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Land Restitution in Czechoslovakia and the Czech Republic after 1990[2]

Abstract

This article is divided into two parts: the first is devoted to the historical context of restitution; the second to its legal regulation and implementation.
In the first part, state interventions in property and post-war land reforms are presented with an emphasis on the so-called second land reform (after 1945), which consisted of three different and relatively independent phases. The first phase (1945) was associated with the confiscation of agricultural property and its redistribution (Presidential Decree No. 12/1945 Coll., regulation of the Presidium of the Slovak National Council No. 4/1945 Coll. SNC). The second phase (1947) aimed at revising the first land reform (Special Act No. 142/1947 Coll.). The third phase (after February 1948) was presented as the new land reform (Special Act No. 46/1948 Coll.), and resulted in collectivisation associated with the establishment of agricultural cooperatives (at the time, four types of cooperatives were distinguished according to the degree of collectivisation, or according to the method of joint production and remuneration: in the first type, there was a joint organisation of sowing, harvesting and the use of mechanisation; the second type introduced remuneration according to the quantity and quality of work performed for the cooperative, regardless of the size of the cooperative share).
Within the framework of collectivisation (1948–1960), we may distinguish three phases. In the first phase (up to 1953), the number of unified agricultural cooperatives (including preparatory committees) increased to approximately 8600, which was more than half of the municipalities in the Czech lands (at first, unified agricultural cooperatives of the first type predominated; at the end of 1951 and the beginning of 1952, the number of the third and fourth types of unified agricultural cooperatives increased); during the second phase (1955–1960), the number of unified agricultural cooperatives increased to approximately

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12,500, mainly of the third and fourth types; in the third phase (the 1970s), cooperatives merged into larger economic units (in 1980, there were 1722 of them).
The process of collectivisation was accompanied by various forms of coercion, which finally resulted in the persecution of the peasantry – in addition to kangaroo courts against the opponents of collectivisation, 'Action K' (Kulak) took place from November 1951 to May 1952 and from November 1952 to July 1953 (based on the so-called 'directive of the three ministers' of October 1951) to resettle the families of convicted peasants.
After both world wars, approximately one third of all the agricultural land in Czechoslovakia was subject to land reform; 4,143,149 hectares of all land was redistributed under the three phases of land reform after 1945, including 2,135,798 hectares of agricultural land. Small beneficiaries obtained 30.9% of the total, or 59.8% of agricultural land; 52.1% of all (especially forest land) belonged to the state. According to the statistics for 1978, the state sector managed 30.6% and the cooperative sector 62.1% of agricultural land in Czechoslovakia; in 1989, the socialist sector created a 98.7% share in all the agricultural land, out of which the cooperative sector, including crofts, created 67.8%, the state sector created 30.9%, while independently farming peasants and small landholders created only 1.3%.
In the context of the development after the collapse of the communist regime, restitution means the process and the resulting state of redressing some property wrongs that occurred before 1990. It may be understood in a narrower sense (carried out on the basis of restitution legislation after 1990) or in a broader sense, where it includes not only the national but also the international level (including case law). They represented an important tool for coming to terms with the past, but also for the transformation of the economy and society after the collapse of the communist regime.
Gradually, between 1990 and 2012 nine main restitution regulations were adopted in the territory, most of which were repeatedly amended. The Czech Constitutional Court also repeatedly intervened in the restitution legislation (in 1994 and 1995, by cancelling the condition of permanent residence for determining restitution entitlement; and in 2005 and 2018, by cancelling the so-called 'restitution full stop' – referring to the possible end of the process of dealing with restitution cases).
From the perspective of the definition of property wrongs, a general range of facts was mostly chosen (a more specific definition occurred in the case of municipal property, church property defined in the 1990 by enumeration, as well as Jewish property defined in the enumeration at least in part). From the perspective of entity, three laws related only to natural persons, four only to legal entities, and two to both natural persons and legal entities. From the perspective of the subject matter, two laws related to agricultural property, one to non-agricultural property, and six to both agricultural and non-agricultural property. From the perspective of the relevant period, most of the laws had not dealt with reparation of wrongs until 25 February 1948 (although this limit was explicitly mentioned in only three of them); in the case of three acts, it was bound to a later date, while only in the case of two acts did it also apply to wrongs committed before the mentioned date. Finally, from the perspective of the method of restoration of the ownership right, this occurred in two cases directly by law, in five cases by entry into the Land Registry, and in three cases by a decision of an administrative body (the 2012 Church Restitution Act regulated different methods for agricultural and non-agricultural property).

For the area of restitutions, Act No. 229/1991 Sb. regulating the ownership relations to land and other agricultural property, (also called the 'Land Act'), followed by Act No. 243/1992 Coll. (also called the 'Transformation Act'), was the most important one from the perspective of agricultural and forest property (movable and immovable ones).
While the first of them set the decisive period from 25 February 1948, the second also applied to property seized on the basis of confiscation decrees from 1945. The Land Act regulates both the rights and obligations of owners, original owners, users and lessees of land, as well as the competence of the state in regulating ownership and the rights to use the land. To date, it has been amended by 27 acts and 30 implementing regulations have been issued in relation to it. It defined in particular the beneficiaries (Section 4), Obligated entities (Section 5), property subject to restitution (Section 6 et seq. – originally it was 18 and, after the amendment, it was 20 cases), the deadlines for filing the claim (Section 13) and compensations for unreleased or damaged property (in Sections 14 to 16 and Section 20).
In 2005, and again in 2018, the Constitutional Court also cancelled the so-called 'restitution full stop', by which the state tried to exclude the satisfaction of the restitution claims of beneficiaries in the form of providing replacement land, and leaving only financial compensation. In the case of determining the amount of financial compensation for unreleased land, the Constitutional Court has repeatedly taken the view that the State Land Office is obliged to provide beneficiaries with adequate compensation for confiscated property; however, it fails to do so. The issue of judicial settlement of restitution claims is still alive.
Keywords: Land Restitution; Land Reform; Land Act; Compensation

Introduction

The restitution of agricultural property in Czechoslovakia, and subsequently in the Czech Republic after the collapse of the communist regime, are part of a broader and long-term process within the Central European area. They are related both to the restitution of non-agricultural property and to other ways of coming to terms with the totalitarian past, while representing one of the most important tools for the transformation of property relations – and the entire society of post-communist countries.

However, it is also related to previous state interventions in land ownership during the 20th century in Czechoslovakia and Central Europe, especially with the redistribution of property in post-war land reforms, and with the gradual expansion of state and cooperative ownership. The collectivisation of agriculture in Czechoslovakia after the communist coup in 1948 followed not only the Soviet models, but also previous domestic development – when the constitutional guarantees of property protection were broken, and the idea of collectivisation strengthened after the creation of Czechoslovakia in 1918 in connection with the interwar land reform.

The following text will therefore be divided into two larger parts: the first will be devoted to the historical context of restitution with an emphasis on post-war land reforms; the second to the legal regulation and implementation of restitution (land property), including their international dimension in the form of so-called compensation negotiations.

1. Land Ownership, Nationalisation and Collectivisation of Agricultural Land from a Historical Perspective

The issue of interventions into ownership, and especially land reforms, has always attracted increased attention of the professional public – lawyers, economists and historians.[3] Compared to the pre-November era, there has of course been an increase in the quantity, variety and quality of professional works. However, while the interwar land reform is basically a closed issue of interest mainly to historians, the interventions into ownership after 1945 are still a 'live' issue of general interest.[4]

1.1 On Limitation of Ownership and Changes in Ownership Concepts

Over the past two hundred years, ownership in the Czech lands has oscillated between the concept of 'user' and 'power' – the middle of the 19th century, the middle of the 20th century and the 1990s may be mentioned as milestones here, which correspond to significant socio-political changes (the user approach was decisive until the middle of the 19th century and from the middle of the 20th century). For the power (or liberal) approach, it is characteristic to emphasise the 'unlimited' character, for the user (or social) approach, it is the 'restricted' one.

In the course of the individual stages, both concepts permeated and complemented each other to varying degrees: after 1918, for example, the user approach began to be promoted again, which was particularly reflected in the framework of land reforms (redistribution of agricultural land with regard to the existing lessee, but also the limitation of the right of disposition of the assignees) and further in the housing area (strengthening the position and protection of the tenant); while the social dimension of the issue was significantly reflected. Looking ahead, it is possible to expect greater consideration of the user concept again, which had already started by the adoption of the Civil Code from 2012 (reflected in the institutes of

3 | From the extensive literature on the issue of ownership, cf. i.a. Lehman 2004. From contemporary Czech literature, cf. i.a. Eliáš 2017; Horák 2017, 1109–1123; Horák 2021, 1–28.

4 | The issue was addressed mainly by S. Cambel, A. Doležalová, P. Dufek, K. Eliáš, T. Gábriš, O. Horák, V. Horčička, K. Jech, K. Kaplan, K. Kaucká, A. Kubačák, J. Kuklík, V. Lacina, G. Novotný, M. Otáhal, J. Pšeničková, J. Rychlík and L. Slezák. Comprehensively cf. Prucha et al. 2004, 2009; Pupa 2010. From legal history works: Kuklík et al. 2011; Horák 2012, 347–368, 391–409.

extraordinary acquisition of a personal right by means of prescription, leasehold estate, trust fund and others).

The thesis on the inviolability of ownership reflected a political rather than a legal point of view, but it had an invaluable educational character and shaped the contemporary way of thinking of lawyers and non-lawyers. However, from a historical-legal perspective, we may only talk about it in relation to the personal sphere and human dignity.

1.2 On State Interventions into Ownership and Socialization Projects

1.2.1 Revolution and Ownership

The leading Czech interwar journalist Ferdinand Peroutka wrote in an extensive publication *Budování státu – Building a State* (to some extent a 'chronicle' of the early years of the young republic) that "...the Czechoslovak revolution stands on three pillars, which were a coup d'état, land reform and the adoption of the constitution".[5] It may only be added here that every successful revolution (in modern Czech history, it will be the turning points of 1848, 1918, 1945, 1948 and 1989) stands on three pillars – first, a more or less violent coup, then interventions in property relations (especially to agricultural land), and finally in the symbolic anchoring of changes within the framework of basic laws.

The only fundamental and permanent result of the revolution of 1848 in the Habsburg monarchy was the abolition of subject-lordship relations and the related untying of subject land from all restrictions resulting from the superior ownership of the feudal lord. This was followed by the gradual cancellation of other relationships resulting from the so-called divided ownership, which was still enshrined in the *General Civil Code* (*ABGB – Allgemeines bürgerliches Gesetzbuch, i.e., the then Civil Code of Austria*) of 1811. In the 1860s, feoffment relations were abolished and feoffments were gradually allodified (transformed into a 'free' estate) and in 1924 in Czechoslovakia, the family fideicommissum was abolished.

Substantial interventions into property relations occurred after both world wars in the vast majority of European states, either for reasons of war or occupation (restitution and confiscation), or economic renewal and reforms (land reforms, nationalisation). Post-war socialisation projects and especially land reforms were an important part of the revolutionary changes and significantly influenced the political and legal development of Czechoslovakia and the entire Central European area.

In Czechoslovakia after 1918, state intervention focused mainly on agriculture (land reform); after 1945 it spread to the entire economy (national administration, confiscation, nationalisation). First, there was the imposition of national

5 | Peroutka 1934, 564.

administration and then the confiscation of agricultural property (in the Czech lands, from June 1945; in Slovakia from February 1945) and later (October 1945) of all enemy property. Nationalisation was enacted in two main stages (October 1945 and April to May 1948) – in 1945 important areas of the economy (mines and important industrial enterprises, food industry, joint-stock banks and private insurance companies) were nationalised and after the communist coup in 1948 medium and small enterprises were nationalised as well.

The motivations for these measures were also similar, including social, national, economic and political causes and aims. After 1945 the ethnic-national dimension emerged as a dominant one, though this had remained mainly in the background during the interwar period. There was also a fundamental political shift with the Communist Party acquiring a pivotal position. While the radicalism of the post-war years of the First Republic (1918–1938) gradually died down and relationships became consolidated with the passing of time, the Third Republic (1945–1948) seemed more like a temporary solution with a semi-totalitarian character, particularly as the communists took over the leading positions in 1948. This then led to a total takeover of power by the communists in 1948.

1.2.2 Terminology and Constitutional Protection

After the First World War, it was more about socialisation; after the Second World War it was nationalisation that became a symbol of the new development. Both terms express the idea of state interventions in private property for the benefit of the whole, while we perceive socialisation as a broader (including not only the takeover of property, but also other interventions into private business) and less politicised concept (whereas nationalisation is mainly associated with the rise of communism). From the point of view of the assignees, it may be a takeover by the state (etatisation), local governments (municipalisation) or cooperatives (cooperativisation). From the point of view of the former owners, it may be expropriation (takeover with compensation) or confiscation (takeover without compensation).

While according to the Austrian constitutions of 1849 and 1867, adequate compensation was to be provided for expropriation, the Czechoslovak constitution of 1920 (Section 109) and similarly the constitution of 1948 (Section 9) allowed for expropriation without compensation (the 1960 constitution did not regulate expropriation). In the case of the breach of property guarantees in the Constitution of the First Republic from 1920, it was the most significant modification of the traditional catalogue of basic rights and freedoms at the time. In addition to Czechoslovakia some other countries, especially Germany, have enshrined the possibility of expropriation without compensation into their constitutions (Article 153 of the Weimar Constitution of 1919).

1.2.3 Socialisation Reforms and the International Dimension

After the First World War, land reform was carried out in twenty-two European countries, particularly in the lands 'east of the Elbe', where large estates and the associated political power were often in the hands of the German or Hungarian aristocracy. Apart from Russia, which underwent land collectivisation from 1928 to 1934, elsewhere in Europe small and middle-sized farmers were strengthened at the expense of land ownership by the large estates. Of the thirteen countries in Central and Eastern Europe (again apart from Russia), land reform in Czechoslovakia (1919–1935) was the second most extensive one after Romania.[6]

The most radical intervention came after the Second World War. In addition to the land reforms that were often connected to the confiscation of enemy property, many countries also chose to nationalise key areas of industry based on economic, strategic and ideological reasons. This was a highly debated issue not only in countries oriented towards the Soviet Union, but also in Western Europe (e.g., Great Britain, France and Italy).[7]

After the Second World War, the confiscation measures were closely associated with reparation claims for damage caused during the occupation and the war. 'The Agreement on Reparations from Germany, on the Establishment of the Inter-Allied Reparations Agency and the Return of Monetary Gold' was signed in Paris on 21 December 1945 (published under no. 150/1947 Coll.) by eighteen signatory states, including the British dominions. Of the major countries, only the Soviet Union and Poland were not represented, though the confiscation measures also applied to them. In international comparison, the Czechoslovak version of confiscation was ranked among the most severe ones, while based on an ethnic outlook regardless of nationality and individual guilt, and in particular, the way it established the conditions for exoneration.[8]

Specific land reforms were mainly carried out in those countries which had recently fallen into the Soviet sphere of influence. Of the thirteen countries in Central and Eastern Europe, land reform in Czechoslovakia (1945–1948) was the second most extensive one after Poland.[9]

Naturally, each of these land reforms had its own specific characteristics. Whether in terms of the extent or the actual process, however, there were also a number of features in common: a) they were the first, most basic problems that the new regimes dealt with; b) they were carried out in a radical manner by the communist parties, which thereby significantly strengthened their position in rural areas; c) to implement them, land confiscated to culprits was used. However,

6 | For more details see Maslov 1927; Sering (ed.) 1930; Roszkowski 1995.
7 | For more details see Kuklík 2010, 322 et seq.
8 | For more details on the individual states see Böhmer, Duden, Janssen (eds.) 1951; on domestic situation cf. Pešek et al. (eds.) 2006.
9 | For more details see Průcha 1998, 59.

the land reforms in the people's democratic countries eventually led to agricultural collectivisation along the Soviet model.[10]

1.2.4 Post-war Land Reforms in Czechoslovakia

Czechoslovakia proceeded with land redistribution after both world wars. Traditionally these projects are referred to as the 'first' and 'second' land reforms. While the interwar reform had a basically unified framework, the reform after WWII consisted of three different and relatively separate parts.

The first phase (1945) was associated with confiscations of agricultural property and its redistribution, or settlement, which was completed within two years. The second phase (1947) aimed at revising the first land reform, criticised after 1945. The third phase, presented as the 'new land reform', was established after February 1948 and was to be based on the principle of 'land to those who work on it'. However, before the redistribution was completed, the collectivisation of agriculture began to take place, which may be called the 'fourth phase' because it continuously followed the previous phases and because it was the real and original goal of the communist politicians.

Both land reforms were fundamental interventions in private property. Both were the result of war events, and in addition to solving social and economic problems, they primarily concerned the transfer of power and political influence. While the interwar land reform was characterised by long-termism, evolutionary character and a large amount of legislation, post-war confiscations were a matter of few regulations, speed and radicality. From a legal point of view, however, a similar scheme and legislative-technical instruments were applied. At the political level, interventions into land property were declared in the so-called 'Washington Declaration' of 18 October 1918 (large estates were to be expropriated for domestic colonisation) and in the 'Košice Government Programme' of 5 April 1945 (Article XI concerning the establishment of the National Land Fund, conditions of confiscation and allocation). The legal beginning, as well as a sort of prologue to the main laws of both post-war interventions, was represented by regulations making it impossible to dispose of the property in question, such as Act No. 32/1918 Coll. 'regulating the attachment of large estates', and Presidential Decree No. 5/1945 Coll. 'regulating the invalidity of certain property-legal acts from the time of non-freedom and on the national administration of the property values of Germans, Hungarians, traitors and collaborators and certain organisations and institutes'. Unlike its 1918 predecessor, it pursued two distinct purposes. It not only dealt with the property in question, but also with restitution and the redress of previous wrongs, which, however, were closely linked together. The scope of the decree was

10 | For more details see Rychlík 2008, 13–29.

originally intended to be nationwide; the Slovak National Council finally issued its own regulation on national administration dated 5 June 1945 No. 50 Coll. SNC.

The main interwar reform regulations were passed between 1919 and 1920, the ones connected with post-war confiscations in 1945. It concerned mainly Act No. 215/1919 Coll. 'regulating the seizure of large land property', or the so-called 'Seizure Act', and in the case of confiscation of agricultural property in the Czech lands by Presidential Decree No. 12/1945 Coll. 'regulating the confiscation and accelerated distribution of the agricultural property of Germans, Hungarians, as well as traitors and enemies of the Czech and Slovak nations'. In Slovakia, several months before the expected adoption of the regulation with nationwide scope, its own regulation was applied, which also affected the regulation in the Czech lands (especially the issue of exemptions from confiscation for persons of German nationality who were required to actively participate in the anti-fascist resistance). It was a regulation of the Presidium of the Slovak National Council of 27 February 1945 No. 4 Coll. SNC 'regulating the confiscation and accelerated distribution of agricultural property of Germans, Hungarians, as well as traitors and enemies of the Slovak nation', later amended by Decree of the Slovak National Council No. 104 of 23 August 1945 (with retroactive effect as of 1 March 1945).

These regulations are a reflection of the tense post-war atmosphere and efforts to fundamentally transform and intervene in land ownership. However, the Seizure Act had the character of only a framework act; practical implementation could only be carried out after the adoption of the follow-up standards, which mitigated the original radicalism - especially with regard to international obligations (takeover without compensation was foreseen in Section 9 of the Seizure Act for seven categories of property; in the end however, it only applied to members of the former Habsburg-Lorraine royal family). On the contrary, in the case of the confiscation regulations of 1945 aimed mainly at persons of German and Hungarian nationality, ownership relations were changed directly as a matter of law (*ex lege*) and without compensation. The determining factor of the different solution after 1918 and 1945 consisted mainly in the situation on the international scene, which underwent substantial development between the wars and – in connection with the defeat of Nazism – it influenced the destiny of Europe, especially its eastern part, for the next forty years.

1.2.5 Confiscation of Agricultural Property and its Allocation (1945)

The confiscation regulations of 1945 (Decree No. 12 and Slovak National Council Regulation No. 104) were based on similar principles, but at the same time they differed in some essential aspects. Their preparation and implementation fell under the department of the Ministry of Agriculture (Julius Ďuriš), or the Commission for Agriculture and Land Reform (Michal Falťan, Ján Ursíny). Therefore, the Communist Party played a major role in the formation of post-war agricultural

policy, while the persons of Ďuriš and Falťan personified the most radical part of it. This was particularly reflected in their own arrangement of confiscations, which went beyond the scope of the Košice Government Programme. Approval of Decree No. 12/1945 Coll. was accompanied by a number of disputes, but the communist ministers were able to enforce it even against the fundamental comments of the president and other members of the government.

In both regulations, there was also a connection of different legislative intentions – punishing offenders and at the same time using confiscated property to implement a new land reform. They were created in a hurry, which was reflected in their problematic legislative-technical level. An interesting feature of the Slovak and Czech regulations was that they influenced each other (first, it was Regulation No. 4, Decree No. 12 and then Decree No. 12 of Regulation No. 104), which led to the radical nature of confiscation in the field of agriculture (especially the requirement of active resistance participation for exemption from confiscation). Yet both differed from the original ideas of the Moscow leadership and from other confiscation regulations (especially Decree No. 108/1945 Coll. 'regulating confiscation of enemy property and National Renewal Funds').

The confiscation took place directly by law and with immediate effect, as of 23 June 1945 (Czech lands), or of 1 March 1945 (in Slovakia); compensation was not provided, as follows from the nature of the confiscation. According to Decree No. 12, for the purposes of land reform, there was confiscated agricultural property owned by: 1) all persons of German and Hungarian nationality, regardless of nationality, with the exception of persons who actively participated in the fight for the preservation of the integrity and liberation of the Czechoslovak Republic; 2) traitors and enemies of the republic of any citizenship and nationality, who manifested this hostility especially during the crisis and during the war in the years 1938 to 1945 (the categories were elaborated in Section 3, Sub-section 1 and correspond to the definition according to Decree No. 108); 3) joint-stock and other companies and corporations, the administration of which intentionally and purposely served the German leaders of the war or fascist and Nazi purposes.

According to the original wording of Regulation No. 4, agricultural property belonging to the following persons was confiscated: 1) persons of German citizenship, with the exception of persons who actively participated in the fight against fascism, if it did not exceed 50 hectares; 2) persons of Hungarian citizenship who did not have Czechoslovak nationality by 1 November 1938; 3) persons of Hungarian nationality, if it exceeded 50 hectares; 4) traitors and enemies of the Slovak nation of any nationality. Upon Regulations No. 104/1945 and No. 64/1946 Coll. SNC, the range of confiscated items was expanded to include legal entities and all persons of Hungarian citizenship, regardless of nationality, or on the unification of the regime of persons of German and Hungarian citizenship according to Decree No. 12.

Both Regulations (Sections 7–13 of the Decree and Sections 5–13 of the regulation) also regulated the allocation of confiscated property; for the Czech lands,

the rationing and compensation issues were further elaborated by the Decree of 20 July 1945 No. 28/1945 Coll., 'regulating the settlement of agricultural land of Germans, Hungarians and other enemies of the state by Czech, Slovak and other Slavic farmers'. The regulations were followed by a number of other implementing regulations, often of an internal nature.

Confiscated agricultural property was administered until handed over to the allottees by the National Land Fund, established under the Ministry of Agriculture (upon Government Regulation No. 70/1945 Coll. its status was issued), or the Slovak Land Fund. Upon decree of 17 July 1945 No. 27 Coll. 'regulating the uniform management of internal settlement', the Settlement Office was established to ensure the entire process, with headquarters in Prague and Bratislava (these were separate offices subordinate to the Ministry of the Interior).

In Czechoslovakia, a total of 2,946,395 hectares of land was confiscated, of which 1,651,016 hectares was agricultural land. In the Czech lands, a total of 2,400,449 hectares of land was confiscated, of which 1,405,070 hectares was agricultural land (in the borderlands 1,955,076 hectares, of which 1,306,941 hectares was agricultural land). Smaller beneficiaries received 1,037,255 hectares of mainly agricultural land and the remaining 1,360, 224 hectares (mostly forestry land) was kept by the state or was divided among public institutions and corporations. Unlike in the Czech lands, in Slovakia the process of confiscating and distributing land was slower. Of the 578,638 hectares which was subject to confiscation, by 1948 only approximately 72,000 hectares of land had in fact been confiscated and distributed. This accelerated after February 1948 and by 1 March 1949, 545,946 hectares of land was confiscated, with smaller beneficiaries receiving 183,463 hectares.[11]

1.2.6 Revision of interwar Land Reforms (1947)

In contrast to the separate regulation of confiscation of agricultural property in the Czech lands and Slovakia, the legal regulation of the continuation of the land reform should have been common to the entire territory. This so-called second phase was primarily aimed at revising the first land reform, which was subjected to harsh criticism after 1945. The preparatory works were started after the victory of the Communist Party in the elections in 1946, when a new government of the National Front was established under Gottwald's presidency. It was based on the discussions and conclusions of VIII. National Congress of the Communist Party of the Czech Republic of the end of March 1946 dealing with agricultural issues. The revision was also to be linked to a number of other measures in the field of agriculture. In the summer of 1946, the outlines of six agricultural acts – also called 'Ďuriš' laws' – were drawn up under the auspices of the communist-run Ministry of Agriculture, which were submitted to the government on 24 September. In addition

11 | Cf. Lacina 1963, 216–219, 230–232.

to the Land Reform Review Act itself, other proposals related to consolidation, hunting, bookkeeping of allocated property, provision of an agricultural production plan, division of agricultural businesses within the framework of inheritance, and prevention of fragmentation of agricultural land. However, the reform was presented in the form of a comprehensive programme only on 4 April 1947 in a speech by Minister Julius Ďuriš at an assembly in Hradec Králové. That is why it is also called the Hradec Králové programme (Cz: *Hradecký program*). It was based on the principle 'the land belongs to the one who works on it'. The forced purchase and redistribution of land over 50 hectares (point 3) and all land of persons who did not farm on it (point 4) was declared.[12]

The most serious disputes were accompanied by the adoption of the first and most important of Ďuriš' outlines regarding the revision of the interwar land reform. In an effort to maintain their positions in the countryside, non-communist parties also agreed with the idea of revision, but they had a number of reservations about the outlines, which were discussed in more detail in the government, the agricultural committee and the plenum of the Constituent National Assembly (the method and scope of the revision, the amount of replacement prices). The communists, who did not have a majority (the social democrats exceptionally did not support them), were eventually forced to compromise (guarantees of 50 hectares, revisions were not to be a flat-rate, replacement and ration prices were increased). The act regulating the revision of the first land reform was adopted in a mitigated form (compared to the original proposal of the Ministry of Agriculture) on 11 July 1947 and published as Act No. 142/1947 Coll. The decisions and measures of the bodies implementing the land reform (the State Land Office, later the Ministry of Agriculture or the Land Office for Bohemia and Moravia) were subject to revision. The revision was carried out by the Ministry of Agriculture, in Slovakia mainly through the Commission for Agriculture and Land Reform; it was supposed to decide according to the resolution of the revision commission composed of representatives of the individual parties. According to Section 1, the subject of the revision was mainly: 1) property excluded or released from seizure according to the Seizure or Allocation Act, which allowed for numerous exceptions; 2) so-called general agreements on the implementation of land reform; 3) residual estates.

Government Regulation No. 194/1947 Coll. was adopted to implement the act; revision commissions were only established by Government Regulation No. 1/1948 Coll. The practical implementation of the revision made it possible to reinforce the positions of the Communist Party of the Czech Republic, but the non-communist parties partially succeeded in mitigating the revisions.[13]

In connection with the revision of the land reform, Act No. 143/1947 Coll. 'regulating the transfer of ownership of the property of the Hluboká branch of

12 | Cf. Ministry of Agriculture 1947, 20.
13 | Cf. Jech 1963, 400.

the Schwarzenberg family to the Czech Republic' (so-called 'lex Schwarzenberg') was also adopted on 10 July 1947, which resulted in takeover of the property of the Schwarzenberg primogeniture without compensation (the original owners should have been paid a welfare pension in the amount determined by the government, but this did not happen either). As stated by the legal committee reporter JUDr. Jan Bartuška, the later attorney general and head of the department of administrative law at the Prague Faculty of Law, it was a "sui generis land reform in the South Bohemian region". The main reason was the size of the property (approximately 55,000 hectares); it was argued to atone for historical wrongs and the German origin of the Schwarzenbergs.[14] This was basically the only large property complex of the former nobility that was not affected by confiscation decrees. Therefore, the form of an individual act was chosen for its liquidation, which gives it an exceptional character.[15]

1.2.7 New Land Reform (1948)

After a partial failure with the revision of the land reform, the communists prepared a new outline called 'on the allocation of land to peasants' in line with the principles of the Hradec Králové programme. Minister Ďuriš presented it to the government on 17 October 1947. In the commentary proceedings, the non-communist ministries spoke out against the outline, arguing the economic effects and significant interference with the principle of legal certainty and protection of private property. During the discussion in the government, there was certain mitigation. In addition, the non-communist parties prepared their own drafts of the new land reform act.[16] In the end, the government outline was not approved during the discussion in the agricultural committee of the Constituent National Assembly, which was the result of a change in the policy of the Social Democracy, which stopped unconditionally supporting the communists after the Brno congress in November 1947.

The adoption of the new land reform act, which opened the so-called third stage of land reform, finally took place after the February coup, on 21 March 1948. It was published as Act No. 46/1948 Coll. and implemented the principles of the Hradec Králové Programme. The land ownership of one personally and properly managing owner or family was to be reduced to a maximum of 50 hectares. The first part of the act concerned the forced purchase; the second part delt with the rationing. However, the decrees of the Minister of Agriculture on the purchase of land were not issued and compensations were not provided.

14 | Cf. steno-protocols from the 65th meeting of the Constituent National Assembly of 10 July 1947, http://www.psp.cz/eknih/1946uns/stenprot/065schuz/s065001.htm [10.12.2023].
15 | For more details see Kalkušová 2018.
16 | Rychlik 1998, 16–17.

Act No. 44/1948 Coll., which amended Act No. 142/1947 Coll., was also adopted at the same time. It thus acquired the form that was originally proposed by the communists. Revision proceedings were carried out immediately, which meant the blanket annulment of the original decisions of the State Land Office; in cases where the revision commission confirmed its decision even before February 1948, these resolutions were reviewed and annulled (a total of 422 large estates and 1875 residual estates were subject to revision).[17]

Allocation strategies differed under the second and third phases of the reform. While for allocations according to Act No. 142/1947 Coll. as amended, for political reasons there was an effort to quickly allocate land to small farmers and the landless (55.6% of agricultural land went to state farms, 2.8% to state forests, 1.9% to unified agricultural cooperatives, 25.8% to small farmers and 14.8% to others), according to Act No. 46/1948 Coll., allocations to private individuals were implemented only to a minimal extent, and land was allocated mainly to the socialist sector (42% of agricultural land went to state farms, 34.6% to unified agricultural cooperatives, 0.1% to state forests, 3.6% to small farmers and 19.7% to others).[18]

In total, 4,143,149 hectares of all land was redistributed under the three phases of land reform, including 2,135,798 hectares of agricultural land. Small beneficiaries obtained 30.9% of the total, or 59.8% of agricultural land, 52.1% of all (especially forest land) belonged to the state.[19]

1.2.8 Collectivisation of Agriculture (1948–1960)

The implementation of the post-war land reform resulted in the collectivisation of agriculture in the 1950s; although it was initially excluded by communist officials, private ownership of land up to 50 hectares was (unlike the 1920 Constitution) even constitutionally protected in the 1948 Constitution (Section 159).

Forced collectivisation, which is also the subject of the most attention in professional literature, has come to the public awareness,[20] however it was only part of a broad-based process of transformation of the entire countryside. The term 'collectivisation of agriculture' is mainly used for the process and results of cooperatives (creation of unified agricultural cooperatives), but nationalisation (creation of state farms and research institutes) may also be included under the term. The motivation for collectivisation, linked to the elimination of the 'peasant status', included political, economic and social reasons.

Collectivisation was carried out primarily on the basis of Act No. 69/1949 Coll. 'regulating unified agricultural cooperatives', however a number of other

17 | Cf. Lacina 1963, 229–230, and Rychlík 1998, 17–18.
18 | Ministry of Agriculture and Forestry 1958, 19.
19 | Ibid (captures the situation as of May 1951).
20 | For more details on collectivisation see Jech 2008; Blažek, Kubálek (eds.) 2008; Blažek, Jech, Kubálek et al. 2010.

regulations were used (and misused) for it – both from the area of land law, including the previous phases of land reforms (especially Act No. 46/1948 Coll. 'regulating the new land reform'; Act No. 47/1948 Coll. 'regulating some technical and economic adjustments of land'; Act No. 27/1949 Coll. 'regulating the mechanisation of agriculture' and subsequent Decree of the Ministry of Agriculture No. 612/1949 of the Official Document of the Czechoslovak Republic 'regulating the purchase of basic agricultural mechanisation equipment from certain natural persons'; Government Regulation No. 86/1953 Coll. 'regulating financial assistance to unified agricultural cooperatives and private peasants'; and Government Regulation No. 50/1955 Coll., 'regulating some measures to ensure agricultural production'), as well as criminal and minor offence law (Act No. 231/1948 Coll. 'for the protection of the People's Democratic Republic, Criminal Act' No. 86/1950 Coll., 'Criminal Administrative Act' No. 88/1950 Coll.). Mandatory deliveries under Act No. 56/1952 Coll. 'regulating delivery obligations and purchase of agricultural products', which, however, had their origins in the war and post-war functioning of the economy.

At the time, four types of cooperatives were distinguished according to the degree of collectivisation, or according to the method of joint production and remuneration: in Type I. there was a joint organisation of sowing, harvesting and the use of mechanisation; in Type II. there was the introduction of joint crop production, which was manifested both factually and symbolically in the ploughing of borders, and remuneration was realised in the form of parts of the harvest according to the area of land invested in the cooperative; in Type III. there was expansion including joint livestock production, and remuneration was mainly based on work units performed for the cooperative, and partially also with funds for the use of land by the cooperative; Type IV. introduced remuneration according to the quantity and quality of work performed for the cooperative, regardless of the size of the cooperative share.

Collectivisation took place from 1948 in three phases. In the first phase (until 1953), there was an increase in their number especially during 1950 and 1951, while at the end of 1949 there were approximately 2000 unified agricultural cooperatives. By 1952 their number (including preparatory committees) had increased to approximately 8600, which was more than half of the municipalities in the Czech lands. At first, Type I, of unified agricultural cooperatives prevailed; at the end of 1951 and beginning of 1952, the number of unified agricultural cooperatives of Types III. and IV. increased. Then, in 1953, after the death of Stalin, there was a partial relaxation of collectivisation pressure. During the second phase (1955–1960), the number of unified agricultural cooperatives increased to approximately 12,500 mainly of Types III. and IV. In the third phase (the 1970s), cooperatives merged into larger economic units (in 1980 there were 1722 of them). Well-known cooperatives included JZD Slušovice or JZD 1. máj Pozořice. According to statistics for 1978, the

state sector managed 30.6% and the cooperative sector 62.1% of agricultural land in Czechoslovakia.[21]

Originally, voluntariness was emphasised in the process of collectivisation; however, it was accompanied by various forms of coercion, which finally resulted in the persecution of the peasantry, connected mainly with 'Action K' (*Kulak*) from November 1951. In the wake of the Babice case of the summer of 1951 (after the murder of three officials of the local national committee in Babice), there were a number of kangaroo courts against opponents of collectivisation and further (based on the so-called directive of the three ministers of October 1951) for increased repression against the 'village rich' – which consisted of bans on residence and resettlement of families of convicted peasants in two waves (from November 1951 to May 1952, when it was interrupted due to organisational problems – and then from November 1952 to July 1953 when it continued on an even larger scale).

In 1989, the socialist sector created a 98.7% share in all the agricultural land – out of which the cooperative sector, including crofts, created 67.8%; the state sector created 30.9%; while independently farming peasants and small landholders created only 1.3%.[22]

2. Land Restitution, its Legal Regulation and Implementation

The issue of restitution in general and land property in particular has already been given attention by a number of authors with a legal or economic focus. These are especially Milan Pekárek (*1944), Antonín Kubačák (1951–2021), Jiří Spáčil (*1953), Milan Kindl (*1954), Ivana Průchová (*1955), Karel Zeman (*1955), Zdeněk Hraba (*1975), Josef Benda (*1978) and Vojtěch Příkopa (*1987). Some of them participated in the preparation of legislation (Kubačák), while others worked or have been working mainly in the academic sphere (Pekárek, Průchová, Zeman), in the judiciary (Spáčil) or in advocacy (Příkopa). It was both a comprehensive view of restitution (Průchová, Zeman) and a focus on sub-issues such as the restitution of noble estates (Benda) or the transfer of replacement land (Příkopa).[23]

21 | Hraba 2016, 131–135.
22 | Zeman 2013, 98 and 285.
23 | Průchová 1997; Spáčil, Barešová (eds.) 1998; Kubačák, Jacko 2012; Benda 2013; Hraba 2013; Zeman 2015; Příkopa 2020. Most of the mentioned authors strive for an objective approach, which is of course determined differently by their professional activities, however some publications lack balance and impartiality (cf. the review of Benda's work: Horák 2015). In the following text, I mainly follow up on summaries: Průchová 2017, 462–471; Kubačák 2017, 529–539; and Horák 2023, 183–190.

2.1 On Post-1990 Restitutions under Transformation Processes

In the context of the development after the collapse of the communist regime, restitution means the process and the resulting state of redressing some property wrongs that occurred before 1990, whereby the entitled persons became the owners of the original property or were provided with compensation. This is one of the most significant and still unresolved ways of coping with the totalitarian past. Although this term is not defined in the restitution regulations and is used only exceptionally, it is common in professional literature and the media, and it is accepted in a broader social context.

Restitution may be understood in a narrower sense (carried out on the basis of restitution legislation after 1990) or in a broader sense, when it includes not only the national, but also the international level (including case law). Although both types of restitution redressed similar property wrongs, the main difference was that while restitution at the national level was the result of a decision of democratically elected representation and only occurred in the post-revolutionary era, restitution at the international level was the result of international responsibility and had been dealt with since the post-war period.

Restitutions are part of a wider process of transformation of property relations in post-communist countries, which also includes privatisation, or the transfer of public property to private ownership; while restitution is sometimes understood as a form of privatisation. They concerned natural persons and legal entities – churches, municipalities, physical education organisations, Holocaust victims and ordinary owners.[24]

The transition from the user to the power concept of ownership was the accompanying phenomenon and the result of the transformation (see sub-chapter 1.1). The adoption of the amendment to the constitution from 1960 (Constitutional Act No. 100/1990 Coll.) and the adoption of the Charter of Fundamental Rights and Freedoms (with the Constitutional Act No. 23/1991 Coll. in its introduction), which returned to a unified concept of ownership and to the elimination of discrimination in private property, were an important prerequisite. On the basis of this change, a group of transformation regulations was adopted for the area of agricultural and forest property, which partially also fulfilled the function of restitution or were closely related to restitution regulations. It was Act No. 114/1990 Coll. 'amending Act No. 123/1975 Coll. regulating the use of land and other agricultural property to ensure production', and Act No. 162/1990 Coll. 'regulating agricultural cooperatives', which (despite a number of exceptions) enabled the owners of agricultural land used by an agricultural organisation to apply for the return of the land, as well as Act No. 42/1992 Coll., 'regulating property relations and the settlement of

24 | See Zeman 2017 for more details on restitution and privatisation as part of the transformation processes in the Czech Republic.

property claims in cooperatives', and Act No. 39/1993 Coll. 'regulating fines and bails for non-compliance with the laws governing the transformation of agricultural cooperatives and the redress of property grievances in the field of ownership of land and other agricultural property'.

The principle was applied in the relationship between restitution and privatisation 'restitution priorities', which was taken into account especially in the so-called blocking provisions contained in both the privatisation regulations (in the original version of Section 2, Sub-section 3 of Act No. 427/1990 Coll., 'regulating the transfers of state ownership of certain assets to other legal entities or natural persons', also called the 'Small Privatisation Act', and Section 3, Sub-section 2 of Act No. 92/1991 Coll., 'regulating the conditions for the transfer of state property to other persons', also called the 'Major Privatisation Act'), as well as in restitution issues (in the original version of Section 5, Sub-section 2 and Section 29 of Act No. 229/1991 Coll., 'regulating the adjustment of ownership relations to land and other agricultural property', also called the 'Land Act').

The process of restitution was one of the most legally complex and politically controversial issues of post-revolutionary development, an approach to the idea *favor restitutionis* differed with politicians, academics and courts.[25] Therefore, instead of trying to consistently settle property wrongs, there was only an attempt to mitigate their consequences, with the true argument that it is not possible to settle all wrongs. In reality it was only a euphemistic statement, because from the beginning there was an effort to limit restitution in various ways. The biggest controversies accompanied church restitution.

In the context of Act No. 198/1993 Coll., 'regulating the illegality of the communist regime and resistance against it', restitutions were mainly related to the communist regime between 1948 and 1989, which according to this act was supposed to be 'criminal', 'illegitimate' and should be 'reprehensible' (Section 2, Sub-section 1). However, it was overlooked that the Communist Party of Czechoslovakia, which was supposed to be under the same act "a criminal and reprehensible organisation similar to other organisations based on its ideology, which in their activities aimed at suppressing human rights and the democratic system" (Section 2, Sub-section 1), served by the means of its ministers and their collaborators already in the governments of the so-called Third Republic (1945–1948), and that what is criticised about the communist regime in Section 1 of the aforementioned act (e.g. that it deprived citizens of "property arbitrarily and violated their property rights") may be traced very well as soon as after 1945. A case of expropriation without compensation of the property of the Schwarzenberg primogeniture through the so-called 'lex Schwarzenberg' (1947), which was presented at the time as part of

25 | In this context, the courts speak directly about the principle (III.ÚS 4121/18), which is also expressed in one of the restitution laws (Section 18, Sub-section 4 Act No. 428/2012 Coll.). For more details see Příkopa 2020, 37–42.

the 'Czechoslovak national and social revolution' may be mentioned here (see sub-chapter 1.2.6 for more details). An at least partial solution of the restitution of property seized in the period before 1948 was made possible by Act No. 243/1992 Coll. in the case of post-war confiscation decrees, even though it was generally perceived as an exception and criticised by some authors (e.g. Václav Pavlíček and Josef Benda), and further by Act No. 212/2000 Coll. (in the case of Jewish property this was no longer publicly disputed).

In addition to their compensatory nature, restitution has unfortunately also acquired a partially 'confiscating' dimension, because the protection of property, i.e., an inalienable, unlimitable, and irrepealable fundamental right, was limited based on the jurisprudence of the Constitutional Court. Refer to the opinion of the plenum of the Constitutional Court in the matter of the claim for the determination of the property right in relation to the application of the right according to the restitution regulations — according to which opinion the meaning and purpose of the restitution legislation may not be circumvented by a claim for determination, nor may it be effectively claimed under the general regulations for the protection of the property right, the termination of which occurred before 25 February 1948 and the special restitution regulation did not stipulate a way to mitigate or remedy this property damage (on the contrary, Eliška Wagnerová's dissent is inspiring).[26] Therefore, restitutions not only partially enabled the return of property, but as a result simultaneously legalised a number of illegal interventions into private property before 1990.

Furthermore, we may not ignore a number of decisions of general courts, which followed the previous era not only legally in terms of formal legality, but also in terms of value, which brought an obvious strengthening of the legitimacy of the old regime, while the Constitutional Court repeatedly criticized the "ahistorical and formalist approach" of some general courts (among others, file no. I. ÚS 23/97 or 617/08). Last but not least, it is worth mentioning here that the process of restitution and especially the provision of replacement land provided a lot of space for corrupt practices, and brought about a number of controversial decisions — some of which had criminal consequences (e.g. cases like Bečvár's and Czernin's family estate).

Related to restitution and the transformation process was the restriction of the possibility of foreigners acquiring real estate in Czechoslovakia and the Czech Republic, which was enshrined in foreign exchange laws (specifically in Section 25 of Act No. 528/1990 Coll. and in Section 17 of Act No. 219/1995 Coll., with a few exceptions, e.g. when acquired by inheritance or from a spouse or close relatives, whose circle gradually expanded). Upon joining the European Union, the Czech Republic negotiated a transitional period to extend the sales ban, which ended in May 2009

26 | Opinion of the plenary session of the Constitutional Court of the Czech Republic dated 1 November 2005, no. Pl. ÚS-st. 21/05, published under No. 477/2005 Sb., https://nalus.usoud.cz/Search/GetText.aspx?sz=st-21-05_1 [10/12/2023].

for real estate used for housing and in May 2011 for privately owned agricultural land, followed by an amendment to the Foreign Exchange Act No. 206/2011 Coll. (effective from 19 July 2011) lifted the restrictions. Even before that, however, foreigners could acquire domestic real estate under certain conditions, in particular, by establishing or acquiring a Czech legal entity.[27]

2.2 Restitution Legislation

2.2.1 Background

In the post-November era, the appropriateness of restitution, the definition of property wrongs, the range of entitled persons, the subject matter, the decisive period or the form (return of the original property, financial compensation or a combination thereof) were discussed. Not only the left wing, but also an influential part of the then political representation and economic elites (especially the Federal Minister of Finance Václav Klaus and his team) rejected restitution on the grounds that it would slow down privatisation and cause considerable economic damage. The complexity of negotiations in the first phase also resulted from the existence of a federation and partly different property conditions and interventions in ownership relations in the Czech lands and Slovakia (especially in the case of confiscations after 1945). No single framework or comprehensive law was created. Gradually, between 1990 and 2012 nine main restitution regulations were adopted in the territory, most of which were repeatedly amended. The Constitutional Court also repeatedly intervened in restitution legislation (in 1994 and 1995 by cancelling the condition of permanent residence for determining restitution entitlement; and in 2005 and 2018 by cancelling the so-called 'restitution full stop', referring to the possible end of the process of dealing with restitution cases).

Restitution may be divided and evaluated according to various criteria, in particular according to the definition of the property wrong (whether it was a general way – by the range of facts, or specific – by enumeration); according to the subject (whether natural persons or legal entities belonged to the range of beneficiaries); according to the type of property (whether it was agricultural or non-agricultural property, movable or immovable property); according to the relevant period (whether they related to the wrongs after February 1948, or even before that date); and according to the method of restoration of the ownership right (whether it occurred directly by law, by registration of the contract by a state notary or later by depositing it in the Land Register on the basis of an agreement on the release of property, by the decision of an administrative authority, or by the decision of a court).

27 | Šerá, Racková 2009.

The individual restitutions involved interconnected and constantly evolving processes both by amendments (all restitution regulations were amended at least once, most often by the Land Act of 1991) and by case law, including the one of the Constitutional Court and European Court of Human Rights (e.g. by abolishing the condition of permanent residence by the Constitutional Court in 1994 in the 'Act on Out-of-court Rehabilitations' and subsequently in 1995 in the Land Act). For the sake of clarity, restitution regulations will be presented using a combination of thematic and chronological perspectives, while characterising them using the above criteria. Subsequently, attention will be paid to the Land Act (Act No. 229/1991 Coll. 'regulating the adjustment of ownership relations to land and other agricultural property'), which represents the dominant regulation of restitution of agricultural and forest property.

2.2.2 Restitution Regulations in Relation to Legal Entities

This category ranks among the oldest cases of restitution. The first restitution regulation was Act No. 173/1990 Coll., 'which repeals Act No. 68/1956 Coll., regulating the organisation of physical education, and which regulates some other relations regarding voluntary physical education organisations'. The restitution limit was not established until 31 March 1948, while the restoration of ownership occurred by registering the contract with the state notary (or, from the beginning of 1993, by depositing it in the Land Register). The second restitution regulation (Act No. 298/1990 Coll. 'regulating certain property relations of religious orders and congregations and the Archbishopric of Olomouc') defined property by the so-called enumeration method, when specific items acquired by church entities *ex lege* were listed in the appendices of this act. Both acts concerned both non-agricultural and agricultural property, as well as both immovable and movable property. The fifth restitution regulation (Act No. 172/1991 Coll. 'regulating the transfer of certain items from the property of the Czech Republic to the ownership of municipalities') also defined the subject of restitutions more specifically when municipalities acquired *ex lege* the so-called historical property owned as of 31 December 1949. It concerned only real estate (agricultural and non-agricultural).[28]

Act No. 428/2012 Coll., 'regulating property settlement with churches and religious societies and amendment of some acts' is the last case of this group and the ninth restitution regulation in total. It was one of the most controversial, which was also reflected in the length of the (non-)resolution of this issue. It concerns both agricultural and non-agricultural property, as well as both immovable and movable property. In addition to the restitutions themselves, there was also an attempt to

28 | For more details see Kišš 2005.

find a comprehensive solution to the property settlement with church institutions (the amount of the financial compensation was particularly disputed).[29]

2.2.3 Restitution Regulations in Relation to Natural Persons and Legal Entities

The regulations of this category concern both agricultural and non-agricultural property, as well as both immovable and movable property. The third restitution regulation (Act No. 403/1990 Coll., 'regulating the mitigation of certain property wrongs', also called the 'Small Restitution Act') defines the scope of restitution matters in general. Pursuant to Section 1 of the act, it was property confiscated 1) according to Government Regulation No. 15/1959 Coll. 'regulating measures concerning certain items used by organisations of the socialist sector'; 2) according to Act No. 71/1959 Coll., 'regulating measures concerning some private household property'; and 3) by nationalisation based on assessments of some sectoral ministries, issued after 1955 and referring to the nationalisation regulations of 1948. In particular, small and medium-sized family businesses were returned – such as restaurants, shops and workshops, but also mills and sawmills, as well as household property.

Another case of this group and the eighth restitution regulation in total concerns Jewish property (Act No. 212/2000 Coll., 'regulating mitigation of certain property wrongs caused by the Holocaust'), which was defined partly in general and partly by enumeration. In this case, the boundary was set from 29 September 1938 to 8 May 1945. In contrast to other domestic restitution laws, it does not require the applicant's Czech citizenship for the release of art objects, nor does it impose a time limit on the application of the restitution claim. In the case of both laws, the ownership right of real estate was restored by depositing it in the Land Registry (or, until the end of 1992, by registering an agreement on the release of property by a state notary).[30]

2.2.4 Restitution Regulations in relation to Natural Persons

This category ranks among the most significant in terms of the number of restitution cases and court outcomes. The fourth restitution regulation (Act No. 87/1991 Coll., 'regulating out-of-court rehabilitations', also called the 'Great Restitution Act') defines the range of restitution matters in general, while it refers to non-agricultural property (movable and immovable). It defines the relevant period from 25 February 1948. Ownership rights were restored (until the end of 1992) by registration of the agreement on the release of property by the state notary, then by deposit in the Land Register. The subsequent regulation (Act No. 231/1991

29 | For more details on church restitutions, cf. Valeš 2009; Kubačák 2016; Valeš 2020.
30 | For more details see Kuklík et al. 2015.

Coll., 'regulating the authority of the bodies of the Czech Republic in out-of-court rehabilitation') addressed the issue of financial compensation. In the summer of 1994, based on the proposal of a group of deputies led by Marek Benda in Act No. 87/1991 Coll. the Constitutional Court abolished (with effect from 1 November of the same year) the condition of permanent residence, which enabled the restitution of citizens who emigrated and remained abroad.[31]

The sixth restitution regulation (Act No. 229/1991 Coll., 'regulating the adjustment of ownership relations to land and other agricultural property', also called the 'Land Act') followed by the seventh regulation (Act No. 243/1992 Coll., 'regulating some issues related to Act No. 229/1991 Coll., regulating ownership relations to land and other agricultural property, as amended by Act No. 93/1992 Coll'. also called the 'transformation law') define the scope of restitution in general, while both relate only to agricultural and forest property (movable and immovable). Ownership rights are restored by the decision of an administrative body (originally the Land Offices and, since the beginning of 2003, the State Land Office). While the first of them set the decisive period from 25 February 1948, the second one also applied to property taken away on the basis of confiscation decrees from 1945 (the historian Jan Rychlík was apparently the initiator of this important and, given the international compensation negotiations, also logical shift).

2.2.5 Partial Summary

At the end of the analysis of the restitution legislation, it may be summarised that from the perspective of the definition of property wrongs, a general range of facts was mostly chosen (a more specific definition occurred in the case of municipal property, church property defined in the 1990 by enumeration, as well as Jewish property defined in the enumeration at least in part); from the perspective of entity, three laws related only to natural persons, four only to legal entities, and two to both natural persons and legal entities; from the perspective of the subject matter, two laws related to agricultural property, one to non-agricultural property, and six to both agricultural and non-agricultural property; from the perspective of the relevant period, most of the laws had not dealt with reparation of wrongs until 25 February 1948 (although this limit was explicitly mentioned in only three of them), in the case of three acts, it was bound to a later date, while only in the case of two acts, it also applied to wrongs committed before the mentioned date; and finally, from the perspective of the method of restoration of the ownership right, this occurred in two cases directly by law, in five cases by entry into the Land Registry, and in three cases by a decision of an administrative body (the 2012 Church

31 | Judgement of the Constitutional Court of the Czech Republic dated 12 July 1994, file no. Pl. ÚS 3/94, published under no. 164/1994 Sb., https://nalus.usoud.cz/Search/GetText.aspx?sz=pl-3-94 [10.12.2023].

Restitution Act regulated different methods for agricultural and non-agricultural property).

2.3 Land Act

The Land Act, or Act No. 229/1991 Coll. 'regulating the ownership relations to land and other agricultural property' was adopted by the Federal Assembly of the Czech and Slovak Federative Republic on 21 May 1991 and it entered into force on 24 June the same year. To date, it has been amended by 27 acts and 30 implementing regulations have been issued in relation to it.

The Land Act regulates both the rights and obligations of owners, original owners, users and lessees of land, as well as the competence of the state in regulating ownership and rights to use the land. The adoption of the act pursued (according to its preamble)[32] three goals: 1) mitigation of the consequences of some property injustices which occurred against the owners of agricultural and forest property in the period of the years 1948 to 1989; 2) improving the care of agricultural and forest land by restoring the original ownership relations to the land; and 3) adjustment of ownership relations to land in accordance with the interests of rural economic development, and in accordance with the requirements for the creation of the landscape and the environment.

As to the material applicability of the act (in accordance with Section 1), it applies to both immovable and movable property: 1) to the land which forms the agricultural land fund or belongs to it (in accordance with Section 1 of Act No. 53/1966 Coll. and more recently Act No. 334/1992 Coll. 'regulating the protection of agricultural land fund'), and to the extent determined by this act, as well as to land that forms a forest land fund (in accordance with Section 2 of Act No. 61/1977 Coll. and more recently Act No. 289/1995 Coll. 'regulating forests and the amendment and supplementation of certain acts'; the type of land is registered in the Land Registry; 2) to residential buildings, farm buildings and other constructions that belong to the original farmstead, including built-up land; 3) to farm buildings and structures that serve agricultural and forestry production or related water management, including built-up land; and 4) to other agricultural property listed in Section 20 of the Land Act (or to live and dead inventory).

Only natural persons were the authorised persons – the original owners and their legal successors. According to the original wording of Section 4 of the Land Act, all these persons had to fulfil the condition of Czechoslovak (Czech) citizenship and permanent residence, while the agricultural property had to be transferred to the state or to other legal entities in the period from 25 February 1948 to 1 January

32 | The preamble to restitution regulations is also used by courts as a tool for their interpretation. cf. Judgement of the Constitutional Court dated 13 December 2005, file no. Pl. ÚS 6/05, published under no. 531/2005 Coll., https://nalus.usoud.cz/Search/GetText.aspx?sz=Pl-6-05 [10.12.2023].

1990; if the original owner dies (or is declared dead) before the expiry of the period for asserting the claim regulated in Section 13 of the Land Act, their legal successors become the beneficiaries in the following order: 1) a legal heir; 2) children and spouse - in the case that the heir dies before or simultaneously with the death of the testator, their children; 3) parents; 4) siblings and - in the case that the heir dies before or simultaneously with the death of the testator, their children (extended to spouses by amendment No. 183/1993 Coll.); it is similar to legal succession according to the Civil Code from 1964, but so-called cohabitants were excluded). If the beneficiary who claimed the right to release the property dies before the administrative decision is issued, the right passes to the heir (which is explicitly enshrined in Amendment No. 183/1993 Coll.).

The condition of permanent residence for the application of the restitution claim was abolished by the Constitutional Court at the end of 1995 (with effect from 2 February 1996) on the basis of a proposal connected with the constitutional complaint of Ing. W. M. and the proposal of a group of deputies;[33] In this context, amendment No. 30/1996 Coll. to extend the deadline for claiming restitution claims (in the case of persons meeting all conditions except permanent residence) until 31 December 1996.

The state (if the property was in the possession of a state body or facility without legal personality) or legal entities (typically agricultural cooperatives or state farms) which held the property on the effective date of the Land Act (i.e. in the case of legal entities, they had the right to manage the property or the right of permanent use; in the case of other properties, it was managed by their owners), with the exception of foreign countries and also enterprises with foreign property participation and business companies whose partners or participants are exclusively natural persons, unless it was an item acquired from legal entities after 1 October 1990, are the obliged entities (according to Section 5, which was amended once). Obliged entities had to treat real estate (according to Section 5, Sub-section 3) with the diligent care and from the effective date of the Land Act, they could not (under penalty of invalidity) transfer their ownership.

Upon the motion of the authorised person, the court (according to Section 8, which was amended 4 times) decided that the ownership right to real estate owned by a natural person is transferred to them if they acquired it from the obligated entity (see above) either 1) in violation of the regulations in force at the time; or 2) at a price lower than the price corresponding to the price regulations in force at the time; or 3) on the basis of unlawful favouring of the assignee. The same also applied to persons close to that person if ownership or personal use of such real estate passed or was transferred to them. The natural person had the right *vis-à-vis* the state to return the purchase price and to reimburse the costs purposefully spent

33 | Judgement of the Constitutional Court dated 13 December 1995, file no. Pl. ÚS 8/95, published under no. 29/1996 Coll., https://nalus.usoud.cz:443/Search/GetText.aspx?sz=Pl-8-95 [10.12.2023].

on the real estate; on the other hand, the state subsequently had the right *vis-à-vis* the authorised person to reimburse the costs purposely spent on the real estate, which reimbursed the natural person.

If an entitled person donated their land to a natural person in need or transferred it free of charge in connection with the conclusion of a purchase contract for a building to which the land belonged, and if these lands were still owned by this natural person or a person close to them, the court decided on the motion of the entitled person either 1) to cancel the contract in the part in which the land was donated or transferred free of charge; or 2) to pay the price of the donated land by the owner who acquired it in this way, or by their heir (the price was determined according to the price regulations valid on 24 June l991, however according to the type of land at the time of donation). If the landowner did not agree to pay this price, the court decided to cancel the contract. Finally, in the event that the land was owned by a third party, the person to whom the land was donated or transferred free of charge, or their heir, had to pay the entitled person the price for which the land was transferred to the third party.[34]

Obligated persons had (in accordance with Section 6, which was amended 4 times) to release the property[35] that they acquired as a result of the cases listed in Section 6, Sub-section 1 – originally there were eighteen cases, on the basis of which the original owner lost their property; after amendment by Act No. 93/1992 Coll., two others joined them; the sub-paragraphs below correspond to the legal enumeration. These were restitution titles which were:

1. *associated with court rulings in delictual cases*: a) forfeiture of property, forfeiture of item or seizure of item in criminal proceedings, or in criminal administrative proceedings according to previous regulations, if they were cancelled according to special regulations (especially according to Act No. 119/1990 Coll. 'regulating judicial rehabilitation, and Act No. 87/1991 Coll. regulating out-of-court rehabilitations')
2. *associated with agricultural measures and collectivisation*: b) confiscation without compensation in accordance with Act No. 142/1947 Coll. 'regulating the revision of the first land reform' or according to Act No. 46/1948 Coll. 'regulating the new land reform' (for more details see sub-chapters 1.2.6 and 1.2.7); this restitution title is associated with a concurrence of claims (see Section 12 of the Land Act, according to which the right to release the original real estate belongs to the entitled person who lost ownership earlier, unless they agree

34 | There is also extensive jurisprudence on the issue of Section 8: e.g. on the distinction between the terms 'donation' and 'gratuitous transfer' (cf. 3 Cdon 1119/96); on the concept of 'price regulation' (cf. 2 Cdon 166/96); on acquiring real estate at a price lower than the price regulations (cf. 2 Cdon 1267/96); on acquiring real estate in violation of legal regulations (cf. 2 Cdon 1164/96, 3 Cdon 1175/96); gratuitous transfer of land and distress (cf. 3 Cdon 1288/96); to cancel part of the contract on the free transfer of land (cf. 2 Cdon 655/96, 2 Cdon 1233/96, 3 Cdon 1375/96, 2 Cdon 1675/96. For more details see Spáčil, Barešová (eds.) 1998, passim.

35 | 'Extradition' was a specific institute established by restitution regulations.

otherwise; the other entitled persons then have regulating right to compensation according to Section 11 and 11a); d) confiscation without compensation in accordance with Act No. 81/1949 Coll. SNC 'regulating the adjustment of the legal conditions of the pasturage property of former urbariátník, i.e. fief holders upon the Urbarium, komposesorát, i.e. a special type of property community in Slovakia based on feudal Hungarian law and similar entities'; e) confiscation without compensation in accordance with Act No. 2/1958 Coll. SNC 'regulating the conditions and management of jointly used forests of former urbariátník, komposesorát and similar entities'; s) transfer to the ownership of the cooperative according to special regulations (such as Acts No. 69/1949 Coll. and No. 49/1959 Coll. 'regulating unified agricultural cooperatives', or Act No. 122/1975 Coll. 'regulating agricultural cooperatives'; t) order to use to a legal entity on the basis of Act No. 55/1947 Coll. 'regulating assistance to peasants in the implementation of the agricultural production plan', or Government Regulation No. 50/1955 Coll., 'regulating some measures to ensure agricultural production' (this was a situation of so-called forced tenement, while ownership remained with the original owners, therefore in practice the procedure was followed according to Section 22 of the Land Act, when the rights to use and enjoy were converted into a lease relationship with a notice period of 1 October of the current year); u) the transfer of jointly used singular forests and forest cooperatives to the territory of the Czech Republic if the members of the cooperative were exclusively natural persons (however, it was not a case of so-called proprietary forest cooperatives, which were not the owner and had no right to restitution as a legal entity)

3. *associated with emigration*: c) procedure according to Section 287a of the Criminal Code (Act No. 87/1950 Coll. as amended by Act No. 67/1952 Coll.) or pursuant to Section 453a of the Civil Code (Act No. 40/1964 Coll. as amended by Act No. 131 /1982 Coll.), according to which the property of emigrants was transferred to the state; f) statement and agreement on assignment of claims in case of eviction (so-called renunciation statement); g) the case that a citizen staying abroad left real estate in the territory of the republic or that their property was transferred to the state pursuant to Act No. 183/1950 Coll. 'regulating the property left on the territory of the Czechoslovak Republic by persons who opted for the Union of Soviet Socialist Republics and resettled on their territory'; j) a court decision upon which a contract on the transfer of property, in which a citizen transferred an item to another before leaving the country, or was declared invalid if the reason for the invalidity was leaving the republic, or the recognition of such a contract by the parties as invalid; in such case, the assignee under the said contract became the entitled person, even if this contract did not take effect
4. *associated with actions in distress*: h) a contract on the donation of real estate concluded by a donor in need; i) auction proceedings conducted for the

payment of state claims (in particular, proceedings pursuant to Sections 335–337 of the Code of Civil Procedure and Sections 79–88 of the Notary Code governing the sale of real estate); k) a purchase contract concluded in distress under conspicuously disadvantageous conditions; l) refusal of inheritance in inheritance proceedings made in distress (when, as a result of the refusal, the property passed to the state in the case of death)[36]

5. *associated with expropriation, nationalisation or etatisation*: m) expropriation with compensation if the real estate exists and does not permanently serve the purpose for which it was expropriated; n) expropriation without payment of compensation; o) nationalisation or etatisation carried out in violation of the then valid legal regulations or without payment of compensation
6. *associated with illegal conduct*: p) taking over real estate without a legal reason; r) political persecution (i.e. the wrong caused to persons that arose in direct connection with their democratically motivated political and social actions and civic attitudes, or as a result of their affinity to a certain social, religious, property or other group or class; see Section 2, Sub-section 2 of Act No. 87/1991 Coll.) or a procedure that violates generally recognised human rights and freedoms (or conduct that is contrary to the principles of a democratic society respecting the rights of citizens expressed in the Charter of the United Nations, the Universal Declaration of Human Rights, and subsequent international covenants on civil, political, economic, social and cultural rights; see Section 2, Sub-section 3 of Act No. 87/1991 Coll.).[37]

The procedure for claiming the right to release real estate is regulated in Sections 9 and 13 of the Land Act. The authorised person had to submit a proposal to the land office in whose district the claimed real estate was located, and at the same time they had to call on the obligated person to release the real estate. If they did not apply it within the period according to Section 13 (originally by 31 December 1992; after the amendment by 31 January 1993), the claim expired. The obliged person had to enter into an agreement with the entitled person within 60 days from the submission of the request on the release of real estate, which was subject to approval by the land office in the form of a decision issued in an administrative procedure. In the case of non-approval of the agreement, the court reviewed the decision of the land office at the request of the participant. If the agreement was not concluded, the land office decided on the ownership of the authorised person to the real estate. Against the decision of the land office, it was possible to file a lawsuit within two months from delivery to the court, which heard it in civil proceedings.

36 | For definition of the term see 'state claim' (cf. 3 Cdon 1413/96).
37 | Taking over the item by the state without a legal reason and acquiring the ownership right of the state (cf. 2 Cdon 117/96).

Due to the serious functional changes of real estate after acquisition by the state or another legal entity, Section 11 of the Land Act, which has been amended 6 times (in particular by Act No. 183/1993 Coll.), distinguishes between so-called absolute and relative obstacles that prevent the release of land. An absolute obstacle results in the impossibility of returning the original property and instead of this, the right to provide compensation is granted; in the case of land, there were originally five obstacles, and after the amendment six obstacles, in particular the situation when the land was built on (more in Section 11, Sub-section 1); in the case of buildings, it was a situation where, through a fundamental reconstruction, the building lost its original construction-technical character in such a way that it was no longer related to the subject of agricultural production (Section 11, Sub-section 4). A relative obstacle means that the authorised person may decide whether to demand the release of the original land or the transfer of another unencumbered land that is owned by the state, if the use of the land has been restricted in the ways specified in Section 11, Sub-section 3.

The provision of compensation for unreleased or damaged real estate (more in Sections 14 to 16), which is done either through the transfer of real estate or the provision of financial compensation, is an important component of restitutions. For the settlement of restitution claims, real estate is valued according to the actual condition and according to the price regulation valid on the effective date of the Land Act (according to Decree No. 182/1988 Coll., as amended by Decree No. 316/1990 Coll.). Section 20 of the Land Act also provided for the provision of compensation for movable property or for live and dead stock.

Section 17 of the Land Act also determined the competences of the Land Fund of the Czech Republic (established by Act No. 569/1991 Coll. 'regulating the land fund of the Czech Republic'), which was a legal entity (it was not an administrative body) and was responsible for the management of real estate owned by the state. The land fund was supposed to perform an important function in relation to the provision of compensation to entitled persons, however, its procedure was the subject of repeated criticism – not only because of controversial or directly corrupt cases, but especially "arbitrariness or laziness in allocating land", which was repeatedly pointed out by the Constitutional Court.[38]

The Constitutional Court also in 2005 and again in 2018 cancelled the so-called restitution full stop, by which the state (or the Ministry of Agriculture) tried to exclude the satisfaction of the restitution claims of entitled persons in the form

38 | Judgement of the Constitutional Court of the Czech Republic dated 4 March 2004, file no. III. ÚS 495/02: https://nalus.usoud.cz/Search/GetText.aspx?sz=3-495-02, and the decision of the Office of the Czech Republic dated 30 October 2007, no. stamp III. ÚS 495/05: https://nalus.usoud.cz/Search/GetText.aspx?sz=3-495-05_4 [10.12.2023].

of providing replacement land and leaving only financial compensation.[39] *Obiter dictum* at the same time criticised the problematic established practice of the State Land Office, which was created on 1 January 2013 by the merger of the Land Fund of the Czech Republic and the structure of the Land Offices (they previously belonged to district offices). In the case of determining the amount of financial compensation for unreleased land, the Constitutional Court has repeatedly taken the view that the State Land Office is obliged to provide entitled persons with adequate compensation for confiscated property, however it fails to do so.[40] The issue of judicial satisfaction of restitution claims is still alive.[41]

2.4 Compensation Negotiations

The forgotten issue of the so-called compensation negotiations between Czechoslovakia and other states between 1945 and 1982 forms a special restitution branch, while it concerned not only nationalised property but also other post-war interventions in the property of foreign nationals. It was supposed to be conducted primarily with allied or neutral states, but in the end negotiations were also held with Italy and Austria. From the point of view of later national restitutions, it was important that compensation could also be obtained by persons of German and Hungarian nationality, as long as they were not guilty and had a foreign nationality.

According to data from the literature, 168 similar bilateral agreements were concluded in the monitored period, which could include both the claims of private individuals and the injured state. As a rule there was only partial compensation, paid in addition with a shorter or longer time interval.[42]

In the case of Czechoslovakia, parallel replacement negotiations with the USA, Great Britain, France, Belgium, the Netherlands, Sweden, Italy and the Swiss Confederation took place from November 1945. Norway, Denmark, Iceland and Turkey were also affected to a limited extent. Czechoslovakia tried to systematically reduce the amount of reparations as much as possible – to conduct negotiations with individual states separately and, where the political and economic situation

39 | Judgement of the Constitutional Court of the Czech Republic dated 13 December 2005, file no. Pl. ÚS 6/05, published under no. 531/2005 Coll., https://nalus.usoud.cz/Search/GetText.aspx?sz=Pl-6-05; a Judgement of the Constitutional Court of the Czech Republic dated 19 June 2018, file no. Pl. ÚS 35/17, published under no. 135/2018 Coll., https://nalus.usoud.cz/Search/GetText.aspx?sz=Pl-35-17 [10.12.2023].

40 | Cf. Judgement of the Constitutional Court of the Czech Republic dated 18 July 2017, file no. II. ÚS 4139/16: https://nalus.usoud.cz:443/Search/GetText.aspx?sz=2-4139-16_1; Judgement of the Constitutional Court of the Czech Republic dated 12 January 2021, file no. stamp Pl. ÚS 21/19, published under no. 81/2021 Coll., https://nalus.usoud.cz:443/Search/GetText.aspx?sz=Pl-21-19_1; and the Judgement of the Constitutional Court of the Czech Republic dated 15 November 2023, file no. IV. ÚS 2827/22: https://nalus.usoud.cz:443/Search/GetText.aspx?sz=4-2827-22_1 [21.12.2023].

41 | For a detailed analysis, see Příkopa 2020, 19–95.

42 | Winkler 1994, 629–644; Jančík, Kubů, Kuklík, Novotný, Šouša 2001, 445–462; Kuklík 2007.

allowed for it, to delay or completely exclude them. This was typically the case in Liechtenstein, whose political and economic importance is small; however, the property confiscated from the ruling family, on the contrary, is extensive, therefore diplomatic relations were not restored during the entire duration of Czechoslovakia, and the Czech Republic did not proceeded to establish them until 2009. At the same time, it was also carefully monitored what kind of interventions into property foreign countries perform, how they solve the issue of compensation and how, if necessary, the wrong is prevented.

According to British estimates, in the case of nationalisation it was supposed to be compensation in the total amount of 100 million pounds (the most for Great Britain with 35 million, then for the USA 20 million and for the Netherlands 15 million), Czechoslovak estimates were significantly lower: e.g., in the British case it was 13 million pounds.

In the first post-war years, it was possible to reach an agreement on the basic points of compensation only in less difficult cases (Sweden, the Netherlands), but even then, not all disputed issues were resolved. Most of the negotiations continued even after 1948, with some states re-opening them. From the perspective of the restitution of the property of persons of German citizenship, let us mention in particular the negotiations conducted with Switzerland (1945–1967) and Austria (1956–1974, which, however, only included the so-called Old Austrians, i.e. persons who acquired citizenship before 13 March 1938, i.e. before the Anschluss by Germany). Negotiations with Great Britain and the USA continued until 1982 (however, in the case of Britain most of the disputed claims arising as a result of post-war encroachments on property were resolved by a compensation agreement as early as 1949; later it was mainly a matter of settling Czechoslovak intergovernmental debts incurred during the war and vice versa about detained Czechoslovak monetary gold). The last and still unresolved significant group is represented by nationals of Liechtenstein; an interstate Liechtenstein complaint is currently being resolved before the European Court of Human Rights.

In the case of German nationals, on the other hand, there was a connection with Czechoslovak reparations towards Germany, therefore the compensation should be and was partially provided to the Federal Republic of Germany (*Lastenausgleichsgesetz* from 1952, or the Austrian-German treaty from 1961–1962).

Summary and Perspectives

The issue of restitutions is still a live topic. From a retrospective point of view, they represented an important tool for coming to terms with the past, but also for the transformation of the economy and society after the collapse of the communist regime. They brought hope and frustration, possibilities and problems. From a national perspective, they may be viewed as a specific post-revolutionary

process. However, if we also take into account the international legal dimension, we see that it is a whole complex of interrelated issues which have been solved for almost the last 80 years, while it concerns not only the period after 1948 but as early as from 1938, which we may rightly perceive as the beginning of semi-totalitarian and totalitarian regimes. Last but not least, restitutions also bring an important message that illegal, dishonest or predatory acquisition of property may be questioned even with a longer time gap.

In one of its first findings (in the matter of the proposal to repeal the law on the illegality of the communist regime), the Constitutional Court declared: "The awareness that injustice will remain injustice – even if it cloaks itself in the mantle of law - was also reflected in the constitutional order of the Czech Republic."[43] In many respects, this awareness was not materialised in the post-post-apocalyptic Czech development, and in some cases compensation is not even possible within the next thirty years. However, where it is at least partly possible, we should definitely not give up on it.[44]

43 | Judgement of the Constitutional Court of the Czech Republic dated 21 December 1993, file no. stamp Pl. ÚS 19/93, published under no. 14/1994 Coll., https://nalus.usoud.cz/Search/GetText.aspx?sz=pl-19-93 [10.12.2023].

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