DECISION 21 OF 1994: 16 APRIL 1994

ON THE FREEDOM OF ENTERPRISE

ON THE LICENSING OF TAXIS

The petitioners sought an *ex post facto* examination of the constitutionality of certain legal rules.

Section 19(2) of Act I of 1988 on the Traffic on Public Roads authorised local governments, subject to consultation with professional advocacy groups, to regulate by decree the number of taxis licensed within their jurisdiction.

The petitioners submitted, *inter alia*, that s.19(2) was contrary to the rights of free enterprise and free competition under Arts. 9(2), 70/A, 70/B and 70/C and accordingly sought a determination of its unconstitutionality.

Held, allowing the petition in part:

(1) The fundamental right to work contained the freedom to choose and practice every type of occupation, of which the freedom of choice (Art. 70/B) and the right to free enterprise (Art. 9(2)) were merely aspects: an unconditional constitutional requirement of this right was that the State could not prevent a person from becoming an entrepreneur. Although the right to work (occupation, enterprise) received the same protection from state intervention and restriction afforded to other freedoms, the constitutionality of such restrictions was evaluated by different standards depending upon whether it was the practice or free choice of occupation which was

restricted by the State, and further whether the State conditioned the choice of occupation by subjective or objective criteria. The quotas imposed on certain occupations on the basis of objective criteria was such a restriction: if the quota had been filled, it rendered impossible the choice of that profession irrespective of the individual's personal characteristics. It was necessary to scrutinize strictly the constitutionality of such objective restriction, primarily its necessity and unavoidability, and whether it represented the least restrictive means of achieving the given state objective. Moreover as such an objective restriction involved a total negation of the fundamental right to work, it could not be applied to regulate competition or for planning needs. As regards the fulfillment of subjective requirements, this was available to everyone in principle and Parliament had a greater leeway in respect of subjective restrictions. On such basis, restricting the practice of occupations might generally be justified on grounds of profession and efficiency and gave rise to fundamental rights concerns only in extreme cases (page 00, lines 00 - page 00, line 00).

(2) The objective restriction of the freedom of choice by occupation by authorising local governments to regulate by decree the number of licensed taxis under s.19(2) of the Act was unconstitutional. Although the number of taxis and entrepreneurs was not identical, nevertheless the limitation of taxis evidently resulted in the restriction on the number of entrepreneurs. There was no constitutional right or interest which could have made the objective restriction on the choice of occupation necessary and proportionate in the taxi industry. The restriction on the right to free enterprise by quotas was not a constitutional instrument of competition regulation, it could not be used to raise the quality of the service or as a substitute for tax collection: the public administration had to find other means to achieve such ends. Further the statutory authorization permitting local governments to limit by decree the number of taxis was also unconstitutional

because it did not contain any criterion for issuing the restrictions. Since a direct and significant restriction of a fundamental right could only be provided by law, giving *carte blanche* to local governments for such a restriction was constitutionally precluded (page 00, line 00 - page 00, line 00).

IN THE NAME OF THE REPUBLIC OF HUNGARY!

In the matter of the petitions seeking a *ex post facto* examination of the unconstitutionality of a legal rule, the Constitutional Court -- with the concurring opinions of Tersztyánszky and Zlinszky, JJ. -- has made the following

DECISION.

The Constitutional Court holds that s. 19(2) of Act I of 1988 on Traffic on Public Roads is unconstitutional and the Constitutional Court accordingly nullifies this provision effective from the date of publication of this Decision.

The Constitutional Court rejects the petitions seeking a determination of unconstitutionality and a declaration of nullification of paras. 5/A(2) and 5/B(2)(a) of Ministerial Decree 89/1988 (XII.20) MT on Transportation Services on Public Roads and the Maintenance of Vehicles used for Public Transportation, and para. 2 of Ministry of Transport Decree 21/1992 (X.27) KVHM on Certain Requirements for Private Taxi Licensing.

The Constitutional Court publishes its Decision in the *Hungarian Official Gazette*.

REASONING

I

Section 19(2) of Act I of 1988 on Traffic on Public Roads was amended by s. 1(2) of Act LXXVIII of 1992; while the Ministerial Decree 89/1988 (XII.20) MT on Transportation Services on Public Roads and Maintenance of Vehicles used for Public Transportation was supplemented by paras. 5/A and 5/B of the Government Decree 142/1992 (X.27). According to the petitioners, s. 19(2) of the amended Act and paras. 5/A(2) and 5/B(2) of the supplementary Decree, as well as para. 2 of the Ministry of Transport Decree 21/1992 (X.27) KHMV, are contrary to the constitutionally-recognized rights of free enterprise and free competition, contained in Art. 9(2) of the Constitution, as well as Arts. 70/A, 70/B and 70/C of the Constitution, and the petitioners therefore sought a determination of the unconstitutionality of these provisions and the declaration of their nullification. According to one petitioner, the Decree is also unconstitutional because it violates the right of association, enumerated in Act II of 1989, in every instance where it requires professional advocacy groups -- without acquiring their prior consent -- to perform the tasks defined in the Decree.

II

According to s. 19(2) of Act I of 1988 on Traffic on Public Roads, the vehicles used for the transportation of the public by means of private motor vehicles (hereinafter referred to as "taxi service") may be regulated -- subject to consultation with the professional advocacy groups -- by a

decree issued by the representative body of a local government, or -- in the case of Budapest -- that of the local government of the capital city ("LGCC").

According to para. 5/A(2) of the Ministerial Decree 89/1988 (XII.20) MT on Transportation Facilities on Public Roads and Maintenance of Vehicles used for Public Transportation, as supplemented by the Cabinet Decree 142/1992 (X.27) (hereinafter referred to as "the Decree"), in applying for a taxi licence the applicant must prove that the legal person, economic association without the status of the legal personality, or the individual entrepreneur possesses a security deposit, or bond, in the amount of 100,000 Forint which may only be used for the compensation of passengers' damage awards not covered by insurance or by other sources. The security deposit, or bond, may be in the form of a separate cheque or savings account held at a financial institution with funds not available for immediate withdrawal, a bank guarantee or a pledge of payment by a professional advocacy group. According to para. 5/B(2) of the Decree, a taxi licence may be issued to that person, or his agent or employee, who:

> (a) complies with the personal requirements set forth in the decree and has successfully completed the professional training course and the examination requirements contained in the Schedule hereto;
> (b) owns a motor vehicle which has been certified by the local government authority as roadworthy for the purposes of carrying taxi passengers.

Ministry of Transport Decree 21/1992 (X.27) KHMV, para. 2 contains the detailed regulations comprising these requirements.

The appropriate local government must issue the taxi licence to an applicant satisfying the requirements contained in para. 5/B(2) of the Decree. According to the information submitted by the Minister of Transportation, Communication and Water, the issue of licences proceeds in accordance with these regulatory requirements.

III

According to Art. 9(2) of the Constitution, the Republic of Hungary recognizes and supports the right of free enterprise and economic competition.

According to Art. 70/A of the Constitution, the Republic of Hungary secures human rights and rights of citizens to everyone without any differentiation. Art. 70/B(1) states that everyone in the Republic of Hungary has a right to work and to choose freely his work and occupation. According to Art. 70/C(1) everyone has the right to establish or join organizations for the protection of his economic and social interests.

IV

1. According to the preamble to the Constitution and Art. 9(1), the economy of Hungary is to be a market economy. Article 9(2) states that the Republic of Hungary recognizes and supports the right of free enterprise and the freedom of competition.

Concerning the essential characteristics of the market economy, the Constitution states merely that within it, public and private property have equal rights and are entitled to equal protection. The Constitution does not otherwise commit itself to any substantive model of the market economy. The Constitutional Court, in its reasoning of *Dec. 33 of 1993 (V.28) AB* (MK 1993/68), stated that the Constitution is neutral in terms of political economic policy -- aside from its declaration of the principle of the market economy. The magnitude or extent of state intervention, and especially its prohibition, may not be directly deduced from the Constitution.

For this reason, the Constitutional Court, using abstract and general criteria, can only define those extreme situations in which state intervention reaches such a critical intensity that by violating the principle of market economy it becomes unconstitutional. It is that intervention which conceptually and practically renders the functioning of the market economy impossible which qualifies as an unconstitutional intervention; such would be the case, for example, with the initiation of nationalization on a general scale and the introduction of central planning. The interpretation of rights and institutions describing and defining the "economic system" must be understood to refer to the "market economy" within these constraints. These constraints are: the right to property, the equality of private and public property; the right of free enterprise, the freedom of competition; state property; state enterprises and collectives and the proprietary independence of local governments; the right to work and choice of occupation; the right to organize interest groups; the right to freedom of movement and settlement; and finally the prohibition of discrimination and the general right to personality deduced from the right to human dignity (Arts. 9-14, 70/B, 70/C, 58, 70/A and 54 of the Constitution). All these constraints do not preclude the market economy -- as a constitutional task -- from playing a role in the constitutional evaluation of the demolition of precisely those institutions which are relics of the former regime and which are incompatible with it. (See, for instance, the compensation cases.)

But apart from such extreme cases, the principle of the "market economy" is irrelevant for all constitutional review. No one has a right to the market economy, that is it may not be classified as a subject right; no alleged unconstitutionality of any fundamental right may be decided by asserting a violation of the market economy. The constitutionality of an intervention may not be conditioned on whether or not it facilitates the development of the market economy. Successive governments confronted with changing economic situations freely shape their

economic policies, they may liberalize or increase state regulation, provided they do not make its operation obviously impossible. When must freedom be protected against itself is liberalism's eternal dilemma. While it is true that the restrictions imposed on the free market must also serve to maintain its existence, there is no constitutional criterion for determining when this goal has been reversed; more importantly, the ideal of market freedom varies, reflecting changes in economic policy, and the Constitutional Court is not authorized to substitute the legislature's conception of the market economy with one of its own. (However, concerning the question of what makes the operation of a market economy totally impossible, the Constitutional Court is competent to submit its views.) Finally, the regulation and restriction of the market may also be constitutional because of fundamental rights and constitutional values totally removed from that of the freedom of the market: for instance, environmental, health or natural security reasons. But the converse of this proposition is also true: the restriction of the market may be unconstitutional -- also independent of the consideration of the freedom of the market -- if it violates some fundamental right.

Concerning the constitutional task and designation of the economic order (as a market economy) there is only one, but major, similarity with the situation of the rule of law: with the Constitution having entered into force, the market economy became a constitutional fact and remained a constitutional programme. It became a fact insofar that the force of the Constitution gave effect to all those rights and institutions which are necessary for the functioning of the market economy: the (equal protection of) property, the right of free enterprise, *etc.* (see above). Concurrently, the preservation and protection of the market economy is a continuous constitutional task which must be given effect by the constitutionally mandated "support" of economic competition and, first and foremost, by the realization and protection of certain

fundamental rights by the State. But this protection of fundamental rights has its own criteria and means of protection. (For instance, the "transitional nature" of property restriction, as one component of proportionality, is already a genuine constitutional standard. Hence it is continually applied by the Constitutional Court: *Dec. 7 of 1991 (II.28)AB* (MK 1991/22); *Dec. 13 of 1992 (III.25) AB* (MK 1992/30); and *Dec. 24 of 1992 (IV.21) AB* (MK 1992/41).

2. "Freedom of economic competition" is likewise not a fundamental right, but such a condition of the market economy whose existence and operation must be ensured by the State pursuant to Art. 9(2) of the Constitution. The State's "recognition and support" of the freedom of competition demands the construction of the objective, institutional aspect of the fundamental rights, mentioned in Paragraph 1 above, necessary for free enterprise and the market economy. It is primarily the realization and protection of these fundamental rights that gives rise to free competition, which -- similar to the market economy -- has no separate constitutional measure.

3. But the right to free enterprise (Art. 9(2) of the Constitution) is a genuine fundamental right.

According to the Constitutional Court in *Dec. 54 of 1993 (X.13) AB* (MK 1993/1470, "the right to enterprise is one aspect of the constitutional fundamental right to choose freely one's occupation [Art. 70/B(1)], its manifestation in a special way." Elsewhere:

> No one has a subject right to engage in entrepreneurial activity in a specific occupation or field, or to exercise the legal form of that entrepreneurial activity. The right to enterprise means only -- but this much is posited as an unconditional constitutional requirement -- that the State must not prevent or make impossible the becoming of an entrepreneur.

The right to work as a subject right must be distinguished from the right to work as a social right, and especially the latter's institutional aspect, namely the State's duty to engage in an

appropriate employment and job-creation policy. This aspects has no more relevance to the case at hand than any of the State's duties emanating from the right to enterprise. On the other hand, there is no constitutional justification to limit the subject right to work only to formal employer-employee relationships.

There is no hierarchical relationship between the subject right to work, the right to choose freely one's work and occupation (Art. 70/B of the Constitution), on the one hand, and the right to enterprise, on the other hand. The right to work must be interpreted as containing the freedom to choose and practice every type of occupation, calling and "work". Thus, the specific naming of one aspect of this right in Art. 70/B of the Constitution (freedom of choice) and another aspect thereof in Art. 9 of the Constitution (right to enterprise) is mere repetition or more detailed specification. Work, occupation or enterprise as fundamental subject rights do not differ from one another.

4. The fundamental right to work (occupation, enterprise) receives the same protection from state intervention and restriction which is afforded to other freedom rights. But the constitutionality of these restrictions is evaluated by different standards depending upon whether it is the practice or free choice of occupation is restricted by the State and, with respect to the latter, the judgment differs depending on whether the State conditions the choice of occupation by subjective or objective criteria. (For instance, in the case at hand, the taxi industry is restricted by regulations concerning the security deposit or bond, the condition and tests of roadworthiness of motor vehicles, etc.; the subjective restriction, that is dependent on the subject, is the requirement of passing the roadworthiness test; the objective, that is totally independent of the personal characteristics of the people desiring to engage in entrepreneurial activity, is the number of licences which may be issued).

What endangers the right to work (occupation, enterprise) the most is if a person is precluded from engaging in that activity, if he is not permitted to choose that occupation or work. If this were an unenumerated right, it would be given effect on the basis of a violation of the general right of personality. The Constitutional Court (*Dec. 54 of 1993 (X.13) AB* (MK 1993/147)) has already declared that it is an unconditional constitutional requirement that the State desist from preventing a person from becoming an entrepreneur. The *numerus clausus* (quotas) imposed on certain occupations on the basis of objective criteria is precisely such a restriction: if the quota has been filled, it renders impossible the choice of that profession irrespective of the individual's personal characteristics. The constitutionality of such objective restriction, primarily its necessity and unavoidability, whether the restriction is truly the least restrictive means of achieving the given state objective, must be subjected to strict scrutiny.

The prescription of subjective requirements is also a restriction on the freedom to choose. But the fulfilment of these requirements is available to everyone in principle (if not, it is an objective restriction). For this reason the legislature's leeway is somewhat greater than in the case of objective restrictions. Finally, restricting the practice of occupations may generally be justified on professional and efficiency grounds and they raise fundamental rights concerns only in extreme cases.

In evaluating the objective restrictions, attention must also be paid to the fact that since this restriction involves the total negation of the fundamental right, such an instrument may not be applied to regulate competition. The application of instrument of *numerus clausus* is especially impermissible for the planning of needs. For such a licensing mechanism is the hallmark of central planning and not the market economy. Likewise, the simplification of some administrative

tasks does not justify the imposition of quotas (such as, with respect to taxis, the growing danger of traffic chaos because of the rising number of cars and scarcity of parking spaces).

V

1. In the constitutional review of the challenged regulations a distinction must be made among the various justifications for the restriction of the fundamental right to work (occupation, enterprise); second, the existence of the reason theoretically justifying the restriction of the fundamental right must be demonstrated concretely, that is by reference to the legal rule's personal, objective and temporal aspects.

2. Paragraphs 5A (mandating the security deposit or bond) and 5B(b) (on the certification of roadworthiness) of the challenged regulations prescribe the conditions for engaging in the occupation. Paragraphs 5B(a) and 1B of Schedule 1.I of the Ministry of Transport Decree 21/1992 (X.27) KHVM contain subjective restrictions on the freedom of choice of occupation (requirement of instruction and examination). However, s. 19(2) of Act I of 1988 contains an objective restriction of the freedom of choice of occupation by authorizing local governments to limit the number of taxis.

The constitutionality of these three regulations must be judged by different and progressively stricter standards in light of what has been stated above. According to the method of constitutional adjudication depicted above, the criteria of necessity and proportionality may be loosened or tightened depending on the type of restriction which is imposed on the right to enterprise.

3. Consumer protection and the nature of the taxi industry justifies the restriction of the exercise of the occupation by both the security deposit and the stringent technical evaluation requirements. Compliance with the technical requirements is proportionate with both consumer protection and the requirement of a minimal service quality and it may be seen as necessary for those purposes. According to the Decree, the HUF 100,000 security deposit or bond is to be used to compensate passengers for damages not otherwise covered. Compulsory liability insurance provides compensation for damages even if the tortfeasor did not pay the premiums. Judicial practice broadly interprets the scope of damages insurance is supposed to cover. But this practice notwithstanding, numerous such harms may be inflicted on the taxi passenger which are not covered by compulsory insurance. The requirement of posting a security deposit or bond for the purpose of compensating for such harms is a necessary and proportionate restriction of the pursuit of the occupation. Accordingly, the Constitutional Court rejected this aspect of the petitions.

4. In principle, a satisfactory completion of an examination may always be a necessary prerequisite for entering a profession, except if the work is entirely unskilled labour -- but even in that case some knowledge of safety regulations may be prescribed. The taxi industry does not require separate technical training but its practice may be conditioned on requirements beyond that of a driving licence. The authorities in charge of such regulation have considerable leeway to consider what requirements to impose for the issue of a licence. The examination curriculum does not become a constitutional question until and unless its excessive requirements or absence of relevance for the stated professional objectives render it an unnecessary and disproportionate restriction of the freedom of occupational choice. The Constitutional Court reviewed the education and testing curricula and determined that they may not be characterized as constituting such a restriction.

5. Section 1(2) of Act LXXVIII of 1992, amending s. 19 of Act I of 1988, contains the objective constraints on the freedom of occupation: it authorizes local governments to regulate by decree the number of licensed taxis within their territory. Although the number of taxis and entrepreneurs is not identical, since a single entrepreneur may operate several taxis, or a taxi may be used by several entrepreneurs, the regulation of the number of taxis evidently results in the restriction on the number of entrepreneurs.

This regulation is unconstitutional on a number of grounds.

(a) The Constitutional Court failed to uncover such constitutional right or interest which could have made the objective restriction on the choice of occupation necessary and proportionate in the taxi industry. The justifications proffered by the legislature are especially inadequate to satisfy the requirement of constitutional restriction of a fundamental right. "The undesired expansion of its supply, the deterioration of the quality of the service, the creation of a higher level price for the service, the lack of liquidity and bankruptcy of the majority of entrepreneurs, the non-payment of taxes and service charges"; their "elimination and consumer protection -- given the absence of self-regulating mechanism in the taxi market -- requires firm intervention" -- wrote the Minister for Transport, Communication and Water. But this "intervention" cannot amount to the violation of the essential content of a constitutional fundamental right. The restriction on the right of enterprise by *numerus clausus* is not a constitutional instrument of competition regulation, it may not be used to raise the quality of the service, not to mention its use as a substitute for tax collection. The anomaly of the taxi market -- the squeezing out of competitors, *etc.* -- can and must be attacked and solved by using other administrative means. (For instance, payment of common charges and fees should be regulated instead by the prescription of mandatory issue of receipts and the installation of taxi meters, and not by

restricting entry into the occupation, as has been the case.) Public administration may not lighten its burdens at the expense of such a restriction of fundamental rights.

(b) The statutory regulation authorizing local governments to limit by decree the number of taxis is also unconstitutional because this authorization does not contain any criterion for issuing the restrictions. (This situation is the logical consequence of the fact that the restriction does not even have any constitutional basis -- see Paragraph (a) above.) A direct and significant restriction of a fundamental right may only be provided by law (*Dec. 64 of 1991 (XII.17) AB* (MK 1991/139)). To give a carte blanche authorization to local governments for such a restriction is constitutionally precluded. For this reason, the Constitutional Court nullified s. 1(2) of Act LXXVIII of 1992, amending s. 19 of Act I of 1988.

VI

There is absolutely no constitutionally cognizable connection between the right of establishing organizations, contained in Art. 70/C(1) of the Constitution and the right of consultation of taxi industry advocacy groups, provided for in the challenged regulations. Nor is any constitutional question raised by the terminology objected to in the regulations, either for the right of association or that of enterprise. From the designation of "professional interest group representation" or "(professional) interest group representative organ," it follows neither that these organizations are not created on the basis of the right of association, nor that acting as "guilds" they may draft market regulations. The fact that the regulations do not list the advocacy groups by name is not a constitutional question either. Accordingly, the Constitutional Court rejects the petitions in this respect.

TERSZTYÁNSZKY, J., concurring: I concur with the holding of the decision. Concerning the determination of unconstitutionality, however, my reasoning diverges to some extent from that of the majority.

I am in agreement with the discussion on the theoretical underpinning of the Court's reasoning. The direct and substantial restriction on the fundamental right to work, occupation, enterprise -- the subject of the latter may also be a legal person or an economic enterprise without legal personality -- may only be provided for by statute. From the constitutional perspective, the evaluation of the character, degree and magnitude of the restriction depends on the extent to which it affects the opportunity to entrepreneurial access, primarily through means which the authorized person cannot influence (the objective constraint or restriction). Less stringent scrutiny is applied if the restrictive requirements make the choice harder but their performance is in principle available to everyone (the subjective constraint or restrictions).

The restrictive requirements imposed on occupational choice, even in their objective aspects, violate constitutional fundamental rights only in the most extreme cases.

This adjudication implicates such an entrepreneurial right which, by legal rule, requires the approval of a public authority, with relatively strict conditions imposed on both the acquisition, retention of the permit and the pursuit of the activity. Transportation on public roads, the fundamental requirements of public transportation services, the rights and obligations of users in relation to safety and environmental protection requirements -- these issues are regulated by law and cabinet decrees. Among these services, the carrying of paying passengers by private motor vehicles on public roads (taxi service) is licensed (para. 5A(1) of the Decree). The legal

rule's prerequisites for the issue of a licence may be satisfied in principle by every subject of the fundamental right of enterprise -- with the exception of the restriction on the number of taxis permitted to operate within a locality.

I am in agreement with that part of the Decision's reasoning which argues that the examined subjective restrictions do not violate a fundamental right (paras. 5A(2)-(3), 5B(2) of the Decree).

The Decree also imposes conditions and restrictions on the exercise of the taxi entrepreneurial activity (paras. 5, 7-9, 11, 12, 17, 24 and 25). The taxi licence is issued by a local authority with local jurisdiction: no passenger may be picked up outside the designated territory, thus the market area of this enterprise is any case (objectively) restricted.

It is within this regulatory framework that the Constitutional Court had to adopt a position on whether local determination of the permissible number of taxis is a direct and substantial, or an unnecessary and disproportionate, restriction on the right of enterprise, which was anyhow limited to a local area.

The Constitution does not guarantee an authorized person's access to his chosen or preferred place or market for entrepreneurial activities. And the Decree's rules do not preclude a taxi entrepreneur applicant from seeking and obtaining a licence outside the locality of his residence, for instance, if in that area the taxi licence quota has been filled.

I concur with the majority that the legal regulation authorizing local governments to determine by decree the number of taxi licences to be issued is unconstitutional because the statute does not contain any criterion concerning such a restriction. The legality of a decree proclaimed on the basis of such authorization cannot be determined.

I do not agree, however, that s. 19(2) of Act I of 1988 is unconstitutional because the limitation on the number of taxis *per se* violates the right of enterprise.

The statute refers to the protection of legal interests related to public transportation. Transporting passengers by car on public roads is a form of public transportation. On the basis of the meaning attributed to the challenged regulations in the process of analyzing the regulatory environment, one cannot preclude the possibility that for safety reasons and an orderly flow of traffic, the restriction within a locality of the number of motor vehicles licensed to carry paying passengers may be necessary.

Nor can the possibility be excluded that the unrestricted expansion of the supply side of the service -- precisely because of its particular characteristics -- may result in the bankruptcy of the taxi industry.

Although the restriction on the number of taxis within a locality is an objective restriction in nature, because the interested parties cannot affect the outcome, from the perspective of the constitutional fundamental right the freedom of the choice of entrepreneurial undertaking is only indirectly and remotely affected. Such a restriction does not mean the negation of the essential content of the fundamental right and therefore is not necessarily disproportionate.

The restriction is indirect also because the local government's regulatory authority extends only to a given locality. The opportunity for taxi enterprises in other localities may remain open, either because of the absence of regulations restricting the number of taxis, or due to the availability of places within the locality's quota.

Nor is there evidence to suggest that the exercise of the fundamental right of the freedom of enterprise -- in light of these circumstances -- has become absolutely impossible for anyone, or that there is a strong likelihood of such a situation arising. The taxi licence is valid for operating

in a given locality. It follows therefrom that pursuant to the appropriate statutory authorization it is not unconstitutional for local governments to regulate the number of taxis within a given locality in their jurisdiction. For this, in a given case, would only indirectly restrict the right of enterprise and, as such, it does not require statutory regulation.

ZLINSZKY, J. concurred in the Opinion of **TERSZTYÁNSZKY, J.**