

# MEMORY OF NATIONS

## Democratic Transition Guide

[ The Czech Experience ]



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# TRANSFORMATION OF THE POLITICAL SYSTEM

LADISLAV MRKLAS

## COMMUNIST REGIME IN CZECHOSLOVAKIA (1948–1989)

The beginning of the communist regime in Czechoslovakia can be dated from 25 February 1948 when the resignation of democratic parties' ministers was accepted and a new government of the "revived" National Front was appointed, and its end can be set on 17 November 1989 when an authorised student demonstration commemorating 50 years from the death of Jan Opletal, a student killed by the occupation totalitarian regime of Nazi Germany (1939), was dispersed. The intervention against the student gathering launched the fall of the regime which had been in power in Czechoslovakia for more than four decades.

Over these decades, the nature of the regime changed several times, totalitarian phases alternated with post-totalitarian and democratising ones. In its first phase, until 1956 (1958), the regime is designated as a classic communist totalitarian model and its beginning may be identified as the most repressive period, ending by the death of the soviet dictator Joseph Stalin and then by the death of the first national communist leader Klement Gottwald. In the 1960s, at first, there was a phase of loosening which ended when a unique attempt at democratization from the inside was made (post-totalitarian democratising regime, also called "socialism with a human face").<sup>1</sup> On 21 August 1968, the armies of five states of the Warsaw Pact with the Soviet Union in the lead entered Czechoslovakia and ended the democratisation process. From 1969, at first, we can talk about the period of purges from the reformist powers and of consolidation of the regime (normalization) which was replaced by the freezing of the regime in the first quarter of the 1970s, i.e. stabilisation of the positions created during normalization. It is not until the end of the 1980s and mainly under the influence of Perestroika by Mikhail Gorbachev, but also thanks to the ongoing transition in other former Eastern-Bloc countries (Poland, Hungary, the German Democratic Republic), that the dynamics of the society development started to increase which the regime was no longer able to react to.

## DEVELOPMENT OF CONSTITUTIONAL AND LEGAL FRAMEWORK OF THE COMMUNIST REGIME

The constitutional and legal framework of the political system was changing quite significantly, too. Until June 1948, the Constitution of 1920 was formally in force; however, many of its parts were not implemented any more. The Czechoslovak coup d'état in February 1948 was crowned by the adoption of the "May Constitution" (on 9 May 1948), drafted entirely by the Communist Party of Czechoslovakia. The Constitution already mentions the "people-democratic" nature of the state, the initiated journey towards socialism and the power of the working class.

However, the top constitutional document became the "Socialist Constitution" approved in July 1960, many times and quite significantly amended later on, but formally in force until the dissolution of Czechoslovakia at the end of 1992. It mentioned not

only "building up socialism" which corresponded to the change of the official name of the state to the Czechoslovak Socialist Republic, but especially Article 4 anchoring the leading role of the Communist Party of Czechoslovakia which is designed as the "vanguard of the working class" and a "voluntary union of the most active and most conscious citizens who are labourers, peasants and intellectuals." Article 6 furthermore limits the plurality in the field of social organizations, as it defines the "National Front of Czechs and Slovaks uniting social organisations". In practice, it meant that no association or interest organisation (including, for example, animal breeders, gardeners, fishermen or hunters) could exist outside the framework of the National Front. The Constitution also includes a declaration of Marxism-Leninism with the binding state ideology and a single scientific opinion. This constitution does not mention the traditional concept of the division of powers any more.

As of 1 January 1969, the amendment of the Socialist Constitution came into effect thus making a federation of what up to then used to be a unitary state. Although it was a partial victory of the autonomously-minded part of the Slovak Communists, federalization took place already when the reformist movement was defeated, and thus, it had actually no impact on the real division of powers.<sup>2</sup>

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1 Discussions about the nature of the Prague Spring and its direction have been going on until today. It is certain that within the competition of various influential groups and dodges in the leadership of the party and the state, the reformist wing got a lot of important positions in the party and state hierarchy. Antonín Novotný left his position as the leader of the party and later his position as the President of the Republic. The reformist Oldřich Černík became the Prime Minister, Ota Šik, the author of the economic reforms proposal, became the Deputy Prime Minister, Josef Smrkovský was elected the president of the National Assembly and Alexander Dubček, a Communist from Slovakia, became the General Secretary of the Communist Party of Czechoslovakia and even though he was not directly a member of the reformist wing, thanks to his age and unique manners he soon became one of the symbols of the political loosening. He was active in the following fields: criticism of the existing direction of the regime as a deformation of socialism, democratization of public life, official abolishment of censorship, rehabilitation of a part of the victims of repressions, opening the space for many forbidden and new social and political organisations (Sokol gymnastics movement, Scout Movement, Club of Committed Non-Party Members, Social-Democratic Party, K 231 – Association of former political prisoners), a shift in the foreign policy from the direct vassalage to the Soviet Union, state-law transformation of Czechoslovakia into a federation, but also the program of economic reform which aimed to introduce limited market mechanisms, widen the autonomy of businesses and the renewal of small business.

2 Formally, a federation of two republics was created – the Czech Socialist Republic and the Slovak Socialist Republic. This way, three political structures emerged – federal (federal government and two-chamber Federal Assembly), Czech and Slovak (with their own governments and parliaments – National Councils). This amendment proved itself to be a very important element especially in the period of political transformation. State law questions became, especially for the Slovak part of the society, one of the key points of their political agenda. It was prohibited to get a majority in one of the Chambers (House of Nations) of the Federal Parliament which became one of the breaks of a faster transformation of the legal order and, as a matter of fact, also one of the factors of the process that culminated in the division of the federation following the parliamentary elections in 1992.

If we think about the legal framework of the regime, it is necessary to take into account especially its ideological foundations. Legal thinking was based on the ideology of Marxism-Leninism built on social class stratification being the basic standard. It is very well illustrated by its characteristics written by the important communist law theoretician Viktor Knapp who wrote in 1950: “similarly as the state power in our people’s democratic republic is the only and unified power, our people’s democratic law is also the only one law, being the will, functioning as a law, of the governing working class and all the working people, defined by the material living conditions of our society.”<sup>3</sup> This corresponded to the significant superiority of the public law over private law, which very strongly reflected the idea of common ownership. After 1948, acts and later codes reflecting these ideological foundations were gradually adopted. Some legal fields were degraded or almost disappeared (administration law, commercial law, the majority of the civil law), others were “blossoming” (criminal law, labour law, etc.).

In this context, it is necessary to recall that one of the essential requisites of the communist regime in Czechoslovakia was the almost 100 % nationalisation (or other forms of collectivisation, such as creating cooperatives) of the economy and its strict subordination to the state planning (especially to the five-year plans). In this respect, Czechoslovakia was sadly at the top of the countries in the whole Eastern Bloc. This fact answers the question why it was the economic transformation, including an extensive privatisation of state property, market liberalisation and deregulation, which became the key issue of the whole democratic transition.

## LEADING ROLE OF THE COMMUNIST PARTY

Until November 1989, the real power was fully in hands of the party leadership, the Presidium of the Central Committee of the Communist Party of Czechoslovakia which started again to use the extensive repressive apparatus (state political police, special units and party militias). This time, the Communist Party of Czechoslovakia did not use the massive and drastic repressions already known from the turn of the 1940s and 1950s. It did not even strive for the active participation of the masses in building socialism. The motto was rather passivity and depoliticization of the society. Repression was used to bully those who did not want to accept the conditions established by the normalization regime. Non-conformists were denied various material advantages, the possibility of further education and a professional career, and only the most escalated cases ended up in criminalisation, usually by using flexible provisions of the Criminal code on disorderly conduct, incitement to riot or parasitism.

On the top of the power pyramid, there was the General Secretary (formerly the First Secretary) of the Communist Party of Czechoslovakia. From April 1969, this position was executed by Gustáv Husák, a Slovak Communist and originally a moderate supporter of the reforms. He remained in this position until his abdication in December 1987 when he was replaced by Miloš Jakeš who would be the leader of the Communist Party of Czechoslovakia until November 1989. The key decisions were taken by the Presidium of the Central Committee of the Communist Party of Czechoslovakia, usually consisting of 11–12 members. From the beginning of normalization until the late 1980s, the composition of this body did not change very much. It was

dominated by people linked with the suppression of the revival process and close cooperation with, or more precisely vassalage to, the Soviet communist leadership. Formally, the party power was in the hands of the party congresses organised approximately once in five years, announcing long-term goals, including the five-year economic plans, and praising the successes in building socialism.

There was no political pluralism in the period of 1969–1989 in Czechoslovakia. Elections to the Federal Assembly and to both National Councils, as well as to lower-level representative bodies, were held, nevertheless, they represented a mass manifestation of loyalty towards the regime rather than being true elections. The reason for this was not only the absence of any alternative to the candidate lists of the National Front, but also the absence of many other institutes typical for a democratic establishment (free press, legal opposition, judicial control over the power, etc.) Political parties united in the National Front, i.e. the Czechoslovak People’s Party, the Czechoslovak Socialist Party, the Freedom Party and the Revival Party, were just satellite organisations of the Communist Party of Czechoslovakia. There were independent candidates and representatives of social organisations (trade unions, youth or women organisations, etc.) in the unified candidate lists of the National Front as well, but these candidates were always carefully vetted and appropriately conformed to the regime.

The number of members of the Communist Party of Czechoslovakia evolved in cycles corresponding to important development phases. In the time of its creation (1921), the Communist Party of Czechoslovakia united about 130 thousand members, however, after Bolshevization in the end of the 1920s, many of them left the party and their number dropped to 40 thousand. After WWII, the Communist Party of Czechoslovakia became a mass organisation and on the eve of the 1946 elections, it comprised of more than one million members. The absolute maximum number of members was achieved in 1948, when the coup d’état took place and the member base had almost 2.5 million individuals. Consequently, the number of its members was steadily dropping. In the time of the revival process at the end of the 1960s, the Communist Party of Czechoslovakia had almost 1.7 million members. After the purges within normalisation, their number dropped to 1.15 million members, and then it immediately started to increase. In the period of the fall of the communist regime in 1989, the party had about 1.5 million members.

## POWER AND REPRESSIVE STRUCTURE OF THE COMMUNIST REGIME

After February 1948, the nature of the National Front changed. From the originally people-democratic coalition of political parties which was created as a result of the cooperation of the London and Moscow exile centres of the resistance against the Nazi regime,<sup>4</sup> and partially of the national resistance as well,

3 Viktor Knapp, “Právo veřejné a soukromé” in *Právník*, 1950, No. 2, 98.

4 During WWII, there were two exile resistance centres abroad and their ideas about the after-war development differed significantly. The exile centre in London with the ex-president Edvard Beneš in the lead and including the representatives of the majority of democratic parties was very shortly acknowledged as the representative body of the Czechoslovak statehood. It strived to remove the real and alleged imperfections of the political system of the First republic, including the ostracism of a part of the centre-right parties (especially the Agrarian Party) that were not to be renewed after ►

the National Front was transformed into an institution with various organisational levels and apparatus. In the first days and weeks after the coup d'état, Action Committees were being formed. They carried out purges in the whole of society, especially at the levels of individual enterprises, factories, offices, at schools, medical facilities, simply at the lowest levels. Hand in hand with these, the National Front did not serve as a real power centre determining the basic political line any more. This role was assumed by the Communist Party of Czechoslovakia itself. On the other hand, the National Front became a power tool for enslaving the civil society. Out of more than 60 existing organisations and associations, only 683 remained legal and these were obliged to become a part of the National Front.

Other important segments of the power structure were the National Committees, i.e. quasi-constitutional bodies at the community, town, district and regional levels, inspired by the soviet model of public administration. In fact, they had very limited power and they served as a leverage of the regime. Regional National Committees were subordinated to the Ministry of the Interior and individual departments of the Regional National Committees were subordinated to departmental Ministries. A similar relationship of subordination was established between the Regional and District National Committees. This was particularly apparent in financial issues being dealt with a clear hierarchy.

Right after February 1948, the public opinion itself ceased to fulfil its role of political pressure and control of power. Not only its freedom, but in the end also the public truth disappeared. The communist leadership monopolised the creation and influence of the public opinion via public meetings that usually published various consenting resolutions to individual events and happenings, and also via the media. The press, radio and later on television, run by the state or official political and social organisations, stopped to fulfil their function of non-distorting informers and were turned into tools of spreading the official ideology, adoration of the government and party politics, celebration of friendly countries with the Soviet Union and its Communist Party in the lead. All the media, including the press office, were subject to a rigid censorship. The leadership of the Communist Party of Czechoslovakia determined what the media should write and broadcast and how to interpret individual situations and phenomena.

Very soon, the communist regime destroyed the principle of judicial independence. This part of the power structure was attacked in two ways. The independence of judges was destroyed, many of them were "acted-out"<sup>5</sup> and replaced by reliable successors, people who were not qualified,<sup>6</sup> but devoted to the party. Judges of the Supreme Court were elected by deputies of the National Assembly (later on called the Federal Assembly) and judges of the District Courts even directly by citizens. Their mandate was imperative, they answered to their electors with reports on their activities and the activities of the court. They could be repealed on the basis of such a report. Besides these, there were also exceptional courts in the form of a State Court, a special court for "the fight against reaction",<sup>7</sup> and also exceptional People's Courts that were already used before 1948 to judge people accused of collaboration with the Nazi regime. In court proceedings, prosecutors became the key and de facto superior institution; their suggestions were binding for courts. The 1960 Constitution already with no scruples at all proclaimed the position of courts and prosecutor's office that "protect the socialist

state, its social establishment and rights and legitimate interests of citizens and organisations of the working people". In various phases of the development of the communist regime, the judicial system, of course, underwent certain changes. Thus, it experienced a period of certain unbinding from the direct political power of the Communist Party at the end of the 1960s; nevertheless, the direction of justice in the period of normalisation was again very directly pro-regime.

A specific role within the communist regime was played by the armed forces: the army, police, prison service and party militias. In the army, which had already been subject to political supervision since 1945, there was a purge at first, after February 1948, that focused mainly on the Officer's Corps with experience from the western resistance and repressions did not exclude even many soldiers fighting on the Eastern Front. The purge was followed by a strict Sovietization, i.e. full subordination of arms and powers to the Soviet leadership which was embodied by Soviet counsellors in Czechoslovakia. The police was organised according to the Soviet model and in cooperation with Soviet counsellors, too. The National Security Corps was established already in 1945 consisting of two forces: the Public Security (VB) and the State Security (StB). Whereas, the Public Security executed activities that are usually undertaken by the police, the State Security served as the political police. Its importance culminated after February 1948 when it participated in many judicial murders. It was the most feared element of the repressive apparatus. Investigation methods used by the State Security did not differ from the methods already known by many people who were imprisoned during the period of the Nazi regime. The main mission of the State Security in the first years after the coup d'état was to prepare and control political procedures that revealed saboteur and opposition centres, either real or completely concocted. The position of the State Security in

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► the war. The communist emigration in Moscow was entirely dependent on the Soviet Union and its leader - Stalin. Together, they perceived the war as an opportunity to easily export the communist revolution into a restored state. Their cooperation was reflected in the Friendship Agreement on Mutual Aid and After-War Cooperation between Czechoslovakia and the Union of Soviet Socialist Republics which was concluded in December 1943, and mainly by the creation of the National Front government in April 1945 which adopted the "Government programme of national and democratic revolution of Košice" on the basis of which the restoration of power in the territory of the liberated state was carried out from May 1945. For the first time, Communists were represented in the government, executing the very important positions of two Deputy Prime Ministers, the Minister of the Interior, the Minister of Education, the Minister of Agriculture and the Minister of Information. General Svoboda, the commander of the army section of the exile in Moscow who was very close to the Communists, became the Minister of Defence.

5 That is removed from office on the basis of their class or political unreliability which was usually proclaimed by the locally competent bodies of the National Front, now fully in the hands of the Communist Party of Czechoslovakia or its agents in other political parties and organisations.

6 Many new judges and prosecutors were labourers with no secondary school education and their only qualification was graduation from the Law School of the Working People under the Ministry of Justice where the education usually lasted only a few months and focused mainly on Marxism-Leninism studies. Such "educated labourer prosecutors" consequently occupied the vast majority of leading positions.

7 In the four years of the State Court existence (1948-1952), almost 27 thousand individuals stood trial at this court and it delivered in total 249 death sentence verdicts out of which only a few were granted pardon and changed into life imprisonment sentences. The State Court trial had a purely formal character as it had previously been prepared in meetings of judges and procurators.

various phases of the regime fluctuated; however, it remained the strongest one among all the elements of the repressive apparatus. The State Security got new tasks during normalisation and especially in fighting the opposition which started its formation in the mid-1970s. Even though the methods of its work consisted much more in psychological rather than physical terror, many violent excesses committed by the State Security investigators against dissidents are known. The State Security also had another function, that is to get selected individuals from all social layers, people of many different political opinions, including representatives of the academic spheres, culture, sport, and last but not least, members of the dissent itself, to cooperate with the regime. The role of informers aimed not only to get the information about developments in various segments of the society, but also to sow distrust among the opponents of the regime. At the same time, many prison guards, especially those who worked in forced labour camps<sup>8</sup> in the 1950s were detrimentally known for their brutality. And finally, the last important repressive force were the People's Militias, i.e. labourer combat units created by a decision of the Central Committee of the Communist Party of Czechoslovakia in February 1948 when they played an important role in demonstrations to support the coup d'état, as well as being the deterring element of the upcoming new regime. In later phases of the regime, they played an important role especially at times with a certain revolutionary drive, i.e. in times of normalization and in the final phase of the regime when they were repeatedly used to disperse demonstrations in 1988–89. At that time, they consisted of about 80 thousand members.

## OPPOSITION AGAINST THE COMMUNIST REGIME

Similarly to all segments of the political system, the opposition, too, had significantly developed during the forty years of the regime. To understand the transition towards democracy, the important phase is the period interconnected with normalisation and the following 1980s. The opposition was not formally organised in any way. This was caused both by many objective and subjective reasons. Whereas the opposition activities against the Soviet invaders and their allies in the state and party governance were of a mass uprising kind (petitions, demonstrations, strikes) at the turn of the 1960s and 1970s, after the suppression of the demonstrations in August 1969, the mass opposition activities disappeared for almost two decades. Following the intermezzo when the last remnants of the student movement were destroyed, as well as the seeds of the radical-left youth movement and the remnants of resistance inside some official organisations, the opposition activities were subdued until 1977.

There were several impulses for the new phase of the opposition activities – the Helsinki Process,<sup>9</sup> as well as interventions against the remains of the unofficial culture (mainly the trial concerning the musical underground). The declaration of Charter 77 was drawn up at the turn of 1976 and 1977 and it pointed out the contradiction of the communist regime propaganda and reality. It called for the dialogue of the regime governance with the citizens who were willing to get engaged. The reaction of the regime was very sharp, the initiators and spokespersons of the Charter (Václav Havel, Jan Patočka, Jiří Hájek and others) were watched, interrogated, imprisoned and otherwise bullied.

There was a media campaign against Charter 77. Despite a certain kind of suppression, Charter 77 succeeded in pursuing its activities until 1989. Later on, other initiatives were created, especially the Committee for the Defense of the Unjustly Prosecuted in 1978. Nevertheless, the circle of dissidents remained limited and quite isolated until the mid-1980s.

The nature of the opposition movement started to change only in the second half of the 1980s when the number of citizens involved increased and the scope of opposition activities was widened, too. Some of them even gained a true political drive and various ideological streams started to shape them.<sup>10</sup>

## TRANSITION TO DEMOCRACY

In November 1989, the political regime in Czechoslovakia changed. This change was quite quick, mainly in comparison with the neighbouring countries. The democratisation itself was preceded by a certain level of liberalisation of the public space which occurred more or less spontaneously, often despite the leadership of the Communist Party of Czechoslovakia. The key impulse was the change in the leadership of the Communist Party of the Soviet Union – that is the arrival of the reformist group with Mikhail Gorbachev in the lead. Its reformist course was received by Czechoslovak Communists with embarrassment. This was only very logical, as the majority of the communist leaders in power gained their positions during the normalisation process, i.e. when the results of similar revolutionary processes from the end of the 1960s were eliminated.

Although the normalisation leadership of the party resisted the changes, gradually, some cosmetic compromises had to be taken. Under the reconstruction<sup>11</sup> slogan, the position of a part of businesses changed and there was new space for small business from 1987. The changes were largely cosmetic ones. The media, more and more accentuating the critical tone towards various abuses, opened more space for discussion. Inside some power structures, interesting analysis materials were created and they

8 According to realistic estimates, as the exact data are missing, about 100 thousand citizens went through the forced labour camps (“communist camps”), many of whom had already experienced the Nazi concentration camps during WWII. Many prisoners never came back from the camps, or they did, but their health was in such a bad state that they died immediately after their return from the camp.

9 The Helsinki Process refers to a system of international negotiations and agreements issuing from these negotiations the objective of which was to ensure peace and deepen the cooperation between the European states, the USA and Canada which were usually on opposite sides of the bipolar division of the world. This process culminated in the formation of the Conference on Security and Co-operation in Europe and its main result was the signing of the Helsinki Accords on 1 August 1975. In Helsinki, the highest representatives of 33 European states, Canada and the USA signed a document consisting of 5 parts. One of them was also the principle of respecting human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief. Opposition leaders in several countries referred to the signature of this very document, in which the communist countries as well, including Czechoslovakia, committed themselves to respect human rights.

10 The Movement for Civic Freedom attempted to make a broad association of various streams, the most important of which were the social-democratic, Christian-democratic and liberal-conservative ones. Compared to that, the Democratic initiative composed of “realists” represented a more streamlined movement which was to a great extent in opposition to Charter 77.

11 The then analogues of the Soviet Perestroika.

– sometimes very openly – named the economic and societal problems.<sup>12</sup>

Rather silent or politically resistant parts of the society became active as well – young people and students, ecology activists, a part of the culture community. The number of various petitions demanding the release of political prisoners, dialogue of the political regime, reforms, respecting human rights, increased very sharply. The *Několik vět* (A Few Sentences) Petition drawn up in June 1989 had several tens of thousands of signatories and the petition on the separation of the church from the state and on religious freedom was signed by 600 thousand citizens of Czechoslovakia.

At the beginning of January 1988, mass demonstrations against the regime started again, organised not only in Prague, but also in other towns. The majority of them were not authorised, they were dispersed and their participants persecuted. However, the regime was not strong enough any more to prevent effectively the repetition of demonstrations and an increase in the number of their members.

Real changes were launched by the already mentioned violent suppression of an authorised demonstration. Two days later, two umbrella movements were created, representing a broad civic platform. The Civic Forum in the Czech part of the federation and Public Against Violence in Slovakia took over the initiative and demanded an open dialogue on democratisation. The creation of the Civic Forum was very spontaneous and its activities were spreading quickly from Prague to other bigger towns and from there all over the country. From the beginning, there was a strong centre created within its framework created by representatives of the dissent together with a part of the cultural front<sup>13</sup> and also by personalities from the grey zone.

An important point in the development of the transition was the establishment of a dialogue between the federal government led by Ladislav Adamec and the Civic Forum representatives with the aim of government reconstruction. At that moment, the party leadership was dragged into the events and was not capable of reacting appropriately any more. A week after 17 November, Miloš Jakeš, the General Secretary of the Communist Party of Czechoslovakia, resigned together with many other of the most compromised representatives of the governing party.

The development was further accelerated by the increasing demands of the Civic Forum and Public Against Violence to create a “Government of National Understanding” with an important representation of the opposition. However, it was already led by a member of a younger generation of the communist nomenclature, one of the important players in the peaceful transition towards democracy, Marián Čalfa. Following the creation of the new government, Gustáv Husák, the former General Secretary of the Communist Party of Czechoslovakia and President, stepped down.

Another important milestone in the way towards political plurality was the removal of articles regarding the leading role of the Communist Party of Czechoslovakia and the National Front in Czechoslovakia and also the removal of the article concerning Marxism-Leninism. Many other partial changes to the federal constitution and other acts followed, regarding the direct functioning of the pluralist democracy which was being born. From this point of view, co-options of new Deputies of all the legislative assemblies were especially important, as, besides the fundamental change of their political composition, they led towards the real renewal of Parliamentarism.

The transition towards democracy in Czechoslovakia is usually described in foreign literature as a “shift” characterised by the cooperation of the old communist elite and the opposition (Huntington), “transition by reform” when mobilisation of the masses forces the governing regime to compromise (Karl-Schmitter), or “collapse” mainly characterised by an important change of all structures that moves the representatives of the previous regime to the edge of events (Linz-Stepan). Mr. Novák, a Czech political scientist, calls it a transition “forced” by the mobilisation of the masses, opposition powers and international circumstances. The fact is that one of its important characteristics is its high speed that resulted in the blending of the liberalisation phase with the democratisation phase, and also in forming the strategy of individual players only during the transition. With regard to this point, it is very often mentioned that neither the opposition, nor the Communist Party of Czechoslovakia leadership were prepared for the revolutionary situation, even though they could have expected it. Thus, in different phases of the transition, anti-authoritarians represented by the anti-party and anti-hierarchy movements of the Civic Forum and Public Against Violence, and especially their moderate parts, inclined to negotiate with the pragmatic part (however, not with the reformist one, because, as was already said, it de facto did not exist) of elites of the departing regime.

The cooperation of the main players, including the leadership of the Civic Forum and Public Against Violence and a part of the communist government representatives (initially with Adamec, and later with Čalfa in the lead), and also the representatives of the revived parties of the National Front, was reflected, for example, by the already mentioned repeated reconstruction of the legislative assemblies which enabled not only constitutional changes to be carried out, but also Václav Havel, the opposition leader, former spokesperson of Charter 77 and repeatedly imprisoned playwright, to be unanimously elected as the President of the Republic. He was even elected by the Federal Assembly, at that time only partially reconstructed, already at the end of December 1989. At the beginning of 1990, a bill of the “small act on political parties” was prepared for negotiations, enabling the creation of new political parties and movements, and also a constitutional act on shortening the election period of all three parliaments which opened the way towards free elections and stipulated that the first freely elected legislative assemblies will have only a two-year term of office.<sup>14</sup> Furthermore, the existing parties and movements agreed on the form of the electoral system to be a proportional representation system, partially

12 As an example we can mention the Prognostic Institute of the Academy of Sciences with its many economists of very different opinions on the socialist economy. Many of them gained positions in high state functions after November 1989 (Prime Ministers and Presidents Václav Klaus and Miloš Zeman, and ministers Dlouhý, Komárek, etc.)

13 Theatre actors were the first ones to support the representatives of students in November 1989 who entered into a strike and demanded an investigation of the intervention of the repressive apparatus against the student demonstration on 17 November.

14 The act stipulated the conditions of the legal creation of new political parties and movements. The present parties of the National Front were proclaimed as already existing parties and movements that were not obliged to meet these conditions and could immediately start to prepare for the first free elections. These were namely the Communist Party of Czechoslovakia, the Czechoslovak People's Party, the Czechoslovak Socialist Party, the Democratic Party, the Party of Freedom and also both movements – the Civic Forum and Public Against Violence.

modified by an inclusion of the election threshold of 5 % for getting represented in the Chamber.

Therefore, the transfer and taking of power in Czechoslovakia was to a great extent quite improvised. A lot of things remained untouched institutionally. This was also reflected by the fact that until the division of Czechoslovakia after elections in 1992, or more precisely at the end of 1992, the constitutional deed consisting mainly of the “Socialist Constitution” from 1960, complemented by later adopted amendments, although ideologically built on the complete opposite to liberal democracy, still remained in force. The second very important result of such improvisation and of the fact that a part of the communist elite continued to participate in establishing the new democratic rules is the successful survival of the practically non-reformed communist party to this day. Contrary to many countries of Central and Eastern Europe where the communist state parties were banned, their property confiscated, or they at least changed fundamentally (“socio-democratised”) and distanced themselves from their past, the Communist Party of Bohemia and Moravia is the direct successor of the former Communist Party of Czechoslovakia.

The birth of the new system of political parties took place in several important phases. The first one dates from November 1989 to the first free parliamentary elections in June 1990. In this period, institutional foundations were laid, as was described above. Until the elections, it is not possible to call it a party system in the strict sense of the term, as it is not clear which of the formations might be considered as relevant at all. However, the important thing is that the development of the political spectrum was going on separately in Bohemia and in Slovakia.

The crucial moment of this phase was a decision of the Civic Forum and its sister Slovak movement Public Against Violence to participate in the elections and to represent both various political and in fact non-political streams of the opposition against the Communist Party, or more precisely against communism. Their overwhelming victory in the elections only highlighted the predominance of the Civic Forum on the Czech side and the very good position of Public Against Violence in Slovakia. Other relevant formations that obtained representation in the Federal Parliament were the Communists that as the only party stood for the elections as a single party in both parts of the federation, the Christian-democrats standing separately and with different political programmes, and the “Moravians” demanding the autonomy of the historical territory of Moravia and Silesia within the Czech Republic, Slovak nationalists in Slovakia with their program of independence, and a movement defending the interests of the Hungarian minority. After the elections, the Civic Forum, Public Against Violence and the Slovak Christian-Democratic Movement made a coalition at the federal level. Marián Čalfa again became the head of the federal government, this time already as a nominee of Public Against Violence.

The second phase of the birth of the spectrum of parties takes place in parallel inside and outside the framework of both “catch all movements”. Parties already created before the elections function within the Civic Forum and besides these, there are new political streams being created, some of which will turn out to be essential. Moreover, conflicts inside the wide-spectrum Civic Forum and Public Against Violence are increasing as well. Besides the left-right conflicts about the speed and depth of the economic transformation which became the most important topic in the Czech part of the federation, there are more and more disputes concerning the idea of the constitutional arrangement

of Czechoslovakia. And these disputes turn out to be the principal division factor within Public Against Violence which forms two main streams – supporters of the federation and the federal government model of a quick economic reform versus a very nationally oriented part that together with larger independence demands the right for Slovakia to choose the course of the economic transformation. The Civic Forum is further divided by the question of the future of the movement itself with supporters of the transformation towards a standard, but still relatively widely anchored party on the one hand, and on the other hand with those who are persuaded that the Civic Forum should continue to represent the widest spectrum and provide space for strong individuals to succeed. Moreover, some already well-shaped political parties leave the Civic Forum and set off on their individual paths. Other streams are formed in parallel with the already existing parties outside the Civic Forum which is best proved by the existence of several “groupings” of a social-democratic type.

In the end, the Civic Forum breaks up in winter 1991 into two successor entities which commit themselves to finish the term of office in cooperation. That is the Civic Democratic Party which became the most centre-right, liberal-conservative force for more than the next 20 years, and the Civic Movement which represents the supporters of the further existence of the movement, however, experiencing a bitter defeat in parliamentary elections in 1992.

Public Against Violence also divides into two different formations – the national-authoritarian Movement for a Democratic Slovakia which later on brings the already independent Slovakia into international isolation, and the Civic Democratic Union which loses the 1992 elections and consequently disappears, merging with other centre-right parties.

Outside the framework of both catch all movements, various political parties and movements dynamically revive, appear, regroup, merge, dissolve and disappear. Within the majority of the federation, they can be divided, for example, according to their origin to historical ones, out of which only the Social Democratic Party succeeded; to parties created within the dissent, including primarily the Civic Democratic Alliance, the second liberal-conservative party created originally within the Civic Forum; and to completely new parties which include, for example, the Green Party, the cooperative-peasant Agrarian Party, the above mentioned “Moravians” or extreme-right republicans. The development of Christian-democratic politics stands as a specific chapter. In the 1990 elections, it was represented by the coalition of the People’s Party (which used to be a part of the National Front), the anti-communist Christian Democratic Party with roots in dissent and several smaller interest groupings. Later on, the Christian Democratic Party became closer to and finally merged with the Civic Democratic Party, and the People’s Party appropriated the brand of “Christian and democratic” and became an integral part of the political scene with a high potential of making a coalition. Even more interesting is the revival and development of the Czech Social Democratic Party. The Czech Social Democratic Party is actually the only historical party of this type in Central and Eastern Europe which succeeded without the need of having to change its policy in any significant way. It was revived thanks to the activity of the exile social democrats as well as to various domestic sources. First of all, many people with family ties to historical social democracy joined the party, and later on, members of the “Obroda” (Revival), a group of reformist Communists created in 1968, entered the party, and finally,

many deputies elected under the Civic Forum and later under other political parties joined the party as well.

The real and symbolic end of this development phase was the second free elections in 1992. They brought very different results in both parts of the federation which significantly contributed to the dissolution of the common state, but also completed the phase of the dominance of the forum-type movements. Elections in the Czech Republic were clearly won by the Civic Democratic Party in coalition with the small Christian Democratic Party, winning 30 % of votes and an even higher number of seats. The Communist Party of Bohemia and Moravia came second again, but it associated with other left-wing parties and formed the Left Bloc. This period can be described as the only period when the Communists under their former leadership tried to distance themselves from the past. The election threshold of 5 % in these elections was also achieved by the Czech Social Democratic Party, the Liberal Social Union,<sup>15</sup> the Christian and Democratic Union – the Czechoslovak People's Party, The Republicans, the Civic Democratic Alliance and the Moravians, getting from 5.9 to 6.5 % of votes. Nevertheless, the latter two parties were not represented in the Federal Parliament, but only in the Parliament of the Czech Republic which, however, proved to be the most important one after the dissolution of Czechoslovakia. The new government coalition at the national level was formed by the Civic Democratic Party, the Christian Democratic Party, the Christian and Democratic Union – the Czechoslovak People's Party and the Civic Democratic Alliance. Václav Klaus, the head of the Civic Democratic Party and one of the symbols of a quick and deep economic reform, became the Prime Minister. At the federal level, a transient government was created and its only task was to prepare the dissolution of Czechoslovakia.

## LESSONS LEARNT

Analyses of the Czech political system from the beginning of the new millennium agreed that the Czech political system was, apart from minor exceptions, a consolidated democracy. They stated that the constitutional system and positions of specific players, e.g. the media, the armed forces or the intelligence services, were transformed successfully, the consolidation of the main political players was on the right track with the success of political parties that were relatively standard or shaped by their programs or interests, and the consolidation of interest groups was also quite successful, even though both types continued to have problems with a lack of interest in membership. Certain problems were experienced in the party system, too. The opposition of the Communist Party remained strong and other parties refused to make coalitions with it, thus making it impossible for the parties to fully alternate in power or to create coherent and operational governments.

Unfortunately, the indicated difficulties have not disappeared ever since, quite the contrary. Many new issues showed up and the old ones even deepened. The instability of governments, the real and alleged corruption excessively presented to the public and internal relations caused that standard political parties lost a lot of their popularity. Their ideological emptying and preferring the technology of power proved to be one of the legacies of the past. The institutional set-up of conditions for the functioning of parties and their cooperation, starting with the constitutional definition of the Prime Minister position and

too strong positions of individual legislators, and ending with the inconvenient form of the representative system for elections to the Chamber of Deputies, were found as problematic. Again, however, it is the relic of negotiations with the departing political power at the turn of 1989–1990. Moreover, recently there has been an unusual problem of interconnecting the power of the media, economy and politics which is also linked with the process of economic and political transformation. Many of the “oligarchs” embodying the concentration of power of today are the results of the processes from the period after the coup d'état when especially the younger generations of the nomenclature cadres and children of representatives of the communist regime participated successfully in the privatisation of the huge state property. To be able to do this, they benefited from their old contacts and social capital. Thus, more than 25 years after November 1989, people connected with the regime more than anyone else ever before are now pushing themselves to power.

To this must be added the influence of the developments in European countries on the national politics, as these countries are more and more confronted with not having been solving many problems which resulted in the feeling of estrangement, populism and political and religious radicalism and search for alternatives to the liberal democracy. The existing political parties are not able to face this and they succumb to fashion waves. This is most typically proved by changing the way of electing the President by a parliamentary vote into a direct vote which led to many principal shifts on the political scene towards a fundamental division of the society into uncompromising camps and to an increase in authoritarian moods in certain segments of the society.

## RECOMMENDATIONS

Extensive compromise with the representatives of the past regime in issues regarding the institutional set-up of the political system is not a good deal. In most cases, it is not possible to totally eliminate the representatives of the departing regime, however, it is necessary to remove them from the real decision process regarding the constitution, electoral system, conditions of political parties functioning, their funding, but also from the course of the principal transformation processes.

There is a need to strictly insist either on banning the former state party, or at least on its effective transformation, including its public distancing from the past and the nationalisation not only of its property, but of the property of its branches as well (youth, women and other organisations).

It is absolutely necessary to carry out an exhaustive check-up of the former representatives of the regime, and possibly to confiscate their property, not only at the level of party representatives, but also of members of the nomenclature and leadership of the repressive forces.

When creating the constitutional system, it must be assumed that the executive power has to be strictly controlled, and on the other hand, it must be able to make operational solutions. This must be reflected in the powers of the Prime Minister, as well

<sup>15</sup> That is quite a bizarre union of socialists who used to be in the National Front, Green Party and the already mentioned Agrarian party that represented the interests of the management of the disintegrating farmer cooperatives.

as in the electoral system which should support the competition of parties anchored by their programs and the formation of stable and operational governments.

Each important change of the constitution must be considered with a cool head, especially the issues concerning the system of checks and balances of individual parts of power, and should not succumb to the pressure of the “streets”.

The positions of the legislative assembly and its members must be defined, corresponding to the fact that it is supposed to

be a control body in the first place, not a body where legislation is created and modified to a great extent and where government deputies often plot against their own government for their direct benefits.

Even in the case of very serious economic problems which often accompany the democratic transition, it is not possible to underestimate and to ignore its other features, starting with the legal environment and ending with the purification and transformation of the education system.

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# DISMANTLING THE STATE SECURITY APPARATUS

PAVEL ŽÁČEK

## POSITION AND STRUCTURE OF THE STATE SECURITY APPARATUS PRIOR TO THE TRANSFORMATION

The last major reorganization of the communist security apparatus pertaining to the Federal Ministry of the Interior of the Czechoslovak Socialist Republic (ČSSR) took place in August 1988. The State Security, the secret police was part of the National Security Corps (*Sbor národní bezpečnosti*, hence the abbreviation *SNB*), and formed a conspiratorial part of the Federal Ministry of the Interior but it was also present in the regional and district administrations (and borough administrations in cities) of the National Security Corps. The central security services staff number peaked in that year: altogether, there were 16,783 personnel assigned to the ministry, 5,345 of which belonged to the State Security units, 5,358 to the Border Guards and the rest to the Public Police (*Veřejná bezpečnost*, hence the abbreviation *VB*) and to other units governed by the Federal Ministry of the Interior.<sup>1</sup> In total and including educational facilities, military conscripts and civil employees, there were 18,107 personnel in November 1989.<sup>2</sup>

The State Security structure within its headquarters was as follows:

- Main Intelligence Directorate (1th SNB Administration),
- Main Counter-intelligence Directorate (2nd SNB Administration),
- Main Military Counter-intelligence Directorate (3rd SNB Administration),
- Surveillance Directorate (4th SNB Administration),
- Directorate for the Protection of Party and Constitutional Officials (5th SNB Administration),
- Directorate for Intelligence Technology (6th SNB Administration),
- Counter-intelligence Directorate in Bratislava (12th SNB Administration),
- Special Directorate (13th SNB Administration), for radio intelligence and radio counter-intelligence,
- State Security Investigations Directorate and the
- SNB Passport and Visa Directorate.

At the beginning of 1989, the SNB Directorate for the Development of Automation became another State Security Directorate. As far as the National Security Corps Academy is concerned, the State Security Faculty functioned as its first faculty.

At the end of April 1989, Lieutenant General František Kincl, the Minister of the Interior of the Czechoslovak Socialist Republic was managing the 1th and 5th SNB Administration of the State Security units, and furthermore – he was in charge of the statistical records department he operated via the Internal and Organizational Directorate of the Federal Ministry of the Interior (State Security Operational Archive); Lt. Gen. Alois Lorenc, the first Deputy Minister was governing the 2nd, 3rd, 4th, 12th SNB Administration; and the SNB Passport and Visa Directorate; Deputy Minister of the Interior Colonel Stanislav Nezval was in

charge of the 6th, 13th SNB Administration, the SNB Directorate for the Development of Automation and the National Security Corps Academy; and Deputy Minister Colonel Otta Sedlák was ruling the State Security Investigation Directorate. Thus, the State Security was divided into several entities with the intelligence administration being divided between counterintelligence administration, the intelligence technology directorate and the investigation section.<sup>3</sup>

For the State Security, the most effective means to control the selected social groups or the respective objects was the network of confidants which consisted of secret collaborators of various categories (agent, resident, holder of a conspiratorial flat), collaborators (confidants),<sup>4</sup> furthermore, there was a section responsible for the surveillance of people and objects<sup>5</sup> and for the deployment of special technical means (eavesdropping, correspondence control etc.).<sup>6</sup> The operational documentation from individual activities was stored in the form of files in the operational archives pertaining to the individual directorates' archives or it was stored at the statistical records department (section), which archived the counterintelligence agenda. This was done following the termination of a secret collaboration, or after the surveillance of a selected person had ended.

The Main Intelligence Directorate within the SNB, for example, had the following operative file categories in its operational archive (55th department): object-related files (order "1" files), archive-type files (order "2" files), cadre members' personal files (order "3" files), secret collaborators' personal files (order "4" files), conspiratorial flats and borrowed flats' files (order "7" files), operational correspondence files (order "8" files), active measures files (order "9" files).<sup>7</sup> Counterintelligence units deposited the archived files at the statistical records department (at the regional directorates of the department) into the so-called fonds: Special Fond (Z), Secret Collaborators Fond (TS), Counterintelligence Work Fond (KR), Object-Related Files Fond (OB),

1 Jan Kalous, Milan Bárta, Jerguš Sivoš, Pavel Žáček, *Několik poznámek k vývoji organizační struktury Ministerstva vnitra a Ministerstva národní bezpečnosti Československé (socialistické) republiky v letech 1945–1989*, in Jan Kalous a spol., eds., *Biografický slovník představitelů ministerstva vnitra v letech 1948–1989. Ministři a jejich náměstci*, Praha: ÚSTR, 2009, 36.

2 Pavel Žáček, *V čele ŠtB. Pád režimu v záznamech důstojníka tajnej policie*, Bratislava: ÚPN, 2006, 153.

3 Pavel Žáček, ed., *Nástroj triedneho štátu. Organizácia ministerstiev vnútra a bezpečnostných zborov 1953–1990*, Bratislava: ÚPN, 2005, 197–199, 207–208.

4 Pavel Žáček: "Ostrá zbraň" Státní bezpečnosti. Spolupracovníci StB ve směrnicích pro agenturně operativní práci 1947–1989, in Petr Blažek, ed., *Opozice a odpor proti komunistickému režimu v Československu 1968–1989*, Praha: ÚČD FFUK, Dokořán, 2005, 212–215.

5 Miroslav Urbánek, "Správa sledování Ministerstva vnitra v letech 1948–89 (Stručný nástin organizačního vývoje)", in *Sborník Archivu Ministerstva vnitra*, 2005, (3), 209–213.

6 Radek Schovánek, "Organizační vývoj technických složek MV 1964–1989 II", in *Securitas Imperii*, 1994, (2), 69.

7 Pavel Žáček, "Registrace, vedení a archivace svazků ve směrnicích čs. komunistické rozvědky", in *Památ národa*, 2006, (2), 66.

Tactical Fond (T), Old Documents Fond (S), Investigation Files Fond (V) and into the Historical Fond (H).<sup>8</sup>

Until the student demonstration of November 17th 1989 that launched the fall of the Communist regime in Czechoslovakia, but also shortly afterwards, the Federal Ministry of the Interior including the State Security governed by it worked as a stable pillar of power the totalitarian regime was able to rely on. Minister Kincl, who first collapsed on November 29th and who was removed on December 3rd was the first one to leave the Ministry, the First Deputy Lorenc was removed on December 22nd, Deputy Minister Sedlák on December 31st 1989 and Nezval as late as on January 18th 1990. From the middle of December, the organizational structure within the Ministry of the Interior started to disintegrate. Following that, František Pinc was appointed and became Minister of the Interior for just a few days and afterwards, as no successor had been named – the Ministry of the Interior started to be led by the triumvirate composed of the Prime Minister, the Communist Marián Čalfa, the Deputy Prime Minister and dissident Ján Čarnogurský and the Deputy Ivan Průša.<sup>9</sup>

Being under pressure, the Federal Parliament changed the leading role of the Communist Party of Czechoslovakia that had been hitherto vested in the Constitution, also abolishing the leading role of the bodies of this party, abolishing Marxism-Leninism as the state ideology as well. The Communist Party of Czechoslovakia's organizations and the political structures within the Ministry were abolished as a reaction to this development.<sup>10</sup>

## REACTION TO THE POLITICAL CHANGES

During the last days in November of 1989, the management within the federal Ministry of the Interior started addressing the issue during its meetings of how to deal with the compromising documents in the agency-related operational files of the State Security. On December 1st 1989, the First Deputy Minister, Lieutenant General Lorenc issued a top-secret instruction for amending the current work in the archives and in relation to the file agenda; this meant that the State Security units were ordered to sort out the so-called active operational files, the counterintelligence work files and the records of technical activities.

Based on this instruction, the 2nd SNB Administration as well as other central units within the State Security started to selectively liquidate the file and document agenda. The units for the fight against the “enemy from the exterior” (1st–4th departments) and the economic news unit (5th–8th departments) for example, sorted out operational documents shredding them with the aid of the statistical records department. In contrast to this, the internal intelligence section (9th–12th departments) started sorting out the personal files of secret collaborators in political parties ending with the liquidation of almost the entire file agenda relating to the fight against the “enemy within”.

Officially, the mass liquidation of agency-related operational files ended on December 8th 1989 due to the pressure exerted by the students' movement and the People's Forum. The last large-scale and nationwide action made it impossible to reveal the entire scope of the unlawful activities committed by the last Communist police top-level members, including their agency network and the cooperation with the Soviet KGB units.<sup>11</sup>

According to incomplete data, the following percentage of documents were shredded or burnt in the offices of the 2nd SNB Administration and its subordinate counterintelligence State

Security units in paperwork, in the Federal Ministry of the Interior's objects and in the accommodation facilities of the Central Group of Soviet Forces in Czechoslovakia: 99 % of personal files on hostile persons (i.e. 7,193), 75 % of personal files (195), 67 % of signal files (528), 67 % of confidant files (8,632), 55 % of files on checked persons (4,701), 44 % of agency files (5,179), 41 % of resident agent files (54), 37 % of object-related files (1,275) and 36 % of the personal files on candidates for the post of secret collaborator.<sup>12</sup> But the information systems and the registration protocols or archive protocols which included the records of the file agenda were preserved in a relatively complete scope.<sup>13</sup>

## FORMS OF TRANSFORMATION OF THE SECURITY APPARATUS

After Václav Havel had been elected president, the first non-Communist Minister of the Interior, Richard Sacher was appointed and in the middle of January 1990, he definitively terminated the activities of the so-called State Security internal intelligence. Following this, he abolished the Federal Ministry of the Interior's units, including the State Security itself on January 15th 1990 as there was pressure exerted by the public. The Main Military Counterintelligence Directorate and the SNB Directorate for the Development of Automation became an exception to a certain extent. The latter was shifted and became a section within the Ministry for National Defense, or rather – it still had not been detected as having been part of the political police. The subsequent development of the Federal Ministry of the Interior under democratic conditions was still characterized by personnel changes, reorganization, competence disputes and fierce political conflicts regarding the proper shape.

On January 10th 1990, the leaders in the Federal Ministry of the Interior presented a document to the federal government leadership. This document addressed the direction the Federal Ministry of the Interior including its sections was heading in during the period when the government of national understanding was in office. Within this document, the Ministry committed itself to carrying out democratic processes, to the Czechoslovak Socialist Republic's international commitments especially as far as human rights were concerned and also in relation to the concept of a constitutional state.

The consistent termination of the repressive bodies' activities within the State Security in the field of the fight against the “enemy within” was listed as the most important task. This was meant to prevent these forces being misused against the citizens and

8 Pavel Žáček, “Administrativa písemností kontrarozvědné povahy II. Jednotný evidenční, statistický a archivní systém StB v letech 1978–1989”, in: *Sborník Archivu bezpečnostních složek*, 2013, (11), 207.

9 Kalous, Bárta, Sivoš, Žáček, *Několik poznámek k vývoji organizační struktury*, 37–38.

10 Pavel Žáček, “Třídni boj po 17. listopadu 1989 v dokumentech politického aparátu ČSLA”, in: *Historie a vojenství*, 2005, (1), 110; Pavel Žáček, “Demontáž a očista bezpečnostních struktur. Počátek roku 1990 z pohledu federálního ministerstva vnitra”, in: *Paměť a dějiny*, 2010, (1), 74.

11 Pavel Žáček: “‘Můžou přijít, jsme hotovi...’ Tzv. Lorencova ‘skartace’ v dokumentech”, in: *Paměť národa*, 2004, (0), 28–41; Pavel Žáček, “Zamětaní stop v prosinci 1989. Vytřídování svazkové agendy na centrále Státní bezpečnosti”, in: *Sborník Archivu bezpečnostních složek*, 2015, (13), 268.

12 Pavel Žáček, *Boje o minulost*, Brno: Barrister & Principal, 2000, 42.

13 For comparison, see Petr Rendek, “EZO – Evidence zájmových osob”, in: *Sborník Archivu bezpečnostních složek*, 2012, (10), 285–287.

to please the public at the same time. Thus, the Federal Ministry of the Interior decided that mainly members from the Public Police (*Veřejná bezpečnost*) would be appointed to the offices of the chiefs of regional and district SNB Directorates.

Furthermore, checking commissions were to be established in order to give proposals to the respective chiefs whether State Security members would be fired or remain in service. Civic Commissions were to be established and to operate as a controlling and initiative body. These commissions would be composed of representatives from the public and from political forces and the commissions would serve to cooperate with the respective chiefs in solving current issues arising from the performance of the security service. Furthermore, there were proposals being made for the establishment of the Ministry of the Interior of the Czechoslovak Socialist Republic specialist commissions – both within the Federal Ministry of the Interior and in the regional administrations. These commissions would be mainly composed of former security forces members who left following the occupation in 1968 or of those who were forced to leave due to their political opinion. Apart from their controlling function, these commissions were to actively contribute to reevaluating the security forces' activities.

It was indispensable to defend the constitutional basis of the republic, its sovereignty, economic stability, to fight against terrorism, drug consumption, to protect the country's borders etc. in order to protect the new democratic principles the country was built upon and to safeguard its national interests. Taking into consideration the previous negative experience, it was necessary to legally amend the role and the powers given to the security forces, which especially referred to defining the scope of entities entitled to make use of intelligence-technical means (eavesdropping etc.), to exhaustively define the reasons for the application of these methods, to condition the use thereof by an approval granted by the territorially responsible prosecutor, or the territorially responsible court, and to declaring any other use of the information that would be collected via intelligence methods as unlawful. A parliamentary committee was to be entrusted with controlling the intelligence activities.

Purifying the National Security Corps of people who had discredited themselves through misusing their power was declared to be the immediate task. Furthermore, the requirements for the selection and the hiring of new National Security Corps members were to become more rigid, paying particular attention to their moral qualities, integrity and expertise. Furthermore, being part of the Federal Ministry of the Interior or of the security forces precluded any type of political activity. In order to provide for the government of national understanding's policy line being put through, there were – among others – proposals being made to establish a new operational concept for the intelligence and also for other security forces serving the protection of the constitutional basis and the republic's democratic regime.<sup>14</sup>

Two days later, Minister Sacher terminated the activities of the internal intelligence section of the State Security, which meant halting the activities of the respective departments and sections within the Main Counterintelligence Directorate (2nd SNB Administration), within the Counterintelligence Directorate in Bratislava (12th SNB Administration), within the regional State Security administration and the subordinate district or borough organizational units. Furthermore, the posts for political police personnel within this section were abolished, the agency-related operational activities of the abolished units were stopped,

the documents and aids of the abolished units were to be immediately stored, locked and sealed and the service weapons were to be locked in arsenals.

The next day hosted a meeting of the chiefs of the central units of the National Security Corps' regional and district administrations *which served for negotiating the activities performed by the Federal Ministry of the Interior and the National Security Corps during the period when the government of national understanding was in office*. Minister Sacher informed the leading representatives of the security forces about the most important principles, highlighting especially *that any political activity within the Federal Ministry of the Interior including all of its units represented a reason for exclusion; the security policy within our Ministry is going to be a security policy that's not going to be governed by a party – by any party – but this security policy shall be the security policy driven by the government*.<sup>15</sup>

Also Josef Kuracina, a former State Security member and one of Minister Sacher's advisors, stated that undoubtedly, the State Security's activity discredited itself to such an extent *that even pronouncing this title literally repels the public*, while adding at the same time that not a single state can work without the basic functions the Communist political police had been performing, if such a state consistently protects its own national sovereignty.<sup>16</sup>

Yet neither the public nor the Civic Forum representatives would regard it as sufficient that parts of the State Security ceased to exist. Minister Sacher kept on vainly convincing the public that any units that were focusing – to use the former regime's wording – on “the fight against the enemy within”, which means those that were focusing “on counterintelligence activities or the protection of churches, on anti-socialist groups, on ideodiverse centers and on emigrant groupings, on controlling the youth, science, education, the mass-media, healthcare and sports had been abolished.” *Until this date, all members of the State Security were dismissed from managing posts in the headquarters, in the regional and in the district administrations. Their further development following the checks will be taken care of by newly appointed workers from the Police staff (Veřejná bezpečnost)*.<sup>17</sup>

In January 1990, Zdeněk Jodas, a former member of the intelligence services recommended that the Federal Ministry of the Interior leadership carry out further decisive steps as the pressure from the public was growing. *There will be individuals coming from the [security] apparatus who are going to organize active measures for nurturing the atmosphere of uncertainty and as fear among the people will grow, the public will become more prone to believe that rumors regarding the threat which the apparatus represents are true and the public will even be prone to augment the rumor that the apparatus actually is dangerous, which in turn won't improve political stability*. Undoubtedly, the structures within the Ministry of the Interior were still linked to the Communist Party apparatus. It was presupposed that Post-Communist political powers would use disinformation applying their knowledge about the State Security for scandalizing new personalities in the political spectrum.

Although he was convinced that the former political police staff leaving on a mass scale would not happen, he proposed not

14 Žáček, “Demontáž a očista bezpečnostních struktur”, 61–63.

15 Pavel Žáček, “Sachergate. První lustrační aféra. Nesnáze postkomunistické elity (nejen) se svazky Státní bezpečnosti”, in *Paměť a dějiny*, 2007, (1), 51.

16 Žáček, “Demontáž a očista bezpečnostních struktur”, 66.

17 Žáček, “Sachergate”, 52.

to behave naively and to demonstrate the necessary determination and hardness as far as the key units of the State Security were concerned. *It is necessary for the public to feel that the government is keeping the situation entirely under control and that there are no reasons for fear as the State Security apparatus has been neutralized entirely.* According to him the main threat was that a significant volume of information was concentrated in the State Security files, and also in the hands of individual members, and he also regarded as a threat that the connections to the ideological agency network and the links to the old Communist Party of Czechoslovakia were being upheld.

Apart from removing all chiefs within the State Security and apart from dissolving the internal intelligence working against the opposition, he proposed to entirely disarm all intelligence forces, to prohibit activities led against embassies of Western democratic countries, and to prohibit any surveillance activities or eavesdropping without the prior consent granted by the new leadership in the Federal Ministry of the Interior. Surveillance measures were to be made use of also against removed State Security functionaries in order to become aware of activities that could lead to anti-government actions; additionally, an overview of the conspiratorial flats was to be kept and the locks to these flats were to be exchanged in order to prevent the agents meeting the informers.

Colonel Jodas stressed that removing the chiefs created the conditions for dismantling the State Security apparatus: *losing their commander always leads to the fact that any inhibitions the workers perceive fall away and the workers start accusing each other, (...) the compact structures disintegrating into competing groups creates conditions for detecting workers that will be useful and usable within the new apparatus. Furthermore, it will become possible to gather the latest information on the State Security, in spite of the materials on this issue having been destroyed in December 1989. As far as this phase was concerned, he counted on a certain percentage of the State Security members being taken over by the criminal police – he regarded this as a way leading to weakening possible hatred directed against the new political system and to preventing these people committing hostile activities.*

The preparation for establishing a new secret service model for the protection of the constitution was to be carried out as a parallel process. The basic outline was to become evident by the end of March, yet it was clear that the actual construction of this new secret service would begin only after the elections in June 1990.<sup>18</sup>

Within the next memorandum, Colonel Jodas addressed the Main Intelligence Directorate (I. SNB Administration), which was much more linked to the foreign policy and foreign trade policy promoted by the state leadership. *The consequences of each piece of information leaking through intentionally or unintentionally, each piece of information about an operational agency, each piece of disinformation sent through the information channels, each cadre member's emigration (...), actually anything one could interpret as the continuation of work led against the countries with whom we intend to cooperate both on the political and economic level, can have serious consequences.* According to him it was no problem triggering an anti-Czechoslovak campaign at the most inconvenient moment. He proposed a fundamental solution: the prohibition of operational work abroad, under the threat of criminal sanctions. *Thus, the responsibility is to be shifted to the old governmental and security structures. These facts are to*

*be taken seriously even after the date when the new intelligence service starts working.* According to him, anything old was potentially dangerous.

Until the date of the elections, the intelligence service was to be neutralized, i.e. disarmed, its operational activities both at home and abroad were to be stopped, and the members were to be gradually and selectively dismissed. Only a very small core consisting of the most qualified personnel was to be preserved. He proposed to complete the dismantling process by the end of 1990.

During this period, the model of a new service would be created that wasn't to be constructed on the debris of the old one but parallel to it. *Evaluate the people, methods, objects, the agency, the information system during the dismantling process and do so from the point of view of evaluating the options whether it is possible to preserve them within the new apparatus.* Preserve a maximum "amount of information", but preserve the agency network only to a small extent, select several people from the apparatus by the election date and start the cautious recruitment of new personnel.<sup>19</sup>

On January 30th 1990, the Specialist Committee set up by the Minister of the Interior of Czechoslovakia was established, having vast initiative powers and controlling powers, including the option of establishing analogous institutions at the medium level within the security apparatus administration. Among others, this committee's task was to be the evaluation and the presentation of proposals *for the establishment of a new system for state security and state protection*, the control as to *whether the orders and instructions that will have been handed out were consistently fulfilled and implemented.* This service was chaired by the former First Deputy Minister of the Interior from 1968, Colonel Stanislav Padrůněk.

## LEGAL AND POLITICAL FRAMEWORK OF THE CHANGES OF THE SECURITY APPARATUS

On the last day in January 1990, the Minister of the Interior, Sacher, finally abolished virtually all State Security units: the Main Intelligence Directorate, the Main Counter-intelligence Directorate, the Surveillance Directorate, the Directorate for the Protection of Party and Constitutional Officials, the Directorate for Intelligence Technology, the Counter-intelligence Directorate in Bratislava, the Special Directorate, the State Security Investigations Department (which had been the State Security Investigations Directorate until December 29th 1989), the Passport and Visa Directorate. At the same time, new units were established instead of the above-mentioned ones:

- 1/ Intelligence Service of the Federal Ministry of the Interior,
- 2/ Office of the Federal Ministry of the Interior for the Protection of the Constitution and for the Protection of Democracy,
- 3/ Office of the Federal Ministry of the Interior for the Protection of Institutional Officials,
- 4/ Office of the Federal Ministry of the Interior for the Investigation of Unconstitutional Activities,
- 5/ Office of the Federal Ministry of the Interior for Passport and Aliens Service.

The Intelligence Service replaced the 1th SNB Administration, thus becoming the new intelligence service, uncovering and

18 Žáček, "Demontáž a očista bezpečnostních struktur", 66–67.

19 Ibid, 67–69.

disabling *hostile activity led from other countries*. As part of its counterintelligence activities, the Office for the Protection of the Constitution and of Democracy was to *fight against other intelligence services on the national territory*, also with international terrorists, it was to reveal *attempts aiming at violently enforcing a change or the disturbing of the constitutional order*, it was also to reveal unlawful limitations posed to the work carried out by constitutional bodies, to reveal unconstitutional activities led against the country's unity, against nationalities, races or the religious belief of citizens of the Czechoslovak Socialist Republic. Thus, this newly established body virtually carried on the activities that had hitherto been performed by the 2nd and 12th SNB Administration. Furthermore, its tasks were the surveillance of people, intelligence activities, radio-intelligence and radio-counterintelligence. In other words, it took over the powers formerly vested in the 4th, 6th and 13th SNB Administration. The 5th SNB Administration, the State Security Investigation Directorate and the Passport and Visa Directorate of the National Security Corps were transformed into the Office for the Protection of Institutional Officials, into the Office for the Investigation of Unconstitutional Activities and into the Office of the Federal Ministry of the Interior for Passport and Aliens Service respectively.<sup>20</sup>

The Main Military Counterintelligence Directorate (3rd SNB Administration) avoided being abolished, as it had been decided at the beginning of the month by the federal government leadership that this section would be incorporated into the Federal Ministry of National Defense, and also the SNB Directorate for the Development of Automation wasn't abolished – apparently, people didn't know that this directorate had become part of the State Security during the final year of the Communist dictatorship's existence.

The order not merely defined new names for the components of the intelligence and security forces that were being established and subordinate to the Federal Ministry of the Interior, but also named those units that remained untouched by the changes. The next order issued on February 15th 1990 led to the abolition of the territorial units of the Communist political police which were replaced on the next day by the Offices of the Federal Ministry of the Interior for the Protection of the Constitution and for the Protection of Democracy based in Prague, České Budějovice, Plzeň, Ústí nad Labem, Hradec Králové, Brno, Ostrava, Bratislava, Banská Bystrica and Košice. The operational archives of the statistic records departments that pertained to the abolished State Security Directorates were now organized by the newly established regional offices (in contrast to the statistical record department incorporated into the structure of the internal and organizational administration of the Federal Ministry of the Interior).

## **CONTRIBUTION OF CITIZENS TO THE TRANSFORMATION**

The checking committees and Civic Committees became a source of information for the supreme bodies within the Civic Forum and subsequently for the national defense and security committees. On March 13th 1990, an expert commission completed the crucial document addressed to the Minister of the Interior where it criticized the slow pace of the changes carried out within the Federal Ministry of the Interior.

According to the authors, the typical situation was that the old functionaries and cadres remained virtually untouched in their

posts, and their apparatus as well. *Former State Security members are remaining in service incl[uding] the responsible chiefs. [...] Available information reveals that these people keep on meeting each other upholding contacts with former functionaries from the Communist Party of Czechoslovakia. Doing this, they rely on leading functionaries within the Federal Ministry of the Interior who still remain in the ministry and frequently, they even uphold contacts with these functionaries further on. The purification of the apparatus from people compromised by unlawful activities is not happening.* The commission members accused the units in charge – i.e. the minister's inspection, the human resources and education administration as well as other units of not showing independent initiative. *They are relying on the checks solving the whole purification issue. Given this state of affairs, establishing a counterintelligence apparatus [...] remains somewhat far off. Yet the security situation within the country urgently requires the counterintelligence apparatus to start working as soon as possible. Nevertheless, hitherto we have only a restricted knowledge of what is going on in our country.* According to the expert committee, the Federal Ministry of the Interior thus remained a significant exception as far as the movement within the society of our country is concerned. *The Ministry does not help in moving forward, but even frequently hinders the development.*

Furthermore, the committee members informed the minister that the Ministry of the Interior has documents within its operational archives that prove the totalitarian regime's activity. *Hitherto, there has been no work done with these documents and consequently, they haven't been made use of within the political struggle. These materials mainly report about unjust enrichment, corruption, provocation by the former State Security, about activities led against civic initiatives including attempts to crush the democratization process.*

During a work meeting of the Civic and Checking Committees that took place on March 17th 1990 the situation radicalized. A resolution was adopted demanding the rapid adoption of an act that would enable the immediate dismissal of former State Security members, *and to dismiss all of them by an order issued by the Federal Minister of the Interior, as the unlawfulness of the State Security's activities in general had been proven and because it is not necessary that the State Security members be employees of the Federal Ministry of the Interior in order to check their activities.* Another part of the critique was directed against the nomenclature cadres of the Communist Party of Czechoslovakia that was in charge of the Inspection of the Ministry of the Interior and of the Cadre and Education Administration. *These people, and also other persons are complicating the checking committees' work and are slowing down the State Security purification process. (...) That's why we require that all former State Security members be immediately dismissed from their posts at the Federal Ministry of the Interior and that criminal prosecution against them be commenced immediately, if there are proofs of their guilt. There cannot be any orderly state in any lower-level National Security Corps unit until order has been created at the Federal Ministry of the Interior.*<sup>21</sup>

At the end of March, the Deputy Minister of the Interior Ivan Průša stated that the security apparatus *is an apparatus consisting of old structures created by force*. Nevertheless, he differentiated between people in this apparatus as there were both people waiting to see how the situation develops, and servile people who put

20 Žáček, ed., *Nástroj triedneho štátu*, 213–215.

21 Žáček, "Sachergate", 57–59.

away their party ID-card and are working 16 hours a day chasing their subordinates. *Of course, even the apparatus changes and differentiates. (...) These people are dangerous because they are afraid of informing the new leadership about negative impacts resulting from the leadership decisions which in turn multiplies the mistakes.* Unfortunately, the new Ministry was overloaded with new issues to such an extent that it didn't focus on personal issues sufficiently.

He regarded the fact that the country's counterintelligence protection had been entirely paralyzed as an issue of the utmost importance. The leadership at the Ministry of the Interior neither had information of sufficient quality about internal relations, about what was emerging, where it was emerging and whether such a development could pose a threat to the state, nor did the leadership have information of sufficient quality about where the former State Security power structures were meeting former People's Militia functionaries, nor about who had contacts to the Soviet occupation forces.<sup>22</sup>

Political affairs prior to the first free elections made it virtually impossible to find any practical solution.<sup>23</sup> Also the civic and checking committees' activity was complicated by several problematic issues, especially by the fact that former State Security members infiltrated into these committees, which limited their work and later on led to the results of these committees' work being subject to doubts. Furthermore, the committees' activity was limited by some documents not being accessible, especially as far as agency-related operational files were concerned and sometimes, even the different approach of individual chiefs complicated the situation.<sup>24</sup> The aim of these checks was to classify the State Security members into three groups: *a group that may go on working in the secret service sector; another group that would be assigned to police work and the last group which would have to leave entirely. Due to the fact that the civic and checking committees were working "each on their own", on an entirely decentralized principle, without management and without methodological instruction, the results were extremely diverse and highly unreliable as far as details were concerned.* In spite of this, it appears to have been the only viable step which was also necessary.<sup>25</sup>

Altogether, 7,694 State Security members were checked, 3,973 of which were nominated to work in the new security service that was being created. In spite of all the insufficiencies in the Civic Commissions' work, the intelligence service purification was far more profound than in the neighboring countries of Poland or Hungary.<sup>26</sup>

In the middle of 1990, most of the members in the authority were former State Security members that had been checked. To be more precise, there were 2,308 former State Security members that had been checked and who then worked in the Office of the Federal Ministry of the Interior for the Protection of the Constitution and for the Protection of Democracy, 40 new personnel who hitherto hadn't been working in intelligence services, and 38 reactivated State Security officers who had been dismissed in 1968. Newly hired people especially occupied managing posts in the service's headquarters and there were also some individuals in the regional offices' management.<sup>27</sup>

The new authority was to be organized according to the territorial principle with the USA, Western European countries (especially Germany) and the neighboring countries in the Central European region remaining its main tasks. A new section – the Soviet Union was then newly added to this structure that basically corresponded to the former State Security structure.

According to this concept, the Counterintelligence was to have 6,000 employees.

Yet the dissidents opposed this, especially after Jan Ruml became Deputy Minister of the Interior and Leader of the Office for the Protection of the Constitution and for the Protection of Democracy in April 1990. *I was facing a difficult task: purifying the ministry of its old structures, establishing a new police force and laying down the foundations for new intelligence services. Basically, this meant creating a usual centralized authority for public power based on the democratic principles of a constitutional state; this meant – among other things – placing these services under both parliamentary and public control.*<sup>28</sup> In contrast to the State Security, the new service was not to have executive powers, but was to become an unpolitical institution controlled by the parliament and the role as well as the powers of this institution were to be laid down by an act. The whole security section was to be composed of new people entirely. During the transition period, it was possible to make use of former State Security members that had been checked upon and who had been working in external intelligence, or former Border Guard members that had been checked upon, former criminal police members that had been checked upon and also some reactivated or new personnel.<sup>29</sup>

According to the Civic Committee at the Federal Ministry of the Interior, 2,745 former National Security Corps members left the Ministry (including people who left upon their own request, or who retired). 1,834 personnel were dismissed upon the Civic Committee's decision that they were unsuitable for remaining in service. Another 155 members were to go or to leave within a few weeks.<sup>30</sup>

The Intelligence Service of the Federal Ministry of the Interior became the successor organization of the Communist intelligence service. This new intelligence service was to temporarily remain part of the Ministry of the Interior which was also perceived as a guarantee for its purification and sufficient control. Lieutenant Colonel Přemysl Holan who had been a member of the I. Administration and dismissed following the Soviet occupation of 1968, was appointed to become the first head of this institution – he brought along a group of former State Security members from the sixties who had been reactivated. Within the following two years, the new leadership of the Intelligence Service of the Federal Ministry of the Interior had the task of entirely reforming the organization and establishing it with completely new people. Yet the first task was mapping the communist predecessor institution's activity led against Western democratic countries that gradually became allies.

Just as had happened in the Office for the Protection of the Constitution and for the Protection of Democracy, the purification in the intelligence service that was being established was

22 Žáček, "Demontáž a očista bezpečnostních struktur", 72–73.

23 Žáček, "Sachergate", 78–80.

24 Karel Zetocha, *Zpravodajské služby v nové demokracii*. Česká republika, Brno: Barrister & Principal, 2009, 50.

25 Petr Zeman, *Transformace zpravodajských služeb*, in *Zkušenosti české transformace*, Praha: X crossing, Praha, b.d., 70.

26 Zetocha, *Zpravodajské služby v nové demokracii*, 51–52.

27 Ibid, 59.

28 Jan Ruml, *Moje působení na ministerstvu vnitra*, in *Zkušenosti české transformace*, 66.

29 Zetocha, *Zpravodajské služby v nové demokracii*, 54, 56.

30 Ibid, 48.

also carried out with the aid of Civic Committees who checked individual cases and decided whether further assignment was possible. Many older members retired making use of all the benefits provided for their retirement and they had done so before any investigation started.<sup>31</sup>

When Jan Ruml became Deputy Minister of the Interior, Colonel Bohumil Kubík became the leader of the Intelligence Service of the Federal Ministry of the Interior, who had been replaced again for a short period by Holan after the elections. Finally, in September 1990, the long-term political prisoner Radovan Procházka was appointed to office.

Dismantling the agency network within the 1th SNB Administration started right after February 1990 when Holan, the manager in charge, immediately ordered the so-called foreign residencias (structures residing abroad) to stop all of their activities and to take an inventory of their financial assets. The cooperation with 300 agents abroad was gradually loosened, as their commanding officers were not in direct contact with them on a daily basis. Terminating the cooperation with the so-called illegals, i.e. agents or members living abroad permanently and using a false identity took almost two years.<sup>32</sup>

In November 1990, the Office of the Federal Ministry of the Interior for Foreign Relations and Information was founded replacing the Intelligence Service of the Federal Ministry of the Interior. The staff number was reduced from the initial 1,300 to approximately one half. Thus, almost eighty percent of the members left the intelligence service during the first transformation year. Within the following years, this fundamental change was completed which not only led to the establishment of a new organizational structure, to defining its new direction, but also personnel continuity was disrupted. Thus, the break with the State Security was almost completed which was a unique approach among the post-communist countries.<sup>33</sup>

## RECOMMENDATIONS

After a security apparatus is paralyzed in the course of political changes, it is necessary to prevent (if possible) a mass-scale destruction of the secret police's operational documents, to disarm its members and to depoliticize the secret police structures. Within the next phase, after the chiefs of the central units are changed, it is necessary to individually assess the members one by one. This process actually decides upon who remains in service and who will be dismissed.

If serious crime is revealed, it's appropriate to start criminal proceedings against these individual security apparatus members.

At the same time, a system for carrying out the control of the security apparatus is to be created, bills have to be formulated and adopted to become acts on the security forces' activity (police, intelligence services) and on the specific application of intelligence means (i.e. the limitations of the right for the protection of personal rights).

In the case of Czechoslovakia, transforming the State Security into a standard counterintelligence service proved to be entirely successful, also bearing in mind the extraordinarily beneficial

foreign policy and domestic policy situation. *Within the chaos and the disintegration of leadership structures prevailing at that time, the Soviet secret services only managed to provide intelligence coverage for the retreat of the Central Group of Soviet Forces in Czechoslovakia as they didn't have enough time, means and will or opportunities to do anything beyond that. It was possible to scatter the State Security and to start establishing a service consisting of new people.*<sup>34</sup> As far as the Czechoslovak (Czech) conditions are concerned, the military secret service represented a certain exception because – at first – *it hadn't overcome its crisis of identity and didn't finish its transformation.*<sup>35</sup>

After the assumption of power, the former regime's secret police needs to be abolished as soon as possible. *Yet it isn't effective to throw its members into a hopeless social situation. (...) It is necessary to differentiate between individual units of the old secret service – as some of them have been doing what the new service is going to perform as well.* Following the collapse of totalitarian regimes, the best option appears to be to establish the new service from scratch. *Yet right at the initial stage, it is hardly possible to manage this without the aid of former members from the collapsed regime. It is necessary to offer these members e.g. a 5-year grace period and (at the latest) after such a period they shall be replaced and paid off generously; of course, this promise has to be guaranteed and one has to fulfill the promise.* After the initial phase of destroying the old services and the rapid establishment of new ones – and it's necessary to mention that the whole process shouldn't consume more than one year or two – the new constitutional officials have to define the tasks and limits for these services' activities.<sup>36</sup>

One of the post-revolution heads of the Czech secret service sums up: *Secret services have their own mission and aim, which is why apart from a short period directly after the assumption of power when it's necessary to provide for the archives' and the assets' safety, they shouldn't fulfill the task of institutions wiping out communism. If there's political will and the proper atmosphere in society to start the documentation and, possibly, criminal reappraisal of the former regime, then this task has to be taken care of by newly established institutions. Clashes between opposing, yet at the same time legitimate interests on both sides are going to occur among these institutions. It is not an easy task to balance these interests...*<sup>37</sup>

Last but not least, an indispensable task consists of informing the public about the intelligence services' tasks and powers within the democratic system (for example – by highlighting the difference towards the executive and repressive function these services had been given by the previous regime), including an effective control mechanism, and trying to improve the intelligence services' image following their having been misused by the totalitarian regime.

31 Ibid, 128–129.

32 Ibid, 129–130.

33 Ibid, 131.

34 Jan Frolík, *Transformace ministerstva vnitra a bezpečnostních složek, in Zkušenosti české transformace*, 64.

35 Zeman, *Transformace zpravodajských služeb*, 69.

36 Ibid, 75.

37 Ibid, 73.

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# REGIME ARCHIVES

PAVEL ŽÁČEK

## CONTENT OF THE SECRET SERVICE ARCHIVES

During the long period of their existence, the Communist security services issued detailed documents about their activity, specifically about fulfilling the totalitarian regime repressive practice. These special character documents were set up based upon internal, relatively strictly defined, bureaucratic and conspiratorial parameters – the aim of these documents was to provide for the fundamental power conditions for the totalitarian regime’s existence, which especially referred to continuous repression, prevention (intimidation) and to the need to gather necessary information. *Taking into consideration these archive documents’ volume and relative completeness – they have an irreplaceable information value about the rule of the communist regime at that time.*<sup>1</sup>

The administrative documents issued due to the activities performed by individual Czechoslovak security services (National Security Corps, Corrections Corps, Border Guard and Guard of the Interior, General Staff of the Czechoslovak People’s Army Intelligence Directorate) was continuously being archived in the respective special importance archive at the Ministry of the Interior and the Ministry of National Defense.<sup>2</sup> The agency-related operational agenda of intelligence and counterintelligence State Security units, including the Military Counterintelligence, the Public Police (*Veřejná bezpečnost*, hence the abbreviation VB) and of the Border Guard was stored in secret central or regional operational archives that were closely linked to the operational records, or this agenda was stored in the operational archives themselves – i.e. among the individual directorates’ records.

The Ministry of the Interior Foreign Intelligence Directorate (1th Administration) stored the agency-related operational agenda within its operational files in a specialized archive (statistic records department),<sup>3</sup> the Counterintelligence Directorates (2nd Administration and its predecessors),<sup>4</sup> the Surveillance Directorate (4th Administration) and the Directorate for the Protection of Party and Constitutional Officials (5th Administration) stored these in the operational archive pertaining to the central operational records (statistical records department),<sup>5</sup> the Military Counterintelligence (3rd Administration)<sup>6</sup> and the Intelligence Technology Directorate (6th Administration) stored these documents among its own special subject records<sup>7</sup> and the Surveillance Directorate stored the surveillance file agenda at the Department for Surveillance and Information Technology.<sup>8</sup> The Counter-intelligence Directorate in Bratislava (12th Administration) had its archive at its own analytical-information and statistical records department.<sup>9</sup>

The counterintelligence departments (I., II., III. department and district department) within the regional State Security units archived the agency-related operational file agenda at their evaluation and statistical records departments (groups),<sup>10</sup> the Surveillance Directorate (IV. department) and the department for intelligence technology (VI. department) sent their files for storage to the Prague-based headquarters at the 4th or 6th SNB Administration.<sup>11</sup>

The Intelligence Department of the Intelligence Directorate at the Central Border Guard and Border Protection Directorate archived its files at the statistical records department of the 1th Administration and the Counterintelligence Department at the statistical records departments within the regions.<sup>12</sup>

Apart from the State Security, the entities recording and archiving their agency-related operational agenda individually were the General Staff of the Czechoslovak People’s Army Intelligence Directorate, the Federal Directorate of the Public Police (including the regional Public Police directorates) and the Department for the Protection of the Interior at the Corrections Corps pertaining to the Ministry of Justice.<sup>13</sup>

As far as the Ministry of the Interior archives are concerned, the documents were stored in fonds of individual organization units (Administrations) that focused on security or administrative issues. The operational archive specific fonds contained agency-related operational files in the fonds mentioned below:

- the Special Fond (Z), containing files of extraordinarily important and secret State Security activities, including the investigations and deployment of agents,

1 Ladislav Bukovsky, “Archivy bezpečnostních složek po dvaceti letech. Úvod k tzv. Quintanově zprávě”, in *Sborník Archivu bezpečnostních složek*, 2009, (7), 7.

2 Czech National Council Act No. 97/1974 Sb., on Archiving, § 24.

3 For comparison, see Pavel Žáček, “Registrace, vedení a archivace svazků ve směrnících čs. komunistické rozvědky”, in *Památ národa*, 2006, (2), 64–65.

4 Prior to 1988, this especially referred to the Counterintelligence Directorate for the Fight Against the External Enemy (II. Administration), the Counterintelligence Directorate for the Fight Against the Enemy Within (X. Administration), the Counterintelligence Directorate for the Protection of the Economy (XI. Administration) and during the 1981–1985 period, also to the Counterintelligence Directorate for the Fight Against Extraordinary and Special Forms of Crime (XIV. Administration).

5 For comparison, see Pavel Žáček, “Administrativa písemností kontrarozvědné povahy II. Jednotný evidenční, statistický a archivní systém StB v letech 1978–1989”, in *Sborník Archivu bezpečnostních složek*, 2013, (11), 218; Patrik Benda, ed., *Přehled svazků a spisů vnitřního zpravodajství centrály Státní bezpečnosti v roce 1989*, Praha: ÚDVZK, 2003, XII–XIII.

6 For comparison, see Pavel Žáček, ed., “Armáda pod drobnohledem. Vojenská kontrarozvědka v dokumentech, 1974–1989”, in *Historie a vojenství*, 2003, (3–4), 825.

7 For comparison, see Pavel Žáček, *Přísně tajné. Státní bezpečnost za normalizace*, Praha: Votobia, 2001, 183.

8 For comparison, see Miroslav Urbánek, “Správa sledování Ministerstva vnitra v letech 1948–89 (Stručný nástin organizačního vývoje)”, in *Sborník Archivu ministerstva vnitra*, 2005, (3), 210.

9 Jerguš Sivoš, ed., *XII. správa ZNB. Dokumenty k činnosti Správy kontrarozvědky v Bratislavě v letech 1974–1989*, Bratislava: ÚPN, 2008, 21–22.

10 For comparison, see Pavel Žáček, *Nástroj triedneho štátu. Organizácia ministerstiev vnútra a bezpečnostných zborov 1953–1990*. Bratislava: ÚPN, 2005, 254–255.

11 For comparison, see Radek Schovánek, “Organizační vývoj technických složek MV 1864–1989 II.”, in *Securitas Imperii*, 1994, (2), 61–62.

12 For comparison, see Patrik Benda, Pavel Žáček, eds., *Denní situační zprávy StB z listopadu a prosince 1989*, in *Securitas Imperii*, 2000, (6/III), 1042; Benda, ed., *Přehled svazků a spisů vnitřního zpravodajství centrály Státní bezpečnosti*, XII–XIII.

13 *Ibid.*, XIV.

- the Secret Collaborators Fond (TS),
- the Counterintelligence Work Fond (KR), containing the files about the persons under surveillance,
- the Object-Related Files Fond (OB), containing files about individual institutions or social groups,
- the Tactical Fond (T), containing selected documents of key importance from the destroyed files and documents,
- the Old Documents Fond (S), containing documents from the time prior to the establishment of the file agenda in the 1950s,
- the Investigation Files Fond.
- the Historical Fond.<sup>14</sup>

## ATTEMPTS TO DESTROY THE OPERATION DOCUMENTS OF THE POLITICAL POLICE

During the last days of its existence, i.e. on the verge of November and December 1989, the Communist regime decided to destroy evidence about its ruling, to hush up the crimes it had committed, the continuous breach of applicable national and international norms as well as the infringement of human rights. There were documents being destroyed, both in the centres of political power – within the archives and registries of the bodies of the Central Committee of the Communist Party of Czechoslovakia and its organization departments, as well as within the operational archives and registries of the Federal Ministry of the Interior's departments which especially refers to the secret police of the State Security, and files were also being destroyed within the organization units of the Federal Ministry of National Defense, within the units and groups of the Czechoslovak People's Army which especially applies to special units of individual organizations and institutions as well as to other pillars of power.

For various reasons, the exponents of the Communist regime didn't manage to destroy all the compromising documents and archive materials. First and foremost, they didn't have enough time, sometimes their own administrative norms hindered them in destroying the documents and there were also occasions where some of the responsible functionaries resisted participating in this planned and systematic destruction.

During the first weeks and months following November 1989, it was hardly possible to ascertain the scope of documents that had been preserved or destroyed. Mostly, this referred to issues that were subject to secrecy so that neither the public nor their representatives had access to them.

Irrespective of the lustration affair, i.e. irrespective of accessing data in the State Security files about ministers and deputies in the legislative bodies, which occurred during the spring of 1990, which in turn cast shadows over the Ministry of the Interior, the public wasn't granted access to the top secret Communist regime files, not even the public comprising of specialists focussed on this issue. Yet the first politicians were compromised due to their former collaboration with the secret police. During the new security forces personnel purge, thousands of State Security members were forced to resign from their functions.<sup>15</sup>

## PUBLIC CONTROL OVER ARCHIVES

The Communist archive gradually became a problem which needed to be solved, this situation was aggravated especially

after the parliamentary elections in June 1990. Although in 1990 an agreement was concluded between the Ministry of the Interior of the Czech Republic and the Central Committee of the Communist Party of Czechoslovakia about handing over the archive materials of regional and district Communist Party of Czechoslovakia committees, the Communist Party fiercely resisted handing over the Central Committee of the Communist Party of Czechoslovakia archive.<sup>16</sup> That's why on November 16th 1990, on the eve of the first anniversary of the students' revolution, the representatives of the new democratic power put through the Constitutional Act No. 496/1990 Sb. on giving back the Communist Party of Czechoslovakia's property to the people of Czechoslovakia; this act had an introduction stating that following its coming to power in 1948, the Communist Party regarded the state as its property, handling this property as if it had been its own. In order to get rid of the impacts of such a state at least partially, the Federal Parliament decided that the Communist Party of Czechoslovakia's archive materials issued until December 31st 1989 become the state's property on January 1st 1991 without any compensation. A similar decision was made about other written, visual documents or audio documents as well as other Communist Party of Czechoslovakia documents dating back to the period until November 30th 1989 which were to be taken over by the Central National Archive or its regional branches (§ 3).

Archive materials and documents from Communist security services remained classified temporarily and were stored in the Ministry of the Interior archives or were managed by the new security services.

On October 4th 1991, i.e. following the adoption of Act No. 451/1991 Sb., determining some further prerequisites for certain positions in state bodies and organizations of the Czech and Slovak Federative Republic, the Czech Republic and the Slovak Republic, the archive materials from the former State Security that were partially managed by the Ministry of the Interior and partially by the Ministry of National Defense, were used for determining whether a particular person had been a member of the Communist secret police or a secret collaborator within the respective agency category. According to one of the paragraphs, it was even prohibited to publish documents for processing the so-called lustration certificates without the citizen's prior written approval (§ 19).

These documents were used in an identical way for the purposes of complying with Act No. 279/1992 Sb. of April 28th 1992, on some further prerequisites for certain positions filled by appointment or designation of officers of the Police of the Czech Republic and officers of the Penitentiary Service of the Czech Republic.<sup>17</sup>

Yet the post-Communist power still held the archive materials in a classified mode and they were not used in public discourse about the totalitarian regime's nature, with historians and other experts being granted access to these documents only on a very

14 For comparison, see Žáček, *Administrativa písemností kontrarozvědné povahy*, 207.

15 For comparison, see Pavel Žáček, "Sachergate": první lustrační aféra. Nesnáze postkomunistické elity (nejen) se svazky Státní bezpečnosti", in *Paměť a dějiny*, 2007, (1), 60–80.

16 Oldřich Sládek, *Ohlédnutí*, in *Archivní časopis*, 1993, (1), 19.

17 Pavel Žáček, *Lustrační zákony v České republice. Aplikace zákonů č. 451/1991 Sb. and No. 279/1992 Sb.* See <http://www.ustrcr.cz/data/pdf/konference/20let-pote/twenty-years-after-zacek.pdf>

limited scale. Not even the former political prisoners or other persecuted people gained access which gave rise to mistrust towards the bodies of the new power.

Communist power archive materials and documents, including the former security services materials and documents were used on an unlimited scale only by the employees of the new intelligence services (which were frequently the authors of these documents), and on a limited scale by police investigators, e.g. from the Office for the Documentation and the Investigation of State Security Activities (since 1995: Office for the Documentation and the Investigation of the Crimes of Communism). This state also didn't strengthen the trust put into the newly established bodies.

## USE OF THE ARCHIVES DURING TRANSFORMATION

In the mid-1990s, the International Council on Archives prepared a document of major importance for UNESCO known as the Quintana Report. This report summarized the recommendations regarding the handling of former repressive regime archives. These archives were named the key instrument within the transformation era for strengthening collective and individual rights.

The following rights were described as collective rights:

- 1/ the right of the peoples to choose their own path to political transition.
- 2/ the unquestionable right of the citizens to the integrity of their written memory.
- 3/ the right to the truth.
- 4/ the right to identify those responsible for crimes against human rights.

The following rights were described as individual rights:

- 1/ the right to discover the fate of the relatives who disappeared during the era of repression.
- 2/ the right to know what information on individuals is held in the archives of repression.
- 3/ the right for historical research for the purposes of cognition.
- 4/ the right to amnesty prisoners and victims of political revenge.
- 5/ the right of restitution and compensation for the repression victims' suffering.<sup>18</sup>

## RIGHT TO ACCESS THE ARCHIVES

On April 26th 1996, the parliament adopted the Act No. 140/1996 Sb., on making files resulting from the activities of the former State Security Police publicly accessible, for which the Ministry of the Interior imposed the duty to inform a citizen of the Czech Republic, or a citizen of the former Czechoslovak Republic, whether the former State Security's information system contains a file on this citizen, whether this file has been preserved and possibly to provide a copy of such a file to the citizen (§ 1).

If the citizen was listed as a collaborator, he was only entitled to access those parts of the file that were written at a time when this citizen was not listed as a Secret Service collaborator (§ 5/d).

In order to protect personal data, the Ministry of the Interior made the date of birth and the addresses of other people illegible, also making unreadable any other data about their private and family life, about their crimes, health and property.

This was done prior to making the file accessible via a copy of the file. If the file in question was one about a deceased person (i.e. when the application was filed by relatives), the data about the private life and about the family of all people were made unreadable (§ 6).

Going through the file, the applicant had the right to ask for the actual names of the people who were listed in the file under a false (a code) name to be told to him. If this was the case of a person listed as a State Security collaborator and if identifying such a person's correct name was possible, the Ministry was to immediately approve the application (§ 7).

The file an entitled applicant asked to be declassified and which was managed by the Ministry, ceased to be classified if it had been established prior to January 1st 1990. Yet the state provided for a precautionary measure, as the file could be classified again upon the Ministry of the Interior's decision, if such a thing served "*the state's security or the safety of people or property*" (§ 8).<sup>19</sup>

This act contained a lot of deficiencies. It was limited to the Czech (Czechoslovak) citizens and provided access to only a limited amount of files – roughly 60,000 – from several counter-intelligence State Security units, yet it did not refer to the personal files of the members of the secret police, but for example not even to the Surveillance Directorate's or the Intelligence Technology Directorate's file agenda.<sup>20</sup> Furthermore, the processing proved to be too expensive (even for the applicants), too bureaucratic and inefficient, being furthermore of much too low quality.<sup>21</sup> This act didn't fulfil its role and became subject to criticism from society. The Act No. 107/2002 Sb. of March 8th 2002, which tried to make up for some of these deficiencies, stated that the purpose of the act is "*to reveal as much of the Communist regime practice in suppressing political rights and freedoms, as exerted by the secret repressive forces within the totalitarian state.*" The act was to provide the persecuted people with access to the documents about their persecution and to publish the data about the actors of this persecution and the activities linked to it.

Furthermore, the act stated that all preserved or reconstructed documents established due to the security services activities and managed by the Ministry of the Interior, by the Ministry of National Defense or by the Ministry of Justice during the period from February 25th 1948 until February 15th 1990, and which were recorded in the contemporary files or archive aids (the so-called registers), were subject to declassification and publication. Documents taken out of this process due to specific interests, i.e. because of the assumption that the interests of the Czech Republic in international relations – or its security interests – might be damaged, or documents where "*the life of a person might be seriously threatened*" were not to be subject to declassification and publication. Yet in order to exempt a document from

18 Antonio Gonzáles Quintana, "Archivy bezpečnostních složek bývalých represivních režimů", in *Sborník Archivu bezpečnostních složek*, 2009, (7), 22–24.

19 Act No. 140/1996 Sb., on making publicly accessible files resulting from the activities of the former State Security Police

20 Radek Schovánek, "Zpřístupňování svazků Státní bezpečnosti v České republice", in *Památ národa*, 2005, (2), 85

21 According to data provided by the Ministry of the Interior, within the period from the beginning of 1997 until the end of 1999, only 4,012 applicants received a positive answer to the question whether there was a file about them, and only 2,270 of them saw the file. Pavel Žáček, *Boje o minulost*, Brno: Barrister & Principal, 2000, 114–115.

declassification and publication, the ministries needed a consent granted by the Chamber of Deputies of the Parliament of the Czech Republic for monitoring the declassification process.

The act widened the scope of declassified files by the file (and document) agenda from the Main Directorate of Military Counterintelligence managed by the Ministry of Defense, from the Department for the Protection of the Interior at the Corrections Corps (the so-called prisoners agency, managed by the Ministry of Justice), from the Main Intelligence Directorate, from the Surveillance Directorate, from the Directorate for Intelligence Technology, from the Passport and Visa Directorate of the National Security Corps and from the Border Patrol and National Border Protection Main Directorate.

Another major change was the option to access personal (cadre) files of security services members containing data about the origin, course and termination of their service relationship, or to provide an extract of these documents in the shape of a member's personal record.

The ministries were further on obliged to hand over the information required upon an adult citizen of the Czech Republic's application, if this applicant wasn't imprisoned – or the ministries were obliged to make a copy of the preserved file accessible, including the personal files on collaborators or members of the security services, if they weren't foreigners.

Furthermore, the Ministry of the Interior and the Ministry of Defense were obliged to hand out in writing and in electronic form the register records from preserved or reconstructed protocols, volumes and other register aids of security services, with this information being handed over in the scope of object-related files or files about people listed as State Security collaborators or as Military Counter-intelligence collaborators – data about the establishment of such a volume or changes made herein, about people (if they weren't foreigners), or about objects to whom the volumes were related were to be handed over as well. Similarly, the Ministry of Justice issued in writing and in electronic form a transcript of the volumes from the Department for the Protection of the Interior at the Corrections Corps and it did so within the scope of object-related files or files about people listed as collaborators of this department, if these documents had been made use of by the State security.

The ministries were also to continuously issue lists of the declassified personnel (cadre) files of the security services members, including the date on which they became members of the security service, including the position within the security service and the date on which such an enlistment ended.

Prior to an entitled applicant being provided with access to the document, the ministries were to make the date of birth as well as the addresses of other people, including any data about their private and family life, crimes, health and property illegible when providing a copy of the document. If the declassified file was a cadre (personal) file of a security service member, also any data about people standing outside this member's service activity or public activity was made illegible.

The act enabled the citizens to hand over their own declaration about the content of the file or about the registration in the list itself, and the ministries were then obliged to add these declarations to the data about this person as an integral part of the document and to declassify them for applicants together with the documents or records in the register.

Furthermore, the legal standard amended the then applicable Act No. 97/1974 Sb., on Keeping Archives, stating that perusing the documents in the archives or the archive materials of the Communist Party of Czechoslovakia stored in the archives cannot be rejected nor conditioned by any other body's consent.<sup>22</sup>

Especially, this act newly defined the notion of a State Security origin document, i.e. that an entitled applicant has the right to more information from the material that has been preserved than only to what is contained in his file. Furthermore, the files about State Security secret collaborators who weren't citizens of foreign countries, were opened to the public – this referred to the categories of a secret collaborator (*tajný spolupracovník*, hence the abbreviation *TS*), resident (R), Agent (A), Informer (I), holder of a borrowed flat (*držitel Propůjčeného Bytu*, hence the abbreviation *PB*) and holder of a conspiratorial flat (*držitel Konspiračního Bytu*, hence the abbreviation *KB*). Additionally, this act ordered the Ministry of the Interior, the Ministry of Defense and the Ministry of Justice to publish lists of secret collaborators (and object-related files) in counterintelligence units, in the intelligence, in the military counterintelligence and in the prisoners agency who were demonstrably cooperating with the State Security for its benefit. These lists would serve as a form of public control.

On March 20th 2003, the Ministry of the Interior published a list of secret collaborators within the above-mentioned categories. This list was published both in writing and on the internet and equalled 12 A4 notebooks with an overall page number of 6,665.<sup>23</sup> Within the years of 1997–2003, the respective authority made 3,391 investigation, operational and agency-related files accessible to applicants.<sup>24</sup> Within the following two years, the Ministry of the Interior presented only 108 personal files about former secret police members.<sup>25</sup>

Within the period ranging from September 2002 until March 2005, the newly founded Office for the Declassification of the Documents of the Ministry of the Interior of the Czech Republic which focused on processing documents (files) written due to the counterintelligence's work, received a total of 3,671 applications, digitalized 402 documents (equalling 358,522 pages) and processed applications of 210 applicants. Furthermore, the office published data on 15,633 persons listed as members of military counterintelligence within the legally binding period, publishing also 1,881 records about object-related files within the legally binding period.<sup>26</sup>

It was especially the Ministry of the Interior that was unable to raise the quality of its activities within the area of declassifying file agenda as this work remained ineffective and of low quality, the ministry didn't declassify all the file agenda (e.g. related to

22 Act No. 107/2002 Sb., amending the Act No. 140/1996 Sb., on the access to records created by the activity of the State security, and on some other acts.

23 See Jan Frolík, "Několik poznámek k 'Zveřejnění evidenčních podkladů a seznamu personálních spisů podle zákona č. 107/2002 Sb.' Ministerstvem vnitra České republiky", in *Sborník Archivu ministerstva vnitra*, 2004, (2), 311.

24 Vladimíra Vaníčková, "Odbor archivní a spisové služby MV: rok 2003", in *Sborník Archivu ministerstva vnitra*, No. 2004, (2), 308–309.

25 See Schovánek, "Zpřístupňování svazků Státní bezpečnosti", 86.

26 Jitka Pourová, "Hlavní správa vojenské kontrarozvědky – III. správa SNB – a zpřístupňování dokumentů vzniklých její činností v souladu se zákonem č. 107/2002 Sb.", in *Sborník Archivu Ministerstva vnitra*, 2005, (3), 414, 416 and 418.

the Surveillance Directorate, to the Intelligence Technology or to the Passport and Visa Directorate).

## DECLASSIFICATION AND OPENING UP THE ARCHIVES

A new Act on Archiving No. 499/2004 was adopted following several years, and this act declassified archive materials that were created due to the activities performed by organizations united in the National Front and in the Communist security services. This act significantly broadened the access the researcher public had to the Security Service file agenda as it stated that the principle according to which only archive materials older than 30 years are declassified, does not apply to these materials. Furthermore, this act stated that in this case, an exception to the restriction of access to archive materials which contain sensitive personal data applies. This seemed to have solved the blocking paragraph of Act No. 107/2002 Sb., which hindered aliens from applying for their materials filed by the State Security.<sup>27</sup>

In November 2005, a group of senators presented a bill on the National Memory Institute, a memorial institute designed according to the Polish and Slovak model. Finally, in June 2007, the Act No. 181/2007 Sb. on the Institute for the Study of Totalitarian Regimes and the Security Services Archive, and on Amendments of some Acts, by which a new administration office was established on February 1st 2008, was adopted. This office managed all the document and file agenda of the former Communist security services.

This act stated that the Ministry of the Interior, the Ministry of Defense including the Military Intelligence, the Ministry of Justice, the Security Information Service and the Office for Foreign Relations and Information shall hand over all record and registration aids, archive fonds, including the agency-related, operational files, investigation or cadre files, archive collections and individual archive materials and documents established due to the activities of the security services and due to the activities of the Communist Party of Czechoslovakia and of the National Front organizations that were operating within these services from April 4th 1945 until February 15th 1990, and the act stated that these ministries shall hand over any documents they are in possession of to the Security Services Archive.

## CURRENT STATUS

Altogether, the Security Services Archive took over 18,028.54 running meters of archive materials,<sup>28</sup> including 201,934 so-called micro-proposals from the intelligence (1th Administration), 141,275 micro-proposals from the Main Counterintelligence Directorate (2nd Administration), 94,503 micro-proposals from the Main Military Counterintelligence Directorate (3rd Administration), from the Military Intelligence and hundreds of other microfilms.<sup>29</sup> During the period from February 2008 until December 2012, the Institute for the Study of Totalitarian Regimes, in cooperation with the Security Services Archive, managed to digitalize almost 150,000 inventory units equalling 28,414,834 files (pages), of mostly operational files from the intelligence and counterintelligence.<sup>30</sup>

Almost nineteen years following the fall of the communist totalitarian regime, the Security Services Archive took over the responsibility for declassifying and publishing documents as well as archive materials related to the security services, according to the act on making publicly accessible files resulting from the activities of the former State Security Police and according to the Act on Archiving and Document Service.

Declassifying these archive materials and documents is further on being governed especially by Act No. 499/2004 Sb. on Archiving and Document Services and on the Amendment of some Acts; and to a lesser extent by Act No. 140/1996 Sb. on making publicly accessible files resulting from the activities of the former State Security Police, as amended; and by Act No. 181/2007 Sb. on the Institute for the Study of Totalitarian Regimes and on the Security Services Archive and on the Amendment of some Acts. The act thus broadened the liberal approach according to the Act on Archiving encompassing also documents of other security services, for example, it also refers to the Police, Border Patrol, Military Counterintelligence, General Staff of the Czechoslovak People's Army Intelligence Directorate, Protection of the Interior at the Corrections Corps etc.

Thus, almost any researcher may apply for access to any material stored in the archives – irrespective of whether he stands in any relation to the person, about whom he asks to receive materials. Furthermore, he may get digital copies, scans, or ask for photocopies or digital forms to be provided to him at his own expense. This scope and access is the most liberal one among all the post-communist countries.

Furthermore, this body provides for the access to this subject and offers the necessary aid and information for state authorities that are part of the security management, or this body helps in investigations led according to the Classified Information Act (National Security Authority), it helps the Intelligence Service of the Czech Republic to fulfil their tasks and the prosecution authorities for the purposes of criminal proceedings.

As far as this act is concerned, the intelligence services didn't delimit merely those documents and archive materials which further on contained classified information if they indispensably needed them in order to fulfil their tasks. They were (are) to hand them over to the Security Services Archive "*immediately after the classification level is abolished*".

## LESSONS LEARNT AND RECOMMENDATIONS

It is necessary to prevent the archive materials and documents compromising the political and security functionaries of the totalitarian power being physically destroyed when the power is handed over and when the transformation period starts.

The archives of the authorities of power within the totalitarian (authoritarian) regime, especially the agency-related operational

27 For comparison, see Schovánek, "Zpřístupňování svazků Státní bezpečnosti", 87.

28 Ladislav Bukovsky, "Archiv bezpečnostních složek – základní informace", in *Sborník Archivu bezpečnostních složek*, 2008, (6), 17.

29 *Ústav pro studium totalitních režimů & Archiv bezpečnostních složek*. Praha: ÚSTR, 2009, 38.

30 Rafał Leśkiewicz, Pavel Žáček, eds., *Handbook of the European Network of Official Authorities in Charge of the Secret Police Files*. Prague: ÚSTR, IPN, 2013, 141–145.

fonds of the secret police need to be handed over by the Ministry of the Interior or the intelligence services into the hands of a newly established archive which is independent of the national security bodies. It is furthermore necessary to declassify this specific agenda, and to make it accessible to the people for the purpose of re-forging the totalitarian past, and simultaneously making

it accessible to the researchers due to the need of a specialized historical reappraisal.

It is further on necessary to make use of the archive materials in carrying out checks in order to comply with the rehabilitation acts, in order to investigate the previous regime's crimes and in order to reveal to the public how this regime made use of its power.

## SOURCES USED AND FURTHER READING

- Act No. 140/1996 Sb., on making publicly accessible files resulting from the activities of the former State Security Police  
Act No. 107/2002 Sb., amending the Act No. 140/1996 Sb., on the access to records created by the activity of the State security, and on some other acts
- Benda, Patrik, ed., *Přehled svazků a spisů vnitřního zpravodajství centrály Státní bezpečnosti v roce 1989*, Praha: ÚDVZK, 2003
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# LUSTRATION

PAVEL ŽÁČEK

## INTRODUCTION

Lustration, originally an internal technical term of the Czechoslovak secret police, has gradually become a socio-political umbrella term including legislation and power procedures of the new democratic power, with the aim of breaking down the system of the totalitarian nomenclature. It was not a revolutionary revenge of political prisoners, but a legal instrument protecting the high representatives of the state and its institutions against the representatives and officers of ideological and repressive organisations of the communist regime.

## HISTORICAL BACKGROUND

The leaders of the Communist Party of Czechoslovakia ensured keeping the totalitarian power and control over the individual state bodies and political and social institutions during their rule mainly via the system of cadre nomenclature used by the relevant party body to approve staffing of the key functions at all levels (federal, national, regional, district, sub-district).<sup>1</sup> From the beginning of the Velvet Revolution in Czechoslovakia, i.e. from 17 November 1989, the key problem of the opposition was how to achieve the departure of representatives of the communist regime – or persons approved by the communist regime – from important political, state and later even economic positions. It was only later that preventing persons oriented on the support of the totalitarian regime from returning to high state and social functions became the main requirement – directly related with the question of national security.

At first, the student movement required only “*an immediate punishment (...) of all persons responsible (...) for initiating the Prague massacre...*”<sup>2</sup> After its creation, the Civic Forum declared a request demanding the resignation of all members of the Central Committee of the Communist Party directly linked with the preparation of the occupation by the Warsaw Pact armies in August 1968, furthermore responsible for “*devastating all parts of the social life for many years.*” Besides the members of the highest political leadership, the Federal Minister of the Interior, Lieutenant General František Kincl, was also required to step down from his function, as he was responsible for *all the interventions* of the communist police in the last months of the regime.<sup>3</sup> The democratic initiative extended the requirements of the opposition to “*a quick resignation of the Czechoslovak government...*”<sup>4</sup> Ten days after the beginning of the revolution, the Civic Forum formulated a requirement to dissolve the People’s Militias, the armed unit of the Communist Party.<sup>5</sup>

In the first eight days of December 1989 and on the order of the Federal Ministry of the Interior, the State Security (StB, the communist secret police) destroyed tens of thousands of operative files on the surveillance of both Czechoslovak citizens and foreigners.<sup>6</sup> Meanwhile, the Civic Forum together with the Public Against Violence movement declared that “*the nomenclature has to be abolished at all levels and in all departments.*”<sup>7</sup> At the same

time, both opposition movements published a request that the two highest heads of the General Prosecutor’s Office must be removed from their office.<sup>8</sup> In mid-December, the opposition leader Václav Havel declared: “*However, it is true that the totalitarian system was shielding itself by the Communist Party, and therefore, all the Communists bear a higher responsibility for the decadent situation our country is now in.*”<sup>9</sup>

On 22 December 1989, the Coordination Centre of the Civic Forum suggested to the government to immediately stop the activities of the secret police and dissolve the units of the State Security oriented “*on the surveillance of activities of citizens and civic activities.*” Furthermore, it demanded the dissolution of the “special departments or units” creating networks of “*informers for citizens’ surveillance and reporting on their activities.*” Besides the staff changes in these units, the “*existing activities of each individual officer of the State security*” were to be examined. The communist secret police was designated as a harmful gangrene. “*Purification of our country from this gangrene is an extremely complex, but necessary step which must be carried out immediately.*”<sup>10</sup>

A few days later, the Coordination Centre of the Civic Forum changed its mind and decided not to carry out the immediate dissolution of the State Security under the existing circumstances. *All its dangerous sectors* were to stop their activities; the analysis was to be carried out in order to evaluate the state of the security apparatus on the basis of which a “*new state security and defence system*” would be created.<sup>11</sup>

After staff changes in the Federal Ministry of the Interior, the reorganisation and abolishment of the State Security, the new counter-intelligence service – Office for the Protection of the Constitution and Democracy – started the reconstruction of agency networks, and, on the basis of requests made by individual constitutional officials, investigated the Register of the former State Security to find out who was a collaborator of the communist secret police (vetting). Consequently, on 22 March 1990, the Minister of the Interior Richard Sacher ordered the vetting of all deputies of the Federal Parliament, both Parliaments of the two republics and members of all the three governments.

1 Comparison Vladimíra Hradecká, František Koudelka, *Kádrová politika a nomenklatura 1969–1974*. Praha: ÚSD AV ČR, 1998; *Rudá nomenklatura*, Praha: Vydavatelství GMA 91, 1992.

2 Meaning the student demonstration on 17 November 1979, brutally suppressed by the communist security service. *Deset pražských dnů. 17.–27. listopad 1989. Dokumentace*. Praha: Academia, 1990, 31–32.

3 *Ibid.*, 47–48, 248, 326.

4 *Ibid.*, 90.

5 Jiří Suk, *Občanské fórum. Listopad–prosinec 1989*, Volume II – documents, Brno: Doplněk, 1998, 34.

6 Pavel Žáček, “‘Můžou přijít, jsme hotovi...’ Tzv. Lorencova ‘skartace’ z prosince 1989 v dokumentech”, in *Paměť národa*, 2007, (0), 28–41.

7 Suk, *Občanské fórum*, 48

8 *Ibid.*, 103.

9 *Ibid.*, 245.

10 *Ibid.*, 274–275.

11 *Ibid.*, 291.

## FORMS OF PROTECTION OF THE NEWLY ESTABLISHED CONSTITUTIONAL, POLITICAL AND ECONOMIC STRUCTURES

After an agreement with President Václav Havel, the Minister of the Interior issued an instruction by which he allegedly wanted to prevent the vetting of the President of the Republic, members of the federal and national governments, deputies of the federal and nations' Parliaments and leaders of the political parties, in order to "immediately ensure the stability of the political development." Consequently, he even stopped *all the lustration processes* and provision of archive documents.<sup>12</sup> However, such provisions of the Minister – particularly the lustration of Members of Parliament – provoked an extensive political crisis. The fight for the State Security archives and their content touched the highest political functions, including the President of the Republic.

On 8 May 1990, the president of the Security and Safety Committee of the Federal Parliament Ladislav Lis who criticised the insufficient changes in the Federal Ministry of the Interior, declared: "If we wish to remove the influence of the Communist Party on the activities of the Ministry of the Interior, we have to remove the apparatus that ensured its unlimited power. (...) The aim is to destroy the system of the State Security which proved to be the support of the totalitarianism of the Communist Party and to have fascist tendencies."<sup>13</sup>

Under the pressure of the situation, on 21 May 1990 the Czechoslovak government authorised the lustrations of candidates of individual political entities into Legislative Assemblies, provided, however, that they agreed with it and that the result would be handed over to the management of the party that asked for the vetting. Inconsistency and extra-judicial handling of the lustration data and sometimes of archive files of the State Security culminated shortly before the first free elections when the former cooperation of political parties or leaders of movements with the communist secret police was made public (Bartončík and Budaj affairs).<sup>14</sup>

## LEGAL REGULATION OF LUSTRATIONS

In fact, from November 1989 to September 1991, the post-communist political elite was addressing the issue of whether and how the new democratic constitutional establishment should protect itself from the residues of the communist totalitarian regime. Since the Communist Party of Czechoslovakia was not abolished at the turn of 1989/1990, all the attention focused on the Federal Ministry of the Interior and structures managed by it. At the same time, the form of the possible legislation and what it should stipulate was being discussed.

Due to many political affairs of the post-communist power linked with the purification of the central state bodies, political life and public administration, revealing the specific activities of the highest communist nomenclature, publicizing crimes and violations of human rights by its power pillars (particularly by the State Security), using mass agency and an intelligence network of the soviet type to control the state and society, in the period of 10 to 16 months after the Velvet Revolution to the conclusion that it was necessary to adopt the legal regulation to protect what was a very fragile democratic constitutional arrangement regime at that time.

After a huge public discussion and on the basis of the findings of the parliamentary investigation commission of the Federal Assembly of the Czech and Slovak Federative Republic (ČSFR) to clarify the events of 17 November 1989, the federal and national parliaments adopted what we called "lustration acts" in order to legally change the existing high representatives of the state apparatus who were persons compromised by their service and cooperation with the communist totalitarian power between 1948–1989 and to settle the conditions of staffing certain functions.<sup>15</sup>

On 4 October 1991, the Federal Parliament finally adopted the Act No. 451/1991 Sb., *on determining some further prerequisites for certain positions in state bodies and organizations of the Czech and Slovak Federative Republic, the Czech Republic and the Slovak Republic*, relating to certain positions staffed by election, designation or appointment in the bodies of the state administration, in the army,<sup>16</sup> in the information services, the police force, the Office of the President, Office of the Parliament, Government Office, Office of the Constitutional and Supreme Court, in the Presidium of the Academy of Sciences, in national radio and television, press agencies, and heads of organisations and chief executives in state enterprises and state organisations, joint stock companies where the state is the majority shareholder, foreign trade corporations, state railways, state funds, state monetary institutions and in the state bank. In universities, the act applied to positions of elected academic officials.

Similarly, the act also determined some further prerequisites for the positions of a judge, lay judge, prosecutor, prosecution investigator, notary public, state arbiter and for persons serving as trainee judges, trainee prosecutors, trainee notaries public and arbitration trainees. It also determined the conditions of reliability to allow the operation of some licensed businesses (sec. 1).

A prerequisite for the positions mentioned above was that during the period from 25/2/1948 to 17/11/1989, the citizen was not a member or an officer of the Communist Party or government nomenclature, in the hierarchical order specifically of:

- a/ the Central Committee of the Communist Party of Czechoslovakia or the Central Committee of the Communist Party of Slovakia, the Bureau for the Management of Party Work in the Czech Lands (Committee for the Management of Party Work in the Czech Lands), a Secretary of a body of the Communist Party of Czechoslovakia or the Communist Party of Slovakia from the level of a District Committee or an equivalent committee upwards, a member of the presidium of these committees, except for those holding these posts only in the period from 1/ 1/ 1968 to 1/ 5/ 1969 (i.e. during the Prague Spring and after),
- b/ the National Front Action Committee after 25/ 2/ 1948, vetting commissions after 25/2/1948 or vetting and normalization commissions after 21/ 8/ 1968,
- c/ the People's Militias,

12 Pavel Žáček, "Sachergate": první lustrační aféra. Nesnáze postkomunistické elity (nejen) se svazky Státní bezpečnosti", in *Paměť a dějiny*, 2007, (1), 63–64.

13 Ibid., 76–77.

14 Lubomír Kopeček, *Éra nevinnosti. Česká politika 1989–1997*, Brno: Barister & Principal, 2011, 55–57.

15 Comparison Ibid., p. 114–121.

16 In the Czechoslovak Army and in the department of the Federal Ministry of Defence, the act applied to positions with the highest achievable ranks of Colonel and General and the positions of military attachés (sec. 1 (2)).

- d/ the system of structures from the level of a District Committee to the Central Committee of the Communist Party of Czechoslovakia (or Communist Party of Slovakia) in a department in charge of the political running of the National Security Corps,
- e/ a student at Felix Edmundovic Dzerzinsky University of the Council of Ministers of the USSR for officers of the State Security Service, the University of the Ministry of the Interior of the USSR for officers of the Public Security Service, the Political College of the Ministry of the Interior of the USSR, or a postgraduate or a participant in courses lasting longer than 3 months at these schools.
- f/ an officer of the State Security Service,
- g/ registered in the State Security Service's files as a resident, agent, lent apartment holder, conspiracy apartment holder, informer or ideological collaborator of the State Security Service.<sup>17</sup>

At first, the Minister of Defence could have pardoned the membership of the State Security, if an application of the prerequisite "*disrupted an important security interest of the state*" and at the same time, "*objective of this Act was not endangered*" (sec. 2). The facts referred to in relevant sections of the act were proved by a certificate issued by the Ministry of the Interior or by an affidavit. (sec. 4)

In justified cases, the Minister of the Interior and the directors of the intelligence service and the chief of the police force could have pardoned the prerequisite to function, "*if its application disrupted an important security interest of the state*" and at the same time "*the objective of this Act was not endangered*" (sec. 3).

Before their election, designation or appointment to positions the prerequisites of which are determined in this act, the citizens submitted the certificate issued by the Ministry of the Interior and an affidavit (sec. 5).

If the citizen failed to satisfy the prerequisites for the position, his or her employment was to be terminated by a notice of dismissal served by the organization concerned within 15 days of the date when the organization learnt this fact, unless the citizen had been assigned to another position. The same procedure applied, "*if the citizen has refused to make an affidavit [...] or if the affidavit is not truthful*" (sec. 14). If a prosecutor or prosecution investigator fails to satisfy the prerequisites for his or her position, this fact was a reason for terminating the employment of the citizen (sec. 15). The competent body could even file a motion to remove the judge or lay judge from his or her position (sec. 16). Within two months of the delivery of the finding, the citizen could ask the competent regional court to review its content, as well as the invalidity of the termination of the employment (sec. 18)

The act stipulated that the publishers of press periodicals and licensed operators of radio and television broadcasting, news agencies and audio-visual programmes "*may for themselves or for their employee who is involved in forming the content production of the above media, upon his or her previous written consent,*" apply to the Federal Ministry of the Interior for issuing a certificate. Similarly, the presidents or equivalent representatives of political parties, political movements and associations "*may for themselves or for a member of the management of their political party, political movement or association, upon his or her previous written consent,*" apply for issuing a certificate or for issuing a finding (sec. 21). One of the last sections of the act forbid publishing any facts contained in the certificate or finding, or publishing the certificate or finding itself, as well as publishing

any of the documents supporting the issuance "*without previous consent from the citizen*" (sec. 19).

The time factor is a logical limitation of the effect of the act: the provisions shall not apply to citizens of the Czech Republic born after 1 December 1971, i.e. they apply only to citizens who are over 18 years of age on 1 December 1989 (sec. 20).

The Act No. 451/1991 Sb. became effective on the date of promulgation and it should become ineffective in 5 years, i.e. on 31 December 1996. In 1992, both parliamentary chambers of the republics adopted "small lustration laws" (No. 279/1992 Sb.) relating to officers of the Police of the republic and officers of the Penitentiary Service of the republic, that determine very similar prerequisites for officers of both security services on the same principle.<sup>18</sup>

To implement the lustration laws, the Ministry of the Interior carried out investigations in its archive (former Central Operative Register of the State Security, today's Security Service Archive), to confirm or exclude that the vetted person was a member or officer of the State Security or a secret associate of the State Security between 1948–1989. Data proved by the affidavit may be verified partly in the Security Service Archive (political bodies of the security service, students of security training in the Soviet Union), or in the National Archive (officers of the communist nomenclature in the former cadre registers of the Communist Party of Czechoslovakia) or in state regional archives (action committees, screening commissions).

## CONSTITUTIONAL REVIEW

On 26 November 1992, the Federal Constitutional Court issued its decision in which it concluded its finding that "*it is not only a right, but an obligation of a democratic state to promote and protect the principles*" which it was based on, and therefore, it cannot remain inactive "*in a situation when leading positions at all levels of the state administration, economic management, etc., are staffed according to totalitarian system criteria that are nowadays unacceptable*" (nomenclature system). At the same time, the Court was supposed to seek to abolish the former unjustified preference of one group of privileged citizens based exclusively on the principle of a membership of the totalitarian political party over the rest of the other citizens for which the obviously unlawful preference undoubtedly represented oppression and discrimination.

The Constitutional Court ruled that in state and public bodies as well as in places of work linked with the security of the state democratic societies, it requires complying with certain state-citizen prerequisites characterised as "*loyalty with democratic principles which the state is based on.*" In comparison with the situation under the totalitarian regime when all leadership positions were staffed at all levels not only in contradiction with democratic principles and international standards but also in contradiction with the national law itself, the large lustration law covered only a very limited circle of workers, exclusively in power, administrative and economic apparatus, or in licensed

17 Pavel Žáček, "Lustrační zákon po dvaceti letech", in *Paměť a dějiny*, 2011, (4), 127.

18 Pavel Žáček: *Lustrační zákony v České republice. Aplikace zákonů č. 451/1991 Sb. a č. 279/1992 Sb.* See <http://www.ustrcr.cz/data/pdf/konference/20let-pote/twenty-years-after-zacek.pdf>

businesses, which could be a source of certain risks as far as the protection of a democratic system and its principles, state security or protection of state secrets are concerned, or it covered positions enabling their holders to openly or secretly influence the development of society and the desirable execution of functions of individual bodies or organisations.

In contrast with the totalitarian system which was based on an immediate objective and had never been bound by legal principles, let alone by constitutional ones, the democratic state is built on completely different values and criteria. Therefore, we cannot understand the large lustration law as *“a revenge on individual persons or groups of persons or as discrimination against persons who, contrary to generally recognized principles, violated the fundamental human rights and freedoms, either on their own or in cooperation with the repressive bodies or through them.”*

The Constitutional Court emphasised that *“each state, the more so a state that was forced to put up with fundamental rights and freedoms violations by the totalitarian power for more than forty years, has a right to establish a democratic system and to apply such legal provisions to avert the risk of subversion or a possible relapse of the totalitarian system, or at least to reduce them.”*

The Constitutional Court was persuaded that because of these reasons, among others, it was not possible to deny the state stipulating in its national law the conditions or prerequisites for the execution of management or other positions with decisive power, taking into account the criteria of its own security and citizens' security and ensuring its future democratic development.

After the fall of the communist regime, the state which was being built upon the rule of law based on the value discontinuity with the totalitarian regime naturally could not be rooted in a different system of values, not even in a situation where the formal normative continuity of the legal order allowed for it. *“In fact, respecting the continuity with the old-value system would not be a guarantee of legal certainty, but on the contrary, it would question the new values, endanger the legal certainty in society and shatter the citizens' trust in the credibility of the democratic system.”*

The Constitutional Court ruled that the determination of some further prerequisites for certain positions in state bodies stipulated in the large lustration law is essentially an admissible act, both on the basis of the constitutional standards and in compliance with international legal obligations. As a justification, the court referred to similar provisions adopted by other post-totalitarian European states that understood these *“as a legitimate tool, the purpose of which is not to endanger the democratic character of the constitutional establishment and the system of values of the constitutional state built upon the rule of law, or the fundamental rights and freedoms of the citizens, but their protection and reinforcement.”*

The Constitutional Court also looked at the argument of the possible retroactivity of the lustration law, and concluded that retroactivity had not been applied at all. The law did not declare the occupation of certain positions in the past as illegal or legally punishable facts or even points of facts of criminal offences and it did not link any legal consequence to it.

Similarly, it rejected the objection that it was a general punishment according to formal affiliation to certain categories, especially in cases that, in compliance with the politics of the totalitarian regime, it acted in line with the power apparatus and its repressive forces.

However, the Constitutional Court based its decision on the time limitation of the law *“to quite a short period in which it envisages the completion of the democratic process”* (by 31/12/ 1996).<sup>19</sup> Yet, Czech legislators concluded that this period of *“completion of the democratic process”* is too short and they extended the effect and force of the law indefinitely. With regard to the active role of the anti-system Communist Party of Bohemia and Moravia in the Czech political system, its stuffing policy and relativisation of totalitarian mechanisms and crimes of the Communist regime before November 1989, the lustration law continues to fulfil its important role.

## LESSONS LEARNT

Lustration laws in the Czech (Slovak) conditions became a constitutionally compliant solution for the system to overcome the consequences of the nomenclature apparatus, an essential solution to the discontinuity of staffing in the state governance positions, to the protection of high representatives in public administration and partly also in the economic or financial sphere, to the prevention of many affairs that occurred in other post-communist countries (Poland, Hungary, Slovakia), the determination of conditions to occupy certain positions and an important support for the continuous creation of the rule of law.<sup>20</sup>

The preventive nature of the law consists in the fact that an essential part of the categories (nomenclature of the Communist Party of Czechoslovakia, membership in People's Militias, etc.) is verified exclusively by an affidavit. This is proved by the number of applications handled since 1991: out of the total number of applications 473,284 applications, pursuant to Act No. 451/1991 Sb., only 10,255 were positive ones, and pursuant to Act No. 279/1992 Sb., only 476 out of 24,619 applications were positive ones.<sup>21</sup>

One of the imperfections of this legislation is the fact that it does not apply to all of the power supports of the communist totalitarian regime, for example it leaves out the Military Counter-Intelligence members of the Czechoslovak People's Army, officers of the Border Guard or Intelligence Administration of the General Staff of the Czechoslovak People's Army. Similarly, it does not differentiate between the officers of the Public Security, ideologically transformed police departments some of which exceeded the acceptable level of collaboration while serving the totalitarian regime.<sup>22</sup>

A fundamental change was brought about by the adoption of the Act No. 250/2014 Sb., on Amending Acts related to the adoption of the Act on State service on 1 January 2015: the act stipulated that the *“large lustration law”* does not apply to government Ministers and Minister Deputies. This political decision, enforced in addition because of one specific politician – the leader of

19 Comparison with the decision of the Constitutional Court of the Czechoslovak Federal Republic (full court) from 26/ 11/ 1992, file No. Pl. ÚS 1/92, in <http://www.abscr.cz/data/pdf/normy/nalez-us-pl-1-1992.pdf>

20 Pavel Žáček, *Memory of Nations in Democratic Transition. The Czech Experience*, Praha: CEVRO-LKA, 2015, 25.

21 Comparison <http://www.mvcr.cz/clanek/lustrace-29644.aspx?q=Y2hudW09MTM%3d>; Roman David, *Lustration and Transitional Justice. Personnel Systems in the Czech Republic, Hungary, and Poland*, Philadelphia: University of Pennsylvania Press, 2011, 76.

22 Compare Pavel Žáček, *Boje o minulost. Deset let vyrovnávání se s komunistickou minulostí – pokus o předběžnou bilanci*, Brno: Barrister & Principal, 2000, 53–54.

a political movement – totally disrupted the existing requirements for the highest civil servants to have a clean record.

## RECOMMENDATIONS

The Czechoslovak (Czech) experience confirms that the most convenient procedure of protecting a society (state) in transformation is to remove the information systems – as well as the file agenda linked to them – of the former secret police out of the competences of the power apparatus.

On the basis of a political consensus, expressed by the adoption of the law, it is necessary to create an independent institution managing the original data of the secret police. Then, on

the basis of their analysis, it is possible to assess the way of using them for vetting, or rather for the purification of the public administration. The status of classification of operational documents that are not absolutely necessary for the further activities of the new security apparatus and intelligence services will be gradually removed.

With regard to the legitimate interests of the public, very eager to uncover the classified practices of the totalitarian regime, it is appropriate to combine the non-public system of lustrations with opening the archives and making them accessible.

Moreover, the Czech and Slovak experience confirms that the 5-year period of validity of lustration laws is too short to ensure that people compromised by their participation in the totalitarian regime do not return back to their offices.

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# INVESTIGATION AND PROSECUTION OF THE CRIMES OF THE REGIME

PAVEL ŽÁČEK

Just like any other totalitarian regime, the Communist regime in Czechoslovakia upheld its own existence via a power and ideology apparatus, through applying instruments of mass repression as well as terror and by inherently suppressing human rights and freedoms of the opponents of the regime.<sup>1</sup> The Communist authorities and national bodies governed by the communists committed hundreds of thousands of crimes from the time when they came to power on February 25th 1948, but until the fall of the Communist regime, it was impossible to reveal, investigate and punish these crimes.

During the 1948–1989 period, there were at least 257,864 people given unconditional sentences in Czechoslovakia as part of the so-called class-struggle.<sup>2</sup> Around 250 men (and one woman) were executed based on the political processes.<sup>3</sup> The Communist border guards killed at least 280 people on the borders to Austria, the Federal Republic of Germany, or even on the border to the German Democratic Republic, 143 of these people were shot and 95 were killed by the electric fence.<sup>4</sup>

From 1948 until 1953, about 22,000–23,000 people were sent to forced labor camps, the Czechoslovak gulags without any court ruling.<sup>5</sup> During the 1950–1954 period, the Communist regime assigned approximately 60,000 people to the special military labor units, the so-called technical support battalions (*Pomocné Technické Prapory*, hence the abbreviation *PTP*) and to the later *technical battalions* (*Technické Prapory*, hence the abbreviation *TP*), 22,000 of which were demonstrably assigned to these units due to political reasons (the so-called classification “E”).<sup>6</sup>

The political bodies within the Communist Party of Czechoslovakia, the People’s Militia, the national administration and self-administration bodies, especially the security services (State Security, Public Security), the Czechoslovak People’s Army, the Border Guard and the Guard of the Interior, the prosecution offices, state and people’s courts, national committees etc. participated in different forms of repression. With very few and rare exceptions, the Communist regime protected these bodies and didn’t allow for them to be prosecuted, frequently not even in cases when their members or employees broke valid legal standards.

## LEGAL CONDITIONS OF INVESTIGATION OF POLITICALLY MOTIVATED CRIMES

It was already during the “Velvet Revolution” at the end of 1989 that the investigation authorities were overloaded with applications demanding the politically motivated crimes committed during the 1948–1989 period by the communist nomenclatura, the repressive forces and other state bodies to be investigated. In this way, the citizens tried to pave the way for justice, yet according to valid legislation, their only recourse were the hitherto existing institutions: the General or Military Prosecution office, investigation units within the National Security Corps, various

inspection bodies that in turn were more or less occupied by communist structures supporters. The disappointment caused by these police bodies, or rather by the justice not working and also by the fact that the judicial system was occupied by Communist Party members too, frustrated people and made them mistrust the post-totalitarian system. There was an objective factor complicating the investigation which consisted of the long period throughout which the totalitarian regime prevailed and frequently, a significant stretch of time had elapsed since the crimes had been committed, the perpetrators and victims were very old (and had sometimes even died), written evidence was systematically being destroyed. Furthermore, part of the society was unwilling to help as it had wanted the criminal system to remain operational.

On November 13th 1991, the Act No. 480/1991 on the Era of non-Freedom was adopted by the Federal Assembly as a sign of political compromise declaring: “*Between 1948 and 1989, the Communist regime breached human rights and even its own laws.*” This act stated simultaneously that the legal acts adopted during this era may only be annulled by special acts.

It was as late as on July 9th 1993 that people managed to put through the Act No. 198/1993 Sb. on Illegality of the Communist Regime and on Resistance to it. This was an expression that people knew it was necessary to reappraise the Communist regime. The Czech Parliament representatives said that the Communist Party of Czechoslovakia, its management and members are responsible for the type of government in our country in the 1948–1989 period, “*which especially refers to the organized destruction of traditional European civilization values, to the wittingly committed breaches of human rights and freedoms, to the moral and economic decay accompanied by judicial crimes and terror against people who have another opinion – all of this having been done by replacing a functional market economy by a centrally organized one, by destroying traditional approaches towards property rights, by misuse of education, science and*

1 Michal Reiman: *O komunistickém totalitarismu a o tom, co s ním souvisí*, Praha: Nakladatelství Karolinum, Praha, 2000, 62.

2 This refers to the number of convicted people who were rehabilitated later on according to Act No. 119/1990 Sb., but excluding the people convicted by military courts. František Gebauer, Karel Kaplan, František Koudelka, Rudolf Vyhnanek, eds., *Soudní perzekuce politické povahy v Československu 1948–1989. Statistický přehled*, Praha: ÚSD AV ČR, 1993, 64.

3 Otakar Liška a kol., eds., *Tresty smrti vykonané v Československu v letech 1918–1989*, Sešity No. 2, Praha: ÚDV, 2006; Ivo Pejčoch, *Vojáci na popravišti*, Cheb: Svět křidel, 2011. There is a specific category of several thousands of people killed or tortured to death in custody, prisons, penitentiaries or forced labor camps.

4 Martin Pulec: *Organizace a činnost ozbrojených pohraničních složek. Seznamy osob usmrčených na státních hranicích 1945–1989*. Sešity 13, Praha: ÚDV, 2006, 173.

5 Karel Kaplan: *Tábory nucené práce v Československu v letech 1948–1954*, Praha: Nakladatelství R, 1992, 136.

6 Jiří Bílek: *Pomocné technické prapory 1950–1954*, Praha: Nakladatelství R, 1992, 53.

*culture for political and ideological reasons and by recklessly destroying nature.”*

The Parliament stated that the Communist regime including those who had been supporting it, had committed the following:

- a/ deprived its citizens of any opportunity to freely express their political will, forced them to hide their opinion about the situation within the country and made them say they agreed even with things they actually regarded as a lie or a crime – all this being done under the threat of persecution of the people, their families or friends,*
- b/ abused human rights systematically and consistently, suppressing certain political, social or religious groups of people,*
- c/ breached the fundamental principles of a democratic constitutional state, international contracts and even its own laws, posing thus the Communist Party's and its representatives' will and interests above the level of law,*
- d/ ade use of any power instruments for the purposes of persecution, especially:*
  - *executed, murdered, incarcerated people in prisons and forced labor camps, making use of brutal methods including physical and psychological torture and exposure to inhuman ordeals during investigations and during incarcerations,*
  - *deprived people arbitrarily of property and breached their property rights,*
  - *hindered people from doing their employment, occupation or function and prevented them from achieving a university or vocational degree,*
  - *hindered them from travelling freely abroad or returning back freely,*
  - *drafted people for army service in the Technical Support Battalions or in the Technical Battalions for an indefinite period of time,*
- e/ the regime didn't hesitate to commit crimes in order to achieve its targets, enabling crimes to be committed with impunity and offering unjustified benefits to those participating in those crimes and persecutions,*
- f/ formed an alliance with a foreign power upholding the above-mentioned state of affairs with this power's occupation army from 1968 onwards.”*

The law stated that the functionaries, organizers and instigators within the communist regime and its political as well as ideological sphere are entirely co-responsible for the crimes that had been committed as well as for other issues.

The regime based upon Communist ideology which had absolute power from February 25th 1948 until November 17th 1989 in respect of governing the country and the Czechoslovak people's fate, was declared to be criminal, illegal and despicable especially due to the above-mentioned acts. Furthermore, the Communist Party was declared to be a criminal and despicable organization, like other organizations based upon its ideology, i.e. organizations that strived for the suppression of human rights and the democratic system.<sup>7</sup>

Again, the act declared support for anybody who had been unjustly affected or persecuted by the regime, but who had not been supporting this regime stating that such a person deserved some kind of participation and moral satisfaction. Additionally, the Czech government was empowered to make up for some injustices committed towards Communist regime opponents or towards people affected by this regime's persecutions – be it in the social, health or financial sphere. What followed during

the next decade of government was social support for former political prisoners, for people sent to military forced labor camps or to technical support battalions, or for people who were arrested or exmatriculated etc.

## **CRIMINAL PROSECUTION OF THE CRIMES OF THE PREVIOUS POWER**

This very important legal standard significantly influenced the subsequent criminal prosecution of Communist crimes. The period between February 25th 1948 and December 29th 1989 still didn't count as being part of the limitation period *“if a politically motivated final court conviction or acquittal had been proclaimed that would be incompatible with the fundamental principles of the constitutional order within a democratic state.”* This paragraph enabled the Office for the Documentation and the Investigation of the Crimes of Communism, the prosecuting offices and the courts to continue criminally prosecuting the Communist regime representatives.

Last but not least, this act significantly set the way towards establishing a legal standard regulating rebellion and resistance against the Communist regime which on the one hand provided for these movements to be put on the same level as resistance against the Nazi regime and furthermore led to these movements being acknowledged: *“The people's resistance against this regime which they expressed – be it individually or in a group – due to their politically, religiously or morally guided democratic conviction through rebelling against the regime or through another activity or which they expressed wittingly and in public, on national territory or abroad, even in an alliance with a foreign democratic power, was a legitimate, justified act which deserves to be acknowledged.”*

The fact that the Communist Party has not been banned, the fight for its electorate, the significant polarization of legislative acts addressing significant problems with the totalitarian past, or rather with the necessary transformation of the legal system, public administration and the whole society during the transition from the totalitarian regime towards a democracy caused the process of putting through the legislative as well as factual means for at least a partial remedy to these problems to last until now – and this is definitely to be regarded as a negative aspect.

## **STATUS OF INVESTIGATING AUTHORITIES**

The first specialized institution to have been established was the **Department for Documentation and Investigation of State Security Activities under the Federal Ministry of the Interior** set up in the middle of September 1991, which was directly controlled by the minister who had the task of analyzing archive materials, dealing with proposals made by natural as well as legal persons in relation to the State Security, and who was to investigate crimes committed by members of the Communist secret police. Although the volume of staff under the guidance of Jiří Šetina didn't exceed twenty people, this department managed to process 56 proposals during 1991 and 245 in 1992.

<sup>7</sup> For comparison, see Pavel Žáček, *Boje o minulost. Deset let vyrovnávání se komunistickou minulostí*, Brno: Barrister & Principal, 2000, 67–68.

Shortly before Czechoslovakia broke up into the Czech Republic and Slovakia, to be more precise – in November 1992 – the department was transformed into a new Office for Documentation and Investigation of State Security Activities, under the Investigation Office for the Czech Republic. The management of the Office for Documentation and Investigation presided over by the political prisoner Lubomír Blažek preferred to gradually educate its own investigators and documentarians (experts). Logically, the demands on the respective police officers and civil employees were very high as far as suitable character requirements were concerned – no one compromised by a burdening relationship towards the pre-revolutionary power could become an employee of this office.<sup>8</sup>

The **Coordination Centre for the Documentation and Investigation of Violence against the Czech Nation from 8. 5. 1945 until 31. 12. 1989**, i.e. an office that was part of the General Prosecuting Office of the Czech Republic and managed directly by the General Prosecutor, was founded in March 1993. The coordination centre's main task was solving crimes against peace and humanity, or possibly further extraordinarily severe crimes committed in relation to citizens, and deducing the legal responsibility for the revealed illegal acts. Solving these crimes was to refer both to illegally acting people, as well as to leading functionaries who had caused or ordered such an activity. Apart from solving, documenting and investigating, the coordination centre was to carry out an analysis and publish the specific results of its activities.

Yet the investigation files from the former Investigation Directorate at the State Security became the main information sources. The coordination centre employees tried to secure further information and evidence via questionnaires that were to serve for recording cases of persecution and to note down specific testimonies.

From May until November 1993, the coordination centre received 538 applications, solving 214 of these cases: 7 were passed on for criminal prosecution, 10 were postponed, 7 were referred to the Office for Documentation and the Investigation, 19 to another department within the General Prosecuting Office, 28 to the Regional Prosecuting Offices, 3 to the Central Military Prosecuting Office, 140 cases were terminated another way.

The transformation process from the prosecuting offices to the Prosecutor's Offices was accompanied by this office's new orientation and by the new title of the authority – **Centre for Documentation of the Unlawfulness of the Communist Regime of the Ministry of Justice of the Czech Republic**.<sup>9</sup>

It was as late as on the advent of the Act on the Illegality of the Communist regime and Resistance against it when it was stated that the period from February 25th 1948 until December 29th 1989 does not count as a limitation period *“if a politically motivated final court conviction or acquittal had been proclaimed that would be incompatible with the fundamental principles of the constitutional order within a democratic state.”* (§ 5). This paragraph de facto provided for the investigation and criminal prosecution of some of the most severe communist crimes.<sup>10</sup>

Until December 1993, the *Office* for documentation and investigation dealt with 1,135 suggestions directed at State security members concluding 616 cases. It mainly focused on files that had been handed over after the inspection of the Federal Ministry of the Interior had been abolished. Approximately 200 suggestions referred to people labelled as secret collaborators – agents

where the criminal prosecution of an unknown delinquent was demanded.<sup>11</sup>

In spite of this, it had been demonstrated by the years of 1993/1994 that the Office for the Investigation and Prosecution which was de facto the only state institution responsible for re-appraising the past, had been founded too late and vested with too little powers. It appeared on the stage at a time when the deceitful opinion among most of its partners – the administrators of the secret archive materials – prevailed that they had already completed the reappraisal process with the past.

In March 1994, an agreement was concluded between the office and the centre in order to prevent the duplicity of new applications. In August 1994, the office's management stated that it was focusing on 1,400 cases, estimating that it would be possible to start criminal prosecution in about less than one percent of the cases.

By the end of the limitation period for a public official's abuse of power (which is by December 29th 1994), the Office for Documentation and the Investigation of Crimes of the State Security concluded 1,055 applications; in 44 cases, the investigators filed charges against the respective people.<sup>12</sup>

In January 1995, the office and the centre were united and the **Office for the Documentation and Investigation of the Crimes of Communism** was founded, chaired by the dissident and politician Václav Benda. Defining the new office's competence, the Minister of the Interior made use of § 5 of the above-mentioned act that defined the limitation periods in the Communist era. Apart from checking notifications and applications as well as investigating crimes committed by Communist functionaries, organizers and supporters in the period from February 25th 1945 until December 29th 1989, the office was to focus on reports, suggestions, investigations of crimes and on detecting the perpetrators. Last but not least, it was to collect, evaluate and document facts and activities connected to the illegality of the Communist regime and the support against it.

In November 1995, V. Benda said in one of the interviews he gave about the Office for the Documentation and Investigation that this office represents *“a unique investigation authority of this kind within the whole post-communist block, vested with the full powers of a police force, yet being confined to the 1948–1989 era and to crimes that can be characterized as having been committed under political pressure. In contrast to usual investigation units and taking into consideration the above-mentioned restrictions we are also obliged to document crimes that cannot be prosecuted due to the perpetrators having died or due to insufficient evidence.”* He described the Czech Republic's approach in reappraising the totalitarian past as *“hesitant, but in a way purposeful”* because *“we intend to gradually reappraise the past.”*<sup>13</sup>

Carrying out its activities, the investigation department paid due respect to the Constitution of the Czech Republic and

8 Žáček, *Boje o minulost*, 59–60.

9 Ibid. 60–65.

10 The Act No. 198/1993 Sb., on the illegality of the Communist Regime and the Resistance against it, § 5. For comparison, see Jiří Kozák, *Právo na pomezí diktatury a demokracie. Právní vyrovnání s totalitní minulostí v České republice po roce 1989*, Praha: Auditorium, 2014, 87–88.

11 Pavel Žáček: Překonávání totalitní minulosti na český způsob, in Petr Fiala, František Mikš, eds., *Česká konzervativní a liberální politika. Sborník k desátému výročí založení revue Proglas*, Brno: CDK 2000, 393–394.

12 Žáček, *Boje o minulost*, 69–71.

13 Ibid. 80–81.

the Charter of Fundamental Rights and Freedoms following the Criminal Code, the Criminal Act, the Act on the Police of the Czech Republic and other legal rules and internal standards applicable to the police and the Ministry of the Interior. It started its investigations based upon suggestions and criminal information handed in by natural and legal persons, or upon its own initiative which was mostly based upon archive materials having been researched by the documentation sector with a specific suspicion that a crime had been committed or possibly, based upon information that resulted from already ongoing investigations.<sup>14</sup>

## IDENTIFICATION OF THE CRIMINALS OF THE TOTALITARIAN REGIME

The Office for the Documentation and Investigation focused on investigating more important cases related to high-ranking party and security nomenclature within the Communist Party of Czechoslovakia (high treason of 1968), or on cases related to medium- and higher-ranking security apparatus posts (e.g. the “Asanace” (*Sanitation*) campaign, i.e. the forced removal of unpleasant people to foreign countries), shooting on the border or the escapes from forced labor camps, or the torture methods applied by investigators during the fifties.<sup>15</sup>

At the end of 1996, the investigators pertaining to the Office for the Documentation and Investigation were in the process of criminally prosecuting 110 people. In 30 cases, the investigation was concluded and passed on to the prosecutor’s office with the proposal to file charges. In approximately 8 cases, the action was brought before the court. The office was forced to stop several other criminal prosecutions or to postpone them – due to failure of evidence, the perpetrator having died or due to other reasons. At that time, director Benda declared: *“The harsh reality is that most of the crimes will remain unpunished. Let’s not deceive ourselves that we could punish all the evil that has been committed during the 42 years of the Communist regime. Our work mainly serves the future, creating a constitutional state. We do want to reestablish the knowledge that any crime, be it a crime committed with the utmost support from above, can be punished once. We do want that anybody who committed such crimes lives in fear until the end of his days that he may have to reap the consequences of his behavior.”*

In April 1997, the overall number of accused people decreased to 100, yet altogether, 13 people were charged, and 4 people faced trials. One month later, V. Benda mentioned: *“Currently, more than 100 people are being prosecuted and we are counting with the option of prosecuting several other hundreds, yet within two or three years, this number shall be reduced to about one tenth. It’s realistic to assume that a more complete documentation of the crimes of communism will consume another ten to fifteen years.”* He again stressed the international scope of the office’s activity: *“We are the only regular police authority of this type within the countries of the former Eastern Block. Not even the Gauck-Authority in Germany, which has three thousand five hundred employees, is an institution with this purpose. At first, our concept had been doubted by people from abroad, but the situation has radically changed. We are now being admired by the West and the East, people are trying to establish similar institutions.”*

During 1997, the Office for the Documentation and Investigation of the Crimes of Communism was also entrusted with some cases falling into the time period prior to February 1948. This

was one of the reasons why the Minister of the Interior broadened the power of this authority to crimes committed in the time from 1939 to 1945 *“on citizens of Roma origin in connection to the Protectorate authorities that founded and managed punitive detention camps”*.

By the end of 1997, the office had processed 39 proposals for indictment, the state prosecutors accused 25 people, yet hitherto, only one had been sentenced – the former State Security officer Jaroslav Daniel. At that time, director Benda complained about some judges’ “ideological” approach. *“I underline that this isn’t a universally present phenomenon but it’s the case of individual judges who are starting to interpret the cases in a purely ideological way. I would say that this is a large-scale offensive intended to stop the prosecution of communist crimes from the previous era...”*<sup>16</sup>

Following the elections of 1998 won by the Social Democratic Party which was the sole party to form the government, indifference about the office’s activity prevailed and changes in its management were carried out with bureaucratization and subsequent ineffectiveness prevailing and almost wiping out the investigation of crimes and the documentation of power support during the communist regime era. The office’s management basically switched to a rigid mode where quality was replaced by quantity. The fact that the leading functionaries from this office hardly appeared in the media and that the subordinates received hardly any support, furthermore meant that the office which had been initiating a qualified discourse in society and determining the topics of discussions turned into a toothless institution, some kind of alibi established by the state and the police for the political prisoners and for foreign countries.<sup>17</sup>

In spite of that, the Crime Act Amendment introduced by Act No. 327/1999 Sb. succeeded in prolonging the limitation period thanks to the provision of § 67 subs. 1 letter b) of the Crime Act from ten to twelve years stipulating at the same time the imprescriptibility of a limited scope of crimes (listed in § 67a letter d) of the Crime Act). The punishability of the crimes committed in the period from February 25th 1948 until December 29th 1989 didn’t end after the limitation period of these crimes ran out *“where the maximum period of imprisonment is at least ten years, if a politically motivated final court conviction or acquittal had been proclaimed that would be incompatible with the fundamental principles of the constitutional order within a democratic state, and if these crimes were either committed by public officials or in connection to prosecuting individuals or groups due to political, racial or religious reasons.”*<sup>18</sup>

In spite of the crisis, investigating Communist crimes didn’t stop. In 2005, the structure of the former Communist regime representatives criminally prosecuted by the Office for the Documentation and Investigation of the Crimes of Communism under the Criminal Police Administration was as follows: 114 National Security Corps members (there were 2 members of the Police with the other prosecuted people coming from the State Security – including chiefs of units within the political police), 30 border

14 Pavel Gregor, “Informace o činnosti odboru vyšetřování”, in *Securitas Imperii*, 2006, (14), 424.

15 For comparison, see Pavel Žáček, Proces demokratizace a vyrovnávání se s totalitou v oblasti práva, in *Auseinandersetzung mit der Totalitären Vergangenheit. Deutsche und Tschechische Wege nad 1989 – ein Vergleich*, Berlin: BWV, 2008, 185–186.

16 Žáček, *Boje o minulost*, 79–85.

17 Ibid, 95–107.

18 Gregor, “Informace o činnosti odboru vyšetřování”, 424.

guard members, 13 Communist Party nomenclatura cadre members (including people from the Federal and National Ministry of the Interior) seven judges, six prison guards, four prosecutors (one of them being an investigator), two military intelligence members, state administration functionaries and doctors, one General Staff of the Czechoslovak People's Army member and one intelligence member.<sup>19</sup>

By October 2006 the criminal prosecution of 188 people had started; and in 98 of these cases, the state prosecutor agreed with the investigation results, i.e. came to the conclusion that a crime had been committed and that it had been committed by the accused person. 29 people were finally convicted, 21 of these people received a suspended sentence with a probation period. Furthermore, the courts came to final conclusions in the cases of 48 people who were acquitted or where criminal prosecution was stopped due to amnesty, as a result of a limitation period having run out or due to death. As far as the other cases are concerned, no final decision was arrived at.

After the checking procedure, the investigation department decided to put aside 700 other cases and in 450 of these cases it came to the conclusion that it wasn't possible to prove that a crime had been committed (§ 159a subs. 1 Criminal Code); in 123 cases, the suspect had died or been granted amnesty which prevented the opening of criminal proceedings (§159a subs. 2 Criminal Code); and in 127 cases, the reason for putting the cases aside was that it wasn't possible to detect facts which would enable the opening of the respective person's criminal proceedings (§ 159a subs. 4 Criminal Code).<sup>20</sup>

At the end of 2006, the Ministry of the Interior management decided to transfer 22 workplaces from the documentation department, i.e. people who were in no way linked to the course of the investigation itself, to the Department of Security Services of the Ministry of the Interior (which was carried out on February 1st and on July 15th 2007) – this was part of the preparations for adopting the act on establishing the National Memory Institute (respectively Institute for the Study of Totalitarian Regimes and Security Services Archive). The Office for the Documentation and Investigation furthermore had 36 system-internal police staff and 2 civil employees.

According to statistics provided by the Office for the Documentation and Investigation of the Crimes of Communism, this office prosecuted 212 people in 114 criminal cases during the period ranging from 1995 until 2013. This institution's police officers filed 113 proposals for action at the respective prosecuting offices (36 of these were placed repeatedly) related to 136 accused people. The prosecutors subsequently accused 112 people in 84 (21× repeatedly) cases. Until now, the courts have come to a final decision related to 54 people. According to available information, the lowest sentence was a 1 year suspended sentence with a probation period of 18 months and the highest sentence 6 years of unconditional detention. This statistic does not include data on people criminally prosecuted or sentenced prior to the Office for the Documentation and Investigation's establishment.

Furthermore, during the same period, there were 41 actions initiated at the Supreme Prosecuting Office in Brno for

extraordinary remedies to achieve the respective courts' final decision (this referred to a total of 106 people). This number consisted of:

- 16 applications for complaints initiated due to a breach of law resulting in a disadvantage to the accused,
- 11 applications for reviews of an appeal, again resulting in a disadvantage to the accused people,
- 12 applications for complaints initiated due to a breach of law resulting in an advantage for the accused – referring to the period prior to 1989 (the so-called remaining penalty),
- 2 applications for revision.

Hitherto, the Supreme Court of the Czech Republic has given its approval in 25 cases, whereas in 15 cases, the application was rejected.

The Office for the Documentation and Investigation also handed over information regarding crimes of aliens from the former USSR, Bulgaria, Hungary, the former GDR and Poland through the channels of international judicial assistance.<sup>21</sup>

## LESSONS LEARNT AND RECOMMENDATIONS

Finally, it remains to be stated that also striving for the punishment of communist crimes was part of the transformation process – on the one hand, this was promoted as part of the process of introducing justice and on the other hand, it formed an indispensable condition for establishing a constitutional state. The process of criminal law reappraisal of the totalitarian past is to be commenced once the political conditions following the fall of the totalitarian regime enable this. If it is possible, a special police and judicial body shall be entrusted with investigating these specific crimes and this authority shall be composed of uncompromised people who are free of any connections to the former totalitarian regime (which also applies to judges who would lack any connections to the policy of the past). Above all, these investigation authorities' attention should be drawn to solving cases of murder, torture, politically motivated executions, judicial crimes and unclear deaths, manslaughter on the border and also corruption.

Punishing the most severe crimes committed by a totalitarian power is an important element of reestablishing the constitutional state and also represents an indispensable form of prevention against any other attempt which would lead to the usurpation of power. In this sense, it also needs to be stressed that restoring justice is a very difficult legal process where it's necessary to tackle retroactivity, presidential pardons etc., including a different approach towards the accused who are using all the conveniences available in a constitutional state to defend themselves. Prosecuting the judicial system's employees, especially the judges, remains another specific issue.

19 Pavel Žáček, "Úřad dokumentace a vyšetřování zločinů komunismu", in *Památ národa*, 2005, (2), 83.

20 Gregor, "Informace o činnosti odboru vyšetřování", 425.

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# REHABILITATION OF VICTIMS

MARKÉTA BÁRTOVÁ

## INTRODUCTION

When the Communists took over power in February 1948, a period of a mass persecution of real or potential opponents of the new regime began in Czechoslovakia. In investigations and the following trials, there were illegalities consisting in counterfeiting of the evidence, provocations, fabricated accusations of “crimes against the state”, falsifications of expert opinions and using bestial methods of violence and psychological terror towards the imprisoned. Due to such methods of the police and judicial bodies, tens of thousands of Czechoslovak citizens were condemned to many years of imprisonment or to life sentences, more than two hundred people were executed for political reasons.

Efforts to re-open some trials or to open new trials of some cases were made by the convicts themselves already in the early 1950s. This actually happened to a very limited extent and the trials started to reopen approximately in 1954. For the re-examination of some show trials, the state gradually established several investigation commissions that looked at these cases, however, basically all of the show trials concerned the former members of the Communist Party of Czechoslovakia – the victims of purges in the party. These commissions entered into history either under the name of the communist officer who was at its head, or of the place where it held its sessions. They are the Barák’s Commission (1955–1957), Kolder’s Commission (1962–1963) and Barnabite Commission (1963). The last commission called Piller’s Commission (1968–1971) also looked at other cases, not only at cases concerning the Communist Party.<sup>1</sup>

In general, the state tried to deal with the prisoners’ situation from the 1950s by declaring two extensive general pardons in 1960 and in 1962. However, these were not the general pardons of the President of the Republic in its proper sense as we know them from the period after the fall of communism in 1989. In fact, it was the leadership of the Communist Party of Czechoslovakia that decided authoritatively on their scope. By declaring these general pardons, the top apparatus of the Communist Party of Czechoslovakia intended to avoid revealing the truth about the course of the show trials from the beginning of its rule, to “come to terms” with its history, and, at the same time, if possible, to look like someone “who showed good will”. However, the objective to trigger positive reactions, if there were to be some, did not work. The former political prisoners released from prison both before and during these general pardons, did not feel that they got any moral or social satisfaction in this way. Moreover, even after their release from prison, the former prisoners had to face the consequences of their conviction, including permanent surveillance by the State Security or difficulties in getting a job, linked with the ban on re-entering their original profession. Persecution of the convicts’ families was not an exception either. Their children were not allowed to study at high schools or universities because of the “inconvenient cadre profile” of their parents, and if they exceptionally could, they were not allowed to freely choose the field of study they were interested in.

Complaints about illegal investigations and judgements were increased over the years and information about the course and the background of the show trials were brought to light. The public was more and more interested in these issues and the call for rectification of former crimes in the changing political climate became one of the key moments that contributed to the change in society and to the formation of opposition forces leading to the Prague Spring in 1968.<sup>2</sup> During this period, the reformist wing of the Communist Party of Czechoslovakia got more and more support, promoting “socialism with a human face”, i.e. political loosening in general and at least a partial democratisation of the situation in the state. At that time, the debate about the possibility of anchoring the judicial rehabilitation in a separate act was stirred. A supporter of this idea was also the group of the “reformed” Communists formed mainly by the recently rehabilitated Communist Party members who were condemned in the 1950s.<sup>3</sup> The rehabilitation of both communist and non-communist victims of past unlawfulness by means of a legal measure was included in the Action Programme of the Communist Party of Czechoslovakia<sup>4</sup> in April 1968, and soon after preparations of the act was launched on request of the Presidium of the Central Committee of the Communist Party of Czechoslovakia.

## K 231 – ASSOCIATION OF FORMER POLITICAL PRISONERS

In the relaxed social environment which even favoured various civic activities for a short period, the idea of creating an association of former political prisoners was revived. It was a very large group as, according to estimates of that time, the number of individuals condemned over the two decades, from 1948 to 1968, mainly on the basis of Act No. 50/1923 Sb., *on the Republic Protection*, and Act No. 231/1948 Sb., *on Protection of the Democratic People’s Republic*,<sup>5</sup> reached up to 128,000 people.<sup>6</sup> At the end of March 1968, the constituent meeting of the preparatory committee of Klub 231 (also referred to as “K 231 – Association of former political prisoners”

1 About these commissions: Josef Halla, Průběh a podmínky rehabilitací a odškodnění v českých zemích, in Hynek Fajmon, ed., *Sovětská okupace Československa a její oběti*, Brno: CDK, 2005, 85–97.

2 Karel Kaplan, Pavel Paleček, *Komunistický režim a politické procesy v Československu*, Brno: Barrister & Principal, 2001, 212.

3 Petr Blažek, “Akty revoluční spravedlnosti”. Limity pražského jara, soudní rehabilitace a bývalí političtí vězni, in Pavel Žáček a kol., *Vyjádření úcty a vděčnosti. 2. sborník o protikomunistickém odboji*, Praha: MO ČR – VHÚ, 2015, 241.

4 Jitka Vondrová, Jaromír Navrátil, Jan Moravec, *Komunistická strana Československa. Pokus o reformu (říjen 1967 – květen 1968)*. Brno: Doplněk, 1999, 332–333.

5 Full text of the act available on-line: [http://www.totalita.cz/txt/txt\\_zakon\\_1948-231.pdf](http://www.totalita.cz/txt/txt_zakon_1948-231.pdf) (cited on 28/4/2017).

6 Hana Fuková: *Rehabilitace politických vězňů v Československu. Zákony o soudní rehabilitaci z let 1968 a 1990*, Praha: Diploma thesis FSV UK, 2012, 12. Available on-line: <https://is.cuni.cz/webapps/zzp/detail/105840> (cited on 13/4/2017).

or simply “K 231”) was summoned in Prague<sup>7</sup> where several thousand people gathered. The name of the club symbolically referred to the number of the already mentioned Act No. 231/1948 Sb. During the following three months, the club established committees in all the regions and approximately 80,000 people were interested in membership.<sup>8</sup> The main topic of the discussions of the club members, which was one of the fundamental reasons why political prisoners organised themselves in this way, was the judicial rehabilitation. The rehabilitation would result in a restoration of their societal and social status and bring them moral satisfaction.

At first, the K 231 truly could contribute, together with various institutions, to the preparation of the rehabilitation act. The most important thing the club leadership emphasised was the blanket rehabilitation, that is that the majority of persons would be rehabilitated directly by law. Only in cases when a person was judged, besides being judged for political acts, for a delict of criminal nature (battery, rape, murder, etc.), individual investigation was to be carried out. In May 1968, the legal commission of the K 231 even drafted its own bill called act on general reconciliation that was submitted for further negotiations.<sup>9</sup> However, the individual assessment model for each demand was pushed through and the concepts of the association were not carried out. The main reason for the refusal of the proposal of general rehabilitation was that the rehabilitation would deny by law the Czechoslovak legislation itself and recognize it as being unlawful and that there would be a “risk” that even those who were “sentenced fairly” would be rehabilitated by court.<sup>10</sup> Moreover, under pressure from Moscow, the whole Presidium of the Central Committee of the Communist Party of Czechoslovakia opposed the official authorisation for the K 231 to be a legally operating organisation, including the Czechoslovak “pro-reform” Communists. A campaign was launched aimed at dishonouring the club and damaging its reputation in the public eye and making any kind of its operation impossible.<sup>11</sup>

On 25 June 1968, the National Assembly enacted Act No. 82/1968 Sb., *on Judicial Rehabilitation*.<sup>12</sup> Even though it was the first serious attempt to comprehensively rectify the persecutions from 1948 to the enactment of the cited act, its wording was disappointing for the former political prisoners.

## ACT NO. 82/1968 SB., ON JUDICIAL REHABILITATION

According to the legislative body, the act was supposed to ensure a quick and effective rectification of injustices caused in the previous period to citizens by the unlawful use of criminal repression. However, in the preamble of the act, it was clearly stated that rehabilitation regards only those convicts who became the “victims” of the investigation and judicial system of the past period: “... In the first place, it is necessary that citizens who were convicted and punished as saboteurs of socialism, although they did not violate the interests of the socialist society by committing any criminal activity, be urgently and fully rehabilitated.”<sup>13</sup> The explanatory memorandum of the act states that “deformations in the department of criminal justice affected many citizens. Judgements and heavy punishments especially because of crimes against the republic also concerned those citizens who were not enemies of the socialist establishment and did not develop any criminal activities against it: on the contrary, they were usually [...] active builders of socialism.”<sup>14</sup> So, the act applied to the above mentioned citizens; on the other hand, the citizens

who actively opposed the communist regime, and were therefore, according to the legislative body, judged “rightfully”, were excluded from the act. “However, it is not possible to remove acts of revolutionary legality, weaken or even deny the socialist legal order. The rehabilitation cannot apply to enemies of building socialism who violated the valid laws by their crimes against the republic [...] and were rightfully punished by these laws.”<sup>15</sup>

The review of cases started on 24 October 1948, i.e. the enactment day of Act No. 231/1948 Sb., *on the Protection of the Democratic People’s Republic*. Pursuant to the act, the review concerned convictions in criminal cases which were ruled in the original proceedings in the first instance by

a/ the Supreme Court

b/ the former State Court, established by Act No. 231/1948 Sb.,<sup>16</sup>

c/ the Regional Court or Higher Military Tribunal<sup>17</sup> from 1 January 1953 to 31 July 1965.

And it was in the trials before these institutions when the biggest violation of lawfulness occurred systematically from 1949 to 1956, and to a lesser extent, later in several waves until July 1965.<sup>18</sup>

7 About the topic in general, comparison Hana Grisová, *K 231. Sdružení bývalých politických vězňů. Příčiny jeho vzniku a zániku*, Olomouc: Diploma thesis FF UP, 2009. Available on-line: <http://theses.cz/id/ewfz13/72104-117133767.pdf> (cited on 13/4/2017). Filip Růžička, *Klub K 231 a jeho pobočky*. Diploma thesis, FF Univerzita Pardubice, Pardubice 2013. Available on-line: [http://dspace.upce.cz/bitstream/handle/10195/49470/RuzickaF\\_KlubK231\\_VV\\_2013.pdf?sequence=3&isAllowed=y](http://dspace.upce.cz/bitstream/handle/10195/49470/RuzickaF_KlubK231_VV_2013.pdf?sequence=3&isAllowed=y) (cited on 13/4/2017).

8 Hana Fuková, *Rehabilitace politických vězňů v Československu*, 13.

9 For the full text of the bill see Petr Blažek: “*Akty revoluční spravedlnosti*”, 253–255.

10 Hana Fuková, *Rehabilitace politických vězňů v Československu*, 15.

11 Petr Blažek, “*Akty revoluční spravedlnosti*”, 251. The same rejecting stand was taken by the Communist Party of Czechoslovakia leadership towards the Club of Committed Non-Party Members, uniting people interested in political engagement who did not want to be members of the Communist Party of Czechoslovakia. The Club of Committed Non-Party Members adhered to the ideals of freedom and democracy and it restored its activity after November 1989. Comparison of The Club of Committed Non-Party Members, available on-line: <http://www.kan.cz/home> (cited on 20/4/2017).

12 Full text of the act available on-line: <https://www.zakonyprolidi.cz/cs/1990-119> (cited on 20/4/2017).

13 Act No. 82/1968 Sb., *on Judicial Rehabilitation*, preamble.

14 Miloš Jestřáb, Vladimír Hladil, *Soudní rehabilitace. Komentář k zákonu č. 82/1968 Sb., o soudní rehabilitaci*. Praha 1969, 19.

15 Ibid.

16 The State Court, established by Act No. 232/1948 Sb., *on State Court*, was active from 24 October 1948 to 31 December 1952. It was mandatorily competent to rule on crimes, respectively after 1 August 1950 on criminal offences, for which a death sentence or imprisonment longer than 10 years were imposed by the act. According to the Act No. 231/1948 Sb., *on Protection of the Democratic People’s Republic*, these were mainly the following acts: high treason, spying, spying against an ally, sabotage, etc. The State Court also ruled on criminal offences committed by people subject to military jurisdiction, and used the military criminal law in such cases.

17 The Regional and Higher Military Tribunal ruled on criminal offences, if the Act No. 231/1948 Sb., *on Protection of the Democratic People’s Republic*, stipulated imprisonment of at least five years, and on criminal offences of terror, sabotage, subversion of the republic and damage to the states of the world socialist system.

18 On 31 July 1965, the amendment of the criminal code, Act No. 57/1965 Sb., entered into effect and it was seen as a certain turning point, as it extended the possibilities of the defence to intervene already in the pre-trial proceedings and to control the legal procedure executing the investigative actions. Thus, it was supposed that it ensured a crucial limitation of the possible lawless acts in investigations and the following trials. Miloš Jestřáb, Vladimír Hladil, *Soudní rehabilitace*, 30.

The review proceeding took place before special panels of the Regional and Higher Military Tribunals in the first instance, and in the second instance, i.e. after the appeal of the claimant against the judgement of the first instance, before the special panel of the Supreme Court. Such court panels, created especially for the needs of the Rehabilitation Act and formed by three professional judges for the first instance and by five professional judges in the second instance, were to ensure quick and correct court proceedings. The proceedings were initiated at the request of the convicts, and in the case of their death, of their relatives in the direct line (grandparents, parents, children, grand-children, great-grandchildren) or their siblings, adoptive parents, adoptees, spouses and partners. The proposal to initiate the review proceeding of a given case could have been submitted by the prosecutor himself, for example in the case that the formerly convicted person died and none of the entitled persons submitted a request for a review. Social organisations were denied the right to submit a proposal, on the grounds that “it could lead to reproaches and suspicions of using political influence and exerting a certain pressure.”<sup>19</sup>

It was possible to submit the proposal both in a written form and in the form of a testimony in the record at a competent court panel. At the same time, it was also possible to withdraw the proposal. After that, the court asked for all the necessary documents and the addressed national bodies concerned, as well as social and economic organisations, were obliged to provide all the documents regarding the case to the court, if they had them. Thus, they could not deny providing the documents due to the obligation of keeping state, service or economic secrets in the case of matters linked with the original criminal proceeding.

The act cancelled in a blanket manner only some less serious cases that were not originally created by a court decision. These were mainly decisions on placement into Forced Labour Camps which were made by a three-member commission subordinate to the competent Regional National Committees.<sup>20</sup> The act enumerated and stipulated the only reasons for which it was possible to cancel the original legally effective judgement of a conviction in the review procedure and to replace it with a new statement:

“If the panel rules that the reviewed decision is defective because:

- a/ it was made on the basis of wrong findings, especially that it was based on artificially falsified accusations, or fake or falsified evidence,
- b/ procedural rules were grossly violated, especially by enforcing a confession by violence or in other illegal ways,
- c/ the activity which the convicting decision was based on was provoked, organised or directed by security bodies,
- d/ the act was recognized as criminal in contradiction to the criminal law,
- e/ the act was qualified more strictly than it ensues from the act,
- f/ the type of penalty imposed was clearly in contradiction to its legal purpose, or the level of the penalty was in clear disproportion to the level of danger of the act to society, it will cancel the decision, either fully, or partially (the part which is defective), and it will decide on the case using its own judgement.”<sup>21</sup>

In the opposite case, the panel rejected the proposal by its ruling.

The act looked quite extensively at the material indemnity of the rehabilitated persons. The original estimates of expenses by the state amounted to approximately 2.5 billion Czechoslovak Crowns (Kčs).<sup>22</sup> The granted indemnity was supposed to cover the compensation of lost wages calculated according to average

earnings that the rehabilitated persons earned before they were imprisoned and to the time of their imprisonment. There was a limit in the provision of this compensation – the amount of the compensation could not exceed 20,000 Czechoslovak Crowns a year.<sup>23</sup> Moreover, the indemnity was reduced by finances that the former prisoners earned during their service of the term of imprisonment.

Furthermore, the rehabilitated persons were entitled to an indemnity for health damage that they sustained during their custody and imprisonment and its maximum amount was 40,000 Czechoslovak Crowns. The financial indemnity was awarded to the rehabilitated persons even in cases where they lost earnings due to their inability to work or to their lower ability to work caused by the imprisonment. However, the exact limit was set in this case as well – the indemnity together with the wage and pension was not allowed to exceed the amount of 1,600 Czechoslovak Crowns.

If the rehabilitated person made a claim for an indemnity of the paid costs of the criminal procedure, custody and service of the term of imprisonment, costs of defence or financial penalty, i.e. issues that were usually an integral part of the original punishment, these issues could be dealt with within the rehabilitation procedure and financially refunded by the state, too. The act included the possibility of returning the confiscated property or the forfeited thing to the rehabilitated person after the former judgement. The act preferred “natural restitution”, however, if this was not possible or effective, it provided for the possibility to have the “lost” property reimbursed by the state via the Ministry of Justice.

However, the act did not affect the provisions of the then in force criminal code stipulating that the entitlement to indemnity did not appertain to the former prisoner under certain circumstances. The indemnity for the service of the term of imprisonment could not be awarded to a person who, according to the statement of the court, “caused” the custody by himself, e.g. by an attempt to escape. Furthermore, it could not be awarded to a defendant who was acquitted or if a decision not to proceed with the case was taken due to a general pardon.<sup>24</sup>

A very important fact regarding regaining the standard of living of the former political prisoners is that the act provided the rehabilitated person the possibility to modify the height of the paid state pension. In fact, the calculated pension benefit of the majority of convicts was very low due to their imprisonment. The time of imprisonment was therefore added to the time of worked years of the rehabilitated persons, as if they had worked all this time in the job they had had before their conviction.

19 Ibid., 39.

20 The Forced Labour Camps were established by Act No. 247/1948 Sb., on Forced Labour Camps, with the effective date from 17 November 1948, for persons avoiding work, persons who “threatened the building of people’s democratic establishment or the economic life, especially the public supply”, and persons whose convictions were legally effective. Decisions about people whose convictions were not legally effective were made by the above mentioned commissions. It was possible to imprison people in the Camps of Forced Labour for the period of 3 months up to 2 years. Miloš Jestřáb, Vladimír Hladil, *Soudní rehabilitace* 89. General comparison of the Camps of Forced Labour: Mečislav Borák, Dušan Janák, *Tábory nucené práce v ČSR 1948–1954*, Šenov u Opavy: Tilia, 1996.

21 Act No. 82/1968 Sb., on Judicial Rehabilitation, section 15.

22 Petr Blažek, “Akty revoluční spravedlnosti”, 246.

23 Act No. 82/1968 Sb., on Judicial Rehabilitation, section 27.

24 Comparison Miloš Jestřáb, Vladimír Hladil, *Soudní rehabilitace*, 13.

If the convicted and then rehabilitated person did not live to see the act in force, their heirs by intestacy were allowed to make a claim for the indemnity. If a person who was executed or died while serving the term of imprisonment was rehabilitated, the person who was factually provided with support and maintenance by the convict during his life or whom the convict was obliged to provide support and maintenance on a legal ground had the right to claim the indemnity of the lost support and maintenance. The basis for calculation of the compensating financial amount was again the average earnings the convicted persons received before the launch of the criminal prosecution against them.

With regard to the amount of the claims, the act stipulated that the persons concerned were paid compensation of 20,000 Czechoslovak Crowns in cash, and if the amount was higher, the rest was paid in government interest-bearing bonds, payable within 10 years at the latest.

When the rehabilitation judgement was made, both the formerly convicted person and the survivors were able to ask for its publication and this fact was also perceived as a way of moral satisfaction. The financial costs for publication of the rehabilitation judgement, usually in the same media the former convicting verdict was published, were covered by the state.

The legal provision on making persons who participated in the illegalities of the investigation responsible was to become crucial. The criminality of such acts was not to be barred by the statute of limitations before 1 January 1973, unless these criminal offences were already time-barred on the date of the effective day of the rehabilitation act. Therefore, the concept of retroactive effectiveness, which would restore the criminality of acts that were already time-barred, was not accepted with the reasoning that it would be in contradiction with the basic principles of the criminal law.<sup>25</sup> The Rehabilitation Act introduced a provision stipulating that members of the security apparatus who repeatedly and provably acted illegally and occupied public positions in the effective period of the act had to resign from their positions. The level of their guilt was to be assessed by workers of special three-member commissions established at the Ministry of the Interior, Ministry of Defence, General Prosecutor's Office, or eventually in other state bodies as needed. The decision on removing them from their position or on dismissal from their job could still be changed by a high commission which was to be created by the decision of the National Assembly and which the concerned person could appeal to against the decision of the first instance. However, such punishments of former investigators were probably carried out rather sporadically; there is no research depicting this topic. As far as the representatives of the judicial apparatus, i.e. judges or prosecutors, are concerned, the Rehabilitation Act established a review commission – a “disciplinary panel” formed by judges elected by the parliament which was supposed to look at individual cases. Nevertheless, there is no factual information either about investigations of the given persons or about their consequent punishments.

In general, we can state that only a few people from the State Security and Counter-Intelligence Corps stood trial and were convicted for cruelties which the imprisoned had to face during their custody. The judicial representatives who participated in the show trials imposing and executing death penalties were never investigated, let alone prosecuted, for their actions. Unfortunately, with only one exception,<sup>26</sup> they were not prosecuted after the fall of the communist regime in Czechoslovakia either.

To conclude this chapter we can state that pursuant to the act, requests for review could be submitted until 1 August 1969 and 23,306 people did so.<sup>27</sup> Until the amendment of the act in July 1970, 2,898 individual requests were heard, out of which 1,950 (65.2 %) claimants were fully acquitted, 247 claimants (8.3 %) benefited from the decision not to proceed with the case, the sentence was commuted for 157 persons (5.3 %) and 635 requests (21.2 %) were denied as unjustified. Out of the rest, 455 requests were withdrawn by the claimants before the court made a decision and 721 were transmitted to other institutions to deal with them.<sup>28</sup> With regard to the total number of convicts in politically motivated trials estimated at hundreds of thousands between 1948–1965, the result of the Rehabilitation Act was quite poor.<sup>29</sup> It was caused, besides other things, by another important fact: until then, there were actually no staff changes in the judicial apparatus and the courts employed the same judges as in the 1950s.

## AMENDMENT TO THE REHABILITATION ACT

As has already been mentioned, the existing studies state that about 24,000 requests were submitted pursuant to Act No. 82/1968 Sb., on Judicial Rehabilitation.<sup>30</sup> This number would have been higher if the political situation had not changed after the occupation of Czechoslovakia by the armies of five states of the Warsaw Pact on 21 August 1968. This tragic event launched a “normalisation process” of the situation in the country and it had the following impact on the topic in question – the 1968 Rehabilitation Act was amended. The amendment, signed by state representatives on 8 July 1970, entered into force on 17 July 1970,<sup>31</sup> modified and, in fact, destroyed the meaning of the Rehabilitation Act.<sup>32</sup> It significantly limited the scope of the reviewed issues which in practice meant it made the rehabilitation of former political prisoners more difficult. Due to the amendment, many of the former prisoners did not even submit their request.

The explanatory memorandum, drafted to the Act on Judicial Rehabilitation amendment on the occasion of the Presidium of the Central Committee of the Communist Party of Czechoslovakia meeting on 19 June 1970, states that “the findings collected by the General Prosecutor's Office of the Czechoslovak Socialist Republic and the Supreme Court of the Czechoslovak Socialist Republic during 1969 on the implementation of Act No. 82/1968 Sb., on Judicial Rehabilitation, indicated many

25 Ibid., 121.

26 The only exception is Ludmila Brožová-Polednová (1921–2015) who between 1950–1952 worked as a prosecutor of the State Court, Prague Department. Brožová-Polednová was sentenced to 6 years of unconditional imprisonment in 2008 for her contribution to the show trial with Milada Horáková (1901–1950) who was sentenced to death. Her sentence was commuted by the pardon of the President of the Republic in 2010. For more see Petr Zídek, *Příběh herečky: Ludmila Brožová a její svět*. Praha: Dokořán, 2010.

27 Václav Veber, “O rehabilitacích a o tom, co s nimi souvisí”, in *Securitas Imperii*, 2010, (16), 1, 26.

28 Ibid.

29 On this topic, see also Jiří Hoppe, *Opozice '68. Sociální demokracie, KAN a K 231 v období pražského jara*. Praha: Prostor, 2009.

30 Václav Veber, “O rehabilitacích a o tom, co s nimi souvisí”, 26.

31 Full text of the Act No. 170/1970 Sb., amending the Act No. č. 82/1968 Sb., on Judicial Rehabilitation, available on-line: <https://www.beck-online.cz/bo/chapterview-document.seam?documentId=onrf6mjzg4yf6nzq> (cited on 20/4/2017).

32 Comparison Petr Blažek, “*Akty revoluční spravedlnosti*”, 247.

serious deficiencies.”<sup>33</sup> Some of them, allegedly e.g. the insufficient activity of prosecutors before the special panels or the incomplete investigation of the facts by the court, were, according to the memorandum, removed by organisational measures; others were found to be caused by the wording of some provisions of the act itself, and therefore, it was necessary to amend it.<sup>34</sup> The amendment changed the limit date until which the judgements were examined, from the originally stipulated 31 July 1965 to 31 December 1956 (!), and also excluded the alleged “issues of a criminal nature” from the review proceeding.<sup>35</sup> It completely removed several sections from the act, including the section which obliged the witnesses, or more precisely all state bodies and social and economic organisations, to submit the required material on request, as well as to otherwise satisfy the demands of the special court panel. At the same time, it denied these bodies and organisations the possibility to refuse to do so due to their obligation to keep the state, service or economic secret. The reasoning for such a significant interference into the wording of the act was that in some cases, it is absolutely necessary for the state secret to be kept. Another important intervention and one of the main reasons why the amendment was according to the explanatory memorandum necessary, was a modification of section 15: “Decisions of the panel.” Newly, the amendment “excluded the possibility to cancel the original judgement only on the basis of serious procedural defects regardless of its factual accuracy.”<sup>36</sup> The amendment also changed the section which entitled the rehabilitated person to publish the new decision, on the grounds that the publication of decisions on rehabilitation was used to scandalise the investigative, prosecuting and adjudicating bodies.

The obligation to pay for the costs of the review proceeding was also dealt with differently than in the 1968 Rehabilitation Act. The costs of the review proceeding were to be paid by the complainant whose proposal to open the review procedure was refused. In practice, the provision caused a lot of people seeking rehabilitation to prefer to withdraw their request because they feared the obligation to pay such high financial amounts in case of failure.

Moreover, the amendment significantly altered the rules for financial indemnities of the rehabilitated persons, or possibly of their families, to their detriment. Another change was the adoption of a completely new provision which deprived persons “illegally sojourning abroad” of the possibility to request the review procedure, stating that “there is no reason that the law should provide advantages to people who do not respect the legislation of the Republic and harm its interests.”<sup>37</sup>

## AFTER 1989

The fundamental rights of the Czechoslovak citizens were suppressed by repression until November 1989 when mass protests against the communist regime culminated and led to its fall. Very soon after, the question of judicial rehabilitations was raised again. The result of the efforts to abolish the convicting judgements for acts that, in contradiction to democratic society principles defined the communist acts as criminal, and to allow for the full rehabilitation of persons who were sentenced for these acts, was the Act No. 119/1990 Sb., on Judicial Rehabilitation, enacted on 23 April 1990. The act followed up on the legislation of 1968; however, it surpassed it in many respects. It was

created in free conditions and it reacted to ideological and power changes in the governing structures. Not only did it allow for legality in the field of criminal law implementation, i.e. it did not rehabilitate only those convictions that were illegal for the illegal procedure in the interpretation and implementation of criminal laws (that is in judicial decisions), but as far as certain crimes, enumerated in the act, are concerned, it was based directly on the illegality of the legislation, i.e. on the illegality of acts in force at that time.<sup>38</sup>

The act directly stipulated, i.e. without the review proceeding, cancelling the effective judicial decisions made from 25 February 1948 to 1 January 1990 inclusive that the act exhaustively specified and enumerated in sec. 2 (1) (a–f). This provision concerned all the declared convicting judicial decisions, even if they were in the meantime modified by a legal procedure, e.g. by a general pardon or by a pardon awarded by the President, previous rehabilitation, decision on the complaint in violation of the law, in a new trial, etc. Pursuant to Act No. 119/1990 Sb., on Judicial Rehabilitation, approximately 260,000 persons were rehabilitated in a blanket manner.<sup>39</sup>

The review proceeding applied to decisions on crimes, criminal offences, misdemeanours and less serious crimes that were different from those that were enumerated in the exhaustive list mentioned above. The procedure was initiated in the same way as in the 1968 Rehabilitation Act. Similarly to the previous act, the court had a notification duty, that is if the court learned from its official agenda about a circumstance that could justify the proposal to open a procedure, it had to notify the entitled person who was concerned. The trial took place before the court which made the former, convicting judgement. If the given court did not exist any more, the case was assigned to the court of the subject-matter and local jurisdiction. Some of the provisions, such as the possibility to publish the decision on rehabilitation in the media, but also other, above mentioned provisions, were practically identical to the provisions of the 1968 act. The situation was similar regarding the financial indemnity and evening up the height of the pension, only the amounts calculated as limit amounts differed a little. This act, too, looks at the criminality of persons who participated in illegalities at trials that the Rehabilitation act rectified. Pursuant to this act, the limitation period for such a crime (if it had not already been a statute-barred crime or offence before the Act No. 119/1990 Sb., on Judicial Rehabilitation, entered into force) did not end before 1 January 1995. However, only a few such persons were actually prosecuted.

A problematic issue regarding the rehabilitations according to the mentioned act were the “residual sentences” imposed in connection with some earlier convictions. These were, for example, acts qualified as damaging the socialist property, sabotage, possession of weapons, etc., which concerned about 25,000 cases (!). It can be considered as totally absurd that in several cases, residual sentences were imposed on persons who were executed during the regime for political reasons. It was only on the basis of a complaint of the Confederation of political prisoners, an actual

33 Hana Fuková, *Rehabilitace politických vězňů v Československu*, 25.

34 Ibid.

35 Ibid.

36 Ibid., 26.

37 Hana Fuková, *Rehabilitace politických vězňů v Československu*, 28.

38 Kol. autorů: *Soudní rehabilitace. Komentář k zákonu č. 119/1990 Sb., o soudní rehabilitaci*, Praha 1990, 1.

39 Petr Blažek, “*Akty revoluční spravedlnosti*”, 250.

successor of K 231, that the 1990 act was amended several times in the following *two* years thanks to which some other cases were solved and the residual sentences abolished. However, the question of the legitimacy of the resistance against the communist regime being a criminal regime remained unnoticed by the legislature for a long time. The rehabilitation of certain resistance fighters, especially those who went in for armed resistance, was still out of sight.

The enactment of Act No. 198/1993 Sb., on Unlawfulness of the Communist Regime and Resistance against It<sup>40</sup> finally opened the way to the rehabilitation of other persons which the previous rehabilitation acts did not apply to. Actually, the above mentioned legal act clearly stated that “the Communist Party of Czechoslovakia, its leadership and its members are responsible for the way of governing [...] the country between 1948–1989, especially for the programmed destruction of the traditional values of the European civilisation, for the deliberate violation of human rights and freedoms, for moral and economic decline accompanied by judicial crimes and terror against people with different opinions, by replacing a functioning market economy with direct governance, destroying the traditional principles of property rights, abusing education, science and culture for political and ideological purposes, the ruthless destruction of nature.”<sup>41</sup> The perception of qualification of some criminal offences, considered as criminal even after the enactment of the 1990 Rehabilitation Act, changed and in the new court trials, the already mentioned residual sentences were imposed for these offences.

Nevertheless, as far as the assessment of the acts committed by citizens in their resistance and opposition to the communist totalitarian regime is concerned, the most important act is Act No. 262/2011 Sb., on Participants in Anti-Communist Opposition and Resistance<sup>42</sup> enacted by the Parliament of the Czech Republic on 20 July 2011. It entered into effect symbolically on the day of the anniversary of the fall of communism in Czechoslovakia, but unfortunately, not earlier than more than 20 years later, on 17 November 2011.

By enacting this act, the legislature expressed “respect and gratitude to all the women and men who during the communist totalitarian regime actively defended the values of freedom and democracy while risking their lives, personal freedom and property” and repeatedly expressed its “deep regret over the innocent victims of the communist regime terror.”<sup>43</sup> First of all, this legal act fully legitimized the opposition and resistance against the communist regime defined as the time of oppression from 25 February 1948 to 17 November 1989 and defined its individual forms, including, for example, the cooperation with the foreign intelligence service of a democratic state, people smuggling or trespassing over state borders in order to take part in the resistance against communism, weapons gathering, writing and spreading anti-communist papers, public speaking against the communist regime, etc. It stipulated the conditions for issuing a certificate for the participant in anti-communist opposition and resistance and enabled the former political prisoners to request the status of a participant in anti-communist opposition and resistance. The act also altered the way the former political prisoners were perceived – they were almost without exception considered both by the law and the public to be the “victims” of the totalitarian regime, not its legitimate opponents.

The legislator charged the Ministry of Defence of the Czech Republic to be the first instance body to lead the process of granting the status of a participant in anti-communist opposition and

resistance. On the basis of the request submitted by the applicant, the Ministry is obliged to gather archive or other material that can prove the active participation of the applicant in resistance activities against the communist regime. At the same time, the existence of any obstacles to granting the status of a resistance fighter must be excluded during the process as well; these obstacles are exhaustively enumerated in the act, for example cooperation with the State Security or other armed forces of the former communist Czechoslovakia, membership of the Communist Party of Czechoslovakia, studying at universities, etc. If the applicant is recognised as an opposition and resistance participant, the person is pursuant to the act honoured with a certificate and a commemorative badge and is granted, besides the moral appreciation in the first place, a one-off financial contribution of CZK 100,000. According to the existing below average calculation of pensions, the resistance fighter is granted a pension amounting to the height of the average national financial pension.

Besides other provisions, section 11 of the act also introduced the provision on rehabilitation, stipulating that the court has to cancel the sentence imposed for a criminal offence that the rehabilitation did not apply to pursuant to the existing rehabilitation acts, if it was found out that the act which the person was convicted for was committed with the intention of weakening, disrupting or otherwise harming the communist totalitarian power in Czechoslovakia. The given provision does not apply to criminal offences that prove to be committed for low or dishonest reasons. In the case of rehabilitation pursuant to the above mentioned section of the act, which has to be requested within 5 years from the date the act entered into force at the latest, the claimant is entitled to a financial indemnity of the suffered losses. For settlement purposes, the provisions of Act No. 119/1990 Sb., on Judicial Rehabilitation, shall apply.

## LESSONS LEARNT

If we wanted to evaluate the rehabilitation process of persons convicted in show trials during the communist regime in Czechoslovakia, i.e. between 1948–1989, we have to refer to the period following its fall only. It was only in the free and democratic society, even though it was developing slowly, that the conditions were created to be able to declare the former totalitarian regime as illegitimate and criminal from its base, and only after having identified with such a position, it was possible to achieve the full rehabilitation of all persons, be it “victims” of the regime, or those who truly stood up against it. As we can observe from the Czechoslovak, or Czech experience, this process was not easy at all and from the point of view of the citizens most concerned by the rehabilitation acts, it was more than a lengthy process.

From 1989, the state governments attempted several times to deal with the tragic heritage of the past, but it was only in 2011

40 The full text of the act available on-line: <https://www.zakonyprolidi.cz/cs/1993-198> (cited on 29/3/2017).

41 Act No. 198/1993 Sb., on the Unlawfulness of the Communist Regime and Resistance against It, preamble.

42 The full text of the act available on-line: <https://www.vlada.cz/assets/ppov/eticka-komise-cr/dokumenty/sb262-2011.pdf> (cited on 29/3/2017).

43 Act No. 262/2011 Sb., on Participants in Anti-Communist Opposition and Resistance, preamble.

when they succeeded in enforcing the act on anti-communist resistance, however, not without difficulties. Thus, this act can only be perceived as an act completing the process that lasted for decades, leading, at least from the legal point of view, to an undeniable distancing from the former communist regime and efforts to rectify the damage it caused. Unfortunately, with regard to the disproportionately long period this process had required in the Czech Republic, many former political prisoners did not live to see this moral satisfaction in the first place.

## RECOMMENDATIONS

When evaluating the Czechoslovak experience with the rehabilitation of persons oppressed and persecuted by the former non-democratic regime, it can be emphasised in the first place that it is absolutely necessary that the new, democratically elected

government openly rejects such a regime by adopting an act on the illegitimacy of the past regime and declares its will to mitigate its consequences. At the same time, it should factually, not only formally, strive to punish the culprits of the persecutions, both in the security forces and in judiciary bodies.

The persons persecuted in the past should be fully rehabilitated, granted a financial indemnity and offered an opportunity of social involvement corresponding to their degrees and former employment. Moreover, the state should particularly appreciate the true opponents of the former non-democratic regime who participated in the restoration of democracy and freedom in their country while risking not only their position and property, but also their lives and the lives of their close ones. And what is really important is that the government considers these issues to be so important that they are dealt with in a satisfactory manner as soon as possible. In this way, a situation that the majority of persons concerned die first could be avoided.

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# EDUCATION AND PRESERVATION OF SITES OF CONSCIENCE

MARKÉTA BARTOVÁ

## INTRODUCTION

The ways the society reconciles with its past, *remembers* it, what it leaves out or *forgets*, have always been a subject of constant political pressure on the shaping of the content of the *collective conscience*.<sup>1</sup> These days as well, the collective conscience becomes a subject of pressure and manipulation of power and not even today's democratic societies are protected against the dangers of a gradual forgetting of the period of non-freedom.

## SITUATION IN THE CZECH REPUBLIC

After the fall of communism in Czechoslovakia in November 1989, the idea to create a conscience institution in the new democratic state was not born in the minds of its political representatives, but came out of a private initiative. Over the years, several conscience institutions have been created this way, some of which have built up a very strong and irreplaceable position in the given area. An institution directly governed and financially funded by the state was created only in 2007 after long debates and disputes at the political and expert level, almost twenty years after the fall of the communist regime in the country.

The following overview introduces the institutions focusing on the period of the communist regime in the former Czechoslovakia between 1948 and 1989, specialised web sites – projects of non-profit organisations concentrating mainly on the collection of and making accessible the memories of witnesses, and educational programmes, as well as planned projects and in the end, purely commercial projects.

## I. INSTITUTIONS

### LIBRI PROHIBITI,<sup>2</sup> PRAGUE

After several months of preparations consisting especially in searching for suitable premises and getting the necessary financial support, it was finally possible to open for the public a completely unique library Libri prohibiti in October 1990. The aim of the whole project was to concentrate and make accessible the production of samizdat and exile publishers, i.e. books and various printed materials in general, the production and dissemination of which was banned by the communist regime for ideological and political reasons and judicially punished. The collection originally consisted of 2,000 books, magazines and other documents written by authors who were the leading Czechoslovak dissidents, including the founder of the library. Today, it accounts for more than 100,000 items kept in several collections. These are the Czechoslovak samizdat of 1960–1989, the Czechoslovak exile literature of 1948–2008, the Polish samizdat literature of 1979–1989 and foreign literature linked to

the former Czechoslovakia. Besides these, the library provides access to literature of the Czechoslovak war exile of 1939–1945 and literature of Russian and Ukrainian exile of 1920–1990.

In 1993, an audio-visual department of the Libri prohibiti was created, collecting and making accessible music records of groups banned under the communist regime (more than 3,000 music supports), audio records of lectures and seminars organised by political opponents of communism at that time (approximately 570 records), video documents and amateur film production (over 1,260 records). Moreover, the library is gradually converting all the records into a digital form, thus conserving them for the public, as the quality of records on audio-cassettes and tapes deteriorates over time and they could be lost forever.

Besides this, the library has a wide archive collection including written documents created mainly by the activity of independent initiatives – Charter 77, Committee for the Defense of the Unjustly Prosecuted (VONS), East-European Intelligence Agency (VIA) and others which informed about the violation of human and civil rights at that time not only in the former Czechoslovakia, but also in the whole Soviet Bloc. Petitions with the signatures of signatories, various letters, non-published manuscripts, posters and fliers of the Polish and Czechoslovak opposition, photographs and other unique documents from the period of persecution belong to other unique documents of the period of persecution. The library also managed to gain several private collections of the Czechoslovak dissidents to add to its collections.

The library of the “banned books” has been and still is in private hands, which gives it freedom and independence mainly as regards the projects it focuses on. Besides the above mentioned activities, it cooperates in various educational and cultural programmes, organises many author's readings and exhibitions of works of art by artists who could not officially publish or exhibit before November 1989.

The absolute uniqueness of the documents conserved in Libri prohibiti is proved by the placement of its collection of Czech and Slovak samizdat periodicals of 1948–1989 into the UNESCO register Memory of the World in 2013.<sup>3</sup>

### THE CZECHOSLOVAK DOCUMENTATION CENTRE,<sup>4</sup> PRAGUE

It is a non-profit organization following up on the activity of the exile Czechoslovak documentation centre of independent literature which was founded in March 1986 in Hannover by

1 Hana HAVLÚJOVÁ, Jaroslav Najbert a kol., *Paměť a projektové vyučování v dějepise*, Praha: Ústav pro studium totalitních režimů, 2014, 5.

2 For more, see <http://www.libpro.cz/en/index/contact> (cited on 29/05/2017).

3 See <http://www.unesco.org/new/en/communication-and-information/flagship-project-activities/memory-of-the-world/register/full-list-of-registered-heritage/registered-heritage-page-5/libri-prohibiti-collection-of-periodicals-of-czech-and-slovak-samizdat-in-the-years-1948-1989/> (cited on 23/05/2017).

4 For more see <http://csds.cz/en/csds.html> (cited on 23/05/2017).

a group of Czech exiles. The institution cooperates very closely with the National Museum<sup>5</sup> and the centre of its activity is to support the scientific research, promote the historical research and shape the historical conscience of the society in general. The aim of its efforts is to contribute to the knowledge of the national and exile anti-totalitarian resistance in the period of communist Czechoslovakia between 1948 and 1989. The centre has a wide archive collection, consisting among others of the personal estate of the prominent Czechoslovak dissidents who were politicians and artists. It owns and makes accessible to the public a huge amount of samizdat national and exile literature, contributes to publishing its own publications and co-organises technical conferences and exhibitions. The centre is also a co-founder of the International Samizdat [Research] Association (IS[R]A) based in Budapest.<sup>6</sup>

### THE MUSEUM OF THE THIRD RESISTANCE,<sup>7</sup> PŘÍBRAM

The Museum of the Third Resistance ranks among the conscience institutions in the CR and its origins go back to 1990 when it was being created within the initiative of the former political prisoners. In various negotiations, they strived for the museum to be created directly in the capital; however, the capital did not react to these efforts. That is why the museum was finally built in 1992 in Příbram, i.e. in the home town of the local branch of the Confederation of Political Prisoners with the financial support of the government of that time.<sup>8</sup> The declared objective of the museum is to document the anti-communist resistance of 1948–1989. During that time, approximately 250,000 Czechoslovak citizens were sentenced in politically motivated trials and the majority of them were used as cheap workforce in uranium mines or in production during the service of their term of imprisonment. The exposition called *Political prisoners in uranium mines of 1948–1968* shows, via more than 400 documents and collection objects including objects of the every-day use of the prisoners, mining tools, personal objects of a reminder nature and others, the atrocious living conditions in prisons the convicts had to face. The exhibition includes aerial photos of labour camps that operated at the beginning of the 1950s, mainly in the Jáchymov, Slavkov and Příbram regions, as well as models of the main camp buildings. Other specialised exhibitions can be found in the museum: *Women in the Third Resistance behind the Bars of the Prisons 1948–1968* and *From Bohemia into the Gulags of Siberia* documenting the imprisonment of Czechoslovakia citizens in the USSR between 1944 and 1969.

However, the uniqueness of the exposed objects, but also the phenomena of the anti-communist resistance ignored by the Czech society until recently would deserve bigger support of the state, mainly from the financial point of view. Rather modest expositions consisting more or less of glass show-cases and glazed notice-boards are, as regards today's requirements and possibilities of presentation of historical material and precious artefacts, very old-fashioned and unfortunately rather unattractive for the young generation living hand in hand with technological progress. The existing situation of the museum which has virtually not been changed from the beginning of the 1990s shows the lack of interest of the state in such projects.

### THE VOJNA MEMORIAL,<sup>9</sup> PŘÍBRAM

The former political prisoners have sought a reconstruction of the only, authentically preserved prison site and the making of it

accessible to the public already from the beginning of the 1990s. It was at their instigation that in 1998, the government adopted a resolution which transformed the camp owned by the army into a memorial area.<sup>10</sup> Originally a camp for German war prisoners situated between the former uranium shafts served in 1949–1951 as a forced labour camp and until 1961 as a prison facility for the opponents of the governing regime.

Two years after the Czech government adopted the resolution to preserve the premises and build a memorial there, designed as a memorial area commemorating the suffering of citizens imprisoned by the communist regime, the memorial was pronounced a cultural monument and a very demanding reconstruction began. The best preserved buildings were reconstructed, some buildings were built again as replicas of the original ones. A barbed wire fence was built around the whole area and watchtowers were erected to evoke, or rather to preserve the mood of that time. In the buildings, we can find exhibitions documenting the everyday life of prisoners. The Corrective Labour Camp Vojna, as the facility was called from 1951, was opened up to the public in 2005.

### INSTITUTE OF CONTEMPORARY HISTORY, THE CZECH ACADEMY OF SCIENCES (ÚSD AV ČR),<sup>11</sup> PRAGUE, BRNO

The Institute was created at the beginning of 1990 and since then, it has been focusing on the research of the most recent Czechoslovak history in the period 1938–1989. The research of the only recently finished communist era which was systematically accompanied by the ideological surveillance, cadreship and censorship, appeared to be an actual and urgent need of the society after November 1989. The liberated society perceived the knowledge of the communist past as one of the conditions of its inclusion into the European democratic community.

A specialised library opened to the wide public was created in the Institute. From the beginning of its creation, the Institute focused on its own publication activities, it founded the editorial series *Sešity ÚSD (Notebooks of the ÚSD)*, *Prameny k dějinám čs. krize v letech 1967 až 1970 (Sources to the history of the Czechoslovak crisis in 1967–1970)* and *Svědectví o době a lidech (Testimony about the era and the people)*. It has its own magazine called *Soudobé dějiny* published since 2013 with its English mutation called *Czech Journal of Contemporary History*.

Today, the Institute is divided into three departments according to their chronological focus, covering the periods from 1938 until today: the department of the history of the occupation and

5 For more see <http://www.nm.cz/index.php?xSET=lang&xLANG=2> (cited on 24/05/2017).

6 For more, see [http://w3.osaarchivum.org/index.php?option=com\\_content&view=article&id=70&Itemid=61&lang=en](http://w3.osaarchivum.org/index.php?option=com_content&view=article&id=70&Itemid=61&lang=en) (cited on 24/05/2017).

7 For more, see Jan Majer, "The Museum of the Third Resistance in Příbram (1992–1997)", in *Podbrdsko*, 1997, (4), 199–202. Also: The Museum of the Third Resistance, Příbram. *Koncepce, činnost, perspektiva*, in Jan Dolák, ed., *Muzea v procesu transformace / Museums in Transformation Process*. Brno: MU, 2004, 73–78.

8 Jakub Jareš, "Český 'komunismus' v muzeu. Mapování muzejní krajiny a konstitutivní faktory pro její formování", in Radka Šustrová, Luba Hédlová, eds., *Česká paměť. Národ, dějiny a místa paměti*. Praha: Památkní Lidice, 2014, 361.

9 For more, see <http://www.muzeum-pribram.cz/en/vojna-memorial-lesetice/from-history/> (cited on 29/05/2017).

10 Jareš, *Český "komunismus" v muzeu*, 364.

11 For more, see <http://www.usd.cas.cz/en/> (cited on 29/05/2017).

capitalism creation, the department of real socialism and the department of late socialism and post-socialism. In parallel with this structure, there are smaller and flexible working teams and centres that sometimes exist only for a given period of time. It is the Centre of Oral History, the Centre for the Study of the Cold War and its Impacts, the Centre for the History of Minorities, the History of the Communist Party working group, the Czech Society 1938–1948 working group, Society and the Regime working group and others.

After its creation, the Institute has built the position of a well-respected academic institution, which is proved by the prestigious international Hannah Arendt Prize in 1999 received from the Institute für die Wissenschaften vom Menschen and Koerber-Stiftung. The Institute develops international contact, its cooperation institutions are the National Security Archive in Washington, D.C., the Forschungsstelle Osteuropa an der Universität Bremen, the Instytut Studiów Politycznych Polskiej Akademii Nauk and the Instytut Pamięci Narodowej in Warsaw or the Hannah-Arendt-Institut für Totalitarismusforschung an der Technischen Universität Dresden and others. In cooperation with these organisations, the Institute organises international conferences, specialised symposiums, workshops and exhibitions.

### **INSTITUTE FOR THE STUDY OF TOTALITARIAN REGIMES<sup>12</sup> AND SECURITY SERVICES ARCHIVE,<sup>13</sup> PRAGUE**

The proposal to create a conscience institution which was supposed to provide the institutional framework for the reconciliation of the Czechoslovak society with its own totalitarian past was first discussed in the Parliament of the CR only in 1999. Its working name was “the Memorial of the Non-Freedom Era” and its aim was, following the example of similar institutions in the world (National Holocaust Museum, Yad Vashem), to document, educate, scientifically research, collect and provide information about the non-freedom era mainly of 1939–1989. The memorial should have been given powers that would enable it to gather evidence and documents from national bodies, public administration bodies and eventually from citizens needed to fully and impartially evaluate the era of the Nazi and communist totality.<sup>14</sup> Its main goal was to analyse the reasons for the loss of freedom and the way it was carried out, manifestations of totalitarian regimes and ideologies, to systematically collect and expertly process all kinds of information. The memorial assumed broad cooperation with all the interested national and foreign institutions, especially with scientific institutions, resistance memorials, libraries and museums. The most important role of the planned institution was to publish and provide access to information about the non-freedom era and the promotion of ideas of freedom and defence of democracy against totalitarian regimes.

However, the necessary political consensus was not reached at that time and it was not until 2005 that the idea of creating the state memory institution in the Czech Republic was revived. The “Nation’s Memory Institute”, which was the newly considered name of the institution, was to be created on the basis of a newly enacted act that stipulated the rights and obligations of the given institution and which stipulated such conditions allowing for a qualitative new approach to documents of the repressive forces of the Czechoslovak state. Documents of the given origin were to be set aside into a special archive which would be an impartial, but to a certain extent independent institution of the Institute.

The Czech Republic drew the inspiration from the already created institutions of a similar character in the neighbouring post-communist countries – Germany, Poland and Slovakia. According to its legislative intention, it was to be awarded the competences of an administration office for processing information about both the Nazi and communist totalitarian power and their application for the protection of the democratic rule of law and the base of a democratic political system.<sup>15</sup>

After complex negotiations and discussions, the Act No. 181/2007 Sb., *on the Institute for the Study of Totalitarian Regimes and the Security Services Archive*,<sup>16</sup> was enacted and came into effect in August 2007. On 1 February 2008, the Institute for the Study of Totalitarian Regimes (ÚSTR) and its subordinate Security Services Archive began their operation.

The supreme authority of the ÚSTR was the Council of the Institute, consisting of seven members named by the Senate of the Czech Republic on the basis of proposals of the President of the Republic and the Chamber of Deputies of the CR. The Council of the Institute has, among others, powers to appoint and revoke the head of the institution. The ÚSTR gained the position of an individual organisational unit of the state, the activity of which can be intervened with and modified only on the basis of the enacted act. The activity of the Institute is controlled by the Chamber of Deputies or by the Senate by discussing its annual reports on its activity.

Besides other obligations, the Act No. 181/2007 Sb., *on the Institute for the Study of Totalitarian Regimes and the Security Services Archive*, imposes on the Institute the following:

- to examine and impartially assess the non-freedom era and the period of communist totalitarian power, examine the non-democratic and criminal activity of the state bodies, especially of its security forces, and the criminal activity of the Communist Party of Czechoslovakia, as well as other organisations based on its ideology;
- to analyse the causes and the way of elimination of the democratic regime during the communist totalitarian power era, to document the participation of national and foreign persons in supporting the communist regime and resistance to it;
- to gather documents testifying about the non-freedom era and period of the communist totalitarian power, especially about the activity of the security forces and forms of persecution and resistance and opening up these documents to the public,
- to convert the collected documents into an electronic form without undue delay,
- to provide the results of its activities to the public, especially to publish information about the non-freedom era, the period of the communist totalitarian power, acts and fates of individuals, publish and spread publications, organise exhibitions, seminars, specialised conferences and discussions,
- cooperate with scientific, cultural, educational and other institutions in order to exchange information and experience regarding technical issues,

12 For more, see <https://www.ustrcr.cz/>, <http://old.ustrcr.cz/en> (cited on 29/05/2017). See also *Ústav pro studium totalitních režimů a Archiv bezpečnostních složek*. Praha: Ústav pro studium totalitních režimů, 2009.

13 For more, see <http://www.abscr.cz/en> (cited on 29/05/2017).

14 See Pavel Žáček, *Memory of Nations in Democratic Transition. The Czech Experience*. Praha: CEVRO, 2015, 40.

15 Žáček, *Memory of Nations in Democratic Transition. The Czech Experience*, 41.

16 The full text of the act available on-line: <https://portal.gov.cz/app/zakony/zakonPar.jsp?idBiblio=64947&nr=181-2F2007&rpp=15#local-content>.

- to cooperate with foreign institutions or persons with a similar focus of activity.

To sum up, the basic tasks of the Institute are research activities regarding the non-freedom era (1938–1945) and the period of the communist totalitarian power (1948–1989). Besides the scientific and editorial activities, the employees of the Institute participate in a social discourse about totalitarian regimes by organising conferences, movie zones and conference cycles for experts and the lay public including schools. The Institute also regularly publishes two expert review periodicals – the revue *Paměť a dějiny* and the almanac *Securitas Imperii*. Both of them present the results of the research of the historians working at the Institute or of their external colleagues. Once a year, the Institute publishes the *Almanac of the Security Forces Archive*, presenting other research findings from the cycle of topics that the act imposed on the Institute to process. The ÚSTR administers its own huge library named after Ján Langoš, the important Czechoslovak and Slovak politician and founder of the Nation's Memory Institute in Bratislava.

One of the most important tasks of the Institute is to convert the documents from the archive collections and ABS collections into an electronic form, enabling the necessary protection of archive documents, as well as creating a digital archive the aim of which is to provide quick and quality access to archive documents to the researching public.

## MEMORIAL TO THE VICTIMS OF COMMUNISM, PRAGUE

Even though they are not institutions as such, memorials, too, can be ranked among the *sites of conscience*, and therefore, we shall mention at least one memorial representing all the memorials (and there are not many of them) that are built in the Czech Republic today to commemorate the victims of the communist regime: it is the Memorial to the Victims of Communism in Prague. The Memorial is situated at the foot of the Petřín hill in the centre of the capital and it was unveiled in 2002, that is more than 10 years after the fall of the regime (!). Its sculpture part was created by the Czech academic sculptor Olbram Zoubek, the architectural design was made by the architects Zdeněk Hölzl and Jan Kerel. The memorial is made of a massive tapering staircase with seven more or less torso-like human figures made of metal alloy and situated in its upper part. The first of the walking figures is almost complete, the others are gradually more and more crippled, but still standing. The figures symbolise the everyday torture of political prisoners, as well as their bravery and resilience. It represents men and women, liquidated by the state power, but still standing and resisting.

At the bottom part of the memorial, there is a signature imprinted in metal plaques reading “*Victims of Communism 1948–1989: 205,486 sentenced – 248 executed – 4,500 died in prisons – 327 died on the borders – 170,938 citizens emigrated.*”

## II. WEB PROJECTS OF NON-PROFIT ORGANISATIONS

The organisations listed below, presenting themselves mainly, but not only, via their web projects, work with the concept that the *sites of conscience* can contribute to disrupt the “master narratives”, i.e. official, linearly narrated history, as it is traditionally taught at schools. They strive to affect and disrupt the classical

approach to history education which was determined by a selection of historical reality and learning about heroic political acts, rather than by a critical analysis of the history.<sup>17</sup> They emphasise the concept of discovering the life of an ordinary person, which represents a new approach in history education: “*instead of famous heroes and battles, the cultural conscience promotes the perspective of ‘ordinary’ people who found themselves in unprecedented situations exposed to incomprehensible suffering which at least some of them have been more or less lucky to be able to survive. Thus, the memories of the witnesses become on the one hand the source of sadness, and on the other hand both a warning and a lecture for the future.*”<sup>18</sup>

Besides collecting, making accessible and evaluating historical documents witnessing the persecution of opinion opponents and their persistent efforts to resist the Communists, the above mentioned institutions try to capture the testimony itself of these people by the method of oral history.

### POLITIČTÍ VĚZNI.CZ<sup>19</sup>

The non-governmental and non-profit project called *Politíční vězňi.cz* (*Politicalprisoners.eu*) is an example of such efforts. Its objective is to ethically record and preserve the memory and life experience of the former political prisoners and prisoners in the territory of the former Czechoslovakia and abroad. The aim of the project with the motto “*Each interview with a victim of Stalin’s repression recorded in a methodologically correct way represents a living memory of the European past*” is mainly to document the life stories of the former political prisoners and to present them to the wide public in an accessible way. Besides the database of interviews with political prisoners accessible online, the association also publishes freely available publications thematically connected with the period of the communist regime in the Czechoslovak Republic. Moreover, it organises visits to former uranium mines in Jáchymov and to criminal labour camps with a trained guide, or accompanied by one of the witnesses who were imprisoned in the Jáchymov region.

### DCERY.CZ<sup>20</sup>

A unique project which was founded in 1999 is the *Spolek Dcery 50. let* (*Daughters of the Enemy Association*) associating the daughters of political prisoners of the 1950s. These daughters, bound by similar life experiences, decided to get their personal testimonies over especially to the young generation, to give lectures about the impact of the communist era on the environment and life of families where usually one of the parents did not agree with such a communist ideology and opposed the ideology via various forms of protest and fight. These persons were punished for their opinions not only by a long-term imprisonment, but their whole family was punished, too. The aim of this association is to lecture future generations so that a terror of this kind

17 Milan Hlavačka, Místa paměti a jejich postavení v historickém a společenském “provozu”, in *Místa paměti česko-německého soužití. Sborník příspěvků z konference pracovní skupiny Česko-německého diskusního fóra Místo paměti v Chebu 5. 6 2010*, Praha: Antikomplex pro Collegium Bohemicum, 2011, 17.

18 Hana Havlůjová, Jaroslav Najbert a kol., *Paměť a projektové vyučování v dějepise*, 6.

19 For more, see <http://www.politicalprisoners.eu/> (cited on 23/05/2017).

20 For more, see <http://www.enemysdaughters.com/> (cited on 24/05/2017).

would never take place in our country again, which is expressed in the motto of the association: "Who can map their past, can control and govern their future as well." They cooperate with various national and foreign non-profit organisations, participate in the creation of film and radio documentaries, give lectures at schools, participate in miscellaneous meetings and discussions with the public and publish.

## POST BELLUM,<sup>21</sup> PRAGUE

The non-profit organisation with a fitting name was founded in 2001 by several activists, mainly journalists. The fundamental goal of this organisation which is still operational and the activities of which are known to the wide public, is to record the memories of the witnesses and to make them accessible on the internet website *Paměť národa*.<sup>22</sup> Today, there are more than 6,000 memories of the war veterans, holocaust victims, prisoners and opponents of Nazism and communism, victims of collectivisation, victims of brutal physical and psychological terror by the former security forces of communist Czechoslovakia. The recorded memories of the participants of the historical events are supposed to enable the recognition of the essence of totalitarian regimes of the 20th century, but also to examine the motivations and decisions of individuals who found themselves in a limit situation. It is the widest publicly accessible database of memories in the whole of Europe. Gradually, the base and number of collaborators of the Post Bellum organisation widened and it organises various conferences, exhibitions and discussions, participates in document creation, publishes thematic publications and is pedagogically active. Within its sectional project *Stories of Our Neighbours (Příběhy našich sousedů)*,<sup>23</sup> it instructs the pupils of higher classes of secondary and high schools to find a witness, record his or her life-time memories, digitalise their photographs, explore the archives and finally create a radio, TV or written report or document.<sup>24</sup> It also organises the biggest documentary competition in the country called *Stories of the 20th century*.<sup>25</sup> The Post Bellum organisation aims to simplify and at the same time to diversify the ways of mediation of historical events via its own application for mobile phones with a fitting name *Memory of Nations Sites*.<sup>26</sup>

## ONE WORLD IN SCHOOLS<sup>27</sup> – STORIES OF INJUSTICE PROJECT<sup>28</sup>

One World in Schools is one of the educational projects by the People in Need organisation and it was launched in 2001. Its aim is to contribute to the education of young people so that they are able to orient themselves well in the contemporary world and to take an open and critical approach to information. The educational materials are provided to students and teachers in more than 3,300 secondary and high schools that are involved in the programme. Films, discussions and educational activities within this project mainly bring the topic of human rights and civic engagement to schools.

One of the important projects of this programme is the Stories of Injustice project. It was created in 2005 when a need to react to the contemporary situation in the Czech Republic was felt, as, despite their experience of living in dictatorships for decades, people seemed to forget that freedom cannot be taken for granted and it is necessary to protect it. Thus, the Stories of Injustice project gives students an idea of the time of

non-freedom, via documentary and feature films, lectures and discussions with the witnesses and historians, publications and exhibitions. Since 2009, students have been awarding the Stories of Injustice Award for brave positions and acts during the communist regime era.

## PANT<sup>29</sup>

The civic association PANT, founded in 2007, focuses on similar activities as the above mentioned project with the objective to be active in the field of the development and promotion of public awareness about human rights issues and their violation by totalitarian regimes of the 20th century. Its activity focuses above all on education, film documentary and journalist production, support of activities that are mapping and developing the cultural heritage in the Czech, Central-European and European regions. The flagship of the association is the educational website *Moderní dějiny.cz* (*Modern History.eu*) providing high quality content to the public with increasing web traffic.<sup>30</sup> The association cooperates intensively with primary, secondary and high schools and universities, historical and political science institutions, archives, associations of witnesses and other non-governmental organisations with a similar orientation. In the international field, it develops a rich cooperation with educational institutions, schools and historical departments in Poland, Hungary and Slovakia.

## III. UNREALISED PROJECTS

Over the last two decades, there have been many museums and memorials being discussed and not created or built until today, let's mention at least two of them.

### PRISON IN UHERSKÉ HRADIŠTĚ<sup>31</sup>

The site of the former prison has a troubled history: during the occupation of the Czechoslovak Republic by the German army, Czech patriots and anti-fascism fighters were imprisoned here, during the communist regime, its opinion opponents were imprisoned and brutally tortured here. In 1960, the prison was closed and the site, now owned by the Ministry of Justice, has been deteriorating ever since. The state has not been able to decide yet what to do with the former prison and the building is in quite a dilapidated state today.

21 For more, see <https://www.postbellum.cz/english/> (cited on 29/05/2017).

22 For more, see <https://www.memoryofnations.eu> (cited on 29/05/2017). See also Kol. autorů: *Memory of Nation*. Post Bellum, Praha 2015. Available on-line: [http://www.pametnaroda.cz/data/page/File/PN\\_promo9.3\\_CZn.pdf](http://www.pametnaroda.cz/data/page/File/PN_promo9.3_CZn.pdf) (cited on 29/05/2017).

23 For more, see <https://www.pribehynasichsousedu.cz/> (cited on 29/05/2017).

24 For more, see <https://www.pribehynasichsousedu.cz/> (cited on 23/05/2017).

25 For more, see <https://www.pribehny20stoleti.cz/> (cited on 23/05/2017).

26 For more, see <http://www.mistapametinaroda.cz/?lc=en> (cited on 23/05/2017).

27 For more, see <https://www.jsns.cz/en/home> (cited on 23/05/2017).

28 For more, see <https://www.jsns.cz/projekty/pribehny-bezpravni> (cited on 23/05/2017). See also Adam Drda, *Příběhy bezpráví – příběhy vzdoru. Člověk v tísni*, Praha 2009.

29 For more, see <http://www.pant.cz/english.html> (cited on 23/05/2017).

30 For more, see <http://www.modern-history.eu/> (cited on 23/05/2017).

31 For more, see <http://www.veznicehradiste.cz/> (cited on 24/05/2017).

In 2009, the civic association called *Initiative for a dignified use of the prison in Uherské Hradiště (Iniciativa za důstojné využití věznic v Uherském Hradišti)* was created. Its aim has been to support the solution of the in-the-long-term unacceptable situation of the object which the association considers to be an important monument commemorating the years of terror of the two totalitarian regimes of the last century. The goal of the association is to preserve the prison and to rebuild it, with an appropriate reverence, into a memorial to the victims of the totalitarian regimes and a museum of the power persecution. However, this has not happened yet and it remains a question whether the expensive reconstruction of the prison in order to build the monument instead will ever be carried out by the state.

## RED TOWER OF DEATH, OSTROV NAD OHŘÍ

The tower for sorting the uranium ore situated near the uranium mines in Jáchymov where many political prisoners worked as slaves under atrocious conditions is one of their most significant symbols now. Thanks to long-term efforts, this site was pronounced a national cultural monument in 2008 and handed over from private ownership into the hands, or administration of the Confederation of Political Prisoners (KPV). The organisation was thinking about creating an “International Museum of Slave Labour”, as was the working title there, however, this objective was not carried out because of a lack of financial resources and staff capacities. Recently, the confederation has been striving for the state to take the monument directly into its ownership and administration, whereas the costs of the overall reconstruction of the site and creation of expositions are estimated at CZK 60,000,000. After the completion of the reconstruction, the exposition on communist camps together with the necessary facilities for visitors should be created here on the basis of the consultation of the former political prisoners and experts.

## IV. COMMERCIAL INSTITUTIONS

In 2001, a private *Museum of Communism* was opened right in the centre of Prague. At the time of its creation, it aroused many reactions, mainly due to the fact that it was the first (and unfortunately, the only) museum of communism in the capital city, on top of this it was created on a commercial basis and without consulting the experts on history.<sup>32</sup> Its owner focuses mainly on tourists and the turnout of 60,000 visitors a year proves that people show interest in the museum.

A similar project is the *KGB Museum in Prague* created in 2010, with a smaller range of exhibited objects, and the Iron Curtain Museum in Valtice in South Moravia. The second listed museum focuses on the border surveillance in the former Czechoslovakia and attempts at its illegal crossing.

## CURRENT STATUS AND LESSONS LEARNT

After the fall of communism, we can observe a steady and in some periods even increasing tendency to feel nostalgic about the life “during communism”, despite the criminality of the communist regime and the constant efforts of the memory institutions that have been created in the Czech Republic so far. However, this fact, for some even incomprehensible, is in various degrees of

intensity observable in most of the post-communist countries. This is reflected in different surveys and opinion polls, as well as in the political sphere. Public opinion polls confirm such a prevailing phenomenon, especially for persons of the lower social class of the older and middle generations; the majority of this category of respondents emphasises the material and social securities that the former regime in their opinion ensured.<sup>33</sup> Today, they do not consider the predominant “mainstream problems” of communism, such as the ban on crossing the borders of your own country, the ban on presenting opinions of one’s self, or even on having them, the ubiquitous censorship and a lack of consumer goods, to be that important. Usually, on the grounds that today, they can travel and buy things, but they do not have enough financial funds for it. It seems that the creation or demonstration of their own opinion is not that important to them. They approve of, condone or ignore the crimes of communism. Unfortunately.

As far as the current political situation in the Czech Republic is concerned, the successor party of the Communist Party of Czechoslovakia (KSČ) entitled the Communist Party of Bohemia and Moravia (KSČM) is a kind of a permanent element of the Czech political scene at the national, as well as local level. The long-term research continues to attribute to the party important electoral preferences that are, moreover, rather increasing (today, up to 13 % of legitimate voters would vote for the party).

Also due to these warning results, it is important for the state to fight for the establishing or innovating of the sites of conscience that are related to the long-term period of the non-democratic regime rule in Czechoslovakia. These sites of conscience are meaningful not only for preserving the nation’s memory, but for the future of the nation as well – for the viewpoint it will take. All the projects mentioned above draw attention to recognize the injustice and violence not only as the attributes of the past communist regime, but of any authoritarian system that suppresses the fundamental freedoms and rights of a person, and teach the new generations to do so. Remembering the past events and victims of the fight for democracy and freedom in our country can be perceived as one of the key factors of preventing their repetition. Unfortunately, democracy is still not a state programme in the Czech Republic, the successor state of the former Czechoslovakia, and the priority of its citizens is still not an unshakeable certainty there.

## RECOMMENDATIONS

Each democratic state, or its political representatives should consider the maintenance and reinforcement of democracy and freedom in their country as a priority. This approach must be reflected in the financial and staff support of memory institutions and projects alike, as these can significantly influence the opinion orientation and political direction of the whole nation in the future.

32 See Jakub Jareš, *Český “komunismus” v muzeu*, 365.

33 See for example Stanislav Hampl, Jaroslav Huk, Sametová revoluce po dvaceti letech, in Jiří Šubrt, ed., *Historické vědomí jako předmět badatelského zájmu: teorie a výzkum*. Kolín: Historická sociologie, Nezávislé centrum pro studium politiky, ARC – Vysoká škola politických a společenských věd, 2010, 107–122.

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# TIMELINE OF THE MAJOR EVENTS

<b>November 17, 1989</b>	Suppression of student demonstration in the centre of the capital city of Prague by communist security forces
<b>November 20, 1989</b>	Creation of opposition political movement named “Civic forum”
<b>November 29, 1989</b>	Federal Parliament removes parts of the Constitution about the leadership of the Communist Party of Czechoslovakia and about Marxism-Leninism being the national ideology
<b>December 1–8, 1989</b>	Members of the communist secret police State Security (StB) destroy tens of thousands of operative files with evidence of their illegal activity
<b>December 10, 1989</b>	Appointment of the Government of National Understanding
<b>December 29, 1989</b>	Election of the opposition leader Václav Havel as the President of the Czechoslovak Socialist Republic
<b>January 23, 1990</b>	Federal Parliament adopts the Constitutional Act on the Removal of Deputies from Representative Bodies and on the Co-option of New Deputies and the Act on Political Parties legalising the existence of the Communist Party of Czechoslovakia
<b>February 15, 1990</b>	Federal Minister of the Interior Richard Sacher dismisses central and regional departments of State Security
<b>February 26, 1990</b>	Signature of the intergovernmental agreement between Czechoslovakia and the SSSR about the withdrawal of soviet troops from Czechoslovakia by 30 June 1991
<b>April 23, 1990</b>	Federal Parliament adopts Act No. 119/1990 Sb., on Judicial Rehabilitation
<b>May 21, 1990</b>	Federal Government issues a regulation on the removal of the immovable property in permanent use by the Communist Party of Czechoslovakia
<b>June 8–9, 1990</b>	The first free parliamentary elections take place in the Czech and Slovak Federative Republic after the fall of the communist regime
<b>October 2, 1990</b>	Federal Parliament adopts the Act No. 403/1990 Sb., on Mitigating the Consequences of Certain Property Injustices
<b>November 16, 1990</b>	Federal Parliament adopts the Constitutional Act on Property Restitution of the Communist Party of Czechoslovakia to the people of the Czech and Slovak Federative Republic
<b>January 30, 1991</b>	Federal Parliament adopts Act No. 47/1991 Sb., amending and supplementing the Act No. 119/1990 Sb., on Judicial Rehabilitation
<b>February 21, 1991</b>	Federal Parliament adopts Act No. 87/1991 Sb., on Extra-Judicial Rehabilitations
<b>June 30, 1991</b>	Departure of the last units of the soviet occupation troops
<b>September 2, 1991</b>	Creation of the Department for Documentation and Investigation of State Security Activities under the Federal Ministry of the Interior
<b>October 4, 1991</b>	Federal Parliament adopts Act No. 451/1991 Sb., on Determining Some Further Prerequisites for Certain Positions in State Bodies and Organizations of the Czech and Slovak Federative Republic, the Czech Republic and the Slovak Republic (“large lustration law”)
<b>November 13, 1991</b>	Federal Parliament adopts Act No. 480/1991 Sb., on the Era of Non-Freedom
<b>April 28, 1992</b>	Czech Parliament adopts Act No. 279/1992 Sb., on Some Further Prerequisites for Certain Positions Filled by Appointment or Designation of Officers of the Police of the Czech Republic and Officers of the Penitentiary Service of the Czech Republic (“small lustration law”)
<b>November 1, 1992</b>	Creation of the Office for the Documentation and Investigation of the State Security Activities under the Investigation Office for the Czech Republic
<b>January 1, 1993</b>	Division of the Czech and Slovak Federative Republic into the Czech Republic and Slovak Republic
<b>February 10, 1993</b>	Creation of the Coordination Centre for the Documentation and Investigation of Violence against the Czech Nation from 8 May 1975 to 31 December 1989, integrated in the organisational structure of the General Prosecutor’s Office of the Czech Republic

<b>July 9, 1993</b>	Czech Parliament adopts Act No. 198/1993 Sb., on the Unlawfulness of the Communist Regime and Resistance against It
<b>January 1, 1994</b>	Creation of the Centre for Documentation of the Unlawfulness of the Communist Regime of the Ministry of Justice of the Czech Republic
<b>January 1, 1995</b>	Creation of the Office for the Documentation and Investigation of the Crimes of Communism under the Investigation Office for the Czech Republic
<b>April 26, 1996</b>	Czech Parliament adopts Act No. 140/1996 Sb., on Making Publicly Accessible Files Resulting from Activities of the Former State Security Police
<b>June 25, 1997</b>	Czech government issues a regulation on the payment of One-off Compensation to Alleviate some Wrongs Committed by the Communist Regime
<b>March 8, 2002</b>	Czech Parliament adopts Act No. 107/2002 Sb., amending the Act No. 140/1996 Sb., on Making Publicly Accessible Files Resulting from Activities of the Former State Security Police, and some other Acts
<b>June 8, 2007</b>	Czech Parliament adopts Act No. 181/2007 Sb., on the Institute for the Study of Totalitarian Regimes and the Security Services Archive, and on amending certain Acts
<b>February 1, 2008</b>	Creation of the Institute for the Study of Totalitarian Regimes and the Security Services Archive
<b>April 27, 2009</b>	Czech government issues regulation No. 135/2009 Sb., on One-off Contribution to Alleviate Some Wrongs Committed by the Communist Regime
<b>July 20, 2011</b>	Czech Parliament adopts Act No. 262/2011 Sb., on the Participants in Anti-Communist Opposition and Resistance
<b>November 17, 2011</b>	Creation of the Ethics Committee of the Czech Republic for the Appreciation of the Participants in Anticommunist Opposition and Resistance
<b>February 20, 2013</b>	Czech government issues regulation No. 51/2013 Sb., amending the government regulation No. 135/2009 Sb., on One-off Contribution to Alleviate Some Wrongs Committed by the Communist Regime
<b>January 1, 2015</b>	Adoption of Act No. 250/2014 Sb., on Amending Acts related to adoption of Act on State service stipulating that the “large lustration law” does not apply to government Ministers and Minister Deputies

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