounts, listed in the chart of accounts (Section 11), contain at least the following data:
  - a) The balance at the beginning of the year;
  - b) The monthly total debits and credits from the beginning of the year;
  - c) The balance at the end of the given month.

6. Accounting in the General Ledger's accounts is in currency units.

7. Each account in the General Ledger has both a number and a name, as listed in the chart of accounts.

8. Subsidiary ledgers are kept in accordance with the internal accounting needs of the entrepreneur's business, and to study in greater detail the data in the General Ledger's control accounts.

9. A subsidiary ledger's accounts may be kept also in units of quantity, in which case only the total of their balances can be linked in currency units to the balance of the General Ledger's control account.

10. The amounts in a subsidiary ledger correspond to the totals in the General Ledger account that controls the subsidiary ledger.

11. Subsidiary accounts have only a code number, but the General Ledger account that controls the ledger must be evident from the code number.

### Section 11

#### The Chart of Accounts

1. The entrepreneur compiles for each year a chart of accounts that lists—in accordance with the prescribed Standard Chart of Accounts (Section 14) and the instructions to it (Section 16)—the numbers, or perhaps the chosen code numbers, and the names of those General Ledger accounts that will be needed to record the transactions expected to occur in the entrepreneur's business during the year. If a need arises for additional General Ledger accounts during the year, they may be added to the chart of accounts.

2. If the chart of accounts for the preceding year does not expire as of 1 January of the current year, it will be valid also for the current year. This fact must be noted in the chart of accounts.

3. The chart of accounts may contain also subsidiary accounts.

### Section 12

#### The Opening of Accounts

1. The appropriate asset and liability accounts in the General Ledger, and in possible subsidiary ledgers, are balanced:

- a) As of the day the entrepreneur starts his business;
- b) As of 1 January of each year, if the entrepreneur continues his business;
- c) As of the day the business merges into or consolidates with the business of another entrepreneur or an organization; the day the business splits off; and the day it closes (goes into liquidation).

2. The 1 January opening balances of the asset and liability accounts in the General Ledger of an entrepreneur's continuing business are the carried-forward closing balances at the end of the immediately preceding accounting period (31 December of the preceding year).

3. Fresh General Ledger accounts are opened each year. If postings to the subsidiary ledger accounts continue on the same pages the next year, the new postings must be clearly distinguished from the ones for the preceding year.

### Section 13

#### Proving the Accounts

1. A trial balance is prepared to verify that there are equal and corresponding debit and credit entries in the General Ledger, and that the total of the amounts of all the recorded accounting documents equals the sum of the balances in the General Ledger's accounts. The trial balance is prepared either for the given month or for the year to date. The following data of the General Ledger's accounts are listed in the trial balance:

- a) The numbers of the accounts;
- b) Their balances as of the first day of the given month (or at the beginning of the year), perhaps in a breakdown by credit and debit columns;
- c) Their activity during the given month (or from the beginning of the year); and
- d) The balances at the end of the month, perhaps in a breakdown by credit and debit columns.

2. A trial balance is not necessary if it is evident directly from the ledgers themselves, or from the accounting machine used, that there are equal and corresponding entries in the General Ledger, and that the total of the amounts of all the recorded accounting documents equals the sum of the balances in the General Ledger's accounts.

3. That the General Ledger accounts are in balance with the corresponding accounts in the subsidiary ledgers is proven on the basis of the transactions or balances in the appropriate accounts. If it is not directly evident from the ledgers or from the accounting machine used that the two sets of accounts are in balance, then for each control account in the General Ledger a schedule is prepared of the corresponding subsidiary ledger accounts and of their transactions or balances.

### Section 14

#### The Standard Chart of Accounts

- 0 - Fixed Assets
- 01 - Fixed Assets
- 010 - Fixed Assets
- 03 - Accumulated Depreciation of Fixed Assets
- 030 - Accumulated Depreciation of Fixed Assets
- 1 - Inventories

- 10 - Materials
- 14 - Goods in Process
- 15 - Finished Goods
- 16 - Livestock
- 17 - Merchandise
- 2 - Cash, Accounts, Accrual and Deferral
- 20 - Cash and Securities
- 201 - Cash and Valuables on Hand
- 203 - Securities and Equity in Other Business
- 21 - Bank Accounts
- 210 - Current Account
- 211 - Bank Credit
- 22 - Foreign Exchange
- 225 - Foreign-Currency Account
- 228 - Foreign-Exchange Credit
- 24 - Receivables
- 25 - Payables
- 256 - Accrued Wages Payable
- 27 - Accrued and Deferred Expenses

### Section 15

#### Using the Standard Chart of Accounts

1. If there are no code numbers and names for certain accounts in the groups of the Standard Chart of Accounts, the entrepreneur himself chooses accounts to record the transactions that belong in a given group of accounts. The names of the chosen accounts must conform to the content of the given group of accounts.

2. In the groups for which the entrepreneur himself does not choose individual General Ledger accounts, and it is sufficient for him to record totals, he must open at least a summary account. Its name and code number will be the same as that of the group, except for the addition of a zero to the code number. (For example, Group 30 - Consumption of Materials must have at least an Account 300 - Consumption of Materials, if the group is not broken down in greater detail.)

3. Classes 4, 5, 6, and 8 are optional; the entrepreneur can use them if he needs to follow in greater detail the input-output flows within his business (for so-called internal accounting).

4. In the individual accounts in Class 3 - Expenses, and Class 7 - Revenue, transactions are recorded with increasing totals from year to date.

5. When closing the accounts at the end of the year, the balances of the accounts in Class 3 - Expenses, and Class 7 - Revenue, are transferred to Account 960 - Income Summary and Profit Distribution.

6. In the annual closing of accounts also the balances of Accounts 961 - Local and State Taxes Paid, 962 - Entertainment, Refreshments and Gifts, and 963 - Entrepreneur's Withdrawals Account are transferred to Account 960 - Income Summary and Profit Distribution.

After the transfers of the aforementioned closing balances, the balance of Account 960 - Income Summary and Profit Distribution is transferred to Account 900 - Owner's Equity.

7. The General Ledger accounts and possible subsidiary accounts in Class 3 - Expenses, and Class 7 - Revenue, must be adapted to the requirements of the tax authorities. In particular, the items that are needed to compute personal income tax must be recorded separately.

## Section 16

### Instructions to the Standard Chart's Accounts

#### Class 0 - Fixed Assets

##### [Group] 01 - Fixed Assets

##### [Account] 010 - Fixed Assets

This account records the increases, decreases and total value of the stock of buildings, machinery, means of transport, equipment and other plant assets that the entrepreneur uses in his business, provided their acquisition cost per item is at least Kcs5000 and their service life is longer than one year. The value of existing fixed assets is increased by the amounts spent on their reconstruction, modernization, extension, enclosure, or on additions to them. The costs of repairs are not added to the value of the fixed assets. Land is not included in this account.

If the fixed assets are machinery or equipment, they are posted to Account 010 at the time of their acquisition. In the case of buildings and structures, amounts are posted during their construction, on the basis of the invoices or other documents for the construction work in place, consumption of materials, provided work and services, etc. Upon the completion of the building or structure, its acquisition cost is determined from the data in Account 010, and then the building or structure is accepted and commissioned.

Throughout the entire period of their use, fixed assets are carried on the account at their acquisition cost.

Fixed assets are retired when they are sold or discarded. The retirement of a fixed asset is recorded for the period in which it occurred.

An increase in fixed assets is debited to Account 010.

A decrease in fixed assets is credited to Account 010.

The balance of Account 010 shows the total of fixed assets or perhaps also the total investment cost of the buildings and structures.

The subsidiary ledger has separate accounts for the fixed assets in use and for the acquisition costs of new fixed assets, respectively. There is a separate account for each fixed asset (on ledger cards, for instance).

#### 03 - Accumulated Depreciation of Fixed Assets

##### 030 - Accumulated Depreciation of Fixed Assets

This contra account is for the fixed assets' accumulated depreciation, which corrects the value of fixed assets. With the help of the accumulated depreciation, the fixed assets' depreciated value can be determined.

Depreciation, which is an expense, reflects the fixed assets' gradual wear. Generally binding regulations determine the method of depreciating fixed assets.

The depreciation of fixed assets is credited to Account 030, with an equal and corresponding debit to Group 32 - Depreciation of Fixed Assets.

The acquisition cost of fixed assets is debited to Account 030.

The balance of Account 030 is a contrabalance to its associate Account 010 - Fixed Assets.

#### Class 1 - Inventories

##### 10 - Materials

This group of accounts records the inventory positions and movements of raw and processed materials, supplies, spare parts, fuels, and small tools and equipment in stock.

If the procurement cost of the same material varies, the average inventory cost can be used for valuation and, when material is procured, the differences between the actual cost and the average inventory cost can be debited to an account in Group 30 - Consumption of Materials.

The inventory position and movement of small tools and equipment [in stock] are recorded in this group of accounts. This applies, respectively, to equipment of whatever service life whose procurement cost per item is less than Kcs5000, and to equipment costing more than Kcs5000 per item but with a service life shorter than one year.

When small tools and equipment are issued from stock for use, they are charged to expenses (Group 30 - Consumption of Materials). The entrepreneur keeps accounts for small tools and equipment in use, on Plant and Equipment Ledger cards or in the Plant and Equipment Ledger. The accounts must contain:

- a) The name and description of the item or of the group of functionally similar items;
- b) The date of procurement;
- c) The number of items;
- d) The procurement cost; and
- e) The date and manner of disposal.

#### 14 - Goods in Process

The entrepreneur whose business involves repairs, contracting, services, piece production or custom-made goods must account for his goods in process in this group of accounts.

#### 15 - Finished Goods

This group of accounts records the inventory position and movement of the stock of finished goods produced by the entrepreneur, for sale outside his business.

#### 16 - Livestock

This group of accounts records the increases, decreases, and stock levels of the following animals:

- a) Draft, brood and circus animals; and
- b) Young and feeder animals.

The account for draft, brood, and circus animals is debited, respectively, for an increase in the number of such animals, with an equal and corresponding credit to the supplier's account, and for a transfer from the account for young animals.

The account for young and feeder animals is debited for an increase in the number of such animals. If the increase was purchased, there is an equal and corresponding credit entry to the supplier's account. For the weight gain and the offspring of animals from the entrepreneur's own stock, there is an equal and corresponding credit to Account 772 - Finished Goods [and Livestock] Inventory Changes.

The account for draft, brood, and circus animals is credited for a decrease in the number of such animals due to their sale or loss. In the case of a sale, there is an equal and corresponding debit to Account 381 - Sales of Assets [as published]. If such animals die, the decrease is debited to Financial Expenses.

The account for young and feeder animals is credited for a decrease in their number due to their sale, loss or possible transfer to the account for draft and brood animals. When such animals are sold, the credit for the decrease has an equal and corresponding debit to Account 772 - Finished Goods [and Livestock] Inventory Changes. Possible losses of such animals are debited to Financial Expenses.

The balance of this account is the current level of the stock.

A separate subsidiary account is kept for each species.

#### 17 - Merchandise

This group of accounts records the position and movement of the inventory of purchased merchandise and of merchandise produced by the entrepreneur.

There are separate accounts for the merchandise inventory at retail, and for the trade discount.

#### Class 2 - Cash, Accounts, Accrual and Deferral

##### 20 - Cash and Securities

###### 201 - Cash and Valuables on Hand

This account records in domestic currency the increases, decreases and balances of cash on hand, as well as of checks and notes receivable but not discounted. Valuables in domestic currency (postage stamps, revenue stamps, vouchers for motor fuels and lubricants, and meal tickets honored by public catering organizations) likewise belong here. Vouchers issued to drivers, and sums entrusted to employees for specific purposes (for travel expenses, or to buy small supplies, for instance) are accounted for in Account 240 - Receivables.

Receipts of cash and valuables are debited to Account 201.

Disbursements of cash and valuables are credited to Account 201.

The balance of Account 201 shows the balance of cash and valuables on hand.

The subsidiary accounts controlled by Account 201 are separate accounts for cash and valuables, respectively, and the latter are broken down by kind.

###### 203 - Securities and Equity in Other Business

This account records in domestic currency the increases, decreases and balance of the portfolio of securities and equity in other business, and possible refunds and part payments for securities and equity not yet delivered or transferred.

The securities and equity are valued at their nominal price. Depending on which price is the higher, the difference between the actual and the nominal price when securities and equity are purchased or sold is recorded in Group 37 [- Financial Expenses] or 76 - Other Revenue.

The purchase or other increase of securities and equity is debited to Account 203.

The sale or other decrease of securities and equity is credited to Account 203.

The balance shows the value of the portfolio of securities and equity.

There are separate subsidiary accounts for the different kinds of securities and equity.

##### 21 - Bank Accounts

###### 210 - Current Account

This account records the increases, decreases and balances of cash on current account with the appropriate

bank. The current account consolidates in one account the entrepreneur's cash earmarked for his business, namely all his cash receipts deposited with the bank, and his receipts from cashless sales as well as from other income and revenue transfers.

Interest on the Bank Credit account is paid from the current account.

Deposits to the current account are debited to Account 210.

Disbursements from the current account are credited to Account 210.

The balance of Account 210 shows the current account's balance.

#### **211 - Bank Credit**

This account records the increases, decreases and amounts outstanding of the credit that his bank granted the entrepreneur.

When the bank pays a supplier's invoice directly from credit it granted, the amount paid is credited to Account 211, with an equal and corresponding debit to Account 250 - Payables.

Interest charged on the account is paid from the current account.

The amount of credit the bank granted (or granted additionally) is credited to Account 211.

The amounts the bank receives in repayment are debited to Account 225 [as published].

The balance of Account 211 is the amount of bank credit outstanding.

The subsidiary accounts are broken down by types of credit and by individual banks.

#### **22 - Foreign Exchange**

##### **225 - Foreign Currency Account**

This account records the increases, decreases and balances of cash in foreign currency deposited with domestic banks.

The foreign currency deposits (withdrawals) to (from) accounts with domestic banks are recorded in Czechoslovak currency (Kcs), but Account 225 must show the deposits and withdrawals also separately in each of the foreign currencies in which they were made. Conversion of the foreign currencies into Kcs is at the "average" rate in the current list of exchange rates. At the end of the annual accounting period the exchange rate profit or loss resulting from the conversions is credited to the appropriate account in Group 76 - Other Revenue (if a profit) or is debited to the appropriate account in Group 37 - Financial Expenses (if a loss).

Debit [as published] items in the domestic banks' statements are debited to Account 225.

Debit items in the domestic banks' statements are credited to Account 225.

The balance of Account 225 is the balance of foreign currency on deposit with domestic banks.

A separate subsidiary account is kept for each foreign currency.

##### **228 - Foreign Exchange Credit**

This account records the increases, decreases and amounts outstanding of the foreign exchange credits that a domestic bank granted the entrepreneur.

The foreign exchange credits granted by domestic banks are converted into Czechoslovak currency (Kcs). Accounting is in Kcs, but it is necessary to account for such credits also in foreign currency. Foreign exchange is converted into Kcs at the "average" rate in the current list of exchange rates. At the end of the annual accounting period the exchange rate profit or loss resulting from the conversions is credited to the appropriate account in Group 76 - Other Revenue (if a profit) or is debited to the appropriate account in Group 37 - Financial Expenses (if a loss).

The provided foreign exchange credit and its interest charges are credited to Account 228.

Repayment of the credit is debited to Account 228.

The balance of Account 228 is the amount outstanding of the foreign exchange credits that a domestic bank granted the entrepreneur.

There are separate subsidiary accounts for each foreign currency.

##### **24 - Receivables**

The accounts in this group include the accounts receivable from customers, also the accounts due from individuals (for advances given employees, other billings to individuals), accounts due from the sale of fixed assets, from sickness insurance benefits, and for other claims. The accounts record the invoiced materials, goods, merchandise, performed work and services supplied to customers, the customers' payments and claims, and additional claims uncovered by audits (for the recovery of the sickness insurance benefits to which the employee was not entitled, for instance).

Sent invoices are entered for the month in which delivery was completed. That applies also to year-end deliveries invoiced only the following year; such invoices must be entered for the year in which delivery was made.

Adjusting entries are made if the invoice had already been entered but the customer refused to accept delivery or returned the shipment, and his refusal was warranted. If in the meantime the customer has already paid the

invoice, his payment is refunded. Payments for work or services that are not accepted, recognized complaints, and the additional allowances offered are handled in the same manner.

This group of accounts includes also the accounts receivable from foreign customers, for the merchandise, work or services invoiced to them. The accounts record the payments against invoices as well. The exchange rate profit or loss from conversion is determined at the time of collection and is credited to the appropriate account in Group 76 - Other Revenue (if a profit) or is debited to the appropriate account in Group 37 - Financial Expenses (if a loss).

Accounting for claims arising from the existence of consortia also belongs in this group.

### 25 - Payables

The accounts in this group are the accounts payable to suppliers for materials, merchandise, work and services supplied on credit, and the accounts due to individuals or businesses (other entrepreneurs and organizations). Accounting for the claims against suppliers resulting from complaints, and for overshipments of materials and merchandise established at the time of delivery but not included in the invoice, also belongs here.

Accounting for all obligations of the entrepreneur's toward the national committee (for his tax liability and payments of local taxes) belongs in this group.

Incoming invoices for materials, merchandise, work and services supplied are entered the day they are received at the enterprise.

All disbursements to individuals—with the exception of wages and other remuneration for work performed, pay for time not worked, and sickness insurance benefits—must be recorded in this account [as published].

Accounts payable to foreign suppliers for the materials, merchandise, work and services they supplied are likewise in this group.

The exchange rate profit or loss from conversion is determined at the time of collection and is credited to the appropriate account in Group 76 - Other Revenue (if a profit) or is debited to the appropriate account in Group 37 - Financial Expenses (if a loss).

Accounting for the obligations arising from the existence of consortia belongs here, too.

### 256 - Wages Payable

This account records the increases, decreases, and balances of the amounts the entrepreneur owes his employees as earned but as yet unrecorded wages and other remuneration for work performed, pay for time not worked, and sickness insurance benefits; furthermore, of the wage equivalent included in the amounts payable for work performed by nonemployees and apprentices,

unless the apprentices are being paid wages. Wage deductions, and additional deductions from wages and other remuneration for work performed, are also recorded here.

Postings to this account must be based on pay sheets and payroll distribution sheets or other substitute business records. No claims other than what can be charged to wages and other remuneration for work performed can be posted to this account. (For instance, advances for travel expenses not yet accounted for cannot be included here.)

Deductions from wages and other remuneration for work performed are recorded in this account for the accounting period in which the gross wages and other remuneration for work performed were compiled. Disbursements of net wages and other remuneration for work performed are recorded for the period in which they actually occurred.

Total gross wages and other remuneration for work performed, pay for time not worked and the wage equivalent included in the amounts payable for work performed by nonemployees and apprentices, unless the apprentices are being paid wages, are credited to Account 256.

The advances given and the balances of net earnings paid, including pay for time not worked and sickness insurance benefits paid, are debited to Account 256.

The balance of Account 256 shows what the entrepreneur owes his employees.

The subsidiary accounts are the employees' individual earning records.

### 27 - Accrued and Deferred Expenses

#### 270 - Prepaid Expenses

Especially the following prepaid expenses are distinguished:

a) The start-up costs of production and services (setup, documentation, preprocessing of materials, designing the product, planning the production technology, mastering new production methods, the higher costs of the test series, etc.), and perhaps the costs associated with founding the enterprise itself;

b) The costs of issuing more items of small tools and equipment, due to a new plant or to the expansion of the existing one;

c) The costs of research and development, or of licenses to use patents and industrial property, including technical know-how.

The expenses listed above may be spread over not more than four years from the time they are incurred, i.e., from the time the last prepaid expenses are recorded.

An increase in the balance of prepaid expenses is debited to Account 270, with an equal and corresponding credit to Account 773 - Changes in Balance of Prepaid Expenses.

A decrease in the balance of prepaid expenses is credited to Account 270, with an equal and corresponding debit to Account 773 - Changes in Balance of Prepaid Expenses.

The balance of account 270 is the balance of prepaid expenses and is carried forward into the next year.

Separate subsidiary accounts are kept for each kind of prepaid expense.

### 277 - Provisions for Expenses

This account records the formation and spending of reserves for the following expenses:

- a) Repairs of fixed assets;
- b) Vacation pay; this reserve may be carried forward into the following year only in the amount necessary to cover the total days of paid vacation still due at the end of the year. The reserve is liquidated at the end of the period during which the accumulated vacation days may be taken;
- c) Bonuses and special payments charged to expenses; this reserve may be carried forward into the following year only in the amount necessary to cover the bonuses and special payments for the results achieved in the current year, but which will be disbursed only the following year;
- d) Payroll tax; this reserve may be formed and be carried forward to the following year only together with a reserve for wages;
- e) Warranty repairs; this reserve is formed for individual types of goods, commensurately with their sales volumes. This reserve is liquidated gradually, in accordance with the number of warranty claims made by customers and with the gradual expiration of the warranty period.

The formation (or increase) of reserves is credited to Account 277, with an equal and corresponding debit to Account 773 - Changes in Balance of Prepaid Expenses.

The spending (or decrease) of reserves is debited to Account 277, with an equal and corresponding credit to Account 773 - Changes in Balance of Prepaid Expenses.

The balance of account 277 is the balance of the reserves that is carried forward to the following year.

The subsidiary accounts are kept separately for the individual reserves.

## Class 3 - Expenses

### 30 - Consumption of Materials

This group of accounts records the consumption of materials, fuels, and small tools and equipment that the entrepreneur procured and accounted for in Account 100 - Materials.

The consumption of materials is recorded at the same cost as was used in the inventory valuation of the materials in stock.

The incidental costs of procuring the materials are not included in their consumption, unless some such items themselves qualify as consumption of materials (non-reusable packaging materials, for instance, or the consumption of auxiliary materials to unload and transport the procured materials).

If the entrepreneur uses uniform costs for inventory valuation of the various raw and processed materials when they are procured, the use of the uniform costs remains mandatory throughout the calendar year. In this case a separate account can be opened within this group to account for the differences between the actual value of the raw and processed materials and the valuation the entrepreneur uses when the same materials are consumed.

### 31 - Contracted Services

This group of accounts records all external expenses for:

- a) Power consumption;
- b) Repairs and maintenance;
- c) Freight;
- d) Telecommunications; and
- e) Other contracted services.

### 32 - Depreciation of Fixed Assets

This group of accounts is for the depreciation of fixed assets. The book value of retired fixed assets is posted to Account 381 - Book Value of Sold Fixed Assets.

### 33 - Taxes Charged to Expenses

#### 331 - Sales Tax

This account is for the sales tax levied. And also for the tax deficiency notices and the additional sales tax assessed, when these items can be passed on to the customer.

If the customer returns the shipment to the supplier because of a complaint and the customer is unable to deduct the sales tax when filing his return, then the sales tax is debited to Account 331 in red ink, with an equal and corresponding debit to Account 960 - Income Summary and Profit Distribution.

### 339 - Other Taxes Charged to Expenses

This account is for all other taxes the entrepreneur is entitled to charge to expenses. Especially land and house taxes.

### 34 - Cost of Merchandise Sold

#### 341 - Cost of Merchandise Sold

This account records, at procurement cost, the merchandise sold and the food consumed in public catering establishments.

### 35 - Wages Paid

This group of accounts is for all the wage and other personnel expenses the entrepreneur incurred. The posted disbursements are supported by the pay sheets and the payroll distribution sheets or possible other documents that serve as substitutes. In principle, wage expenses are posted to this account [as published] for the period in which the work was performed and the paid time not worked occurred. In other words, the amounts charged to a given accounting period are summarized.

This account [as published] records also the recovery (cancellation) of wages for the current year or preceding years, debited originally to Wages Paid.

### 37 - Financial Expenses

This group of accounts records all external financial expenses of the following kind:

- a) Interest charges;
- b) Membership dues to business associations;
- c) Shortages and losses of business assets;
- d) Fines and penalties;
- e) Entrepreneur's remuneration; and
- f) Other financial expenses.

#### Interest Charges

The interest the bank charges on the credit it provides, and the interest on notes payable are recorded here.

The interest charged on foreign exchange credit for importing materials or merchandise is a part of the procurement cost from which the wholesale and perhaps the retail price is derived. Therefore such interest is not expensed here.

#### Membership Dues to Business Associations

The dues that some entrepreneurs pay their business associations to cover the latter's operating costs are recorded here.

#### Shortages and Losses of Assets

Shortage means missing assets.

Loss means the physical deterioration (damage or destruction) of assets (fixed assets, small tools and equipment, or inventories), due to either subjective or objective causes.

The amounts of the shortages or losses are recorded here irrespectively of the limit above which the responsible party (the entrepreneur's employee, another entrepreneur or an organization) must pay compensation for the shortage or loss.

The amounts of the shortages and losses in the entrepreneur's own inventories (of his own goods in process, finished goods and livestock) are debited to this account, with an equal and corresponding credit to Account 771 - Goods in Process Inventory Changes or to Account 772 - Finished Goods [and Livestock] Inventory Changes.

#### Fines and Penalties

This account is for the fines and penalties paid, and the compensation received for them. In particular, for:

- a) Penalties for late payments to the national committee;
- b) Additional sales tax assessed for late payment;
- c) Fines and penalties for violations of transport conditions; and
- d) Compensation received for the fines and penalties paid.

#### Entrepreneur's Remuneration

The amounts the entrepreneur receives as remuneration liable to personal income tax are accounted for here, in accordance with the pertinent regulations.

#### Other Financial Expenses

The other financial expenses accounted for here are especially the following:

- a) Payroll tax, and the entrepreneur's sickness insurance premium and social security contribution;
- b) Public administration, court and similar fees (including revenue-stamp fees) paid in accordance with special regulations;
- c) Compensation for damage paid to another business as a result of the entrepreneur's liability, except compensation for the fines and penalties paid;
- d) The basic charges and surcharges for air pollution;
- e) Compensation paid for the damage caused by emissions;
- f) Charges and surcharges for discharging waste water into streams;
- g) Compensation for the costs of training an apprentice, paid to another business (entrepreneur or organization) from which the apprentice is transferring;

- h) Statute-barred and dubious debt written off, and payments to service written-off debt;
- i) Exchange rate losses resulting from the conversion of foreign currencies, foreign exchange, and securities and equity denominated in foreign currency;
- j) Compensation paid for loss of earnings or income, for pain and diminished prospects of social advancement, for reasonable medical expenses and physical damage in the case of industrial accidents or occupational diseases;
- k) Compensation for damages paid to individuals as a result of the entrepreneur's liability;
- l) The entrepreneur's professional registration fee;
- m) Mandatory liability insurance coverage for the losses employees suffer at work; and
- n) Contractual liability insurance coverage for losses.

### 38 - Sales of Assets

#### 381 - Book Value of Sold Assets

This account records the book value of the fixed assets retired by discarding (and selling) them. Furthermore, the sales of materials at their procurement cost and of securities at their purchase price, the purchase price of the sold young and feeder animals, and the sales of draft, breeding, and circus animals valued at their acquisition cost.

The book value of fixed assets, or parts thereof, discarded because of damage is debited to Financial Expenses.

### 39 - Interdepartmental Expenses

#### 399 - Interdepartmental Expenses

This account records interdepartmental (secondary) expenses resulting from transfers between departments of the same enterprise. In other words, the outputs that one department invoices another, with equal and corresponding postings to Account 799 - Interdepartmental Revenue.

### Class 7 - Revenue

#### 70 - Revenue From Sales

This group of accounts records the revenue from sales (with sales tax added), and the compensation the entrepreneur received from his insurer for loss of income.

Sales are posted the day delivery is completed. Cash sales are posted the day payment is received.

Invoices (or other substitute documents) sent out the first of the month after the completion of delivery are posted for the month in which delivery was completed.

Sales returns and allowances for complaints are corrections to the sales originally posted.

#### 76 - Other Revenue

This group is used to account for all other revenue of the entrepreneur, such as:

- a) Interest received;
- b) Compensation received from insurers;
- c) Income from securities, prizes won in public competitions; and
- d) Other income.

Compensation received from insurers means the amounts the entrepreneur received for insured losses other than loss of income. Insurance claims can be entered on the basis of the documents in which the insurer approves the amounts of the claims.

Unless reflected in the insurance premiums that the entrepreneur paid and charged to Group 37 - Financial Expenses, also the rebates from insurers belong here.

Income from securities means dividend and interest income from stocks and bonds.

Income from foreign securities must be accounted for separately.

### 77 - Revenue From Interdepartmental Transfers and Inventory Changes

#### 771 - Goods in Process Inventory Changes

This account records the changes during a given accounting period in the inventory of goods in process.

The account is a contra account to the posted revenue and expense entries; it is used to determine the correct amount of net income.

An increase in the inventory of goods in process is credited to Account 771, with an equal and corresponding debit to Group 14 - Goods in Process.

A decrease in the inventory of goods in process is debited to Account 771, with an equal and corresponding credit to Group 14 - Goods in Process.

#### 772 - Finished Goods and Livestock Inventory Changes

This account records the changes during an accounting period in the inventory of finished goods and of livestock, respectively. The procurement cost of the sold young and feeder animals is credited to this account, with an equal and corresponding debit to Account 381 - [Book Value] of Assets Sold.

This account is a contra account to the posted revenue and expense entries; it is used to determine the correct amount of net income.

Increases in the inventory of finished goods and of livestock, respectively, are credited to Account 772, with an equal and corresponding debit to the appropriate

account in Group 15 - Finished Goods or a credit [as published] to the appropriate account in Group 16 - Livestock.

Decreases in the inventory of finished goods and of livestock, respectively, are debited to Account 772, with an equal and corresponding credit to the appropriate account in Group 15 - Finished Goods or in Group 16 - Livestock.

#### **773 - Changes in Balance of Prepaid Expenses**

This account records the changes in the balance of prepaid expenses.

#### **779 - Capitalization of Materials and Fixed Assets**

This account records transfers, to the materials or merchandise inventories, of the materials, small tools and equipment, and merchandise produced by the entrepreneur.

Transfers, to inventory, of the materials produced by the entrepreneur are neither invoiced nor subject to payment.

In accounting for transfers of materials, small tools and equipment, and merchandise produced by the entrepreneur, the same valuation is used as in Group 10 - Materials or in Group 17 - Merchandise.

Accounting for transfers, to the stock of fixed assets, of plant and equipment built by the entrepreneur (for his own account) is based on valuation pursuant to Section 28, Paragraph 3, of the present Principles.

Separate subsidiary accounts are kept for the capitalization of materials (as well as small tools and equipment, and merchandise) and of fixed assets.

#### **78 - Income From the Sale of Assets**

#### **781 - Income From the Sale of Assets**

This account records income from the sale of fixed assets, materials inventories, securities, of draft, brood and circus animals, and also from the salvage value of discarded fixed assets.

#### **79 - Interdepartmental Revenue**

#### **791 - Interdepartmental Revenue**

This account records interdepartmental (secondary) revenue arising from transfers between the departments of the same enterprise—i.e., revenue based on the internal accounting of output to other departments—with an equal and corresponding posting to Account 399 - Interdepartmental Expenses.

### **Class 9 - Equity, Income Summary, Profit Distribution**

#### **90 - Equity and Issued Bonds**

#### **900 - Owner's Equity**

When the entrepreneur obtains his license, his capital is the sum of the value of the items (especially of the buildings, machinery and equipment, means of transport, and inventories of raw and processed materials, merchandise, and small tools and equipment) and of the amount of money he puts into his business, less what he may owe his creditors. For the purpose of determining his equity, items in the nature of fixed assets are taken at their book value, while inventory items are valued at their procurement cost.

Owner's equity in the continuing concern

a) Is increased by the amounts of additional capital contributed to the business by the entrepreneur or perhaps by the partners, and by the amount of retained profit;

b) Is reduced by the amounts the entrepreneur transfers to his withdrawals account, and perhaps also to the withdrawals accounts of his possible partners, as a result of a decision to reduce the capital; by the loss reported for the basic accounting period; and by the debit balance of Account 960 - Income Summary and Profit Distribution.

An increase in owner's equity is credited to Account 900.

A reduction in equity is debited to Account 900.

The balance of Account 900 shows the balance of owner's equity.

Separate subsidiary accounts are kept for the shares of the individual partners.

#### **901 - Issued Bonds**

This account records the bonds issued by the entrepreneur and allotted by his employees to subscribers. The issued bonds are valued at par.

The issued bonds allotted to subscribers are credited to Account 901, with an equal and corresponding debit to Group 24 - Accounts Receivable.

The price of the bonds redeemed from subscribers is debited to Account 901, with an equal and corresponding credit to Account 210 - Current Account.

The balance of Account 901 shows the paid-up bonds issued.

Subsidiary accounts are kept for each subscriber.

**91 - Enterprise Funds****910 - Incentive Fund**

The entrepreneur may set up an Incentive Fund at the end of the year from his profit (after taxes and payments to the national committee or the state budget) and use the fund to contribute toward the costs of his employees' consumption that serves to satisfy their collective needs, especially their cultural, health care, welfare, recreational, sports and other similar needs.

Furthermore, the fund may be used as the source of financing rewards, special payments or bonuses for the entrepreneur's employees.

At his discretion, the entrepreneur may transfer a part of the fund's resources to Owner's Equity.

Allocations to (the formation of) the fund are credited to Account 910, with equal and corresponding debits to Account 960 - Income Summary and Profit Distribution.

The use of (spending from) the Incentive Fund is debited to Account 910.

The balance of Account 910 shows the fund's balance and may be carried forward to the following year.

**96 - Income Summary and Profit Distribution****960 - Income Summary and Profit Distribution**

This account shows the entrepreneur's net income by recording as transfer entries the balances of the Class 7 accounts, including Goods in Process Inventory Changes, Finished Goods [and Livestock] Inventory Changes, Changes in Balance of Prepaid Expenses, and also the balances of the Class 3 accounts.

The balance of Account 960 after these transfers is the entrepreneur's net income (his profit or loss). The entrepreneur uses his profit first of all to pay what he owes the national committee or the state budget in taxes, then to provide for the incentive fund, to increase his equity, and to transfer profit to his withdrawals account.

In the annual closing of accounts the balances of Account 961 - Local and State Taxes Paid, 962 - Entertainment, Refreshments, Gifts, and 963 - Entrepreneur's Withdrawals Account are transferred to Account 960. The balance remaining in the account after these transfers closes into Account 900 - Owner's Equity.

The annual closing entries must clear and close the account.

**961 - Local and State Taxes Payable**

This account is for the local and state taxes the entrepreneur is required to pay the national committee or the state budget.

The account records:

a) Income tax, including additional assessments and refunds resulting from audits by the tax authorities for taxes payable from net income;

b) Additional payments of tax that should have been withheld from employees' earnings, if tax audits establish that the entrepreneur computed the withheld tax incorrectly and it is not possible to pass on the additional tax to the employees.

Taxes payable in installments are entered when the installments are due. In the case of taxes payable in one sum, the entire tax liability is entered.

Notices of tax assessment from the national committee are debited to Account 961.

The transfer of the tax assessments at the end of the year to Account 960 - Income Summary and Profit Distribution is credited to Account 961.

The balance of Account 961 is the balance of the notices of tax assessment from the national committee. After the annual closing entries, Account 961 must be cleared and closed.

There are separate subsidiary accounts for taxes payable to the national committee and to the state budget.

**962 - Entertainment, Refreshments, Gifts**

This account records business-related expenses for entertainment, refreshments and gifts.

Expenses for entertainment, refreshments and gifts are debited to Account 962.

The transfer of the total of expenses for entertainment, refreshments and gifts to Account 960 - Income Summary and Profit Distribution at the end of the year is credited to Account 962.

The closing entries at the end of the year clear and close Account 962.

**963 - Entrepreneur's Withdrawals Account**

This account records the portion of profit that the entrepreneur or the partners use for their personal needs and is subject to personal income tax.

The amounts that the entrepreneur or the partners withdraw for their personal needs are debited to Account 963.

The transfer of the total withdrawals to Account 960 - Income Summary and Profit Distribution at the end of the year is credited to Account 963.

The balance of Account 963 is the total amount of profit that the entrepreneur or the partners used for their personal needs during the year. The closing entries at the end of the year clear and close this account.

There is a separate subsidiary account for each partner.

**PART V**  
**COMMON PROVISIONS**  
**FOR SINGLE- AND DOUBLE-ENTRY**  
**BOOKKEEPING**

**Section 17**

**Accounting Documents**

1. Entries in the entrepreneur's books must be supported by accounting documents.
2. The essentials of accounting documents are:
  - a) The name of the document, if not evident at least indirectly from its content;
  - b) A description of the document's content and the names of the parties to the business transaction, if not evident at least indirectly from the document;
  - c) The date or period when the business transaction took place;
  - d) The amount or quantity of the transaction, or both;
  - e) The date of the document, and the signature of the person who prepared it.
3. The following information must be provided on the accounting document or in some other way:
  - a) Identification of the entries that the document supports (the accounting distribution, or reference to the Journal's line in the case of single-entry bookkeeping);
  - b) Proof that the entries for the given accounting period are complete (the serial numbers of the accounting documents, for instance);
  - c) An indication that the documents have been entered (an "Entered" note, for instance).
4. Entries stored on recording media must not be used as substitutes for the vouchers, receipts, and other documents supporting increases and decreases in the enterprise's assets and liabilities.

**Section 18**

**Bookkeeping Entries**

1. Bookkeeping entries must be made in a way that prevents subsequent addition to the entries, their alteration or correction. The blank rows or blank spaces between entries must be filled by drawing a line through them, unless the accounting machine used rules out any subsequent addition.
2. Bookkeeping entries must be arranged in a way that permits checking the completeness and correct amounts of the entries for the given accounting period.
3. When computers or other machines are used for bookkeeping and accounting, there must be at least one

journal containing posting references that link the individual entries to the data of the accounting documents stored on recording media (hereinafter: input data). In the case of double-entry bookkeeping, the recording of all accounting documents in their correct amounts for the accounting period can be proven also by preparing a schedule of the input data, which then serves as the journal.

4. Computer or accounting-machine programs can derive bookkeeping entries from data files stored on recording media or from transmitted data. The procedure for deriving bookkeeping entries is described in the program's manual.

**Section 19**

**The Books' Form**

1. The books may be in the form of loose-leaf or bound books, files stored on recording media, or reports.
2. In the case of a loose-leaf books, a list is prepared of the loose-leaf sheets so that a book's completeness can be checked at any time. This list is compiled when a new book is opened and is continually updated thereafter.
3. In the case of a bound ledger used in double-entry bookkeeping, a list is prepared and updated of the ledger's accounts, showing also the number of the page (or leaf) on which each account begins.
4. Before making any entries in a new bound book, its pages (or leaves) must be numbered in sequence beginning with 1, and the number of pages (or leaves) must be noted at the beginning or end of the book. This applies only to bound leaves (but not to loose-leaf sheets). Every bound book must have a name and show the accounting period it covers.
5. When books are kept as files stored on recording media or in the form of reports, the output data must be identified comprehensively, indicating the books (or other accounting records) to which they pertain and the accounting period they cover.
6. When books are kept as files stored on recording media or in the form of reports, a list of the stored files or reports is prepared and continually updated, indicating which books or other accounting records they contain.
7. When books are kept in the form of files stored on recording media, the entrepreneur must provide computer printouts of the books, at the request of the tax authorities or other authorized agencies.

**Section 20**

**Key to Code Numbers, Other Symbols, and Abbreviations**

Every entrepreneur must prepare and continually update a key (or keys) to the code numbers or other symbols and abbreviations used in his books.

**Section 21****Taking Inventory**

1. Once a year, as of the annual accounting date, and also as of the day his business ceases, the entrepreneur must take inventory to ascertain his assets and liabilities, unless he is using a perpetual inventory system.

2. Perpetual inventories may be used for materials, goods, and merchandise for which separate records are kept, one for each kind (on individual inventory cards). A physical count of the perpetual inventory of each kind of material, good and merchandise in stock must be made once a year and also as of the day the business ceases.

3. When taking physical inventory, an inventory list is prepared of the fixed assets and stocks (of materials, small tools and equipment in use, goods, livestock and merchandise). The inventory list must be signed by the entrepreneur, and perhaps also by the entrepreneur's employee who took the physical inventory. When the procedure pursuant to Paragraph 2 is followed, the physical count is confirmed on the inventory card; if the physical count shows a discrepancy, the shortage or surplus is entered on the inventory card to show the correct inventory position.

4. The inventory list is a complete listing of the individual items of fixed assets and of each kind of stock counted when taking the physical inventory, of their recorded quantities, and of the discrepancy found when taking the physical inventory. Fixed assets and stocks are inventoried in monetary units. The entries for the individual fixed assets and kinds of stock are corrected in the ledgers, or in the subsidiary journals in the case of single-entry bookkeeping, to reflect the established shortage or surplus.

5. Cash on deposit with the bank is inventoried by comparing the balance of such cash in the Cash Journal or in the accounts, with the statements the bank sent the account holder.

6. Cash on hand is inventoried by counting it.

7. The balances of receivables and payables are ascertained by taking documentary inventory of the documents (invoices, bills, etc.) supporting the individual items that affect the balances.

8. Physical inventories of fixed assets and stocks that cannot be completed in one day may be taken during the last three months of the year or the first month of the following year. But the inventory positions of the fixed assets and stocks must be reflected as of the annual accounting date by adding to, and subtracting from, the physical inventory's count the increases and decreases (supported by accounting documents in the case of double-entry bookkeeping) that occurred from the physical inventory's start through the end of the year, or from the beginning of the year to the physical inventory's

completion. This applies also to the physical inventory taken when the business ceases.

9. The established inventory discrepancies must be recorded in the ledgers, or in the subsidiary journals in the case of single-entry bookkeeping, for the year in which physical inventory is taken to ascertain the balances of the asset and liability accounts as of the annual accounting date or as of the day the business ceases.

**Section 22****Closing the Accounts**

1. As of 31 December of each year (the annual accounting date), after all transactions for the year have been recorded, the closing entries (Section 4, Paragraph 8, and Section 15, Paragraphs 5 and 6, of the present Principles) are made.

2. The entrepreneur closes his accounts also in the case of organizational changes (the entrepreneur's business merges into or consolidates with the business of another entrepreneur or an organization, splits off or ceases). The extraordinary closing of accounts in such cases is carried out as of the day the organizational change took place.

**Section 23****Annual Financial Statement**

1. The [consolidated] annual financial statement, which must be attached to the personal income tax return, comprises:

a) The balance sheet, which is a statement of the entrepreneur's financial position as of the annual accounting date, in a breakdown by assets, liabilities and owner's equity;

b) The income statement, which summarizes the entrepreneur's income and expenses during the annual accounting period; and

c) The profit distribution statement.

2. The annual financial statement is prepared as of the annual accounting date (Section 22, Paragraph 1, of the present Principles).

3. The entrepreneur prepares extraordinary financial statements also as of the dates of the extraordinary closings of accounts (Section 22, Paragraph 2, of the present Principles).

4. The annual financial statement is linked to the balanced accounting data, or the data of the subsidiary journals in the case of single-entry accounting.

5. Entries on recording media cannot serve as a substitute for the annual financial statement.

6. The entrepreneur must sign the annual financial statement and enter his identification number on it.

## Section 24

### Identification of Accounting Records

The entrepreneur's books, financial statement and other accounting records must display the firm's name under which the entrepreneur does business.

## Section 25

### Use of Computers or Other Accounting Equipment

1. When the entrepreneur uses computers or other accounting equipment, he follows the program manual that is part of the accounting records.
2. Unless the present Principles specify otherwise, entries stored on recording media may serve as substitutes for accounting records.

## Section 26

### Correction of Entries in Accounting Records

1. Corrections of entries in accounting records must be supported by accounting documents.
2. Entries in accounting records must not be corrected by overwriting, erasure, scratching out or in any other way that would make the original entry partly or entirely illegible or would destroy the recorded data on the recording medium.
3. When books are kept as records on recording media or in the form of reports, accounting entries are corrected either in the data sets stored on recording media or by printing new, corrected reports, or perhaps by printing a list of errors as a supplement to an originally printed (uncorrected) report.
4. Only when the entrepreneur's computerized or otherwise automated accounting is handled by another business (another entrepreneur or an organization) is it possible exceptionally to correct the mistakes in a printed report as specified in Paragraph 5. Corrections made in this manner must be supported by accounting documents attesting to the fact that the corrections have been made also in the data sets.
5. In the case of loose-leaf or bound books, it is permissible to correct amounts and their entries by crossing them out with a fine line so that they remain legible, and then making the correct entry above the crossed-out one or elsewhere.
6. The provisions of the preceding paragraph apply also to other corrections (or additions) in the books, and to corrections in other accounting records.
7. A signed and dated memorandum attesting to the correction's execution is attached to any entry corrected in accordance with Paragraphs 5 and 6.
8. In accounting documents supporting transactions involving the cashier's office or contact with banks,

corrections are not permitted in the documents' essentials listed under Section 17, Paragraph 2, Items b), d) and e), of the present Principles. In such cases new accounting documents are prepared, and the original ones with the errors are destroyed.

## Section 27

### Filing and Retention of Accounting Records

1. Accounting records that are not needed for routine accounting and can form complete sets are filed separately.
2. Accounting records, except those specified in Paragraph 3, are retained as follows:
  - a) The Employees' Individual Earnings Records, for at least 20 years beginning with the year after the one to which they apply;
  - b) The annual and also possible extraordinary closings of accounts, for at least 10 years beginning with the year after the one to which they apply;
  - c) Accounting documents, the charts of accounts (Section 11 of the present Principles), books (other than the Employees' Individual Earnings Records), for at least five years beginning with the year after the one to which they apply;
  - d) The program manual for computerized and other automated accounting, for at least five years beginning with the year after the one to which it applies;
  - e) The list of reports and the list of books, at least for the same period of time that the records listed in them have to be retained; the keys to code numbers, and to the symbols and abbreviations used in the accounts, at least for the same period that the records in which the code numbers, symbols and abbreviations are used must be retained;
  - f) The pads of cashier's receipts for cash sales of merchandise, goods, work and services, for at least five years beginning with the year after the one to which they apply; these records may be removed (discarded) after a tax audit;
  - g) Other accounting records, for at least three years beginning with the year after the one to which they apply.
3. Accounting documents and other accounting records pertaining to claims and obligations arising from warranty periods, copyright and patents; to customs protest, tax, court and other proceedings still pending; and to claims or debts still unpaid must be retained until the end of the year after the one in which these circumstances occurred.
4. When the entrepreneur winds up his business, he must retain his accounting records for at least five years beginning with the year after the one in which the liquidation of his business ended.

**Section 28****Valuation of Physical Assets**

1. The entrepreneur's physical assets must be valued as follows:

- a) Fixed assets, at their acquisition cost;
- b) Materials, and small tools and equipment, at their retail or wholesale price;
- c) Goods in process
  - ca) At the direct costs incurred, or
  - cb) At the total cost incurred;
- d) Finished goods, at their total cost incurred;
- e) Livestock
  - ea) Draft, brood and circus animals, at their acquisition cost;
  - eb) Young and feeder animals, at their procurement cost, plus the value of their weight gain and offspring at the total cost incurred;
  - fc) Merchandise, at its trade price.

2. For the valuation of his finished products, and of his livestock's weight gain and offspring, the agricultural entrepreneur may use constant accounting costs that he himself sets at the level of the average sales (purchasing) prices. In the case of products for which there are no sales prices, he sets his constant accounting cost at the level of his total cost. Or he may use the accounting costs that are applicable nationally.

3. The acquisition cost of fixed assets includes particularly the costs of their planning and design, and the costs of acquiring, converting, modernizing, enclosing and adding to the existing fixed assets. Payments for diverting farmland to capital construction, and the compensation paid for the economic damage caused are included in the acquisition cost. The freight and installation costs, and the customs duty when fixed assets are acquired through import, are likewise included.

4. The retail, trade, wholesale and purchasing prices mean the prices set in accordance with the pricing regulations.

5. The total cost comprises direct costs and overhead.

6. The direct costs are:

- a) Direct material costs;
- b) Direct labor costs; and
- c) Other direct costs.

7. Overhead includes all costs that are not direct costs and are not related to selling. When double-entry bookkeeping is used, overhead must not include the expenses recorded in Group 34 - Cost of Merchandise Sold, Group 38 - Sales of Assets, and Account 331 - Sales Tax.

8. The entrepreneur himself selects the method of allocating overhead (of determining the basis of allocation) to the individual kinds of output, and he may not change the selected method during the year if he uses double-entry bookkeeping.

9. If the entrepreneur uses double-entry bookkeeping, he may change only as of 1 January the method he employs for the valuation of his business assets.

**Section 29****Accounting Tasks, Accounting Period, Sanctions**

1. Clear accounts must be kept that enable one to determine from the accounting data the amounts of revenue and expenditure, the entrepreneur's net income, his business assets valued in accordance with Section 28 of the present Principles, and his debts arising from his business activity. The accounting data serve to determine taxable income for income tax purposes. The entrepreneur is responsible for keeping his books in order.

2. The calendar year is the basic accounting period.

3. For violating the obligation imposed by Section 25 of Law No. 105/1990 Sb. on Private Enterprise, and for noncompliance with the provisions of the present Principles, the entrepreneur who is not entered in the register of firms will be liable to sanctions in accordance with the Personal Income Tax Law. For noncompliance with the provisions of the present Principles, the entrepreneur whose firm is registered will be liable to sanctions under Section 32 of Law No. 21/1971 Sb. on the Uniform System of Socioeconomic Information.

**PART VI****FINAL PROVISIONS****Section 30**

These Principles will become effective as of 1 June 1990.

[Signed:] Eng. Stanislav Sourek,  
CSFR Deputy Minister of Finance

**Footnote**

1. For instance: Ordinance of the Federal Government No. 136/1989 Sb. on the Information System of Organizations; Decree No. 23/1990 Sb. on Accounting; Decree No. 155/1971 Sb. on Taking Inventory of Business Assets; and Decree No. 21/1990 Sb. on Costing.

SUPPLEMENT  
Sample Layout

Entrepreneur's identification No.

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FINANCIAL STATEMENT  
As of 31 December 19..

A. BALANCE SHEET

Assets	Line	Period's beginning	12/31	Liabilities	Line	Period's beginning	12/31
a	b	1	2	a	b	3	4
Cash	11			Bank credit	17		
Bank account	12			Payables	18		
Receivables	13			Issued bonds	19		
Inventories	14			Incentive fund	20		
Fixed assets	15			Owner's equity	21		
Total assets	16			Total liabilities	22		

B. INCOME STATEMENT

Expenses (costs)	Line	12/31	Income (revenue)	Line	12/31
a	b	5	a	b	6
Total, of which:	23		Total, of which:	34	
Materials	24		From domestic securities	35	
Merchandise purchases	25		Excluded from tax base	36	
Wages paid	26			37	
Tax withheld	27			38	
Sales tax	28			39	
Other taxes	29			40	
Payroll tax	30			41	
General overhead	31			42	
Incl. interest on bonds	32			43	
Profit	33		Loss	44	

C. PROFIT DISTRIBUTION

	Line	As of 12/31
a	b	7
Profit	45	
Tax	46	
To incentive fund	47	
Entertainment, etc.	48	
To Withdrawals	49	
To Owner's Equity	50	

Date prepared

Entrepreneur's signature

Stamp

INSTRUCTIONS FOR PREPARING  
THE ANNUAL FINANCIAL STATEMENT

The Annual Financial Statement, prepared in accordance with Section 23 of the Principles of Private Enterprise Accounting (Directive of the Federal Ministry of Finance No. V/2 - 4900/90, hereinafter: Principles), must be attached to the income tax return.

SINGLE-ENTRY BOOKKEEPING

DOUBLE-ENTRY BOOKKEEPING

A. BALANCE SHEET

- |  |  |
|--|--|
| <ol style="list-style-type: none"> <li>1. The amounts on lines 11,12 and 21 are obtained from the Cash Journal.</li> <li>2. The amounts on lines 13, 14, 15, 17 and 18 are obtained from the subsidiary journals (Section 3, Paragraph 3, of the Principles).</li> </ol> | <ol style="list-style-type: none"> <li>1. The amounts on lines 11-15 and 17-21 are obtained from the accounts of the Standard Chart of Accounts (Section 14 of the Principles).</li> <li>2. All debt except bank credit and issued bonds, but including wages payable, is entered on line 18.</li> </ol> |
|--|--|

B. FINANCIAL STATEMENT

- |  |  |
|--|--|
| <ol style="list-style-type: none"> <li>1. The amounts on lines 23-31 and 34-43 are obtained from the Cash Journal.</li> <li>2. Line 33 or 44 is the difference between lines 34 and 23.</li> </ol> | <ol style="list-style-type: none"> <li>1. Line 23 is the sum of the balances of all accounts in Class 3 - Expenses.</li> <li>2. The amounts of lines 24-32 (except 31) are obtained from the accounts of the Standard Chart of Accounts (Section 14 of the Principles).</li> <li>3. All other taxes chargeable to expenses are entered on line 29.</li> <li>4. The amount on line 31 is entered in accordance with Section 28, Paragraph 7, of the Principles.</li> <li>5. Line 34 is the sum of the balances of all accounts in Class 7 - Revenue.</li> <li>6. Line 33 or 44 is the differences between lines 34 and 23.</li> </ol> |
|--|--|

C. PROFIT DISTRIBUTION

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. Line 45 is the same as line 33.</li> <li>2. Line 46 is the personal income tax liability.</li> <li>3. Expenses for entertainment, refreshments and gifts are entered on line 48.</li> <li>4. Transfer for the entrepreneur's personal use is entered on line 49.</li> <li>5. Line 50 equals line 45 minus lines 46, 48 and 49.</li> </ol> | <ol style="list-style-type: none"> <li>1. Line 45 is the same as line 33.</li> <li>2. Line 46 is the assessed income tax (debited to Account 961).</li> <li>3. Allocation to the incentive fund, credited to Account 910, is entered on line 47.</li> <li>4. Expenses for entertainment, refreshments and gifts (Account 962) are entered on line 48.</li> <li>5. Transfer for the entrepreneur's personal use (Account 963) is entered on line 49.</li> <li>6. Line 50 equals line 45 minus lines 46-49.</li> </ol> |
|---|--|

**National Assembly Resolution on Regional Prefectures**

91CH0049B Budapest MAGYAR KOZLONY  
in Hungarian No 80, 14 Aug 90 pp 1664-1665

["Text" of National Assembly Resolution No. 66/1990 (14 August) on Regional Prefectures, adopted by the National Assembly on 3 August 1990]

[Text]

**Section 1**

Pursuant to Section 100 of Law No. LXV/1990 on Local Governments, the National Assembly hereby designates the seats of the Republic's regional prefectures and determines their respective counties as follows:

1. Seat: Győr  
—Counties: Győr-Moson-Sopron, Komárom-Esztergom, and Vas.
2. Seat: Budapest  
—Counties: Jász-Nagykun-Szolnok, Pest, and Nógrád.
3. Seat: Miskolc  
—Counties: Borsod-Abaúj-Zemplén, and Heves.
4. Seat: Debrecen  
—Counties: Hajdu-Bihar, and Szabolcs-Szatmar-Bereg.
5. Seat: Szeged  
—Counties: Bács-Kiskun, Bekes, and Csongrád.
6. Seat: Pécs  
—Counties: Baranya, Somogy, and Tolna.
7. Metropolitan Budapest
8. Seat: Veszprém  
—Counties: Fejér, Veszprém, and Zala.

**Section 2**

This resolution becomes effective the day of the 1990 local elections.

Signed: György Szabád, Speaker of the National Assembly  
Gábor Balogh, Clerk of the National Assembly  
Dr. Maria Korodi, Clerk of the National Assembly

**National Assembly Resolution on County Names, Seats**

91CH0049A Budapest MAGYAR KOZLONY  
in Hungarian No 80, 14 Aug 90 p 1665

["Text" of National Assembly Resolution No. 67/1990 (14 August) on the Counties of the Republic of Hungary, Their Names and Seats, adopted by the National Assembly on 3 August 1990]

[Text]

**Section 1**

Pursuant to Section 95, Paragraph 4, of Law No. LXV/1990 on Local Government, the National Assembly hereby determines the division of the Republic of Hungary into counties with their present boundaries, names the counties and designates their seats as follows:

1. Bács-Kiskun County, county seat Kecskemét
2. Baranya County, county seat Pécs
3. Bekes County, county seat Bekescsaba
4. Borsod-Abaúj-Zemplén County, county seat Miskolc
5. Csongrád County, county seat Szeged
6. Fejér County, county seat Szekesfehervar
7. Győr-Moson-Sopron County, county seat Győr
8. Hajdu-Bihar County, county seat Debrecen
9. Heves County, county seat Eger
10. Jász-Nagykun-Szolnok County, county seat Szolnok
11. Komárom-Esztergom County, county seat Tata-bánya
12. Nógrád County, county seat Salgotarjan
13. Pest County, county seat Budapest
14. Somogy County, county seat Kaposvár
15. Szabolcs-Szatmar-Bereg County, county seat Nyiregyhaza
16. Tolna County, county seat Szekszárd
17. Vas County, county seat Szombathely
18. Veszprém County, county seat Veszprém
19. Zala County, county seat Zalaegerszeg

**Section 2**

This resolution becomes effective the day of the 1990 local elections.

Signed: György Szabád, Speaker of the National Assembly  
Gábor Balogh, Clerk of the National Assembly  
Dr. Maria Korodi, Clerk of the National Assembly

**Law on Local Government; 'Legislative Intent' of Draft Law**

91CH0049A Budapest MAGYAR KOZLONY  
in Hungarian No 80, 14 Aug 90 pp 1637-1664

["Text" of Law No. LXV/1990 on Local Government enacted by the National Assembly on 3 August 1990, and the justice minister's exposition on the "Legislative

Intent of the Draft Law on Local Government," originally issued on 3 July 1990 in MAGYAR HIRLAP (supplement) and appeared in JPRS-EER-90-139]

[Text] Adhering to our country's progressive traditions of self-government and also to the basic standards of the 1985 European Charter of Self-Government, the National Assembly recognizes and supports the fundamental rights of local communities to self-government.

Local self-government enables local communities of enfranchised citizens to administer their local public affairs independently and democratically, either directly or through their elected local government.

Supporting the local communities' independent spontaneous organization, the National Assembly helps to create the prerequisites for local government and promotes the democratic decentralization of state power.

To realize these objectives, the National Assembly hereby enacts the following law:

### Chapter I

#### GENERAL PROVISIONS REGARDING LOCAL GOVERNMENT

##### The Rights of Local Governments

**Section 1** 1. As units of local government, the town, the city, Budapest and its districts, as well as the county (hereinafter: local governments) administer independently the local public affairs that fall within the scope of their functions and authority (hereinafter: local public affairs).

2. Local public affairs are associated with providing municipal services for the population; with exercising state power locally, as a local government; and with creating locally the organizational and material prerequisites for all this.

3. Within the limits of the law, a local government may independently regulate or, in individual matters, freely administer the local public affairs that fall within the scope of its functions and authority. The local government's actions are subject to review by a competent state organ only if the actions violate statutory regulations.

4. Through its elected council or by local referendum, a local government may voluntarily assume the independent administration of, and authority over, any local public affair that statutory regulation has not assigned to another organ's exclusive jurisdiction. In voluntarily assumed local public affairs, the local government may do anything that does not violate statutory regulations. The administration of voluntarily assumed local public affairs may not jeopardize the performance of functions or the exercise of authority that a statute prescribes as mandatory.

5. Mandatory functions and authority also may be assigned to local governments by statute. When specifying mandatory functions and authority for local governments, the National Assembly must ensure the material provisions the given functions and authority will require, and determine the amount and type of budgetary grant.

6. Within the limits of the law, a local government may:

a) Devise independently its own rules of organization and procedure, design its own emblem, and establish local decorations and honorary titles;

b) Freely dispose of its property, administer its revenue independently, and adopt a consolidated budget to finance its voluntarily assumed as well as its mandatory functions and authority. It may engage in business activity for its own account. The municipality operating under adverse financial conditions through no fault of its own is entitled to a revenue-supplementing block grant from the state budget;

c) Freely combine its functions with those of another local government; join a regional or national association to promote and safeguard its interests; cooperate with a foreign local government, within the scope of its functions and authority; and join international organizations of local governments.

**Section 2** 1. A local government asserts the principle of popular sovereignty; in local public affairs it articulates and carries out the local public will, democratically and quite openly.

2. The local government acts through its council—or under the council's delegated authority, through the committee or official elected by the council—and by local referendum, respectively.

3. The local government may express its opinion and introduce proposals in matters that do not fall within the scope of its functions and authority, but which affect the local community. The decisionmaking organ concerned must give the local government a pertinent answer, within the time limit specified by statute.

**Section 3** The Constitutional Court and the regular court, respectively, uphold the local governments' rights and safeguard the lawful exercise of those rights.

**Section 4** The rights guaranteed under Sections 1-3 are equal for every local government.

**Section 5** The enfranchised citizens residing on the territory of a local government (hereinafter: enfranchised citizens) are collectively the subjects of the rights to local self-government. They exercise these collective rights either through their elected representatives on the local government's council or by voting in local referendums.

### Scope of Functions and Authority

**Section 6 1.** The functions and authority of the town, city, metropolitan Budapest and a Budapest district (hereinafter: municipalities) and of the county may mutually differ:

a) In accordance with local requirements and capabilities, local governments may assume mutually different functions and authority.

b) Statute may assign more mandatory functions and authority to local governments with larger populations and greater capabilities, than to other local governments. A municipality with a small population—if it is able to do so either alone or jointly with one or more other municipalities—may voluntarily undertake to organize on its own territory the services that statute makes mandatory for larger municipalities or the county. In such cases the small municipality may claim for its budget a share of the larger municipality's or county's revenue that is commensurate with the assumed function.

2. A local government's voluntarily assumed and mandatory functions and authority cover a wide range of local public affairs. Only exceptionally may a local public concern be assigned by statute to another organ's scope of functions and authority.

3. The municipalities are not subordinate to the counties or to one another. The units of local government cooperate with one another on the basis of their mutual interests.

**Section 7 1.** Statute, or government decree issued under authority granted by statute, may exceptionally vest the mayor or metropolitan mayor with state administrative authority. Statute or government decree may assign state administrative functions and authority to the municipal clerk or, exceptionally, to an official of the municipal council's office.

2. In cases specified by statute or by government decree issued under authority granted by statute—in matters pertaining to national defense, civil defense or the prevention of disasters—the mayor participates in performing locally the national functions of state administration.

3. When the mayor performs his state administrative functions pursuant to Paragraphs 1 and 2, or when he exercises state administrative authority, the municipal council may not supervise him or review his actions.

## Chapter II

### THE MUNICIPALITY

#### The Municipality's Functions, Authority, Organs

**Section 8 1.** In the sphere of local municipal services, the municipality's functions include particularly: municipal development and planning; enforcement of the building

code and protection of historical monuments; environmental protection; management of the housing stock; stream regulation and drainage; installation of sewers; maintenance of a public cemetery; maintenance of local roads and public areas; operation of local mass transport; street cleaning and garbage collection; local fire prevention and firefighting; maintenance of law and order locally; participation in the local supply of power, gas and heat, and in providing employment; operation of kindergartens and grade schools; provision of health care and welfare services; maintenance of community premises [town or city hall]; support of cultural, scientific and artistic activities and sports; help with ensuring the exercise of the national and ethnic minorities's rights; and promotion within the community of conditions conducive to a healthy life-style.

2. On the basis of the population's requirements and depending on its own financial ability, the municipality itself determines which of the functions listed in Paragraph 1 it will perform, how, and to what extent.

3. Statute may make certain public services and local public functions mandatory for the municipalities. These responsibilities may also differ by municipalities, depending on their area, population and other conditions.

4. The municipality must supply water that meets drinking water standards; operate grade schools; provide basic health care, basic social services and street lighting; maintain local roads and a public cemetery; and ensure the exercise of the national and ethnic minorities' rights.

5. Within the scope of its functions, the municipality supports the activities of spontaneously organized citizens' groups and cooperates with them.

**Section 9 1.** The municipality is a legal entity. Its local government functions and authority are vested in its council. The mayor acts for the municipal council.

2. The municipal council and its organs—namely the mayor, the council's committees, and the council office—perform the municipality's functions.

3. The municipal council may delegate some of its authority to the mayor or to its committees. It may give them instructions on exercising the delegated authority, and it may also revoke the delegation of authority.

4. To provide the public services that are within the scope of its functions, the municipal council may establish municipal institutions, enterprises or other organizations (hereinafter jointly: institutions) and appoint their heads.

**Section 10** The municipal council may not delegate its authority:

a) To enact ordinances;

b) To devise its own rules of organization and procedure, and also to hold the elections, make the appointments

and award the commissions over which the municipal council has been assigned authority by statute;

c) To schedule local referendums, to design the municipality's emblem, to establish decorations and honorary titles, to regulate their use, and to grant the freedom of the municipality;

d) To adopt the municipality's economic program and budget, to approve or reject the reports on the economic program's and budget's fulfillment, to levy local taxes, to approve the municipality's plan, to negotiate loans in excess of the limit specified by the municipal council, to issue bonds, to accept and transfer community foundations and their assets;

e) To combine the municipality's functions with those of another local government, and to join a combination or a [domestic] interest-representing organization;

f) To agree on cooperation with a foreign local government or to join an international organization of local governments;

g) To establish an institution;

h) To name streets and public areas, and to erect monuments;

i) To institute proceedings before the Constitutional Court;

j) To elect lay assessors;

k) To adopt a standpoint on the reorganization or abolition of a county institution, and on the area supplied or served by it, if the service affects the municipality;

l) To express an opinion on matters for which statute requires that the local government concerned be consulted; and

m) The exclusive authority granted it by statute.

**Section 11** 1. There is no appeal from the municipal council's action on matters that are within the municipality's scope of local government functions and authority.

2. In matters that are within the municipality's scope of local government functions and authority, actions by the mayor (metropolitan mayor) or by a committee of the municipal council may be appealed to the council.

3. Based on a claim of a violation of statutory regulations, a lawsuit for the judicial review of the municipal council's action pursuant to Paragraphs 1 and 2 may be filed with the court, within thirty days from receiving notice of the action. The lawsuit must name the municipality as the defendant.

#### The Workings of the Municipal Council

**Section 12** 1. The municipal council meets when necessary, as often as specified in its rules of organization and

procedure, but at least six times a year. A meeting of the municipal council must be called at the request of a quarter of the councilmen or of a committee of the council.

2. The mayor is the municipal council's chairman. He convenes and chairs the municipal council's meetings.

3. The municipal council's meetings are open to the public. When warranted, the municipal council may decide to meet in closed session.

4. The municipal council adopts its resolutions by open vote, but may order a vote by ballot when warranted.

5. In the local elections for councilmen and mayors, the national or ethnic minority's candidate who received the most votes becomes his minority's local spokesman. If he is not a councilman, he may attend the meetings of the municipal council, with a voice but no vote. His other rights are specified in the Law on the Rights of National and Ethnic Minorities.

**Section 13** At least once a year, the municipal council schedules and holds a public hearing where citizens and the representatives of local interest groups may introduce proposals in the public interest.

**Section 14** 1. The municipal council has a quorum when more than half of the councilmen are present. To pass a resolution, more than half of the councilmen present must vote for it.

2. If a councilman or his relative is personally involved in a matter before the municipal council, the councilman may be disqualified from participating in the council's decisionmaking. On the motion of the councilman concerned or of any other councilman, the municipal council rules on the question of disqualification. A qualified majority is required for the ruling.

3. In the case of a tie vote, unless the rules of organization and procedure specify otherwise, the municipal council votes anew on the proposal at its next meeting. In case of a repeated tie vote, the mayor's vote decides.

**Section 15** 1. A qualified majority is required to pass a resolution on the matters under Section 10, Items a), b), e), f) and g), and also on matters that the rules of organization and procedure specify.

2. A qualified majority means a vote in favor by a margin specified in the rules of organization and procedure, but by more than at least half of the number of councilmen elected. A vote by two-thirds of the councilmen present is required to adopt the rules of organization and procedure.

**Section 16** 1. The municipal council enacts municipal ordinances to regulate local social conditions not regulated by statute or, under authority delegated by statute, to implement statutes.

2. The enacted municipal ordinance must be promulgated in the municipal council's official journal, or in the manner that is customary in the municipality and is specified in the rules of organization and procedure.

3. The mayor and the municipal clerk sign the municipal ordinance. Its promulgation is the municipal clerk's responsibility.

**Section 17** 1. Minutes must be kept of the council's meetings. The minutes must contain the names of the councilmen and invited persons present, the items on the agenda, the gist of the deliberations, and the passed resolutions. The municipal clerk sees to the keeping of the minutes.

2. The mayor and the municipal clerk sign the minutes of the meeting. Within eight days following the meeting, the municipal clerk must send the minutes to the Republic's regional prefect.

3. Enfranchised citizens may examine the proposals before the council and the minutes of its meetings, except in the case of closed sessions.

**Section 18** 1. The rules of organization and procedure regulate in detail the workings of the municipal council.

2. The municipal council determines the procedures of the forums (municipal policy forum, municipal division conference, town meeting, etc.) at which residents and voluntary associations are briefed directly and are able to participate in the preparation of the more important decisions. The municipal council must be informed of the residents' and voluntary associations' standpoints, and of the possible minority opinions.

#### The Municipal Councilman

**Section 19** 1. The municipal councilman represents the interests of his constituents, with responsibility for the municipality as a whole. The municipal councilman may participate in drafting the municipal council's resolutions, and in organizing and overseeing their implementation. The rights and obligations of municipal councilmen are identical. Acting in his capacity as a member of the municipal council, the municipal councilman is an officer of the law.

2. The municipal councilman:

a) May put a question on municipal matters to the mayor (deputy mayor), the municipal clerk or the chairman of a committee of the municipal council, at the council's meeting. A pertinent answer to the question must be supplied at the meeting, or in writing within fifteen days;

b) May request that the text of his submitted speech be attached to the minutes of the council's meeting; or, at his request, his opinion must be recorded in the minutes;

c) May attend, with a voice but no vote, a meeting of any of the municipal council's committees. He may propose to the committee's chairman that an item over which the

committee has jurisdiction be included in the agenda of the committee's next meeting, to which the municipal councilman must be invited. He may propose that the municipal council review a resolution of any of its committees;

d) May act for the municipal council within the scope of his assigned responsibility;

e) May request the municipal council's office to provide information and clerical assistance for his work as a councilman. In a matter of public interest he may propose action by the municipal council's office, to which the office must give a pertinent answer within fifteen days.

**Section 20** 1. The municipal councilman must be released from work at his place of employment, for the time necessary to participate in the work of the municipal council. The municipal council compensates him for the resulting loss of income or may establish a flat rate of compensation. The compensation also counts as credit toward social security benefits.

2. The municipal council reimburses the councilman's expenses and pays him an allowance as specified by statute or municipal ordinance, and it fixes a monthly honorarium or annual allowance for the commissioners and committee chairmen.

**Section 21** On the motion of the mayor or any municipal councilman, the municipal council may elect commissioners from among the councilmen. A commissioner oversees the municipal functions specified by the municipal council.

#### The Municipal Council's Committees

**Section 22** 1. The municipal council determines its committee structure and elects its committees. The municipal council elects a steering committee and, in municipalities with more than two thousand residents, also an auditing committee. Statute may prescribe the formation of other committees as well.

2. On the motion of the councilmen who represent a national or ethnic minority, the municipal council forms a committee on minority affairs.

**Section 23** 1. Within its purview, the committee drafts the municipal council's resolutions and also organizes and oversees their implementation. The municipal council determines what proposals the committee may introduce, and what proposals must first be referred to the committee for its opinion.

2. The municipal council may grant decisionmaking authority to its committee and review its decisions, and may define by municipal ordinance the committee's official responsibilities.

**Section 24** 1. The committee chairman and more than half of the committee's members must be elected from

among the municipal councilmen. A worker of the municipal council's office cannot be the chairman or member of a committee.

2. The representative of a more significant organization providing services that fall within the committee's purview, the delegate of a voluntary association, and any enfranchised citizen using the given services may be elected to the committee.

**Section 25** 1. The committee must be convened at the mayor's request.

2. The mayor may suspend implementation of the committee's decision if it conflicts with a resolution of the municipal council or is detrimental to the municipality's interests. The municipal council considers the suspension of the decision's implementation at its next meeting.

**Section 26** If the chairman or member of the committee, or a relative of the chairman or member, is personally involved in a matter before the committee, the chairman or member may be disqualified from participating in the committee's decisionmaking. The mayor rules on the committee chairman's disqualification, and the chairman rules on a committee member's disqualification. If the committee chairman or member disqualifies himself in a matter before the committee, he may not participate in the committee's deliberation and voting on the given matter.

**Section 27** Within its purview, the committee oversees the work of the municipal council's office on drafting and implementing the municipal council's resolutions. If in the activity of the municipal council's office the committee perceives a departure from the council's policies or intentions, a violation of the municipality's interests or a failure to take necessary action, the committee may propose action by the mayor.

**Section 28** 1. In its rules of organization and procedure the municipal council may create a subunit of municipal government to handle the affairs of a specific municipal division. The members of the municipal division's board are councilmen elected in the municipal division, and other enfranchised local citizens. Only a councilman elected in the municipal division may chair the municipal division's board.

2. In matters affecting the municipal division, the municipal council may delegate some of its functions and authority to the municipal division's board and provide funds for it.

**Section 29** The municipal council's office handles the committees' paperwork. To aid the work of the municipal division's board, the municipal council's office may open a branch office in the division. The branch office may also receive clients.

#### The Mayor, Deputy Mayor, Municipal Clerk

**Section 30** The municipal council holds its first meeting within fifteen days following its election. The ranking municipal councilman presides at the first meeting as chairman by seniority.

**Section 31** 1. In a municipality with a population of over ten thousand, the municipal council elects the mayor at its first meeting following its own election. Any municipal councilman may propose a nominee for mayor. Nomination is by open vote. Whoever receives a third of the municipal councilmen's votes will be a candidate for mayor.

2. The municipal council elects the mayor by ballot. If the election produces no winner, the municipal council elects the mayor at its next meeting, held within fifteen days. The elected mayor is a member of the municipal council.

**Section 32** Upon his election, the mayor takes the following oath of office before the municipal council: "I, (name), pledge allegiance to my country, the Republic of Hungary, and to its people. I swear to uphold the Constitution and the constitutional laws; to preserve state and official secrets; to act in conformity with my instructions, impartially and in accordance with my conscience; and to serve the municipality's interest to the best of my ability and knowledge."

**Section 33** The municipal council exercises the employer's rights in relation to the mayor and sets his pay within the limits fixed by statutory regulations. For his state administrative activity the mayor is accountable according to the rules governing civil servants.

**Section 34** To substitute for the mayor, to assist him in his work, and to handle some of the municipality's functions, the municipal council may elect one or more deputy mayors. As appropriate, the rules governing the mayor apply also to the deputy mayor.

**Section 35** 1. The mayor performs his state administrative functions and exercises state administrative authority (Section 7, Paragraphs 1 and 2) with the help of the municipal council's office.

2. The mayor supervises the municipal council's office through the municipal clerk. The mayor:

a) Defines the duties of the municipal council's office in organizing the municipality's work, and in preparing, drafting and implementing the resolutions and decisions;

b) Makes the decisions in the state administrative matters and local government responsibilities assigned to him by statutory regulations, and may delegate some of his functions and authority;

c) Presents proposals for the internal organizational structure of the municipal council's office, its work rules, and its schedule of office hours for receiving clients;

d) Regulates the issuance, by the municipal council's office, of true and exact copies of local government documents and records;

e) Appoints, and exercises the employer's rights over, the workers of the municipal council's office; furthermore, exercises the employer's other rights [other than authority to hire and discipline] in relation to the municipal clerk.

**Section 36** 1. On the basis of invited applications to fill a vacancy, the municipal council appoints a municipal clerk who meets the qualificational requirements specified in statutory regulations. The appointment is for an indefinite period.

2. The municipal clerk:

a) Under the mayor's supervision, sees to the performance of the tasks in conjunction with the municipality's operation;

b) Manages the municipal council's office, organizes its work and exercises the employer's rights in relation to its workers, with the exception of authority to appoint and discipline;

c) Prepares for decision the state administrative matters that fall within the mayor's purview;

d) Decides all local government matters that the mayor assigns to him;

e) Attends, with a voice but no vote, the meetings of the municipal council and its committees; and

f) Decides the matters assigned to him.

3. The municipal clerk is obliged to notify the municipal council, its committee and the mayor whenever he finds that a resolution or decision violates statutory regulations. The municipal clerk must attach a copy of such a notice when he submits the minutes of the municipal council's meeting [to the Republic's regional prefect].

4. In a district clerkship of [two or more] towns, the district clerk appoints—in agreement with the mayors—the workers of his office and exercises the employer's rights in relation to them.

5. If the seat of the district clerkship is a city, the city's municipal clerk performs the district clerk's duties.

**Section 37** In a town with fewer than five thousand residents, the municipal council may also opt for a part-time mayor serving without pay.

#### Municipal Council's Office

**Section 38** The municipal council creates an integrated office, called the mayor's office, to administer the functions of the municipality, and to prepare and implement state administrative decisions.

#### District Clerkship

**Section 39** 1. Within the same county, contiguous towns with fewer than one thousand residents each may establish and maintain a district clerkship to handle their administrative tasks. A town with more than one thousand but fewer than two thousand residents also may participate in a district clerkship. The seat of the district clerkship may also be a municipality with more than two thousand residents. The municipal councils concerned contribute commensurately with the populations of their municipalities toward the costs of maintaining the district clerkship.

2. Even the municipal council of a town with fewer than one thousand residents may establish an office of its own, by appointing a municipal clerk who meets the prescribed qualificational requirements.

3. It is possible to join, or to withdraw from, the district clerkship as of the first day of the calendar year. The decision to join or to withdraw must be made at least six months in advance.

**Section 40** 1. The municipal councils concerned establish their district clerkship by mutual agreement. A joint session of the municipal councils appoints the district clerk. Each of the municipal councils belonging to the district clerkship must consent, by a majority vote, to the district clerk's appointment. When necessary, joint sessions of the municipal councils decide questions relating to the work of their district clerkship.

2. The district clerk handles the administrative tasks in conjunction with the activities of the municipal councils, their committees and councilmen, and he also prepares and implements the state administrative decisions that fall within the mayors' purview;

3. The district clerk or his deputy must attend the meetings of each municipal council and must provide the necessary briefings for them there.

4. To each municipal council the district clerk presents an annual report on the district clerkship's work.

5. As frequently as specified in the municipal councils' coordinated rules of organization and procedure, but at least once a week, the district clerk or his deputy must hold office hours for clients in each town.

6. At their joint conference, the mayors of the towns concerned review and coordinate the work of the district clerkship.

#### Chapter III

#### COMBINATIONS FORMED BY MUNICIPALITIES

**Section 41** 1. The municipal councils may freely form combinations to make their functions more efficient and effective. Other forms of combination besides the ones specified in Sections 42-44 also are possible.

2. The combination may not infringe on the participants' rights as local governments.
3. The combination is a legal entity. The agreement establishing the combination specifies the latter's headquarters and who is authorized to act for the combination.
4. Disputes arising between municipal councils in conjunction with the combinations' operation will be decided by the court.

#### **Combination for Administering State Administrative Functions**

**Section 42** 1. By mutual agreement, municipal councils may form a combination to administer professionally matters of a certain kind within their state administrative functions.

2. The agreement must specify:
  - a) The names and locations of the combination's participants;
  - b) The kind of matters the combination is to administer;
  - c) The manner of appointing the combination's chief, hiring its employees, and exercising the employer's rights in relation to them; also the proportions in which the combination's costs will be shared;
  - d) The rules for joining the combination, and for withdrawing from it; and
  - e) The combination's area, and the provisions for administering matters locally.
3. The agreement must be sent to the Republic's regional prefect who has fifteen days within which to object to the agreement's legality.

#### **Combination for Joint Management of Institutions**

**Section 43** 1. The municipal councils concerned may agree to form a combination for the joint management (establishment, operation and development) of one or more institutions serving two or more towns, or cities and towns. In the absence of any stipulation to the contrary, the municipal councils concerned share the costs of maintaining their joint institutions commensurately with the populations of their municipalities.

2. The agreement must specify:
  - a) The activity and service area of the joint institution;
  - b) The proportions of the individual municipal councils' financial contributions;
  - c) The rights and obligations in conjunction with maintaining the institution, as well as the manner of exercising the rights; and
  - d) The conditions for cancelling the agreement.

3. To direct and oversee the joint institution, the municipal councils set up a committee, to which they appoint members commensurately with the populations of their municipalities. The committee elects its chairman and adopts its own rules of procedure.

4. The committee must be convened at the joint request of the committee members from any of the participating municipalities, or at the request of the institution's manager.

#### **Joint Municipal Council**

**Section 44** 1. A municipal council may form a joint municipal council with another municipal council.

2. Upon forming a joint municipal council, the municipal councils partially or entirely consolidate their budgets, jointly maintain a council office and operate their institutions jointly.

3. Matters that concern only one of the municipalities are decided independently by its own municipal council.

4. At its first session, the joint municipal council adopts a resolution establishing itself, designating its seat and listing its participating municipalities. The joint municipal council adopts its own rules of organization and procedure. A meeting of the joint municipal council must be convened at the request of the mayor of any of the participating municipalities.

5. Another way a joint municipal council can be established is for the municipal councils concerned to elect from among their councilmen the members of the joint municipal council, commensurately with the size of the municipalities' populations.

6. If it meets the conditions specified in Section 69, Paragraphs 2-4, the joint municipal council may undertake to organize consolidated district services.

#### **Chapter IV**

##### **LOCAL REFERENDUM, POPULAR INITIATIVE**

**Section 45** 1. The enfranchised citizen who maintains his permanent residence in the given municipality is entitled to participate in a local referendum or in a popular initiative.

2. In a resort area, on issues affecting it, the enfranchised citizen who owns property in the resort area is entitled to participate in a local referendum or in a popular initiative, even though he does not maintain his permanent residence there.

**Section 46** 1. The municipal council must hold a local referendum on the following issues: a) A proposal to merge or consolidate with another town or to end the merger or consolidation; b) A proposal to incorporate as a new town; c) A proposal to form, or to withdrawn from, a joint municipal council; and d) Any other issue that a municipal ordinance specifies.

2. In the case of Paragraph 1, Items a) and c), the voters living in the municipal division or town affected by the referendum's outcome may vote in the local referendum.

3. The municipal council may hold a local referendum: a) On a matter that is within the municipal council's purview; or b) To ratify a municipal ordinance.

4. A local referendum may not be held: a) On the municipal budget; b) On an ordinance levying local taxes or setting their rates; or c) On personnel matters that are within the municipal council's purview.

**Section 47 1.** A proposal to hold a local referendum may be presented to the mayor: a) By at least one-fourth of the municipal councilmen; b) By a committee of the municipal council; c) By the governing body of a local voluntary public association; or d) By the number of enfranchised citizens specified in a municipal ordinance, which cannot be less than ten percent or more than twenty-five percent of the total number of enfranchised citizens.

2. The municipal council must schedule a local referendum when the proposal to hold it has been presented by the number of enfranchised citizens specified in a municipal ordinance.

3. The municipal council must act at its next meeting, but within a month at most, on a proposal to hold a local referendum. The referendum must be held within two months following the proposal's adoption. The local referendum may be scheduled to be held on one day or two consecutive days.

4. In a town with fewer than five hundred residents, the municipal council may let the town meeting decide the outcome of the local referendum, provided that more than half of the town's enfranchised citizens attend.

**Section 48** The outcome of the local referendum is binding on the municipal council. If the outcome was undecided, the municipal council decides the issue that was submitted to referendum. Another local referendum on the same issue may not be held within a year, not even if the outcome of the referendum was undecided.

**Section 49 1.** Any matter within the municipal council's purview may be brought before the municipal council by popular initiative.

2. The number of enfranchised citizens specified by municipal ordinance—but not less than five percent and not more than ten percent of the total number of enfranchised citizens—may present the popular initiative to the mayor. The municipal council decides at its next meeting, but not later than within a month, whether to consider the popular initiative. The municipal council must consider the popular initiative that has been submitted by the number of enfranchised citizens the municipal council had specified.

**Section 50** The municipal council regulates by municipal ordinance the further conditions and procedures for local referendums and popular initiatives.

**Section 51** A complaint of a violation of the Constitution may be filed with the Constitutional Court if the ordering of a local referendum or consideration of a popular initiative has been refused illegally, or if the local referendum was held illegally. The complaint must be filed within fifteen days following the violation.

## Chapter V

### THE TOWN, THE CITY, THEIR AREAS

**Section 52 1.** On the local residents' proposal, a separate inhabited municipal division may incorporate as a new town if its conditions make it capable of exercising the fundamental rights of a local government, and of performing the functions specified in Section 8, Paragraph 4. As a prerequisite for incorporation, the local public services that are in place, a grade school with at least the first four grades, and a district dispensary must be maintained, without any significant deterioration in the quality of these services, and in a way such that also the remaining town will be able to provide them in its own area.

2. When incorporation as a new town is being considered, the municipal councilmen elected in the municipal division form a steering committee that drafts a proposal for the new town's area and—on the basis of expert opinion—for its name, for the division of assets, rights of monetary value and obligations, and for the sharing of costs. At the steering committee's request, the Republic's regional prefect or another organ provides expert assistance to draft the proposal.

3. The steering committee presents its draft proposal to the residents who then approve it, either at a town meeting or by local referendum held in the municipal division. On the steering committee's motion, the municipal council passes a resolution adopting the proposal. The president of the Republic acts on the proposal, which includes also the possible minority opinions.

4. The new town's outskirts adjoin its center to form a continuous area. In the absence of an agreement to the contrary, the municipality's outskirts must be divided proportionately with the number of residents living in the [new town's and the municipality's] centers.

**Section 53** The conditions and procedures under Section 52 apply also to a proposal for ending a merger or consolidation of towns. If the merger or consolidation is ended, then—in the absence of any agreement to the contrary—the areas of the towns will be the same as before.

**Section 54 1.** On the basis of a local referendum, the municipal councils concerned may adopt resolutions calling for the merger or consolidation of the towns, or of a city and town, coalescing through expansion. The

resolutions also propose a name for the new town. The ceasing town retains its name as a municipal division.

2. In the wake of a consolidation or merger, all the rights and obligations of the towns devolve on the new town or the city.

**Section 55** On the proposal of the residents of a municipal division [a ward, housing project, resort area, center of detached farms, etc.], the municipal council may grant the division local government rights over matters that affect only the division. The municipal council cannot refuse to transfer authority over such matters to the following: a) A municipal division that arose as a result of a merger or consolidation; b) An inhabited place in the outskirts; and c) A resort area whose population is at least a fourth of the municipality's year-round population.

**Section 56** 1. The municipal councils concerned may agree on transferring, taking over or exchanging sections of their areas.

2. In the case of transferring an inhabited section, the agreement requires the support of a majority of the local residents, expressed at a village meeting or in a local referendum. The transfer of an inhabited section cannot be denied when it has been proposed by a majority of the local residents, in a local referendum.

3. In a resolution adopted by a qualified majority, the municipal council may propose to the National Assembly that it annex the municipality to another county that is contiguous with the municipality. The host county's council adopts a standpoint on the proposed annexation.

**Section 57** The costs of a change in area are borne by the town or city in whose favor the annexation occurred. The change in area becomes effective the first day of the [next] calendar year.

**Section 58** A town or city must be named so that it will not be confused with another locality in the country. When ending the merger or consolidation of a town, it usually regains its former name. The professional opinion of the agency concerned with geographic names must be sought before the local residents adopt a standpoint on naming a new town.

**Section 59** A town may propose that it be declared a city if its development and regional role warrant city rank. The municipal council submits its proposal to the president of the Republic, through the interior minister.

**Section 60** The territories of the state organs that are located in the city, but have jurisdiction also over the towns, must be coordinated and drawn in a way that is favorable for the population.

## Chapter VI

### CITY WITH COUNTY STATUS

**Section 61** 1. At the municipal council's request, the National Assembly may grant county status to a city with a population of more than fifty thousand. The city with county status is a municipality that also assumes, with departures as appropriate, the county's scope of functions and authority on its own territory.

2. The governing body of a city with county status is the municipal council.

3. The municipal council of a city with county status may form districts and establish district offices.

4. The head of a district office in a city with county status is the district magistrate to whom the city's mayor may delegate some of his official functions and authority.

5. The municipal council appoints the heads of the district offices. It may form district councils from among the city councilmen elected in the individual districts. The district council is a legal entity.

## Chapter VII

### BUDAPEST

**Section 62** 1. In view of the capital's outstanding role in the country's life and of its unique situation, the provisions of the present law apply to local government in Budapest with the departures contained in this chapter.

2. On the basis of the authority granted in this chapter, a separate law (hereinafter: Budapest Metropolitan Area Law) will regulate in detail the system of local government in Budapest.

3. By law, the metropolitan government performs the functions and tasks that affect all or a large part of the capital.

4. The governing body of metropolitan Budapest is the metropolitan council. If the metropolitan council elects the metropolitan mayor from among its own members, the metropolitan council will have eighty-eight councilmen.

5. Each Budapest district council elects one metropolitan councilman, pursuant to the provisions of Section 31. Budapest's enfranchised citizens directly elect the remaining 66 metropolitan councilmen.

6. If, pursuant to Paragraphs 4 and 5, someone other than a member of the metropolitan council is elected metropolitan mayor, the metropolitan council will have eighty-nine councilmen.

**Section 63** 1. Metropolitan Budapest and its districts are municipalities with their own scopes of functions and authority specified by statute. The Budapest districts

perform mainly the functions related to providing essential services, while the metropolitan government performs the functions and tasks that affect all or a large part of the capital.

2. By ordinance, the Budapest metropolitan council may delegate some of its functions and authority to the Budapest districts, as necessary.

3. The metropolitan government must make commensurate financial provisions to ensure the performance of the delegated functions and responsibilities.

**Section 64** 1. Pursuant to Section 28, Paragraph 1, the Budapest districts may organize subunits of local government in their divisions. The division boards comprise locally elected councilmen and local enfranchised citizens.

2. The district councils' rules of organization and procedure regulate in detail the workings of the division boards.

**Section 65** 1. A Budapest district may undertake to organize on its territory a service that statute mandates for the metropolitan government as a municipality. In this case the district may claim for its budget a revenue-supplementing block grant commensurate with the assumed service.

2. To perform their functions more effectively, the Budapest districts may form combinations with one another or with a local government outside the Budapest metropolitan area.

**Section 66** The rules governing the finances of municipalities generally apply also to the Budapest districts. However, the Budapest Metropolitan Area Law may contain departures from the general rules, in a way that does not infringe on the districts' independence as municipalities.

**Section 67** 1. District mayors are elected in the Budapest districts, and a metropolitan mayor is elected for metropolitan Budapest. A clerk heads the office of each Budapest district council, and a chief clerk heads the metropolitan council's office.

2. In view of the capital's unique situation, government decree may grant the metropolitan mayor, rather than the Budapest district mayors, authority over certain state administrative matters.

3. The Budapest district councils may agree to form a combination to handle state administrative matters of a certain kind for several Budapest districts or for entire metropolitan Budapest.

**Section 68** 1. Within the limits of the present law, the Budapest metropolitan council and the district councils adopt their own respective rules of organization and procedure.

2. The Budapest Metropolitan Area Law must be enacted by 30 November 1990. The Budapest district and metropolitan governments must be included in drafting the legislation.

## Chapter VIII

### THE COUNTY

#### The County's Functions and Authority

**Section 69** 1. The county is obliged to perform the statutory functions that cannot be prescribed as mandatory for municipalities. Statute may assign the county mandatory responsibility for providing public services of the consolidated-district type that cover all or a large part of the county's territory. Statute may prescribe as a mandatory county responsibility the organization of a consolidated-district public service when most users of the service do not reside in the area of the municipality where the institution providing the service is headquartered.

2. The municipality where a county institution providing a consolidated-district public service is headquartered may voluntarily assume responsibility for the institution's development and management if, on average for the preceding four years, the municipality's permanent residents accounted for a majority of the users of the public service that the county institution provides.

3. Within the range of the public services that statute prescribes as mandatory for the county, a municipality—alone or in a combination with other municipalities—may establish a new consolidated-district institution and organize a new consolidated-district service.

4. In cases that fall under the provisions of Paragraph 2 or 3, the municipality receives a share of revenue commensurate with the assumed or undertaken functions. Over and above the sharing of revenue from the county or state budget, the municipality where the institution providing the service is headquartered may not claim any other revenue-supplementing grant-in-aid from the state or county, and it may not refuse to supply the nonlocal demand for the public service it provides.

**Section 70** In addition to its statutory responsibilities, the county may voluntarily undertake any public function that statutory regulation has not assigned to another organ's exclusive jurisdiction, or the performance of which does not violate the interests of the cities and towns that the county represents.

**Section 71** 1. On the basis of its own plan and budget, the county freely administers its revenue, may freely dispose of county property as defined by statute, and may engage in business activity for its own account. To administer its functions more effectively, the county is free to form a combination with another county or with any municipality.

2. On the basis of statutory authority, the county may enact county ordinances and may order a county referendum.

#### The County Government's Organization

**Section 72** 1. The county is a legal entity. Its governing body (the county council) performs the county's functions and exercises its authority. The chairman of the county council acts for the county.

2. The county council has one councilman for every ten thousand residents, but at least fifty councilmen.

**Section 73** 1. Delegates chosen by the municipal councils elect the county councilmen.

2. The county council determines, commensurately with the size of the district's population, the number of county councilmen the delegates of one or more municipalities elect in a district.

3. Each municipal council elects three delegates, by ballot and a two-thirds majority. At least two of the delegates must be elected from among the municipal councilmen.

4. The municipal council nominates one of the three elected delegates as a candidate for county councilman.

5. The meeting of delegates may propose and nominate additional candidates. Nomination is by open vote.

6. The name of every candidate must be included on the ballot. Voting is by ballot. Each delegate may vote for as many candidates as there are seats to be filled on the county council.

7. Depending on the number of seats to be filled on the county council, the candidates with the most votes become the county councilmen.

8. The ballot on which votes have been marked for more candidates than there are seats to be filled on the county council is invalid.

**Section 74** 1. The executives of the county council are its chairman and deputy chairman, whom the county councilmen present elect, by ballot and a two-thirds majority, to four-year terms.

2. The county council must establish an auditing committee. For the more effective performance of the county council's specific functions, moreover, the county council may freely establish also other committees, but must reserve a majority of the seats on the committees for the councilmen who have been elected county commissioners, as well as for other councilmen. The county council elects the committees' other members from among representatives of the services' providers and users, as well as of other interested parties. The committee chairmen are county commissioners.

**Section 75** 1. The county office aids the county bodies and executives in their work. Its task is to professionally

draft and prepare the resolutions and decisions, and to organize and oversee their implementation. The chairman of the county council supervises the county office.

2. The head of the county office is the county chief clerk, whom the county council appoints for an indefinite period. The chairman of the county council exercises the employer's rights in relation to the workers of the county office, and the employer's other rights [other than authority to hire and discipline] in relation to the county chief clerk.

3. The county council adopts the office's rule of organization and procedure, and also provides the material prerequisites for the office's operation.

**Section 76** The rules prescribed for municipalities apply, as appropriate, also to counties.

### Chapter IX

#### THE ECONOMIC FOUNDATIONS OF LOCAL GOVERNMENT

**Section 77** 1. Local governments provide public services. They own assets and administer their budget independently.

2. With their entire revenue and expenditure, the local governments' budgets are a part of public finances, but are separate from the state budget. Grants and other budgetary relations link the state budget and the budgets of local governments.

#### Local Government Assets

**Section 78** 1. Property, and rights of monetary value to which a local government is entitled constitute its assets that serve the realization of local government objectives.

2. Primary assets (Section 79) are a separate part of the local government's assets, and separate records must be kept of them. An inventory listing the local government's assets must be attached to the annual local government budget's report balance of revenue and expenditure.

**Section 79** The primary assets are either nontransferable or their transferability is limited:

a) Nontransferable primary assets are the local roads and their fixtures, the squares and parks, and all other real estate and movable property that the local government has declared nontransferable.

b) Primary assets of limited transferability are the public utilities, institutions, public buildings, and all other real estate and movable property that the local government specifies. Primary assets of limited transferability may be disposed of, under the conditions specified by local ordinance.

**Section 80** 1. Except as specified in the present law, a local government enjoys all the rights and bears all the

responsibilities of an owner. The local government's council exercises the owner's rights.

2. A local ordinance may require approval by referendum as a condition for selling, mortgaging, contributing as capital or using in any other way the local government's specific assets or equity interest.

3. A local government's business ventures may not jeopardize the performance of its mandatory functions. A local government may participate in a business in which its liability is limited to its capital contribution.

4. The assets a local government contributes to a combination with other local governments (Sections 43-44) must be entered in the records as the property of that local government. However, the accretion of the contributed assets is the joint property of the participating local governments, and the Civil Code's rules of joint ownership apply.

#### Local Government Revenues

**Section 81** 1. The local government performs its functions, which stem from the local population's needs and statutory regulations, through its own budgetary organ, by subsidizing a business organization or procuring services, or in other ways. The local government selects forms of financial administration that suit its functions and devises economic incentives within the limits of the financial regulations.

2. The local government finances its functions from its own revenues, shared state tax revenues, revenues received from other economic organizations, and the central budget's standard block grants and other grants-in-aid.

**Section 82** 1. The local government's own revenues are:

- a) The local taxes levied and assessed as specified by statute;
- b) The earnings from its own activities and businesses, and the profits, dividends, interest and rent from its assets;
- c) The fees specified by separate statute;
- d) Received funds;
- e) A share, specified in separate statutes, of the fines imposed and collected on its territory for violations of environmental regulations and of regulations protecting historical monuments;
- f) Revenue from the leasing of hunting rights on its administrative area; and
- g) Other local government receipts.

2. The share, specified in separate statute, of the proceeds from the sale by the State Property Agency of nonutility enterprises founded and operated by local councils qualifies as the local government's own revenue.

**Section 83** The tax-sharing that the National Assembly approves for local governments by separate statute includes:

- a) The specified share of personal income tax revenue; and
- b) Other shared taxes.

**Section 84** 1. The National Assembly provides standard block grants from the state budget, in proportion to the size of the municipalities' populations and age groups, to the number of persons their institutions serve, and on the basis of other indicators.

2. Local governments in general and the ones performing a function within the scope of functions defined by statute, respectively, are directly entitled to the amount specified in the law adopting the [annual] state budget, without any spending restrictions.

**Section 85** 1. The National Assembly sets socially preferential objectives. Statute contains the levels and conditions of the special purpose grants-in-aid [for such objectives].

2. Local governments may claim special purpose grants-in-aid collectively as well as individually. Any local government that meets the conditions is entitled to the special purpose grants-in-aid.

3. A special purpose grant-in-aid may be used solely for the given objective.

**Section 86** 1. The National Assembly may provide specifically targeted grants-in-aid to individual local governments, for the realization of costly development and modernization projects.

2. A specifically targeted grant-in-aid may be used solely for the specified purpose.

**Section 87** 1. To safeguard the independence of municipalities and their ability to function, the municipality that is in adverse financial conditions through no fault of its own is entitled to a revenue-supplementing block grant from the state budget. The National Assembly determines the conditions for providing such grants, and their amounts, in the law adopting the [annual] state budget.

#### General Rules of Local Government Finances

**Section 88** The local government:

- a) May establish a foundation and assume obligations in the public interest;
- b) May raise loans and issue bonds, but may not use its primary assets to secure them;
- c) Decides whether to place on deposit its uncommitted resources other than state grants; and
- d) Decides whether to avail itself of other financial services.

**Section 89** 1. The local government subsidizes its institution. It may not take away from the institution or include in its subsidy the institution's receipts other than the subsidized fees the institution must charge.

2. The institution spends its receipts and subsidy independently. Without prejudice to its basic function, the institution may utilize its real estate and movable property to augment its income.

3. The local government may subsidize the operations of institutions maintained by others.

**Section 90** 1. The governing body is responsible for the soundness of the local government's finances, and the mayor is responsible for compliance with the regulations.

2. The local government is responsible for any deficit in its finances. The state budget is not liable for the local government's obligations.

3. On the petition of the creditors, the court may declare the local government insolvent.

4. To restore its solvency, the local government must suspend the financing of all its functions other than local government functions and essential services for the population.

#### Planning, Accounting, Information

**Section 91** 1. The local government adopts its own economic program and budget.

2. The Law on the Administration of Public Revenue regulates in detail the preparation of the local government's budget, and the law adopting the [annual] state budget determines the method of financing and the amounts of the state subsidies.

3. In planning the state budget, the Ministry of Finance and the Ministry of the Interior handle the tasks affecting local governments.

4. The National Assembly must make budget decisions only after consulting the organizations representing the local governments' interests, and with due consideration for their standpoints.

#### Auditing

**Section 92** 1. The Office of the State Auditor General audits the finances of local governments.

2. Each local government audits the accounts of its institutions.

#### Chapter X

### LOCAL GOVERNMENTS AND THE CENTRAL GOVERNMENT PROTECTION OF LOCAL GOVERNMENT RIGHTS

#### Central Organs' Functions and Authority Regarding Local Governments

**Section 93** 1. The National Assembly regulates by statute:

a) The legal status of local governments, the scope of their exclusive functions and authority, their mandatory functions and organs, the guarantees of their activity, their assets, and the basic rules of their finances;

b) The legal status of the local governments' councilmen, the manner of electing them, and their rights and obligations.

2. On a proposal that the government introduces after seeking the Constitutional Court's legal opinion, the National Assembly dissolves a local government's council whose activity is unconstitutional (Section 19, Paragraph 3, Item 1, of the Constitution) and simultaneously schedules a byelection to be held within sixty days.

3. The National Assembly acts on the dissolution proposal at its next sitting. The mayor of the local government concerned must be invited to the deliberation of this item on the National Assembly's order of the day. Before the proposal is submitted to a vote, the mayor is entitled to present the council's standpoint to the National Assembly.

4. The National Assembly determines the country's territorial subdivision and—after consulting the local governments concerned—decides about consolidating or dividing counties, changing their boundaries, naming them, designating the county seats, granting a city county status, and establishing Budapest districts.

**Section 94** The president of the Republic:

a) Schedules local elections (Section 30/A, Paragraph 1, Item d), of the Constitution);

b) On the proposal of the local governments concerned, decides about granting a town city status, incorporating a new town, merging or consolidating towns, ending the merger or consolidation, and naming the cities and towns;

c) Appoints the Republic's regional prefect;

d) Appoints, until the election of a new council, a commissioner of the Republic to supervise the performance of specified local government functions and the state administrative functions, when the National Assembly has dissolved a local government's council.

**Section 95** The government:

- a) In cooperation with the interior minister, oversees legality in local government through the Republic's regional prefect;
- b) Proposes to the National Assembly the dissolution of a council whose activity is unconstitutional;
- c) Regulates by decree the qualificational requirements for local civil servants;
- d) Oversees the performance of the state administrative functions within the local governments' purview, and ensures the conditions for their implementation; and
- e) Decides disputes arising between a state administrative organ and a local government when other, legally regulated procedures for the resolution of disputes do not apply.

**Section 96** The interior minister:

- a) Prepares the territorial subdivision decisions that are within the purview of the National Assembly and of the president of the Republic, respectively;
- b) Recommends to the government the introduction in the National Assembly of a proposal for the dissolution of a local government's council whose activity is unconstitutional;
- c) Participates in drafting the statutory regulations, the other legal instruments of government, and the special government decisions affecting, respectively, the local governments' scope of functions and authority, and the activities of the mayor, metropolitan mayor or the Republic's regional prefect;
- d) Coordinates the regional and municipality planning that affects local governments, and the central government's functions in conjunction with the local governments' own planning and finances; and
- e) Under the government's delegated authority, supervises the activities of the Republic's regional prefects.

**Section 97** The minister:

- a) Establishes by decree departmental rules for the state administrative functions of the mayor, metropolitan mayor and the Republic's regional prefect, and oversees the enforcement of such rules;
- b) Regulates by decree the departmental requirements for the operation of the local governments' institutions as well as the qualificational requirements for the institutions' workers, and oversees enforcement of such regulations;
- c) Informs the local government of the results of the inspections his department conducts pursuant to Items a) and b). Recommends measures for the elimination of shortcomings and may propose that the local government's council debate the findings of the inspection.

Informs the organ overseeing legality in local government whenever violations of the law have been uncovered;

- d) Informs local governments about the central policy objectives and regulatory tools of his government department, and supplies local governments with the information they need to perform their departmental functions;
- e) May request local governments to supply data and information regarding their departmental functions; and
- f) May provide grants-in-aid for local governments, under the conditions and for the purpose specified in the law adopting the [annual] state budget.

**The Republic's Regional Prefect**

**Section 98** In the region specified by the National Assembly and in Budapest and its districts, respectively, the Republic's regional prefect:

- a) Oversees legality in local government, but may examine only the legality of local government decisions made after deliberation;
- b) Acts as public authority of first instance in matters specified by statute or government decree and decides the appeals over which he has jurisdiction in all state administrative matters in which the mayor (metropolitan mayor) or the head of a district office in a city with county status acted as public authority of first instance, provided a state administrative organ subordinate to the central government does not have jurisdiction to decide the appeals;
- c) Performs other state administrative functions assigned to him by statute or by the government under authority granted it by statute;
- d) Coordinates the activities of his office with those of other state administrative agencies operating in the region.

**Section 99** 1. Within his scope of overseeing legality, the Republic's regional prefect serves the local government's council notice to end a violation of the law and sets a time limit for ending it. The council must study the contents of the notice and, within the specified time limit, must inform the Republic's regional prefect either about what action it has taken on the basis of the notice or that it disagrees with the notice.

2. If the council failed to act to end the violation within the specified time limit, the county prefect may:

- a) Institute proceedings before the Constitutional Court to review and to declare null and void an ordinance that violates the law;
- b) Institute proceedings before the [regular] court for the judicial review of a resolution, internal rule or other decision that violates the law;

c) Propose the convening of the local government's council to end the violation and to establish which council official is responsible for the violation.

3. In the case of Paragraph 2, Item b), the suit must be filed against the local government, within thirty days following the expiration of the specified time limit. The filing of the suit has no dilatory effect upon the implementation of the decision, but the court may be requested to order the suspension of implementation.

**Section 100** 1. On the prime minister's proposal and after a hearing before the committee of the National Assembly, the president of the Republic appoints the Republic's regional prefect from among persons who meet the qualification requirements set by statutory regulations. The appointment is for the balance of the president's term of office.

2. The Republic's regional prefect has the rank of a titular state secretary. The prime minister has authority to discipline him, and the interior minister exercises the employer's other rights in relation to him. On the prime minister's proposal, the president of the Republic may relieve the Republic's regional prefect before the expiration of the latter's term of office.

3. The office of the Republic's regional prefect assists him in the performance of his functions. He appoints the workers of his office and determines its internal rules of organization and procedure.

#### Right of Recourse

**Section 101** 1. In any matter involving the local government's rights or the scope of its functions and authority, the local government's council—either directly or through its interest-representing organization—has recourse to the head of the state organ with jurisdiction in the given matter, and may:

a) Request from him information, data, professional advice or an interpretation of the law (hereinafter jointly: information);

b) Present proposals to him and initiate action;

c) Comment on or object to the activities of the state organ he heads, the statutory regulation or other legal instrument of government he issued, or other decision he made; and propose amending or rescinding the regulation, instrument or decision.

2. The state organ resorted to must give a pertinent answer within thirty days.

3. If providing information, giving an answer or taking action is in the jurisdiction of an organ other than the one resorted to, the latter must transfer the application to the appropriate organ and must inform the resorting local government of this within three days.

#### Representation of Local Government Interests

**Section 102** 1. Local governments may form national or regional organizations to collectively represent and safeguard, and to promote the assertion of, their rights and interests, and to develop their activities.

2. The national organization representing the interests of local governments expresses its opinion of the drafts of statutory regulations and other governmental decisions affecting local governments. The decisionmaking organ must be informed of the interest-representing organization's standpoint.

#### Chapter XI

#### FINAL PROVISIONS

**Section 103** 1. The executive committees of the [present] local councils will continue to function until the first meetings of the [new] local government councils.

2. The employment of the secretary to the [present] local council's executive committee will continue until the appointment of the clerk (or chief clerk).

3. The local government is the legal successor of the ceasing local council and its organs.

4. In conjunction with the election of councilmen in 1990, the secretary to the executive committee of the [present] county council will exercise the [new] county council's authority under Section 73, Paragraph 2.

**Section 104** 1. The new municipal council of a peripheral town belonging to a joint local council that is in existence when the present law becomes effective (hereinafter: joint local council) will decide by thirty November 1990:

a) Whether to maintain its institutions alone or jointly with another municipal council;

b) Whether to establish a district clerkship (with which towns, and where to have its seat) or to set up an independent office and appoint a clerk;

c) Whether to establish a joint municipal council, with which towns, and where to have its seat.

2. If the peripheral towns of the joint local council do not establish a joint municipal council, they will agree on a division of the existing assets.

3. The municipal council of the town where the joint municipal council maintains its seat cannot refuse to let the town serve as the district clerkship's seat.

**Section 105** If the towns concerned are unable to agree, the Republic's regional prefect will determine which towns are assigned to the district clerkship. If the assignment is prejudicial to the population's interests, the town council may have recourse to the interior minister, through the Republic's regional prefect.

**Section 106** The institution established by the [present] joint local council and serving several towns will be

jointly owned by the towns in question. If the joint institution can be divided among the towns, their municipal councils may agree on a division that will become effective as of 31 December 1990.

**Section 107** 1. The following state-owned assets are to be transferred to, and become the property of, local governments:

- a) The range of real estate property, forests and waters specified by separate statute and located on the local government's territory;
- b) The assets of state business organizations founded and managed as utilities by the [present] local councils; furthermore, the assets of publicly financed plants, and the state's stake in the business associations into which such plants have been converted;
- c) In the centers of the municipalities, the structures, lines and installations of the public utilities serving the population, except the structures owned exclusively by the state;
- d) The assets of the educational, cultural, health-care, welfare, sports and other establishments that the [present] local councils manage or oversee as owners;
- e) The stock of public housing administered by the [present] local councils or their housing-management agencies;
- f) The public buildings and the land attached to them, with the exception of the buildings that serve the central government's functions; and
- g) All cash assets, securities and other rights of monetary value belonging to the [present] local councils.

2. By the force of the present law, all state-owned real estate, forests and waters—except the protected nature conservation areas, and the buildings, structures and areas protected as historical landmarks—and the cash assets and securities managed by the [present] local councils, their organs or institutions will automatically become the property of the local governments the day this law goes into effect.

3. The government will establish in each county (and in metropolitan Budapest) a committee to transfer to local governments: the land, forests, waters and other real estate owned by the state and specified in separate statute; all protected nature conservation areas and the buildings, structures and areas protected as historical landmarks; furthermore, the fixed structures of public utilities, and the assets of the organizations specified in Paragraph 1, Item b). The national organizations concerned with building codes and environmental protection will also be represented on the committees.

4. Until ownership of the assets pursuant to Paragraph 3 is transferred to local governments, the assets are transferable only with the consent of the committees for the transfer of assets or, if the assets are protected as nature

conservation areas or historical landmarks, with the consent of the central agency concerned.

5. Effective the day the present law is promulgated, the decision of the committee for the transfer of assets conveys to the local government ownership of the state-owned land in the local government's center, with the exception of land that is owned exclusively by the state.

6. Unless the local governments concerned agree otherwise, the committee for the transfer of assets will convey to the county, or to the municipalities as joint owners, the interlocality structures, lines and installations of the public utilities and municipal enterprises serving several local governments, and also the roads connecting the localities.

**Section 108** The appellation of township may be used by the towns that had township councils when the present law became effective, as well as by towns with populations of at least five thousand.

**Section 109** Except as specified in the present law, the provisions of the Code of Administrative Procedure (Law No. I/1981) apply, where appropriate, to proceedings in local government matters.

**Section 110** For the purpose of the present law's Section 14, Paragraph 2, and Section 26, relative means a rectilinear relative and his or her spouse, a sibling, the spouse, and the common-law husband or wife.

**Section 111** The provisions of Chapter XX of the Code of Civil Procedure (Law III/1952) apply to proceedings pursuant to Section 11, Paragraph 3, and to Section 99, Paragraph 3, of the present law. The local court at the seat of the county court, and the Pest Central District Court in Budapest, respectively, have exclusive jurisdiction in lawsuits pursuant to Section 41, Paragraph 4, of the present law.

**Section 112** The supply of water that meets drinking water standards, as mandated under Section 8, Paragraph 4, of the present law, must be ensured in every town before the expiration of the term of office of the municipal council elected in 1990.

**Section 113** The present law will become effective the day of the 1990 local elections.

**Section 114** At the government's request, the Constitutional Court renders a legal opinion on the unconstitutionality of an action by a local government's council.

**Section 115** 1. When the present law becomes effective, the following will be rescinded:

- Law No. I/1971 on Local Councils, as modified and amended by Sections 1-18 of Law Decree No. 26/1983, and by Law No. IV/1985, Law Decree No. 21/1987 and Sections 1-3 of Law No. XXII/1990;
- The passages "Council of Ministers" in Section 5, Paragraph 2, Item a), and "and the councils" in Section 13, Paragraph 1, of Law No. V/1972 on

Public Prosecutors as modified and amended, as well as its Section 13, Paragraph 2, Item d);

- The provisions governing local referendums and popular initiatives in Law No.XVII/1989 on Referendums and Popular Initiatives;
- The passages "the council is of a local nature" in Section 3, Paragraph 3, and "and the councils" in Section 18, Paragraph 1, of Law Decree No.3/1976 on State Decorations;
- Resolution of the Presidential Council No.23/1983 on Designating the Cities Participating in County Administration, the Townships With City Status and the Suburban Towns, but this does not affect the individual state organs' territorial jurisdictions established on the basis of the said resolution;
- Decree of the Council of Ministers No.4343/1949 (14 Dec) on Naming the Counties, Designating Their Seats and Drawing Their Boundaries, as modified and amended by Decree of the Council of Ministers No.96/1989 (31 Aug);
- Government Decree No.11/1971 (31 Mar) Implementing Law No.I/1971 on Local Councils, as modified and amended by Sections 1-34 of Decree of the Council of Ministers No.50/1983 (28 Dec), by Decree of the Council of Ministers No.25/1985 (6 May), by Section 1 of the Decree of the Council of Ministers No.33/1986 (26 Aug), by Decree of the Council of Ministers No.86/1988 (15 Dec), and by Sections 1-3 of the Decree of the Council of Ministers No.44/1990 (13 Mar);
- Decree of the Council of Ministers No.9/1985 (7 Mar) on Local Boards;
- Decree of the Council of Ministers No.34/1986 (26 Aug) on the General Rules for Establishing and Closing Down the Local Councils' Cultural Institutions;
- Resolution of the Council of Ministers No.1006/1974 (22 Feb) on Designing and Using Local Emblems and Banners and on Granting Freedom of the City or Town, as modified and amended by Sections 15 and 16 of Decree of the Council of Ministers No.44/1990 (13 Mar);
- Resolution of the Council of Ministers No.1033/1977 (17 Aug) on the Decorations and Other Awards That Local Councils May Establish, as modified and amended by Part II of Resolution of the Council of Ministers No.1006/1985 (1 Mar);
- Resolution of the Council of Ministers No.1055/1983 (28 Dec) on the Local Councils' Health Care and Welfare Institutions; and
- Regulation of the Council of Ministers' Office for Local Councils No.1/1985 (28 Mar) Setting the Honorariums of Village Elders, as modified and amended by Resolution No.3/1987 (14 Dec).

2. When the present law becomes effective, the following text will replace Section 13, Paragraph 2, Item c) of Law No.V/1972 on Public Prosecutors, as modified and amended:

"c) May propose to the regional and local organs within his jurisdiction that they issue, amend or rescind some generally valid regulation (ordinance, bylaw, etc.)."

3. The National Assembly authorizes the justice minister to restate, with the necessary editing, and to reissue the updated text of Law No.XVII/1989 on Referendums and Popular Initiatives.

Signed: Arpad Goncz, President of the Republic Gyorgy Szabad, Speaker of the National Assembly

### Legislative Intent of the Draft Law on Local Governments

#### GENERAL LEGISLATIVE INTENT

A rule-of-law state can find its supporting pillars only in democratically constituted and functioning local governments endowed with suitable autonomy. Through strong local governments, spontaneously organized local exercise of power is realized, under which the population is able to administer a wide range of local affairs within the limits of the law, either directly or through its elected representatives. Under a system of local governments, local communities democratically exercise their independence. In an environment that is friendly to local government and provides the financial, organizational and legal prerequisites for local independence, local governments become capable of initiating locally the processes of their own development; of adapting, effectively and with public satisfaction, to the diversity of local peculiarities and requirements; and of participating as autonomous local governments in the local realization of national public functions. Acting within their wide scope of functions and authority, the local governments express the local public will and articulate the local public interest. This way the system of local governments, once developed, is also capable of raising barriers to attempts at excessive centralization.

According to the Draft Law, the system of local councils in Hungary is being replaced by a system of local governments. It was a historical loss of direction that in 1949 we had to liquidate our self-governing local organizations, of which we had centuries of experience. Hungary's system of local councils, similar to the Soviet-type state structure's solutions, became the local servant of society's and the economy's organization that was overcentralized and preferred administrative methods. The excessive centralization left little room for local independence. The democratic leaders of local actions were not the elected governing bodies, but actually the local council officials whom the higher state organs wanted to direct by manual control, and who simultaneously were subordinate also to the local organization of the state party's monolithic apparatus that likewise was controlled from above. In 1971, the latest Law on Local Councils attempted to build an incomplete solution of self-government into the old system of local councils, but within that system these attempts at modernization were no longer able to produce the desired results.

Recognizing all this and parallel with the development of the multiparty, democratic rule-of-law state, the National Assembly is introducing a system of local governments to replace the old system of local councils. Local reform of the self-governing type relies on Hungary's enduring historical traditions of local self-government. Adapting to the specific conditions in Hungary, the reform pursues the common values and basic requirements that have evolved in the course of the development of self-government in Europe.

## DETAILED LEGISLATIVE INTENT

### Chapter I

#### Ad Sections 1-5

The Draft Law mentions three local government rights of outstanding importance: the right to independence, the democratic right to exercise state power locally, and the right to judicial protection of local government rights. Among the general provisions and in the subsequent chapters, the Draft Law spells out in detail these rights and partial rights, attaches guarantees for their assertion, and provides the organizational and operational framework for exercising them.

a) A local government has a right to local independence: it may regulate independently, or administer individually, public affairs of local interest.

Independence in voluntarily assumed local public affairs means that the local government may freely undertake the administration of any local public affair that statutory regulation has not assigned to another organ's exclusive jurisdiction; in such matters the local government may do anything that does not violate statutory regulations. Within the scope of its local functions mandated by statute, however, the local government has an obligation to act (to perform the functions), but it is independent in choosing how to fulfill locally its statutory obligation. In the course of performing locally its mandatory functions, the local government may set further objectives in accordance with the local conceptions and capabilities, and may independently devise local methods for the realization of central objectives.

The right to local independence means local freedom. Within the limits of the law and in the manner that the law guarantees, the local government may deliberate independently all matters within the scope of its functions and authority. In local public affairs it may act independently:

- To organize local public services;
- To exercise state power locally;
- To create the organizational, material and financial prerequisites for organizing society and the economy locally.

The local government's decisions are final in the sense that they can be reviewed only by the Constitutional Court and the regular courts, respectively, and only from the viewpoint of legality. When a regular court reviews a

local government's decision, it may not examine the soundness of the local government's deliberation. Even a decision adopted after deliberation may be reviewed by the court only from the viewpoint of legality; the court has an opportunity to review such a decision only when statutory regulations specify what factors must be taken into consideration in the deliberation, and the local government failed to consider them.

Naturally, the right to independence cannot mean the local government's total independence. The laws of the National Assembly, the embodiment of national sovereignty, set limits for the local government and restrict it. State oversight of legality ensures that the local government exercises its independence legally. The Constitutional Court and regular courts review the illegal local decisions. The National Assembly and the government organs aid and influence the realization of local independence by providing financial and material resources.

The right to local independence presupposes that the legislature will interfere in local public affairs only when absolutely necessary, and that central overregulation of local public affairs will cease.

b) Implementing locally the principle of popular sovereignty, the local government is entitled to administer local public affairs quite openly, through democratic procedures and in democratic fashion. The provisions relating to the democratic system and their social practice broaden the social bases of state power, subordinate to the local public will the local public services that are a part of local government, and ensure the citizens' wide participation in public affairs at the most immediate, local level.

It is the democratic right of the local community of enfranchised citizens to form their governing body in free elections. The enfranchised citizens may elect the head of their local government, either directly or through their elected council, and may hold a local referendum on specific issues.

The local government can act only through its elected body or official or by local referendum. A committee of the local government's council or the council's office has only delegated authority in local government matters. Regarding the workings of the council, the detailed regulations in subsequent chapters of the Draft Law guarantee that decisionmaking follows democratic rules of procedure, that the majority's will decides, and that minority opinions may be freely voiced and are protected. The local administrative apparatus that helps to prepare and to implement the local government's decisions operates under the supervision of the council and its elected head, and under the clerk's day-to-day guidance.

c) The rights of the local government and the lawful exercise of its authority enjoy the protection of the Constitutional Court and regular courts, in the cases and in the manner specified in other statutes.

According to the Draft Law, the local enfranchised citizens collectively are the subject of local government rights. To exercise those rights continuously and in an organized manner, the local enfranchised citizens set up a local governing body and elect its head. By comparison, the local referendum is an exceptional, rarer form of exercising local government rights. An important feature of the system of self-governing local authorities is that all units of local government have equal rights, but they may differ in terms of the scope of their functions and authority.

#### Ad Sections 6-7

Local capabilities and requirements differ, and so do local governments in terms of the scope of their functions and authority. The differences may arise in the local governments' voluntarily assumed (permissive) functions and authority, as well as in their (mandatory) functions and authority prescribed by law.

To ensure that in the rule-of-law welfare state as many essential services as possible (public education, health care, etc.) are organized by elected local governments, rather than by deconcentrated state organs, the National Assembly—as the general rule—includes such services in the mandatory functions and authority of the local government councils. Various statutes determine these mandatory functions. It is warranted that, whenever possible, statutes in the future assign the organization of most mandatory local government services to the basic units of local government, i.e., to the towns or cities. But that does not prevent a municipality, if able to do so alone or in a combination with other municipalities, from voluntarily undertaking to provide a service that statute has made mandatory for local governments with large populations (a large city or a county) rather than for the given municipality. The central organ prescribing a mandatory function must see to providing the necessary prerequisites for performing the prescribed function locally.

In addition to its mandatory functions, a local government may freely undertake in its own area the administration of any public affair (especially a locally specific organizing or service function) that statute has not assigned to the exclusive jurisdiction of another organ. In its voluntarily assumed permissive functions, of course, the local government's council cannot act arbitrarily, in the sense that it must adhere to the will of the voters. The local government must solve its permissive functions in a way that does not jeopardize the performance of its functions mandated by statute.

The development of local governments with wide-ranging responsibilities demands that each local government administer as many local public affairs as possible, performing its comprehensive scope of functions in a territorially complex manner. This way the local government is able to freely coordinate the public services provided locally by the various sectors. Such comprehensive administration covers the articulation of local

requirements for a local service that is mandatory nationwide, as well as the mutual coordination of the various local services.

A larger local government cannot have any supervising or controlling function over a smaller one (the city over the surrounding towns, and the county over the cities and towns). A state official separate from local government, the Republic's regional prefect, oversees legality in local government. The actions of a local government are subject to review solely by the Constitutional Court or the regular courts, but only if the actions violate statutory regulations.

Statute and a decree that the Council of Ministers issued on the basis of authorization granted by statute, respectively, may vest also the mayor with state administrative functions and authority. But only statute may define local government functions and authority. However, even statute may assign only exceptionally a local public affair to some other organ (to a self-government established for some particular purpose, to an autonomous organization or public institution, for instance). All this provides sufficient guarantees that the government does not infringe on the local governments' rights and interests when assigning state administrative functions and authority. The mayor's duties pertain primarily to local government, and exceptionally he may have also state administrative responsibilities. But it is important to be able to include also the mayor in the implementation of certain state administrative functions that are regulated uniformly for the entire country. Within the limits of the aforementioned statutory guarantees, the government is entitled to regulate state administrative functions and authority. When warranted, the local chief executive may delegate specific state administrative functions and authority to individual members of his apparatus. Statute may vest exceptionally also an official of the municipal council with state administrative authority.

## Chapter II

### Ad Sections 8-11

As units of local government, the basic mission of the town and city (municipalities) is to provide local public services and to exercise state power in local public affairs. The Draft Law mentions particularly municipal development and [other] functions essential to local society's life as a community. The local government freely determines the main objectives, tasks, areas and rate of municipal development, in accordance with the population's requirements. With due consideration for those requirements, the local government assumes its voluntary, permissive functions on the basis of its capabilities, primarily its financial ability. The municipality functions that the Draft Law specifically mentions serve to satisfy the population's demand (for public, cultural and community services). Such services are the local government's responsibility, but the state assumes a role in municipal development and the provision of public services, by creating the economic foundations of local

government, enabling the local governments to raise revenue and giving them grants. The community's life requires also suitable community premises (a town or city hall) where the spontaneously organized civic groups are able to pursue their activities.

It is warranted to include in the plan for municipal development also provisions to meet environmental, nature conservation, etc. requirements. For, as a rule, it is not expedient to require every municipality to prepare also other kinds of plans, in addition to the municipal development plan.

According to the Draft Law, statute may mandate for the municipalities local government functions and public services that must be provided for the assertion of the citizens' rights.

It is a significant legal guarantee that the Draft Law (Section 8, Paragraph 4) specifies the range of local public services that every municipality must provide. Among them the supply of water that meets drinking water standards may be solved in a variety of ways (regional waterworks, local plants for drawing water, etc.). This obligation extends to ensuring the supply of drinking water also for the adult population, by putting in place the economic and legal prerequisites for it. This task must be solved, by piping or hauling in drinking water, before the end of the first municipal council's cycle.

While the fundamental rights are equal and identical, statute may prescribe the mandatory functions differently for municipalities varying in their size. For larger and more capable municipalities (the ones with populations of thirty thousand, fifty thousand, and eighty thousand, for instance) statute may also prescribe additional (incidental) obligations, over and above the basic services.

In the interest of successfully performing its functions, the municipality supports, and cooperates with, its population's spontaneously organized citizens' groups. It includes such groups in drafting the municipality's decisions. If the groups are willing, the municipality may assign them tasks and may also provide funding for the undertaken tasks.

The municipality's functions and authority are vested in its council. But the municipal council may delegate authority to its elected organs, thereby ensuring that the delegated responsibilities are administered continuously.

The municipality performs its mandatory or permissive function through its own institution, or by subsidizing an institution that supplies the given service.

To assert the municipal council's governing role, the Draft Law lists the local matters over which the municipal council has exclusive authority that it cannot delegate.

The municipal council may specify by municipal ordinance a matter that is within the municipality's sphere of local government functions and authority (in conjunction with local taxes, for instance).

The independence of the municipality as a unit of local government finds expression also in the fact that matters within the municipality's scope of local government functions and authority are decided by the municipality and remain within it. If action taken by the municipality violates a statutory regulation, the client may go to court.

#### Ad Sections 12-18

The Draft Law regulates certain basic questions of how the municipal council works and takes action. These provisions ensure legality, the values of self-government, democratic rules of order, openness and the consideration of minority opinions. The municipal council itself determines all other rules of its organization and procedure.

The Draft Law starts out from the principle that the municipal council meets when necessary. The municipal council's broad powers require at least six sittings a year. The municipal council may also hold sessions.

To promote the assertion of a national or ethnic minority's rights, the Draft Law contains provisions regarding the minority's [local] spokesman. If a councilman is the spokesman, he can become a commissioner. If the spokesman is not a councilman, he may attend the municipal council's meetings, with a voice but no vote. The rules of organization and procedure can give the minority's spokesman other rights as well.

The Draft Law makes it mandatory to hold a so-called public hearing at least once a year, so that citizens' groups and voluntary associations may put questions and present proposals directly to the municipal council on matters of public interest. The purpose is to allow bringing the collectives' proposals before the municipal council not just through its apparatus. As a rule, the municipal council does not act immediately on a proposal presented in the public interest, but sends the proposal to its own organs for study.

To pass a resolution, more than half of the councilmen present must support it. The votes must be of the same kind, identical in content (for or against). A new proposal and further reconciliation may also be warranted to gain majority support.

A tie vote shows that the proposal failed to gain majority support. A new proposal and further reconciliation may also be warranted in order to gain majority support. The rules of organization and procedure may specify what must be done in the case of a tie vote. In the absence of provisions to the contrary, the mayor's vote decides a second tie vote.

The Draft Law differentiates between a simple and a qualified majority. It is especially important that the

adoption of the rules of organization and procedure requires a two-thirds majority.

Exercising state power locally, the municipal council enacts ordinances, either to regulate local social conditions or to implement statutes.

The establishment of contacts with the population, political parties, voluntary associations and spontaneously organized citizens' groups is essential to the effectiveness of the municipal council's activity. In view of the differences between municipalities in terms of their size, nature, etc., it is not possible to regulate this system of contacts uniformly. It is important that the municipal councils themselves tailor these contacts to their local peculiarities.

In the interest of democracy and openness, citizens must be allowed access to the municipal council's documents. The more important documents (municipal ordinances, the budget) should be available also in the library, for instance. It follows from the principle of openness that the municipal councils' official journals and the local studios will be playing an ever-greater role in the broad dissemination of the municipal councils' decisions.

#### Ad Sections 19-21

The municipal councilman's rights and obligations are in part the elected representative's traditional rights and obligations, and in part new rights and obligations stemming from the principles of self-government and the functioning of the municipality. Responsibility for the municipality as a whole permeates the councilman's rights and obligations.

The municipal council's entire work is based on the activity of the municipal councilmen. They participate not only in the municipal council's deliberations and decisionmaking, but also in drafting and implementing the council's resolutions.

The councilmen's rights and obligations are identical, regardless of how they were elected. In their capacity as members of the municipal council, the councilmen are entitled to the same protection [under criminal law] that officers of the law enjoy.

Although municipal councilmen are assigned responsibilities under the system of local governments, it is not warranted to make them full-time officials. They serve as part-time officeholders, without pay. But it is unavoidable that occasionally they must be released from work at their places of employment, for the time necessary to perform their official duties. However, employers cannot be expected to bear the financial burden of releasing the councilmen from work. It is warranted that the municipality compensate the councilmen for their resulting loss of income and reimburse the expenses they incur. The municipal council fixes the amounts of compensation and allowances—including possible compensation and

allowances in kind—and of the honorariums that municipal councilmen, commissioners and committee chairmen may claim.

From among its councilmen the municipal council may elect commissioners to continuously direct and supervise specific functions of the municipality.

#### Ad Sections 22-29

According to the Draft Law, the municipal council's committees will be playing a greater role in the future, in that the municipal council may delegate decisionmaking authority to them. Nevertheless, the drafting of the municipal council's resolutions and the overseeing of their implementation will remain the principal mission of the committees.

The municipal council freely determines its committee structure. In smaller municipalities the municipal council itself is able to administer the expanded functions of local government, without forming any committee.

The local government's independence requires an auditing committee, except in smaller towns. Statute may mandate the formation of other committees as well. For instance, it will be up to a Law on Education to decide the size of municipality in which the formation of an education committee (or school board) would become mandatory, and to specify who else besides municipal councilmen would be its members. In municipalities below the specified size, where the formation of an education committee would not be expedient, the education commissioner elected by the municipal council could work together with representatives of the PTA.

A committee on minority affairs must be formed if the councilmen who represent a national or ethnic minority propose the formation of such a committee.

The chairman and more than half of a committee's members must be municipal councilmen. The new role of the committees requires that representatives of organizations providing services within the committees' purview, of the services' users, of voluntary associations, etc.—none of whom is a municipal councilman—also be elected to the committees.

The Draft Law assigns an important role to municipal division boards as subunits of municipal governments. A municipal division board may consist of municipal councilmen elected in the division, and of enfranchised local citizens. It is particularly important to form such subunits of municipal governments in self-contained municipal wards, housing projects and resort areas. Desirable cooperation between the year-round residents and vacationers in resort areas, as well as the assertion of their interests, can be enhanced through resort associations and the municipal council's resort area board. Through their resort area board, vacationers are able to articulate their interests in matters before the municipal

council; and matters that concern only the resort area can be decided by its board, with the participation of the persons concerned.

#### Ad Sections 30-37

In municipalities of more than ten thousand residents, the municipal council elects the mayor by ballot and a qualified majority. To stand for election as mayor, a person must be an enfranchised citizens, but not necessarily a municipal councilman.

The mayor is politically accountable to the municipal council. At the same time, he has also state administrative functions, for which he is accountable according to the rules applicable to civil servants. The municipal council determines the mayor's detailed functions.

The election of one or more deputy mayors may be warranted to substitute for the mayor and to assist him in his work. The municipal council determines the number of deputy mayors and the scope of their functions. It is up to the municipal council to decide whether to elect a full-time deputy mayor or a part-time one serving without pay. The deputy mayor may be assigned responsibilities in municipal matters.

The state administrative functions mandated by statutory regulations require the municipal council to appoint a municipal clerk who meets the prescribed qualifications requirements. Under the mayor's supervision, the municipal clerk manages the municipal council's office.

The Draft Law ensures for the mayor a supervisory role over the municipal council's office. It also defines the municipal clerk's functions in managing the office and organizing its work. The mayor exercises the employer's rights in relation to the workers of the municipal council's office. He may delegate some of these rights to the municipal clerk.

According to the Draft Law, statutory regulations give the mayor authority to decide municipal matters affecting a wide circle of the population. The mayor also supervises the work of the municipal council's office. Therefore the mayor's job is usually a full-time one. But a town with a population of fewer than five thousand residents may opt for a part-time mayor serving without pay. That is for the municipal council to decide. If the mayor and the municipal council do not agree on this, a new mayor may have to be elected.

#### Ad Section 38

The municipal council establishes an integrated office to prepare for decision the municipal matters that the council specifies, to implement the municipal council's decisions, and to handle the paperwork of the municipal council and its committees. The office also attends to the state administrative functions mandated by statutory regulations. Within this scope of such functions, the municipal council does not supervise the office's activity and, in specific matters, cannot instruct the mayor who

directs the office. But the municipal council supervises the civilized administration of the citizens' affairs by the office.

#### Ad Sections 39-40

Towns with fewer than one thousand residents are usually unable to maintain their own municipal council's office. As the general rule, therefore, the Draft Law makes the establishment of district clerkships mandatory for towns of this size. This way it is possible to ensure the professional administration of local government matters as well as of state administrative matters.

The Draft Law enables even a town with fewer than one thousand residents to maintain a municipal council's office of its own, provided the municipal council appoints a clerk who meets the prescribed qualification requirements.

A separate grant-in-aid to pay the district clerk's salary will be warranted. Also for that reason, it will be necessary to limit the number of towns joining a district clerkship.

For the convenience of the residents of the towns belonging to the district clerkship, office hours for receiving clients must be held in each town. The municipal councils of the participating towns will mutually agree on the frequency and schedule of such office hours.

### Chapter III

#### Ad Section 41

According to the basic principles of self-government, municipal councils may freely form combinations to make their functions more efficient and more effective. However, freedom to form combinations may not lead to infringement of the municipality's rights as a local government. The Draft Law grants local government rights to every town, but the segregated functioning of small municipalities is not the legislative bill's intended purpose. The Draft Law contains the principal forms of combination, from among which the municipalities may freely choose. From the principle of freedom to form combinations it naturally follows that municipalities may employ also other solutions to their mutual cooperation.

The Draft Law's aim is the formation by municipalities of larger, more comprehensive combinations. But only a lengthier process, the gradual creation of the social and economic conditions (of the infrastructure), can produce this result. Our towns must first become real local governments to consciously seek to develop more efficient and more economical public services of better quality through combinations, the way European local governments are doing.

#### Ad Section 42

Municipal councils may form a combination to professionally administer, within their state administrative

functions, matters that are typically rare and require special knowledge. That is why it is important to check the legality of the agreement.

#### Ad Section 43

The municipal councils concerned may form a combination for the joint management of their institutions, to jointly establish, maintain and operate institutions serving two or more towns, or cities and towns. Many different variations of such a combination are possible. On the basis of the Draft Law, the institutions that were established by former joint municipal councils to serve several towns will be jointly owned by the towns in question. The towns will continue to maintain the institutions jointly, by forming combinations for the joint management of institutions.

#### Ad Section 44

The most comprehensive form of combination is the one where municipal councils establish a joint municipal council. As a rule, the joint municipal council functions as the local governing body, and the individual towns' municipal councils retain only those functions that concern exclusively the given town.

Under this form of combination, every town retains its independence in matters that affect it alone, but the towns are also able to pool their material resources. An institution-maintaining combination is formed to jointly operate the towns' institutions. In the joint municipal council the towns may jointly act on matters pertaining to development and other functions. This way, in accordance with their mutual agreement, the towns are able to solve more effectively also their investment, modernization and other tasks as well.

There are two ways a joint municipal council can be formed. One possible way is that the two municipal councils collectively constitute the joint municipal council. But where the joint municipal council formed in this manner would be too large to function effectively, the two municipal councils may elect the joint municipal council commensurately with the two municipalities' populations. These are matters that the municipal councils concerned must decide.

### Chapter IV

#### Ad Sections 45-51

Local referendums are an exceptional way of exercising local government rights. National referendums and national popular initiatives require statutory regulation. To take the local peculiarities into account, however, local referendums and local popular initiatives require regulation by local ordinance. Therefore the Draft Law contains provisions that guarantee local referendums and local initiatives, but leaves the details for the local government's council to regulate by ordinance.

### Chapter V

#### Ad Sections 52-60

Every part of the country's territory belongs to some local government. Municipalities have a constitutional right to their area, which can be changed only with their consent.

The development of towns is a natural process. The populations of some towns decline, and at the same time new towns are incorporated. A basic condition for incorporating a new town is that the local citizens must propose the incorporation, must want to administer the community's affairs themselves as a local government, and must be able to exercise the local government's fundamental rights and fulfill its obligations. It is not our objective to split up integral municipalities into separate towns. Therefore an important condition is that only separate, relatively self-contained municipal divisions can be incorporated as new towns. It is not warranted to make a new town's incorporation contingent upon the size of its population. As the minimal prerequisite for the community to live as a separate town, however, it must have a grade school with at least the first four grades, and a district dispensary. Essentially the decision to incorporate as a new town is made locally, and the Draft Law regulates the conditions and procedures for making such a decision.

Many towns were merged or consolidated in earlier decades. Here again, the Draft Law leaves it to the discretion of the local residents whether to propose ending the merger or consolidation.

In accordance with the municipality's structure and the local population's segmentation, the Draft Law assigns an important role to subunits of municipal government. Cities and certain towns have divisions (wards, housing projects, resort areas, centers of detached farms, etc.) which—over and above their close supply and service links—also form distinct and relatively independent local communities. These communities, too, want to administer independently their own affairs within specified limits. Therefore the Draft Law authorizes the municipalities to form subunits of municipal government. Furthermore, to protect the interests of residents who are in a minority, the Draft Law specifies the cases in which the formation of a subunit of municipal government, and the transfer of local government rights over matters that affect only the division, cannot be denied.

The Draft Law regulates a municipality's option to propose its annexation to another, contiguous county. In the case of proposals by a larger number of municipalities, the appropriate application of these provisions could enable the municipalities to initiate also the formation of a new county.

By retaining the appellation of city, the Draft Law preserves the cities' values. It also makes possible the granting of city rank to additional towns, in recognition

of their development and regional roles. It is not warranted to set detailed conditions for this.

The Draft Law protects the interests of town residents when it includes the organizing principle that the territories of state organs (courts, public prosecutor's office, land office, etc.) that are located in cities, but include also towns in their jurisdiction, must be coordinated and drawn in a way that will make for the most convenient administration of the residents' affairs.

#### Chapter VI

##### Ad Section 61

A city with more than fifty thousand residents is a municipality, but it also has county functions and authority in its own area. The city's developed network of services and its real functions qualify it to perform county functions and to exercise county authority. The role of such a city is reflected in its appellation of city with county status. Since the city itself performs county functions, it does not send a councilman to the county council.

The characteristics of the city with county status are reflected also in that it may form districts and establish district offices, and the districts may function as units of local government. This brings the administration of both local government matters and state administrative ones closer to the population.

#### Chapter VII

##### Ad Sections 62-68

The capital requires special regulation. According to the Draft Law, Budapest will have two levels of local government. Local government functions, authority and responsibilities will be divided between the two levels so that unified administration and operation of metropolitan Budapest will be possible, yet the provision of basic services for the population and its representation will take place "closer" to the population, in the Budapest districts as the lower level of local government in the capital. For this we will need a local government for metropolitan Budapest, and also Budapest districts with separate legal status under public law. The boundaries of the present Budapest districts may be redrawn.

This two-level system of local government essentially differs from the [present] system of councils. Two things will change: The interpretation of local government according to the general rules that are to be institutionalized, on the one hand; and the definition of the scopes of functions for the two levels of local government in the capital, on the other. In the future the Budapest district will be a unit of local government whose basic functions and authority are defined by statute, generally the same way as they are defined for municipalities.

These basic units of local government are unquestionably necessary because of the capital's size. A single decisionmaking center would be too remote for the

nearly two million residents. Furthermore, close to the small groups they serve, there are community service functions that are not organized on a large scale and warrant direct supervision. A single level of local government in the capital would pose the danger of power concentration also because the capital would be able to concentrate more rights than the other municipalities.

The Budapest district is a local government with municipality functions defined and guaranteed by statute, performing its specific mandatory functions and the permissive ones it voluntarily assumes. According to the provisions of the law, the Budapest district will be responsible primarily for some areas of essential services. Thus, for primary education (kindergartens, grade schools, etc.), basic health care (day nurseries, network of district physicians and dispensaries, district outpatient clinic), basic welfare services, and management of the district-owned housing stock.

It will be well worth forming new districts primarily in divisions with separate concerns, where the population wants an independent forum under public law. Hence it follows that in some Budapest divisions it will be possible to form also units of local government that are smaller (for example, the consolidated historical wards in the outer districts) or larger (new housing projects, for instance) than the present Budapest districts.

It will be more appropriate to identify the Budapest districts by their geographic names, rather than by numbers.

Ownership and the other conditions of independent finances will have to be provided at both levels of local government. It is extremely important to guarantee for the districts financial authority matching their functions. Statute, rather than the metropolitan government, will regulate the districts' revenues commensurately with the functions they perform. The metropolitan council must have authority to give the districts standard block grants and special purpose grants-in-aid to narrow the differences between districts in terms of revenues and availability of services. The Budapest districts are entitled to the state grants-in-aid to municipalities for essential services. In this sphere (essential services), of course, the Budapest districts may claim the state grants-in-aid for development just like any other municipality (without having to refer to the metropolitan council).

On its part, the metropolitan level of local government in Budapest performs the functions and tasks that affect all or a large part of the capital. Ownership and material resources must be divided between the two levels of local government in accordance with the principles outlined above.

A new law regulating the details of the capital's administration—particularly the redrawing of the Budapest districts, the division of functions and authority, etc.—must be enacted by 30 November 1990. For it is equally

necessary to have in place as soon as possible an administration that is capable of functioning, and also to have the newly elected bodies participate in drafting the legislation.

### Chapter VIII

#### Ad Sections 69-71

In the [present] hierarchic system of local councils controlled from above, the county councils and their organs gained a significant role, indeed a dominant one. The cities and towns criticized primarily the county councils' authority to pool and redistribute revenue, to act as the municipalities' superiors. The view prevailed that the counties were accountable to the central government for everything happening in them, and that the counties therefore had to supervise and control, constantly and comprehensively, the entire activity of the local councils' organs. The county became predominantly the servant of the central organs' expectations; the representation and reconciliation of the local councils' interests by the county lost their importance.

The self-governing county will have a [new] county council with wide-ranging authority and its own status under public law. It should be emphasized that the municipalities will not be subordinate in any way to the county government and its organs. The self-governing county's fundamental, primary responsibility will be the operation of institutions or services that supply special needs (an institute for the protection of infants and youths respectively, and a resident nursery, for instance) and/or cover all or a large part of the county's territory (e.g., the county hospital or museum). A common characteristic of such functions is that they would not be feasible, or would be uneconomic and impractical, at the level of the municipalities.

At the same time it follows from the logic of regulation that the self-governing county must perform all the functions that the municipalities (especially the villages and the smaller towns) are unable to handle. To that end, the county operates various institutions and organizes various public services.

Over and above its local government functions, the self-governing county may undertake also additional functions, primarily the ones stemming from the given county's peculiarities. But it is important to declare the principle that the county may perform its functions only without prejudicing the interests of the municipalities and with full respect for their rights. The county has no right to dispose of the municipalities' material resources.

Consequently, the county is concerned only with functions of the consolidated-district type and with the representation of interests. At the same time, there are unified, standard regulatory instruments to narrow the territorial differences, and the local governments themselves are directly the subjects of the basic economic

rights associated with these instruments. This solution rules out the possibility of redistributing resources at the county level.

Since the county is a local government, it follows by definition that it, too, is entitled to the local government rights specified in Chapter I of the Draft Law. Here the Draft Law does not repeat these rights. In conjunction with the county's scope of functions and because of their outstanding importance, however, it does mention the county's authority to enact ordinances and to order county referendums, its freedom to adopt an economic plan and budget, freedom to form combinations, and its ability to acquire, hold and dispose of county assets. But it must be emphasized that the county may issue ordinances only within its own scope of activity. For instance, the subject matter of county ordinances might be the county's rules of organization and procedure, county property, the county's emblem and other insignia, or the operation of county institutions. By definition, a county referendum is held only on redrawing the county's boundaries (on secession from the county, for instance).

#### Ad Sections 72-76

The Draft Law contains those main provisions regarding the county council and its organs that differ from the provisions for municipalities, especially the way in which the county council and its organs are formed, and what they are called. For instance, the county council, the county commissioners, and the county chief clerk.

The county council is elected indirectly, with the meaningful cooperation of delegates whom the municipalities elect. The Draft Law takes into account the considerable variations in the present counties' size: it ensures proportional representation by districts (groups of municipalities among which there are truly close links). The principle of democracy is reinforced by the provision that one of the three delegates whom a municipality elects must be a local enfranchised citizen who is not a municipal councilman. In principle, there is nothing to prevent a mayor from being one of the delegates or from serving as a county councilman, if elected. The procedures for nomination and voting guarantee that the elections are clean.

At the county level it is both expedient and necessary to consistently distinguish the administration of local government functions from that of state administrative functions. A small apparatus, headed by the county's appointed chief clerk, supports the county's local government bodies and their officials.

### Chapter IX

#### Ad Sections 77-80

An essential condition for the functioning of local governments is that they own assets suitable for their functions. In contrast to state ownership that is nonsubjective at present, the right to acquire, hold and dispose

of assets must be guaranteed as real ownership to local governments, and to municipalities in particular.

The main purpose of local government assets is to ensure a proportion of the public services that local governments provide. This fact necessitates that the assets serving to ensure the provision of essential services receive increased protection as compared with other assets. The Draft Law intends to satisfy this requirement first of all with provisions regulating the local governments' primary assets, which are either nontransferable or of limited transferability.

Within statutory limits, the ownership of business assets by local governments generally places the latter in the same legal category as other owners and enables them to engage in business for their own account. The Draft Law states this fact and simultaneously confirms that special rules apply to primary assets.

The local government organization is the legal subject of the owner's partial rights. But exercising those partial rights is not the same as being their owner, for the legal subject of local government ownership is the collective of the municipality's residents. This is reflected in the fact that the Draft Law requires approval by local referendum for strategic decisions on local government assets.

The local governments' freedom to participate in business ventures for their own account cannot jeopardize the performance of their essential functions. Legal restrictions on the assumption of liability ensure that.

Local government ownership must be carved out from monolithic state ownership by means of the present law's provisions. It is also in accord with the present law's general concept that local governments participate as owners in organizing and ensuring public services (with their primary assets), and that they simultaneously have sufficient assets to make them independent and to enable them to engage in business for their own account.

Determination of the range of local government assets takes into consideration the principle that providing these assets should burden the state budget as little as possible.

#### Ad Sections 81-91

Local government finances, and local revenues in particular, are of decisive importance. Because revenues in a sense are guarantees, the Law on Local Governments must regulate them in detail. Therefore there are special sections dealing with the local governments' own sources of revenue, and with so-called shared central taxes as well.

For similar considerations of principle, the Draft Law enumerates the types of grant from the state budget. Especially important among them are the standard block grants that local governments may claim as entitlements, as a legal guarantee of their economic independence. The essence of standard block grants is that the state supports

the individual local government functions to a specified extent, on the assumption that the unit costs of performing the given functions are the same for every local government. A local government's grant from the state is determined as the sum total of several so-called partial per capita quotas, which the National Assembly sets. The partial per capita quotas are not estimates of expenditure, and local governments may spend the grants as they see fit.

Other significant sources of revenue will (or might) be the specifically targeted grants-in-aid, and especially the special purpose grants-in-aid.

It is undeniable that the absence of so-called related statutes affects primarily the economic foundations of local government. Therefore it is necessary to emphasize a requirement which logically follows from the entire Draft Bill and its construction—i.e., that the coming period's legislative program should devote special attention to increasing the local governments' revenues whenever possible. That might also include providing additional, new sources of local revenue.

To maintain their independence and ability to function, the financially weak local governments may claim revenue-supplementing grants in aid, as their entitlement.

#### Ad Section 92

A primary objective is to end the earlier, unwarranted restrictions on the finances of local governments, to ensure for them wide freedom in managing their finances in general and to significantly broaden their scope. But all this also increases the local governments' responsibility, requiring them to manage their finances prudently, purposefully, economically and in a disciplined manner. In addition to effectiveness, also conformity to the regulations is of decisive importance, and so is security in the administration of finances in general.

The listed requirements presuppose that the state organs concerned and the local governments both devise and employ effective auditing systems. In addition to the audits conducted by the State Auditor General's Office, the local governments audit the accounts of their institutions.

#### Chapter X

#### Ad Section 93

The Draft Law gives the National Assembly exclusive authority to regulate the legal status of local governments, their rights, mandatory functions, the basic questions of their organization, their material resources, the principles of their finances, and also local elections. Except in a military or civilian state of emergency, these questions can be regulated only by statute.

The most serious action the state can take against a local government is to dissolve its council. The law allows such drastic action solely when the local government is functioning unconstitutionally. If the council continues

to function or act unconstitutionally, despite the notice of the official who oversees legality and even after the expiration of the time limit specified in the notice, constitutional order can be restored only by dissolving the council. The Draft Law—in agreement with Section 19, Paragraph 3, Item 1), of the Constitution—gives the supreme representative legislative body the authority to dissolve a local government's elected council, provided that the government first requests the Constitutional Court's legal opinion before proposing the given council's dissolution.

As the general rule, the population exercises its rights to local self-government through the local government council it elects. Therefore the council's dissolution necessarily means the suspension of the population's rights to local self-government. That situation should be kept as brief as possible. Therefore the Draft Law provides that the National Assembly must act at its next sitting on a proposal to dissolve a local government's council. Another legal guarantee is the provision that the mayor of the local government concerned must be invited to the National Assembly's sitting when it deliberates the dissolution proposal, and he must be given opportunity to present his council's standpoint, either in writing or orally, before the National Assembly acts on the proposal.

The Draft Law prescribes that a byelection must be held, within sixty days, whenever the National Assembly dissolves a local government's council. After the promulgation of the resolution dissolving the local government's council, the National Assembly schedules the byelection, in accordance with the provisions of the Draft Law on Local Elections.

The present Draft Law grants the National Assembly authority to make the most important decisions regarding the country's territorial subdivision. Counties are the basis of the local governments' organization and operation within them. The local governments have definite political, economic, supply-related, infrastructural, employment-related, etc. interests associated with how the [counties'] areas and administrative boundaries develop. Therefore it is of importance to local governments as a guarantee that state organs not be able to make decisions about consolidating or dividing [counties], changing their boundaries, naming them or designating their seats, without first consulting the local governments concerned. The provision that there must be prior consultation with the local governments concerned, before such territorial decisions are made, serves this purpose.

#### Ad Section 94

In agreement with the Constitution, the Draft Law contains the most significant power the president of the Republic exercises in conjunction with local governments, namely his authority to schedule local elections.

The Draft Law reserves for the National Assembly authority to make the most important decisions

regarding the country's territorial subdivision, but it gives the president of the Republic authority to make such decisions when they are not in the county or metropolitan category. A condition for exercising this authority is that the proposal to do so must come from the local governments concerned.

The president's powers include his authority to appoint the Republic's regional prefect who performs state administrative functions in his region.

When a local government's council is dissolved, the president of the Republic appoints a commissioner of the republic. The commissioner's authority in local government matters is limited (to urgent decisions that cannot be postponed), but he has authority over all state administrative matters.

#### Ad Section 95

According to the Draft Law, the interior minister participates in exercising the government's authority to oversee legality in local government. The government uses the Republic's regional prefect to perform the necessary oversight functions and to take all but one of the procedural actions prescribed by the present law. That one exception involves proposing the dissolution of a local government's council. The government itself presents that proposal to the National Assembly.

The Draft Law limits exclusively to the local governments' state administrative functions the government's authority to supervise local governments and to regulate them by decree.

As the organ in charge of state administration, the government decides disputes arising between a state administrative organ and a local government when other procedures for the resolution of disputes do not apply. The purpose of this provision is to leave no dispute without an organ that has authority to resolve it. In view of the Draft Law's provisions regarding the protection of local government rights and legal remedies, respectively, action by the government may be proposed only when the cause of the dispute is not the violation of a statutory regulation, and no other legally regulated procedure for resolving the dispute is available.

#### Ad Section 96

Within the branches of administration under his own supervision, the interior minister's authority in conjunction with local governments is the same as that of the other ministers. This section contains provisions regarding the interior minister's general authority to organize public administration and, within it, his scope of special functions stemming from his responsibility for drafting the statutory regulations affecting local governments, as well as from his coordinating role.

The interior minister prepares the local government matters that the government presents to the National Assembly, and the ones that are within the purview of the president of the Republic.

The interior minister drafts the proposal for the dissolution of a local government's council whose activities are unconstitutional.

In the interest of articulating and safeguarding the local governments' rights and interest within the central state administration, the interior minister participates in the drafting, by other ministries, of statutory regulations, other legal instruments of government and special central government decisions affecting, respectively, the local governments' scope of functions and authority, and the activities of the mayor or of the Republic's regional prefect.

The interior minister is getting authority to coordinate the government's responsibilities in conjunction with municipal development, and with planning and finances where local governments are involved. The purpose of this coordinating authority is to ensure that the requirements of the local governments are taken into account and met in the legislative programs of the government and individual ministries. In its specific content this coordinating authority places upon the other ministers the obligation to reconcile their programs, and it grants the interior minister the right to introduce proposals and to comment on other proposals.

According to the Draft Law, the interior minister will have delegated authority from the government to supervise the activities of the Republic's regional prefects.

#### Ad Section 97

The Draft Law aims to sharply curtail the individual ministers' earlier authority over the [former] local councils. It limits the scope of a minister's regulatory authority over local governments to establishing by decree departmental rules for the state administrative functions of the mayor and the Republic's regional prefect; furthermore, to regulating the departmental requirements for the operation of the local governments' institutions as well as the qualification requirements for the institutions' workers.

The minister oversees compliance with the requirements he sets, and informs the local government of the results of the inspections his department conducts. He makes recommendations for the elimination of the uncovered shortcomings. And he informs the official overseeing legality in local government whenever violations of the law have been uncovered.

It is the minister's responsibility to provide for the local governments the information they need. From local governments the minister may require the data and information he needs to perform his departmental functions.

The minister may give local governments grants-in-aid, under the conditions and for the purpose specified by statute.

#### Ad Section 98

The Draft Law introduces the institution of the Republic's regional prefect. The president of the Republic appoints the Republic's regional prefect, on the prime minister's proposal and after a hearing before the National Assembly's committee. This arrangement is a safeguard to protect local governments. The National Assembly establishes the regional prefectures and designates their seats. The Draft Law assigns the Republic's regional prefect four main functions.

The regional prefect's first main function, one of outstanding importance, is the oversight of legality in municipal, county and metropolitan governments. His second main function is to decide certain matters in which he acts as public authority of first instance; these are matters that require a high level of professional knowledge and occur rarely (exercising the state's right of eminent domain, for instance). At the same time, as supervisor, he is also an appellate forum in state administrative matters in which local governments acted as public authority of first instance. He is not the exclusive appellate forum, however, because various specialized services that are not parts of the county office also belong by definition to the system of legal remedies. The third main function of the Republic's regional prefect is to administer such important state administrative matters as national defense and civil defense, and to participate in administering the taking of censuses and the holding of referendums and elections.

As his fourth main function, the Republic's regional prefect coordinates the activities of his own office with those of the various deconcentrated state organs in the county and with the municipal councils' offices. Furthermore, he is also responsible for the mutual coordination of the activities of the local government offices and of the deconcentrated state organs.

#### Ad Section 99

The Draft Law defines the authority of the Republic's regional prefect to oversee legality in local government, and the local governments' responsibilities in connection with the oversight of legality. The Republic's regional prefect first serves the local government's council notice to end a violation of the law and sets a time limit for ending it. The council must study the contents of the notice and act on it within the specified time limit. The council must inform the Republic's regional prefect of the action it took, or of its reasoned standpoint as to why it disagrees with the contents of the notice. If the local government's council fails to carry out its outlined responsibilities, the Republic's regional prefect may:

- Institute proceedings before the Constitutional Court to review and to declare null and void a local government ordinance that violates the law;
- Advise the interior minister to draft the government's proposal to the National Assembly for the dissolution of the local government's council;

- Institute proceedings before the [regular] court for a judicial review of a resolution, internal rule or other decision that violates the law;
- Propose the convening of the local government's council to end the violation and to establish which council official is responsible for the violation.

#### Ad Section 100

The appointment of the Republic's regional prefect is for the balance of the president's own term of office. The Republic's regional prefect is a titular state secretary.

The office of the Republic's regional prefect assists him in the performance of his state administrative functions. He appoints the workers of his office and determines its rules of organization and procedure. The government sets the appropriation for the office of the Republic's regional prefect, within the Interior Ministry's budget.

#### Ad Section 101

The broad right of recourse (right to petition) granted the local government's councils is intended to promote the protection of the local governments' rights. This legal institution gives the council of any local government a legal opportunity to turn to the competent state organ in any matter affecting the local government. The council may:

Request information, data, a legal opinion or specific action from the state organ resorted to;

Present a proposal to it; or

Object to the given organ's specific decision and request that it be rescinded or revoked.

As a guarantee, the Draft Law provides that the state organ resorted to must give a pertinent answer or take appropriate action within thirty days. If the state organ resorted to does not have jurisdiction, it must transfer the application within three days to the organ that does, and must simultaneously advise the resorting local government of this.

#### Ad Section 102

Local governments may form national or regional organizations to represent and safeguard, and to promote the assertion of, their rights and interests.

For the national interest-representing organization the Draft Law ensures opportunity to express its opinion on the drafts of statutory regulations affecting local governments. The national organization sees to it that the regional associations, and the local governments they represent, are informed of the proposed statutory regulations.

The interest-representing organization's standpoint is not binding on the legislative organ, but the state organ with authority to issue statutory regulations must explain its reasons for disregarding the organization's standpoint and must advise the organization of this.

The effective protection of the rights of local governments requires that their interest-representing organizations have the same right of recourse as the local governments themselves.

### Chapter XI

#### Ad Sections 103-115

These sections of the Draft Law contain transitory provisions in conjunction with the formation of the [new] local governments. The executive committees of the [present] councils must function until the new councils are formed, and it is also necessary to regulate the status of the secretaries to the councils' executive committees.

The Draft Law enumerates the matters the new municipal councils will have to decide following the cessation of the present joint local councils. The municipal councils will decide and agree independently to form combinations.

As a rule, a district clerkship will be formed on the territory of a [former] joint local council. To ensure the state administrative functions' continuous performance, in the absence of a mutual agreement it might become necessary for the Republic's regional prefect to designate the towns that will belong to the district clerkship.

The Draft Law specifies the range of assets that will pass from the state to the local governments. In view of the fact that the reform of state property is still in its initial stage, however, it is necessary to ensure that harmonization will be possible with the changes to be introduced in the near future—e.g., with the new regulations governing the ownership of land, and with the institution of fiscal property. Hence the need to refer to future legislation, and to let the committees for the transfer of assets participate in the division of assets. Section 107, Paragraph 5, refers to the future institution of fiscal property when it formulates the concept of land owned exclusively by the state. For example, it is warranted to retain in state ownership the Soviet barracks and the land attached to them in the centers of municipalities, until the possible claims for compensation are settled. The transfer of state assets to local governments will not affect the eventual settlement, by the local governments, of claims which arose from nationalization or unlawful seizure and which have been recognized by separate statute. (In the case of real estate formerly owned by the churches, for instance.)

**Executive Order on Customs Supervision,  
Collection of Customs Dues**

*91EP0065B Warsaw DZIENNIK USTAW in Polish  
No 61 Item No 357, 6 Sep 90 pp 852-855*

[Executive Order, Item No. 357, of the Ministry of Foreign Economic Relations, dated 22 August 1990, governing customs supervision and control as well as collection of customs dues]

[Text] Pursuant to Article 70, Paragraph 2, Point 2, and Paragraph 5, Points 2-4, as well as Article 88 of the Law on Customs dated 28 December 1989 (Dz.U., No. 75, Item 445), the following is hereby ordered:

**Chapter 1.**

**General Provisions**

Paragraph 1. Whenever not closely defined, the Articles referred to in this Order denote the Articles of the Law on Customs dated 28 December 1989 (Dz.U., No. 75, Item 445).

**Chapter 2.**

**Customs Inspection and Clearance of Merchandise and Means of Transportation**

Paragraph 2.1. After the requisite documents are presented by the entity engaging in foreign trade, the carrier, or the forwarding agent, the customs inspector checks the condition of the customs seals affixed to means of transportation or merchandise and the consonance between their numbering and markings and those of the related documents, and, as the need arises, may verify the condition of the packaging and the quantity, markings, and numbering of the merchandise.

2.2. In the event that a discrepancy with the data on the documents is found, or if there is damage to packagings or to the integrity of customs seals, or in the event of the transloading referred to in Article 43, the customs inspector conducts a customs inspection of the merchandise. For merchandise carried in motor vehicles, a record of the inspection is prepared by the customs inspector with the participation of the carrier or forwarding agent, while for merchandise carried on other means of transportation the record is prepared by the carrier or the warehouse manager who receives the merchandise for warehousing, with the participation of the customs inspector.

2.3. While performing the activities referred to in Paragraphs 1 and 2, the customs inspector may, as the need arise, carry out a customs inspection of the means of transportation.

Paragraph 3.1. After the activities referred to in Paragraph 2 are performed, the customs inspector affixes customs seals directly to the merchandise being shipped or the means of transportation.

3.2. Customs seals are not affixed to the merchandise which is:

1) Carried on seagoing vessels, with the exception of firearms, ammunition, explosives, means of restraint, alcoholic beverages, tobacco products, condiments, and other articles not for personal use owned by crew members.

2) Carried in conformity with the regulations governing conveyance and packaging in certain cars, open-air barges, or other means of transportation.

3.3. In cases other than those referred to in Subparagraph 2, seals may not be affixed if the risk of violating the integrity of dutiable merchandise arises.

Paragraph 4. The provisions of Paragraphs 2 and 3 apply correspondingly to the merchandise deposited and warehoused at customs depots.

Paragraph 5.1. Customs seals are affixed to forwarded merchandise.

5.2. In the event that it is not feasible to affix customs seals, the merchandise is described in the bill of lading or some other way of verifying its identity is assured.

5.3. The consignee's customs office performs the activities referred to in Paragraph 2 and notifies the consignor's customs office of the arrival of the merchandise transported.

5.4. In particularly warranted cases, especially in the event of the conveyance of merchandise across Polish customs territory in wagonload shipments or under escort by a customs guard, the merchandise is eligible for simplified customs clearance pursuant to Paragraph 11, Subparagraph 2.

Paragraph 6. Customs inspection of goods personally carried by a traveler or a resettler may be performed at random, with the luggage either left intact or examined only with respect to certain pieces of luggage.

Paragraph 7. The customs office may perform at random the customs inspection of the goods carried by entities not mentioned in Paragraph 6 if these goods are in the nature of:

1) Uniform goods in uniform original packagings of the manufacturer.

2) Goods enumerated in the specifications appended to the customs declaration.

Paragraph 8. If the information provided in the customs declaration and the appended documents raises no doubt as to the nature, quantity, and dutiable value of the goods, customs clearance may be accomplished by:

1) Acknowledging the customs clearance conferred by the customs office of another country.

2) Externally examining the original packagings of the manufacturer.

3) Externally examining the originally packaged foreign exchange secured by bank seals or the bank documents sent abroad or received domestically by Polish bank.

4) Approving the regular or airmail shipments from the country of consignment if, under international agreements, the Polish regulations concerning the importation of foreign merchandise are applied to the clearance of these shipments.

5) Externally examining merchandise consigned to the military or the police.

6) Externally examining merchandise that requires special handling.

Paragraph 9.1. The customs inspection of the merchandise consigned for use by the units referred to in Article 12 receives priority and is performed in the presence of the consignor or the consignee or his representative belonging to the personnel of these units.

9.2. On the recommendation of the unit referred to in Article 12, customs inspection may be performed in official premises or in the premises of that unit.

Paragraph 10.1. Whenever doubt arises as to whether a particular person is eligible for exemptions from customs duties under law and on the basis of international conventions, the customs office requests a clarification from the Ministry of Foreign Affairs through the mediation of the Main Customs Office.

10.2. Until the doubt referred to in Subparagraph 1 is dispelled, the merchandise is accepted for deposit.

Paragraph 11.1. The ruling of the customs office, issued in written form, should contain, in addition to the data referred to in Article 107, Paragraphs 1 and 3, and Article 67, Paragraph 1, the following information:

1) Name of country of consignor, consignor, and the entity engaging in foreign trade, and, as the need arises, name of the recipient of the merchandise.

2) Name of the entity submitting the customs declaration.

3) Identification of the merchandise, at least by indicating the corresponding customs-tariff line item and duty rate, and specification—depending on the basis assumed for reckoning the duty—of the dutiable value, quantity, or net weight of the merchandise.

4) Data concerning the import or export permit and the appended documents.

5) As the need arises, any restrictions on the admission of merchandise to Polish customs territory or on its exportation, and information on any applicable order of

a court making an appealable judgment immediately enforceable or specifying the time limit for substitutive performance.

11.2. In warranted cases the ruling may omit certain data referred to in Subparagraph 1 or be confined to simplifying customs clearance. A ruling in favor of a simplified customs clearance consists in reducing said clearance to recording the importation or exportation of merchandise in the accompanying document or stamping that document with the seal of the customs office certifying the admission of merchandise to Polish customs territory or its exportation, upon specifying the date.

Paragraph 12.1. If a ruling in favor of temporary admission of merchandise to Polish customs territory is issued in written form, it must be presented as proof before the reexportation of that merchandise may be permitted.

12.2. In the event that presentation of the proof referred to in Subparagraph 1 is not feasible, reexportation may be permitted on the basis of other, indubitable proof of the nature of the ruling in favor of temporary admission of the merchandise to Polish customs territory.

12.3. In the event that proof warranting such reexportation of merchandise is required, such proof may be represented by, in particular:

1) Certificate of the customs office or another administrative agency of the foreign country attesting that the merchandise is in the foreign country.

2) Notations by the customs offices of foreign countries in the documents relating to the temporary customs clearance.

Paragraph 13.1. In the event that the certification of temporary customs clearance is lost or mislaid, the provisions of Paragraph 12, Subparagraph 3, apply correspondingly to the reimportation of merchandise into Polish customs territory.

13.2. On the request of the concerned party, the customs office issues a certificate attesting that the merchandise is held on Polish customs territory, if such certificate is needed for presentation to the authorities of the foreign country. The certificate is issued after the merchandise is inspected.

Paragraph 14. Temporary clearance of the aircraft, sea-going vessels, inland waterway vessels, and railroad trains on international routes, as well as of motor vehicles belonging to foreign and domestic carriers may be limited to corresponding notation in arrival and departure records kept by the customs office.

Paragraph 15.1. A customs office may also allow such simplified temporary clearance with respect to means of transportation other than those referred to in Paragraph 14.

15.2. The deadline for the reexportation or reimportation of the means of transportation admitted for importation or exportation by the simplified procedure for temporary customs clearance expires on the day of the return trip abroad or return trip to Poland by the person who had declared the means of transportation for simplified customs clearance.

### Chapter 3.

#### Storage

Paragraph 16.1. The customs office issues a receipt for merchandise accepted for storage.

16.2. The receipt should specify:

- 1) The legal basis for the acceptance of merchandise for storage.
- 2) Identification of:
  - a) Person authorized to receive the merchandise.
  - b) Nature and quantity of the merchandise.
  - c) Dutiable value of the merchandise, if it is brought in from a foreign country.
  - d) Domestic market value of the merchandise in zlotys [Z], if it is merchandise for exportation.
- 3) Information on the consequences of failure to pick up merchandise within the specified time limit.
- 4) In the case referred to in Article 86, Paragraph 2, Point 3, the person from whom the merchandise was seized.

16.3. The domestic market value of the merchandise is determined by the customs office.

Paragraph 17. In particularly warranted cases, and especially in the event of insufficient warehousing capacity, the customs office may refuse to prolong the time limit for the storage of merchandise beyond two months.

Paragraph 18.1. For storing dutiable merchandise, including Polish currency, a fee of five percent of its value, but not less than Z20,000 monthly, is charged.

18.2. In the event that dutiable merchandise is transferred for storage to another person, a fee equal to the cost of storage is charged.

18.3. The fee charged for storage of foreign exchange or securities amounts to five percent of its value for the first month and two percent for each succeeding month, in accordance with the exchange rate set by the National Bank of Poland and binding on the day the foreign exchange is accepted for storage; in the event that the foreign exchange or securities are transferred to a foreign exchange bank, the provision of Subparagraph 2 applies correspondingly.

18.4. The fee charged for storage of the merchandise referred to in Article 71, Paragraph 2, is in the amount defined in Paragraph 1 above.

18.5. A month is reckoned in its entirety no matter on what day of the month the storage begins.

### Chapter 4.

#### Fees for the Activities of Customs Offices

Paragraph 19. The following handling fee rates are established:

1) Z20,000 for:

- a) Customs inspection of the merchandise or means of transportation used for commercial purposes.
- b) Examination of the documents serving as attachments to the application for initiating customs clearance.

2) Z30,000 for:

- a) Issuing, at the request of the concerned party, a ruling to transfer the case for consideration to the director of another district customs office.
- b) Preparing the written record referred to in Paragraph 2, Subparagraph 2.

3) Z30,000 for every new, entire or fractional, hour of work by the customs inspector conducting, at the request of the concerned party, a customs inspection outside the regular site of customs clearance or at hours other than the regular operating hours of the customs office, inclusive of the required traveling time and of the time spent owing to delays and interruptions in inspection due to the concerned party, even when the concerned party is not at fault.

Paragraph 20. The following rates for handling surcharges are established:

1) For failure to deliver on schedule merchandise to the customs office named in the transfer ruling referred to in Paragraph 19, Subparagraph 2, a: 0.3 percent of the dutiable value of the merchandise for every additional day of delay, but not less than Z50,000.

2) For failure to submit on schedule the customs declaration for the merchandise:

- a) For every day of delay, 0.3 percent of the dutiable value of the imported merchandise.
- b) For every day of delay, 0.3 percent of the domestic market value of the exported merchandise.

3) For reclassifying the temporary customs clearance as final customs clearance on the request of the concerned party submitted following the expiration date of the reimportation or reexportation:

a) For every day of delay, 0.3 percent of the dutiable value of the imported merchandise, but not less than Z50,000.

b) For every day of delay, 0.3 percent of the domestic market value of the exported merchandise, but not less than Z50,000.

4) For failure to adhere to:

a) The deadline fixed in the ruling granting temporary customs clearance: the rates fixed in Point 3 are applied.

b) The requirement fixed in the ruling granting temporary customs clearance: two percent of the dutiable value of the imported merchandise or two percent of the domestic market value of the exported merchandise.

5) For violating the requirement that merchandise be retained for three years after its customs clearance, or for violating the reciprocity requirement ensuing from the provisions of the law: the duty fee fixed for the given kind of merchandise, but not less than five percent of the dutiable value of the merchandise.

Paragraph 21. The following fees apply for customs inspection:

1) For the examination, at customs clearance sites, of dutiable merchandise, packagings, customs seals, or customs documents: Z10,000.

2) For the customs inspection of dutiable merchandise or means of transportation: Z12,000.

3) For guarding dutiable merchandise or sites of customs clearance or premises, open-air areas, and means of transportation which are not sites of customs clearance, and for escorting dutiable merchandise or means of transportation: Z30,000 for each entire or fractional hour of work of the customs employee.

4) For affixing customs seals to dutiable merchandise, premises, or means of transportation: Z5,000 per seal.

Paragraph 22. The provisions of Paragraphs 19-21 do not apply to the merchandise referred to in Article 12 and—on the principle of reciprocity—to imported or exported merchandise or merchandise carried in transit across Polish customs territory on the basis of appropriate documents specified in international agreements.

Paragraph 23. The funds referred to in Article 70, Paragraph 4, remain at the disposal of the Chairman of the Main Customs Office for the purpose of funding the advanced professional training of customs personnel and providing customs offices with equipment and facilities or funding other needs relating to the operation of these offices.

## Chapter 5.

### Final Provisions

Paragraph 24. The following are hereby declared null and void:

1) Executive Order dated 26 June 1975 of the Minister of Foreign Trade and Navigation Concerning the Scope, Instances, and Procedure for Granting Exemptions from the Duty of Possessing Import and Export Permits and from Customs Duties as Regards Articles Consigned to Foreign Diplomatic Missions, Consular Offices, and Special Missions, and Their Personnel (Dz.U., No. 23, Item 126, 1975; and Dz.U., No. 27, Item 146, 1989);

2) Executive Order dated 4 December 1984 of the Minister of Foreign Trade Concerning Customs Clearance and Customs Procedures (Dz.U., No. 57, Item 291, 1984; Dz.U., No. 38, Item 305, 1988).

Paragraph 25. This Executive Order takes effect 14 days after its publication.

Minister of Foreign Economic Relations: M. Swiecicki

### Law on Changes to 1989 Employment Law

91EP0065A Warsaw *DZIENNIK USTAW* in Polish  
No 56 Item No 323, 23 Aug 90 pp 796-797

[Law dated 27 July 1990 governing changes to the Law on Employment]

[Text] Article 1. The following amendments are incorporated in the Law of 29 December 1989 on Employment (Dz.U., No. 75, Item 446, 1989; and No. 9, Item 57, 1990):

a) Paragraph 1 and the new Paragraph 2 are worded as follows:

"1. A jobless applicant has the right to unemployment benefits starting with the day of registration, if:

"1) There is no suitable job offer, occupational training or retraining offer, temporary job offer, or a newly created job available, and if

"2) During the last 12 months prior to day of registration the applicant had been employed for at least 180 days altogether or was covered by social security by virtue of some other activity for a period of at least 180 days."

"2. The requirement referred to in Paragraph 1, Point 2), does not apply to the jobless persons who (or whose):

"1) Have had their employment relationship terminated under the procedure and rules prescribed in the Law of 28 December 1989 on Special Guidelines for Terminating the Employment Relationship of Employees Owing to Reasons Relating to the Workplace, and on Amendments to Certain Laws (Dz.U., No. 4, Item 19; No. 10, Item 59; and No. 51, Item 298, 1990).

"2) Have not yet reached 18 years of age.

"3) Are school graduates.

"4) Are sole wage earners in the family or have lost their wage earner during the 12-month period referred to in Paragraph 1, Point 2).

"5) Have been discharged from basic or periodic military service, professional military service, military training of university graduates, basic service in civil defense, or substitute military service, and who have registered as jobless within three months following their discharge from the service.

"6) Have completed their educational leaves.

"7) Pension rights have been discontinued.

"8) Spouse is receiving unemployment benefits.

"9) Are discharged from penal institutions and registered as jobless within three months after discharge.

"10) Whose previous period of employment amounted to at least 20 years for males and 15 years for females."

b) The original Paragraph 2 is henceforth denoted as Paragraph 3.

c) The original Paragraph 3 is henceforth denoted as Paragraph 4 and worded as follows:

"Paragraph 4. The benefits paid may not be lower than 95 percent of the minimum wage, and they may not exceed the average wage."

d) The original Paragraph 4 is deleted.

e) Paragraph 5 is worded as follows:

"Paragraph 5. The unemployed who:

"1) Are covered by social security by virtue of some other activity for a period of at least 180 days prior to registration day, are awarded unemployment benefits in proportion to the income serving as the basis for reckoning the social security premium, or, if that is not possible, in proportion to average wage, with the proviso of Paragraphs 3 and 4.

"2) Who have not reached 18 years of age are entitled to unemployment benefits equal to 95 percent of the minimum wage.

"3) School graduates are entitled for six months to receive unemployment benefits amounting to:

"—125 percent of the minimum wage, if they are graduates of higher schools.

"—110 percent of the minimum wage, if they are graduates of vocational schools.

"—After the first six months elapse, they receive benefits equal to 95 percent of the minimum wage.

"4) The persons referred to in Paragraph 2, Points 4, 5, 6, 8, 9, and 10 receive benefits reckoned in proportion to their pensions for the month preceding the registration, with the proviso of Paragraphs 3 and 4."

Article 2.1. The unemployment benefits awarded pursuant to the previous regulations to the unemployed who do not meet the requirements of Article 1,a) of this Decree continue to be paid for up to three months after the effective date of this Law, unless circumstances warranting their termination arise earlier.

2.2. The benefits referred to in Paragraph 1 are not subject to being increased in the event that the minimum and average wages are changed.

Article 3. This Decree takes effect on 1 September 1990.

President of the Republic of Poland: W. Jaruzelski

### **Finance Ministry Notice on Foreign Bank Operations**

*91EP0076A Warsaw GAZETA BANKOWA in English No 44, 28 Oct-3 Nov 90*

[Finance Ministry Notice entitled: "Basic Conditions for Foreign Banks in Poland"]

[Text]

### **Ministry of Finance**

### **Narodowy Bank Polski [National Bank of Poland]**

#### **Establishment of Foreign Banks in Poland**

This notice, dated July 1990, supersedes previous notices on this subject.

#### **I. Role of Foreign Banks in Poland**

In the view of the Polish Authorities represented by the Ministry of Finance and the Narodowy Bank Polski [NBP] the presence of foreign capital is highly desirable and beneficial for the national economy and for the banking system in particular. By opening branches or wholly-owned subsidiaries or by taking shares in new or already-established local Banks and subsequently developing their business foreign Banks are expected to earn very attractive returns. At the same time it is expected that they will:

1. Enable the expansion of Poland's economic relations with other countries.
2. Facilitate the creation of a financial infrastructure for the inflow of other foreign capital.
3. Promote growing competition in the banking sector.
4. Spread modern bank management methods.
5. Foster the improvement of banking staff expertise.

6. Expand imports of modern banking techniques generally.

## II. General Conditions

Activities of Bank in Poland are regulated by the following legislation:

1. The Banking Law of 31 January 1989 (Journal of Laws [Dziennik Ustaw] No. 4, item 21) as amended on the 28th December 1989 (Journal of Laws No. 74, item 439).

2. The Act on the Narodowy Bank Polski of 31 January 1989 (Journal of Laws No. 4, item 22) as amended on the 28th December 1989 (Journal of Laws No. 74, item 439).

Furthermore, some provisions of the following also apply to Banks:

1. The Commercial Code of 27 June 1934 (Journal of Laws No. 57, item 502).

2. The Foreign Exchange Control Law of 15 February 1989 (Journal of Laws No. 6, item 33) as amended on the 28th December 1989 (Journal of Laws No. 74, item 441).

The Banking Law permits the following forms of involvement by foreigners in the Polish banking system:

1. The investment by foreigners (taking 100 percent or smaller percentages) in new or existing Banks constituted as joint-stock companies.

2. The opening of Branches or Representative Offices by foreign Banks.

In the following text unless otherwise specified "Bank" will refer to such entities formed with foreign involvement.

### III. Banks in the Form of a Joint-Stock Company Established by Foreign Persons or with Foreign Shareholdings

According to the Banking Law:

1. A Bank in this form must be established by at least three legal persons or 10 "natural" persons.

2. Permission to establish an incorporated Bank is given by the President of the NBP in agreement with the Minister of Finance.

3. The Chairman of the Bank's Board of Management is appointed after consultation with the President of the NBP.

4. The founders of a Bank can freely determine its statutes in accordance with existing legal provisions.

Permission to establish a Bank may be granted when the following has been demonstrated:

1. That the Capital is available for investment.

2. That premises and technical facilities necessary to carry out its activities are available.

3. That managerial position have been entrusted to people with a satisfactory professional background.

Premises and technical facilities which a Bank will have at its disposal should be such that its operations can be carried out effectively and that its assets are properly protected.

The posts of President (Chairman), the Vice-Presidents, and other members of the Bank's Board of Management are considered to be "managerial positions."

At least one member of the Bank's Board of Management should be a Polish citizen.

## IV. Branches or Representative Offices of Foreign Banks

In order to open a Branch or a Representative Office it is necessary to obtain a permit issued by the Minister of Finance in agreement with the President of the NBP.

A Representative Office cannot perform banking operations which in the Banking Law are reserved for incorporated Banks or Branches.

## V. Capitalization and Activities of Banks With Foreign Shareholdings and of Foreign Bank Branches

The following requirements regarding Capital have been adopted:

1. Minimum Capital in a convertible currency brought in by foreign persons must amount to \$6 million or its equivalent in other convertible currencies.

2. The amount in Polish currency contributed by domestic persons is not strictly determined.

Inter alia Banks have the freedom of action and constraints itemized below:

1. They may employ Polish citizens as well as foreigners provided that foreigners are employed in conformity to relevant Polish regulations.

2. They are obliged to perform banking operations in accordance with the Banking Law and other provisions of Polish Law.

3. They may accept foreign exchange deposits from domestic persons on terms agreed upon in contracts concluded with these persons and taking into consideration all relevant regulations, notably the Act on the Narodowy Bank Polski, Article 40, and the Foreign Exchange Control Law, Article 24.

4. They may maintain foreign currency assets abroad up to the level of non-capital liabilities sourced abroad in foreign currency. For the avoidance of doubt, this stipulation does not call for the foreign-sourced liabilities to be maintained in foreign currency, nor does it specify any matching of maturities.

5. They must maintain foreign exchange reserves at the level determined by the President of the NBP in agreement with the Minister of Finance.

6. They can perform both credit and deposit operations in zlotys and in other currencies based on conditions which do not differ from those applied by domestic banks, i.e. are freely negotiable. For the avoidance of doubt, the State Treasury is not responsible for Banks' liabilities with respect to deposits from domestic persons, including the savings deposits of individuals. However, the State Treasury may choose to grant a guarantee or a warranty for such liabilities.

7. They must maintain an obligatory zloty reserve with the NBP in accordance with requirements binding domestic banks.

8. They are required to pay taxes according to principles and rates applying to domestic banks. The Profit of a Bank after taxation will be constituted by its Distributable Earnings. In the case of incorporated Banks basic principles of profit distribution, of reserving policy and profit allocation, including also principles whereby profits may be transferred abroad, can be defined in the statutes. In general, Polish regulations in force from time to time will have overriding validity in this area as in others.

9. They should conform to interbank and other settlement practices in the Polish market, prepare their accounts in line with Polish practices and regulations as they apply from time to time and prepare and submit to the NBP such information and data as domestic banks may be required to furnish.

10. They are required to carry on correspondence with Polish State offices in the Polish language.

11. In general, they are subject to monitoring by the Polish financial authorities and specifically to banking supervision exercised by the NBP.

#### Further Arrangements Specifically for Foreign Banks

The Ministry of Finance and the NBP affirm the principle of *Pari passu* treatment of foreign Banks. Should regulations applicable to foreign Banks change in the future, they will apply equally to all such Banks irrespective of their date of commencement of activity in the country. The only exception will be conditions extended for a given period, which, if subsequently not available to later arrivals, will be "grandfathered."

As a general principle, the Ministry of Finance and the NBP intend to create a level playing field, applying the same conditions to local and to foreign Banks. They recognize, however, that in some areas universally applicable practice is still to be formulated, and in the interest of clarity and of equal treatment of all foreign Banks have laid down the following:

1. In the area of Capital Adequacy new banks are required to maintain Capital at a level not lower than

eight percent of weighted Risk Exposure. Polish regulations in this area are to be further refined and conformed to BIS [Bank for International Settlements] and EEC Directive methodologies.

2. Banks may maintain their Capital (including accruals) in foreign currencies on account with the NBP on conditions negotiated with the NBP.

3. Capital revalued in zloty terms due to foreign exchange movements will not incur tax. By the same token, losses will not be deductible.

4. The Notarial Registration Fee applicable for the registration of corporate is now set at zloty 7.5 million plus 0.01 percent of the excess of the capital in question over zloty 250 million.

5. There is free transfer abroad in foreign currency of the originally imported capital plus capital gain, if any, on the disposal of any or all of the Shareholding or branch Capital in a Bank. For the avoidance of doubt, such transfer will be subject to normal administrative supervision by the NBP and will be after deduction of any applicable Polish taxes.

6. The remittance in foreign currency of at least 30 percent of remittance profits is permitted; larger percentages require an acceptance of the NBP. Regulation in this area will be subject to overall conditions applying from time to time to foreign investors in Poland.

7. It is intended that, as is the case for other foreign investors, equipment imported for the use of Banks would be free from duty for three years from original establishment.

8. Foreign employees of Banks are expected to be subject to applicable Polish tax. There is no duty on personal goods brought in by such employees.

9. Banks may acquire property freely from private individuals. As regards state land and real estate, currently applicable Polish Law permits long-term rental (up to 99 years) or, in certain circumstances, purchase with the permission of the Minister of the Interior. Joint-stock Banks formed in conjunction with Polish shareholders may of course have real estate contributed as or towards the Polish shareholder's subscription.

10. The NBP will favourably consider applications from Banks for refinancing lines in zloty, in order to obviate any difficulties at this stage in the development of the interbank market. This will normally be in the form of a rediscount facility which will be at no worse interest terms than the NBP offers to other banks of similar standing. The size of the line will be for bilateral discussion.

11. With respect to the policy of reserves covering bad debts of Banks it is accepted as an interim solution that Banks will be able to gather reserves at the level of one percent of credit liabilities at the end of every quarter and the total annual amount of reserves will be at most

five percent of credit liabilities. All of these would be deductible for tax purposes.

12. For the avoidance of doubt, Article 35.1.1 of the Banking Law is interpreted as stating that the volume of credits granted to one borrower or group of borrowers cannot exceed 15 percent of the total of paid-in Capital (excluding Retained Earnings and other Reserve Accounts if any), plus Deposits. The same interpretation applies *ceteris paribus* to 35.1.2 and 35.2. As specified in 35.3, the President of the NBP has power to vary the limits in 35.1 and this is done in particular with regard to state-owned entities.

Further information on any of the foregoing may be obtained from:

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**Banking and Financial Institutions Department**  
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and  
**Narodowy Bank Polski**  
**Foreign Department**  
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