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The Confiscation and Restitution of Agricultural Property of Persons of German and Hungarian Nationality in Czechoslovakia

By the Decree of the President of the Republic of 21 June 1945 (No 12/1945 Coll. of Laws), the agricultural property of all persons of Hungarian and German nationality, irrespective of their citizenship, was confiscated with immediate effect and without compensation. The decree was valid only in the Czech lands. In Slovakia according to the Decree of the Presidium of the Slovak National Council of 27 February 1945 (No 4/1945 Coll. of Decrees of SNR), only the agricultural property of persons of German ethnic origin was confiscated; agricultural property of persons of Hungarian ethnic origin was confiscated only if they did not have Czechoslovak citizenship on 1 November 1938 and owned more than 50 hectares of land. Later, however, the confiscation was extended to all land owned by Hungarians in Slovakia (Decree No 64/1946 Coll. SNR). In Autumn 1948, by Decree No 26/1948 Coll. SNR, the land up to 50 hectares was to be returned to Hungarians, whose Czechoslovak citizenship was restored. Due to the forthcoming forced collectivisation, this decree was only partly realised. By Act of 21 May 1991 "On the regulation of ownership relations to land and other agricultural property" (No 229/1991 Coll.), the restitution applied only to property transferred to the state or other legal persons between 25 February 1948 and 1 January 1990. By this act, the majority of Hungarians and Germans were excluded from restitution. But in Slovakia, restitution of land belonging originally to Hungarian owners up to 50 hectares was possible according to Decree 26/1948, which remained in force.

FIRST LAND REFORM

To understand the issue of confiscation and restitution of agricultural property in former Czechoslovakia, some historical background must first be clarified. The hegemon of political life in inter-war Czechoslovakia was the “Republican Party of Farmers and Peasants”, generally referred to as the “Agrarian Party”, which was its original name in the period before the First World War. On 16 April 1919, the Agrarian Party pushed through the Agrarian Reform Act (No 215/1919 Coll.),¹ by which all arable land belonging to a single owner or to the same co-owners (e.g. spouses) with an area exceeding 150 hectares, or all land (forests, pastures, pond land, etc.) with an area exceeding 250 hectares, was seized by the state. This land was parcelled out and allocated mainly to peasants/farmers in return for compensation, while some of it was also allocated as larger estates. Until the land was taken over and parcelled out by the state, the original owner could continue to farm it, but could not sell or mortgage it without the consent of the State Land Office (*Státní pozemkový úřad* – SPÚ) and had to pay a special tax on it. The original owner was therefore still listed in the land register as the legal owner, but with a note that the land had been seized. After the state took over the land, the original owners were entitled to financial compensation, which was, however, below the market price. The land reform was never completed. In the mid-1930s, when less than half of the land seized by the state had been taken over, the reform was suspended. The land not yet taken over by the state and not distributed was left to the original owners for a period of twenty to thirty years, with restrictions on ownership, and only after that time was it to be eventually taken over and distributed.²

The reform had two goals: it was to create strong and self-sufficient family farms whose owners would be the voter base of the agrarian party, and it was to break up large landownership. Although outwardly the reform did not have a nationalist sting, in practice it mainly affected former German and Hungarian noble landlords. In the south of Slovakia and the southwest of

¹ Collection of Laws (*Sbírka zákonů* – Sb).

² RYCHLÍK 1988: 135–136.

the former Subcarpathian Rus (i.e. in the southwest of the territory of today's Ukrainian Transcarpathia), the national focus of the reform was quite obvious: land was allocated mainly to Czech and Slovak colonists in order to break up the compact Hungarian settlement.³

After the Vienna Award (2 November 1938), the territory of southern Slovakia and southern Subcarpathian Rus fell back to Hungary, then on 15 March, after the temporary dissolution of Czechoslovakia, Hungary annexed the rest of Subcarpathian Rus. The Hungarian Government revised the Czechoslovak land reform in the acquired territories. Most of the Czech and Slovak colonists were expelled from the territory, and their landed property was transferred to the Hungarian state. The Ministry of Agriculture had several options for dealing with the land thus acquired: it could return it to the original owner from whom it had been taken by the Czechoslovak reform, it could reallocate it, or it could confirm the original allocation. Even this revision of the land reform was never completed.⁴ The revision was proclaimed *null and void* after 1945, when the ceded territories returned to restored Czechoslovakia.

CONFISCATIONS AFTER THE SECOND WORLD WAR

The possibility of a new land reform, which would mainly affect German and Hungarian owners, was discussed by the exiled Czechoslovak Government in London during the war. On 19 September 1944, the Minister of Agriculture, the Slovak agrarian Ján Lichner, submitted a draft decree on the establishment of a land office, with the explanatory memorandum speaking of the need for a new regulation of land relations. The proposal also received support from the exiled leadership of the Communist Party of Czechoslovakia (KSČ) in Moscow, led by Klement Gottwald. The reform was to be aimed at the land ownership of "Germans, Hungarians and traitors to the nation" in the first phase, and only later at the land of other owners above a certain area. The program of radical

³ SIMON 2008: 229–247.

⁴ RYCHLÍK 1989: 194–196.

nationalist agrarian reform thus conceived was included in the program of the first post-revolutionary coalition government of the National Front, which was announced in Košice on 5 April 1945.

In 1945–1946, the state law connection of Slovakia with the Czech lands was relatively loose, which was also reflected in the legislative sphere. Different regulations regarding land confiscation were in force in the Czech lands than those in Slovakia. In the Czech lands, the Decree of the President of the Republic of 21 June 1945 (No 12/1945 Coll.) was in force, according to which the agricultural property of all persons of Hungarian and German nationality (e.g. nationality in the ethnic sense), irrespective of their citizenship, traitors and enemies of the nation, and joint-stock or other companies (in practice: any legal persons) serving the German war effort or “fascist and Nazi purposes” was confiscated with immediate effect and without compensation. In order to determine the German or Hungarian nationality of an owner, the declaration of nationality in any census after 1929 was decisive. Only persons of German and Hungarian nationality (e.g. of German and Hungarian ethnic origin⁵) who had taken an active part in the struggle for the restoration of the independence and territorial integrity of the Czechoslovak Republic were exempted from confiscation. It was therefore not enough for persons to have behaved loyally towards the Czechoslovak Republic, and even mere punishment by the occupying power was not enough. In this respect, the decree was much stricter than the subsequent Constitutional Decree of 2 August 1945 (No 33/1945 Coll.) on the regulation of the citizenship of persons of German and Hungarian nationality. According to this decree, persons who had become citizens of the German Reich or the Kingdom of Hungary during the period of non-freedom (e.g. between 29 September 1938 and 4 May 1945) automatically lost their Czechoslovak citizenship.⁶ However, there was an exception for persons

⁵ The term “nationality” (*národnost/národnosť*) means in Czech and Slovak ethnicity or ethnic origin, not citizenship (in Czech and Slovak: *občanství/občianstvo*).

⁶ Germans and Hungarians living in the then independent Slovakia during the Second World War usually had Slovak citizenship, but this did not help them after the war. Decree No 33/1945 Coll. explicitly stipulated that persons of German and Hungarian nationality,

who had accepted citizenship under duress and against their will, and for persons who had themselves taken part in the struggle for liberation or suffered persecution at the hands of the occupying power; in addition, persons who had been deprived of citizenship could apply for its restoration. Also, Decree 108/1945 Coll. concerning confiscation of other (non-agricultural) property did not require active participation in the liberation struggle to be exempted from confiscation.⁷

The situation in Slovakia was somewhat different. It was necessary to somehow reflect the fact that Slovakia was an independent state in 1939–1945, it was not occupied by the German army until the end of August 1944, and in the aftermath of the outbreak of the Slovak National Uprising (29 August 1944), local Hungarians and Germans fought in the rebel army and partisan units. According to the Decree of the Presidium of the Slovak National Council (*Slovenská Národná Rada* – SNR⁸) of 27 February 1945 (No 4/1945 Coll. SNR), the agricultural property of persons of German nationality, regardless of citizenship, and of persons of Hungarian nationality was confiscated if they did not have Czechoslovak citizenship on 1 November 1938 and owned more than 50 hectares of land. The property was therefore confiscated mainly from Hungarians who came to Slovakia after the Vienna Award and the annexation of southern Slovakia to Hungary (these persons were deported to Hungary as undesirable foreigners after 1945). Persons of German nationality could also keep their land property if they took an active part in the anti-fascist resistance. The property of traitors to the Slovak nation was confiscated, which mainly

unless they had lost their Czechoslovak citizenship by being granted German or Hungarian citizenship, would lose their Czechoslovak citizenship on the date the decree came into force, i.e. on 2 August 1945.

⁷ RYCHLÍK 1998: 11.

⁸ The Slovak National Council (*Slovenská národná rada* – SNR) was originally founded as an underground organisation during the Second World War; after the outbreak of the Slovak National Uprising, it functioned as a revolutionary parliament and after 1945 as a legislative body for Slovakia. After the adoption of the Constitution of the Slovak Republic, it was transformed into the National Council of the Slovak Republic (*Národná rada Slovenskej republiky*) on 1 September 1992.

meant persons who, after the occupation of Slovakia by the German army, actively collaborated with the German military authorities or actively fought against the rebel army. Decree No 4/1945 Coll. SNR was further supplemented and partially amended by Decree No 104/1945 Coll. SNR. According to this decree, the outline of which was drawn up by Martin Kvetko, the commissioner (i.e. minister of the regional Slovak government) for agriculture and land reform, a maximum of 50 hectares could be exempted from confiscation if the land was owned by a mixed-nationality family.⁹

The Czechoslovak Government originally envisaged the forced displacement of both ethnic Germans and ethnic Hungarians, but the Victorious Powers did not agree with the displacement of Hungarians. The matter was to be resolved through bilateral negotiations. On 27 February 1946, a Czechoslovak–Hungarian agreement on population exchange was signed, according to which the Slovak Hungarians were to be evicted to Hungary in exchange for Slovaks living in Hungary, whose number was estimated by the Slovak authorities to be at least half a million. The Slovak National Council therefore considered that the property rights of ethnic Hungarians should no longer be taken into account. Therefore, by Decree No 64/1946 Coll. SNR the Decrees No 4/1945 Coll. SNR and 104/1945 Coll. SNR were amended, and all land ownership of Hungarians was extended by confiscation.

On 26 May 1946, elections to the Constituent National Assembly were held in Czechoslovakia. In the Czech lands, the Communist Party of Czechoslovakia (*Komunistická strana Československa* – KSČ) won the elections, winning over small peasants and landless farmers by rationing land in the borderlands, while in Slovakia, the right-wing Democratic Party (*Demokratická strana* – DS), which was essentially the Slovak branch of the pre-war agrarian party, won. After the DS victory in Slovakia, the central government in Prague, in which the Communists had the main say, severely restricted the autonomy of the Slovak authorities. On 11 July 1947, the Constituent National Assembly (ÚNS¹⁰)

⁹ RYCHLÍK 1993: 398.

¹⁰ The Constituent National Assembly was to draw up a new “people’s democratic” constitution to replace the existing constitution of 29 February 1920. The new constitution was

approved a set of laws submitted by the Minister of Agriculture, the Slovak communist Július Ďuriš. The most important of these was the Law on the Revision of the Land Reform (No 142/1947 Coll.), according to which the land left to the original owners for twenty to thirty years during the pre-war land reform was to be confiscated and parcelled out. Ten months later, on 25 February 1948, the Communists staged a coup d'état in Czechoslovakia and established their unlimited dictatorship. On 21 March 1948, the obedient remainder of the ÚNS deputies voted for two laws: an amendment to the law on the revision of the land reform (No 44/1948 Coll.) and on the new land reform (No 46/1948 Coll.). According to these laws, it was possible to confiscate land over 50 hectares or any land on which the owner did not work himself. The nationality of the owner no longer played any role.¹¹

Meanwhile, attempts to exchange the population between Czechoslovakia and Hungary failed: it turned out that the number of Slovaks in Hungary was much smaller than the (Czecho)Slovak authorities had claimed. In addition, the Slovak peasants in Hungary, living mainly in the fertile Békés County, were usually already integrated into the Hungarian environment and showed little interest in moving to Czechoslovakia. Those who came to Slovakia did not end up getting any land anyway. Since Czechoslovakia could only evict as many Hungarians as Slovaks coming from Hungary to Slovakia, it was obvious that the vast majority of Hungarians would remain in Slovakia. There was a need to regulate their status and property relations in some way. The situation was intolerable: although Hungarians continued to live in their houses and work in their fields, both, including virtually all movable property, belonged *de jure* to the state. Moreover, they lost their Czechoslovak citizenship and thus all political rights and the possibility of working in the state or public administration or state enterprises. That is why, first of all, a government decree of 13 April 1948 (No 76/1948 Coll.) extended the period within which persons deprived of Czechoslovak citizenship could apply for its reinstatement. By Act

approved on 9 May 1948, after the communist takeover. It remained in force until 11 July 1960, when it was replaced by the so-called socialist constitution.

¹¹ RYCHLÍK 1993: 407–409.

of 25 October 1948 (No 245/1948 Coll.), all persons of Hungarian nationality with permanent residence in the territory of the Czechoslovak Republic were reinstated with Czechoslovak citizenship if they had held it on 1 November 1938 and were not citizens of another state. By Decree No 26/1948 Coll. SNR of the Board of Trustees (i.e. the Slovak regional government), persons of Hungarian nationality were restored land and other agricultural property up to an area of 50 hectares, provided that it was in the possession of the state. However, other immovable property not directly related to agricultural production often had to be purchased by the original Hungarian owners at the residual price from the National Restoration Fund (*Fond národní obnovy* – FNO), which administered unallocated confiscations.

The regulation of the status of the rest of the German minority in Czechoslovakia took a different course. No property was returned to them; they had to buy back their original houses from the FNO. It was only in 1953 that Czechoslovak citizenship was returned to all ethnic Germans living on the territory of Czechoslovakia by Act No 34/1953 Coll.

However, the return of some of the confiscated agricultural property to the Hungarian owners did not take place in practice anyway, because before this could happen, forced collectivisation began in Czechoslovakia in 1949. Virtually all the inhabitants of Czechoslovakia had definitively lost their agricultural property by 1960, and their nationality was no longer relevant.¹²

Communist Czechoslovakia was one of the countries with developed agriculture. Czechoslovakia maintained only a minimal private sector in agriculture (unlike Poland and Yugoslavia). The main type of agricultural enterprise was the Unified Agricultural Cooperative or JZD (in Slovakia called the Unified Peasant Cooperative – JRD), but there were also a large number of state farms. The JZDs were in fact not cooperatives in the true sense of the word, as their activities were controlled by the state.¹³

¹² RYCHLÍK 2014: 200.

¹³ Act No 122/1975 Coll., § 2. Although Act No 90/1988 Coll. abolished direct proceedings, the state reserved the right of control (§ 5), which was often the same in practice.

Under communism, both JZD and state farms operated on land belonging to the state and on land owned by private individuals. State land in Czechoslovakia was already quite extensive before the communist period. After the establishment of Czechoslovakia, the state owned the former imperial grand estates and the land property of the Habsburg–Lorraine family, which was confiscated without compensation. The Land Reform Act of 1919 also allowed the state to keep the confiscated land for itself if it was not allocated to eligible claimants. Similarly, land confiscated and unallocated from land reforms carried out between 1945 and 1948 was transferred to the state. In the 1950s, the state land fund then grew to include confiscated land of persons convicted of crimes against the state, whether real or fabricated, and land and other agricultural property confiscated through administrative proceedings for failure to meet the obligatory supplies of agricultural products.

Land in communist Czechoslovakia was not allowed to be alienated, i.e. the owner was not allowed to sell it or donate or encumber it. He could only transfer it to the Czechoslovak state. Yet in Czechoslovakia, unlike in the USSR, land as a whole was not expropriated.¹⁴ During the forced collectivisation in the 1950s, farmers joined cooperatives with land, but nominally it remained their property and passed to their legitimate heirs. According to a government decree of 21 September 1955, any owner of land who did not cultivate it himself was obliged to hand it over to a socialist organisation for free use, i.e. usually a JZD or a state farm, while his *de jure* ownership rights continued.¹⁵ Therefore, even by leaving the village for the town, or by leaving the cooperative or state farm for another occupation, the property rights of the original owner and his heirs did not cease unless he expressly transferred the land to the state. It is true, however, that the state authorities tried to expand the state land fund under various pretexts and, in particular during inheritance proceedings, persuaded heirs to voluntarily give up land, from which they had no use anyway, to the state.

¹⁴ Act No 123/1975 Coll. as amended by § 63 of Act No 90/1988 Coll.

¹⁵ Government Decree No 50/1955 Coll. Cf. Act No 123/1975 Coll.

RESTITUTION OF LAND AND OTHER AGRICULTURAL PROPERTY AFTER 1989

After the fall of the communist regime in November 1989, the issue of restitution of agricultural property was not initially on the agenda. It was not until the beginning of March 1991 that the government submitted to the Federal Assembly¹⁶ a draft law “on the regulation of the relationship to land and other agricultural property”.¹⁷ This envisaged that former owners or their heirs would be restored to ownership of land or other agricultural property if they had lost it after the February coup as a result of a decree of forfeiture, if the decree had been annulled, or if the property had been confiscated in the land reform but the owners had not been paid the compensation envisaged by law. Land could not be transferred to foreigners, and not even to Czechoslovak citizens living permanently abroad: the condition for a restitution claim was Czechoslovak citizenship and permanent residence in Czechoslovakia (the requirement of permanent residence was later abolished by the Constitutional Court as being contrary to the equality of citizens before the law). The return of landed property was possible only up to the area determined by the 1919 land reform, i.e. up to 150 hectares of agricultural land or 250 hectares of land in general, and only if the land was owned by the state or a municipality and if it was not built upon,

¹⁶ The Federal Assembly (in Czech: *Federální shromáždění* – FS, in Slovak: *Federálne zhromaždenie* – FZ) was established as a result of the federalisation of the Czechoslovak state in 1968 and replaced the existing National Assembly with effect from 1 January 1969. It had two chambers: the House of the People (in Czech: *Sněmovna lidu* – SL, in Slovak: *Snemovňa ľudu* – SL), which originally consisted of 200 (but from 1990 only 150) members elected nationwide, and the House of Nations (in Czech: *Sněmovna národů*, in Slovak: *Snemovňa národov* – SN), which consisted of 75 members each in the Czech and Slovak Republics. The approval of both chambers was required for the adoption of a law, and for a given area of legislation, a majority of both the Czech and Slovak parts of the House of Nations had to vote in favour of the proposal (the so-called principle of minority veto). The Federal Assembly ceased to exist with the dissolution of the Czechoslovak state on 31 December 1992.

¹⁷ Archives of the Parliament of the Czech Republic (AP CR), f. FS ČSFR, VI. election period, prints, print 393.

and in case of buildings only if they had not lost their original structural and technical character through reconstruction. If it was not possible to return the original land, other land owned by the state was to be transferred to the owner or monetary compensation was to be paid. The original owner had to claim the return of the land within three years.

The issue of the relationship to former owners with Hungarian nationality in Slovakia, who, like ethnic Germans, lost their property before 25 February 1948, e.g. before the communist coup, became a problem with the upcoming land law. It got stuck on the political principle of not restituting property that had been transferred to the state before the February communist takeover. The principle that the date of 25 February 1948 was an insurmountable limit for restitution, which was enshrined in all restitution laws, was a categorical requirement of the federal government of Marián Čalfa, which did not intend to interfere with the confiscation decrees of the early post-war period (inaccurately referred to as the “Beneš Decrees”).¹⁸ The problem was, however, much more complex. First of all – as we already know – the post-war decrees of the President of the Republic laid down different conditions for retaining or returning Czechoslovak citizenship to persons of German or Hungarian nationality, and different conditions for retaining or returning property to such persons, whether landed or otherwise. Therefore, many Germans or Hungarians regained their Czechoslovak citizenship, but not their property.¹⁹

The Czech public was, of course, particularly sensitive to the issue of the German minority, and mob psychosis caused people to lose sight of the fundamental fact that the issue was not the property of those Germans who had been forced to leave for Germany, but only the few members of the German minority who remained in Czechoslovakia and had Czechoslovak citizenship. Even more complicated was the position of the Hungarian minority, which

¹⁸ The term is factually incorrect, because although President Edvard Beneš issued the decrees in his own name, they were prepared and approved by the government and, in Slovakia, the consent of the Slovak National Council (the Slovak legislative body), resp. of its presidency, was required.

¹⁹ RYCHLÍK 1998: 11–12.

remained in Czechoslovakia as a whole and regained Czechoslovak citizenship *en masse* in 1948. Members of the Hungarian minority, unlike the Sudeten Germans, could hardly be accused of any betrayal of the republic, because they behaved loyally in the autumn of 1938. The argument that Germans had taken German citizenship and served in the German army during the Second World War was often demagogically used against the restitution claims of the members of the German minority, although ethnic Germans were granted Reich citizenship automatically and could not avoid serving in the German army. In case of Hungarians, however, this was not applicable at all: in fact, ethnic Slovaks living in southern Slovakia also obtained Hungarian citizenship and served in the Hungarian army, notwithstanding the fact that Slovakia was an independent state during the war and the Slovak army also fought against the USSR on the Eastern Front. Nevertheless, the Slovaks did not have their land or other property confiscated after the war, but only after 1948, and they could now claim their property back. But these obvious facts were apparently noticed by very few people in Slovakia at the time. Just as in the Czech lands there were fears of returning property to the Sudeten Germans, in Slovakia, there existed a mob psychosis, fanned by nationalists and communists alike, with both talking about “returning property to Hungarian irredentists”.

Regarding the problem of the Hungarian minority, already at the meeting of the Special Agricultural Commission in early 1991, the Hungarian deputies of the coalition parties *Spolužitie* and *Maďarské kresťanskodemokratické hnutie* (MKDH)²⁰ demanded that the property of Hungarians confiscated between 1945 and 1946 should be included in the restitution, provided that the original owner had not committed any crime against the Czechoslovak state and had regained Czechoslovak citizenship. The same proposal was later presented in the constitutional law committees of both houses. Members of the right-wing Slovak National Party (*Slovenská národná strana* – SNS) opposed the motion and began to loudly use terms such as “irredentism”,

²⁰ Hungarian name: Együttélés and Magyar Kereszténydemokrata Mozgalom.

“fascism”, etc., without commenting on the substance of the matter. On the other hand, the Slovak historian Ján Mlynárik, a member of the Public Against Violence party (*Verejnosc proti násilu* – VPN), suggested that the restitution should include former citizens of not only Hungarian but also German nationality, and of course only those who had not committed crimes against the Czechoslovak state. A part of the VPN deputies (the part that later formed the Movement for a Democratic Slovakia – Vladimir Mečiar’s HZDS, e.g. *Hnutie za demokratické Slovensko*) demanded that the Federal Assembly should not deal with the issue at all and leave the whole matter to the Czech and Slovak National Councils, i.e. that the restitution problem should be dealt with in both republics on the basis of local legislation.²¹ This was rejected by the Hungarian deputies and the liberals of the VPN, who were well aware that such a proposal was impassable in the SNR.

A solution was eventually found, albeit a compromise one. The historian Jan Rychlík, called in as an expert (the author of this study), pointed out that the decree of the Board of Trustees No 26/1948 Coll. SNR from autumn 1948, according to which the original owners were to be returned property in the ownership of the Czechoslovak state up to an area of 50 hectares, provided that their Czechoslovak citizenship was returned to them, was technically still in force. Therefore, reference to the decree of the Board of Trustees was to be incorporated into the law, i.e. those members of the Hungarian minority who should have been returned their property already in 1948 were included in the restitution. Other cases were to be dealt with by the laws of the national councils, i.e. the republican parliaments, which would be expressly empowered

²¹ As a result of the federalisation of the Czechoslovak state, the Czech National Council (*Česká národní rada* – ČNR) was established in the summer, alongside the existing Slovak National Council (*Slovenská národná rada* – SNR), as the legislative body of the Czech Republic. By analogy, from 1 January 1969, both republics also acquired their governments as executive bodies. After the division of Czechoslovakia, the existing Czech National Council became the Chamber of Deputies of the Parliament of the Czech Republic.

by the Land Act.²² The chairman of the agricultural commission, MP Václav Humpál, put the proposal to the vote, and all but one of the SNS MPs were in favour of including a reference to Decree No 26/1948 Coll. SNR in the text. As regards the authorisation for the national councils, the MKDH MPs insisted that restitution should be dealt with directly by federal law, and so their proposal was included in the minutes first.

About a month later, a joint meeting of the constitutional law committees of the House of People and the House of Nations was held under the chairmanship of both its chairmen, Vladimír Mikule and Milan Čič. At this meeting, a newly formulated Article 21 was included in the text, based on the demands of the Hungarian Independent Initiative (*Madarská nezávislá iniciativa* – MNI),²³ to include members of the Hungarian minority in general, provided they were Czechoslovak citizens and had not committed crimes against the Czechoslovak state, in the restitution. During the Constitutional Law Committees' deliberations on 25 March, an expanded paragraph was again proposed in the text, extending restitution to persons of German nationality/Czechoslovak citizens. These were persons whose landed property had been confiscated under Decree No 12/1945 Coll. but who had not lost their Czechoslovak citizenship under Decree No 33/1945 Coll. or whose citizenship had been restored no later than under Act No 34/1953 Coll. and who were permanently resident in the territory of the Czechoslovak Federal Republic on the date the law came into force. The restitution of land property of persons of Hungarian nationality whose land was confiscated in 1945–1946 was similarly dealt with, provided that they had not lost their citizenship or had acquired it retroactively at the latest pursuant

²² I myself have styled the relevant paragraph as follows: “The ČNR and the SNR shall regulate by law the manner of restitution of persons of Hungarian and German nationality if they have never committed any crime against the Czechoslovak state, have retroactively acquired Czechoslovak citizenship pursuant to Act No 245/1948 Coll. or Act No 34/1953 Coll., unless this has already been done earlier, and were living permanently on the territory of the Czechoslovak Republic on the date of the entry into force of this Act.”

²³ In Hungarian: *Független Magyar Kezdeményezés* (FMK). MNI-FMK changed into Hungarian Civic Party (*Madarská občianská strana* – *Magyar Polgári Párt* – MOS-MPP) in 1992.

to Act No 245/1948 Coll. It did not pass during the vote, however, due to the differing opinions of the constitutional law committees of the two chambers, and was therefore not included in the final text. On 26 March 1991, a meeting was held on the final wording of the Government's draft Land Act, which finally included only a reference to the validity of the Regulation of the Board of Trustees No 26/1948 Coll. SNR. One of the rapporteurs announced that the text had been discussed by the Government of the Slovak Republic and that it agreed with the solution.²⁴

Already at the 12th meeting of the Slovak National Council, some deputies asked for clarification as to how it was possible that, without the knowledge of the Slovak National Council and the Slovak Government, an amendment had been added to the draft law on the regulation of land ownership relations, shifting the limit of restitution in Slovakia from 1948 to 1945. The Slovak Government discussed the matter on 26 March. Prime Minister Vladimír Mečiar informed the ministers in a completely tendentious manner: he did not say that the proposal was to concern only those citizens of Hungarian nationality whose land had already been legally returned by the post-February Board of Trustees. Nevertheless, the ministers were not unanimous in the vote, and at least part of the government agreed with the solution,²⁵ which apparently gave rise to the distorted information presented in the Constitutional Law Committees of the Federal Assembly that the Slovak Government agreed with the proposal. However, at a press conference after the Slovak Government meeting on 26 March 1991, Mečiar accused the "federal authorities" of having added, without the knowledge of the SNR and the Slovak Government, §21 to the government's draft land law, according to which it was proposed to revise the confiscation decrees after 1945, which would supposedly result in the return of property to Germans, Hungarians and national traitors. Moreover, the proposal was said to concern only the Slovak Republic. Mečiar, who spoke of an attempt to "rehabilitate fascism", once again demagogically used the "Hungarian card" in his fight against the Federal Assembly.

²⁴ RYCHLIK 1991: 6.

²⁵ Lidove noviny 1991: 2.

It goes without saying that the Hungarian Independent Initiative, whose political committee met on 27 March 1991, the day after the Slovak Government met, publicly opposed Mečiar's claim through its secretary-general, Károly Tóth.²⁶ Andrej Javorský's commentary "Who Hunts in the Paragraphs?" in *Verejnost'*, representing the position of the VPN, rejected Mečiar's claim of "rehabilitation of fascism" and set the matter straight.²⁷ But regardless of this, the Federal Assembly was discredited in the eyes of a part of the Slovak public as a body that favoured Hungarians and wanted to return land to the Hungarian nobility and irredentists.

The dispute over the final wording of the draft law could not be resolved in committee, and therefore it was put back on the agenda of the plenary. The Land Act was discussed by the Federal Assembly at the 14th joint session of the House of Peoples and the House of Nations on 5 April 1991 (print 547).²⁸ The bill did not pass, and the meeting finally decided to reconsider the bill in the Economic Committee with amendments. Eventually, on 21 May 1991, the proposal was again on the agenda of the 5th day of the 15th session of the Federal Assembly,²⁹ which on the same day approved the Law "On the regulation of ownership relations to land and other agricultural property" (No 229/1991 Coll.). In terms of the concept and scope of property subject to restitution, the law was a compromise: the obliged persons were the state or a legal entity, except for enterprises with foreign participation or foreign States. The scope of the persons entitled was extended to siblings or their children if there were no living heirs in the direct line. The condition was Czechoslovak citizenship and permanent residence in the territory of the Czech and Slovak Federative Republic. Restitution applied only to property transferred to the state or other legal persons between 25 February 1948 and 1 January 1990, in an exhaustively defined manner, primarily by confiscation,

²⁶ TÓTH 1991: 2.

²⁷ JAVORSKÝ 1991: 2.

²⁸ Minutes of the 14th joint meeting of the SL and SN, May 1991.

²⁹ Minutes of the 15th joint meeting of the SL and SN, 21 May 1991.

donation or distress sale, or deprivation without compensation. Land could not be handed over if it had been built on, except if the building did not hinder agricultural production, if a right of personal use had been established over the land (which, in the communist period, actually replaced the ownership right of the user), or if there was a garden or cottage colony, physical education and sports facilities, or a cemetery on the land. In such a case, alternative land could be provided. Other agricultural property that could not be returned was eligible for compensation. As regards the dispute concerning the claims of the Hungarian minority in Slovakia, although it did not make it into the law, it was settled by reference to the inviolability of any other legislation, “e.g. the Regulation of the Board of Trustees No 26/1948 Coll. SNR”. The law empowered the national councils to enact their own laws to deal with the partial redress of property injustices according to the regulations in force in each republic and thus affecting Germans and Hungarians. Agricultural cooperatives were not affected by the law: their transformation was left to a separate law.³⁰

It soon became apparent that the path outlined by the law to redress the property injustices of the Hungarians was not viable. As a rule, members of the Hungarian minority did not get their land or other agricultural property back, because the land registers noted that it had been confiscated on the basis of a 1945–1946 SNR decree as the land of traitors or enemies of the state. This was interpreted by the land authorities as meaning that the former owners were guilty of crimes against the Czechoslovak state and were therefore not entitled to restitution. The Land Act had, in fact, more flaws. On 18 February 1992, the issue of land restitution was therefore referred back to the plenary of the Federal Assembly.³¹ This time the passions had cooled down. In particular, the amendment to the law abolished the restriction that restitution was to apply only to up to 150 hectares of arable land or 250 hectares of land in general. Thus, even land seized under the First Land Reform Act was to be restored if

³⁰ Act No 42/1992 Coll. Cf. also Statutory Measure of Federal Assembly No 297/1992 Coll. and Act No 496/1992 Coll.

³¹ Minutes of the 20th joint meeting of the SL and SN, 18 February 1992.

the owner had it registered in his name in the land register. It should be added that the Democratic Left Party (*Strana demokratickej ľavice* – SDL) and HZDS disagreed with this provision and, after the establishment of the independent Slovak Republic, pushed for the restriction of restitution to 150 and 250 hectares respectively.³² The restitution of land where this was to be done under the 1948 decree of the Board of Trustees was directly included in the amendment. In addition, the law directly empowered the Czech National Council to adopt a law restoring property to persons of German nationality, provided that they had not offended against the Czechoslovak state, were permanently living in the territory of the Czechoslovak Republic, and had regained Czechoslovak citizenship by 1953 at the latest.³³ Although the power for the SNR to deal with the restitution of the property of persons of Hungarian nationality who were not covered by the provisions of Decree No 26/1948 Coll. SNR was not expressly included in the amendment, nothing prevented the SNR from adopting such a law. However, nothing of the kind occurred.

The ethnic aspects of the restitution process were again evident in mid-April. On 14 April 1992, the plenary session of the Federal Assembly decided on another amendment to the Land Act, this time submitted as a motion by 62 right-wing deputies, mainly from the Christian Democratic Party (*Křesťansko-demokratická strana* – KDS), the Christian Democratic Union – Czechoslovak People's Party (*Křesťansko-demokratická unie – Československá strana lidová* – KDU – ČSL), and the Christian Democratic Movement (*Křesťansko-demokratické hnutie* – KDH).³⁴ The proposal was intended to extend restitution to churches and religious societies, since in the original Act No 229/1991 Coll., such land was blocked until a special legal norm was issued. During the discussion, an interesting point emerged: the proposal did not address the restitution claims

³² Act No 186/1993 Coll. SR (Collection of Laws of the Slovak Republic – *Z. z., Zbierka zákonov Slovenskej republiky*).

³³ Act No 93/1992 Coll. I personally formulated the mandate for the CNR, and it was identical to the one I had proposed a year earlier in the Constitutional Law Committees of the FS. See *Rudé právo* 1992: 1–2; ADAMIČKOVÁ–KÖNIGOVÁ 1992: 1–2.

³⁴ Minutes of the 22nd joint meeting of the SL and SN, 14 April 1992.

of the Slovak Evangelical Church of the Augsburg Confession, the Reformed (Helvetic) Church (Calvinists) and the Jewish Religious Community. It also quickly became clear why: the property claims of the Slovak Protestants could not be resolved without simultaneously addressing the claims of the Reformed Church (Calvinists). However, this church in Slovakia consisted of 90% ethnic Hungarians,³⁵ and the property of the church was mostly confiscated as “Hungarian” already in 1945–1946. No Slovak political party wanted to hear anything about its restitution. The restitution of the property of the Jewish Religious Community in turn reopened the question of Aryanisation under the Slovak state. A number of people were involved, including the Bishopric of Spiš, headed by Bishop Ján Vojtaššák.³⁶ There was no willingness among the Czech MPs – with the exception of the Christian parties – to restitute church property. It was a bill for which the minority veto did not apply during the vote, and a simple majority of the deputies of both houses was sufficient for approval. However, the Catholic Church’s restitution claims were opposed not only by the deputies of the OH, HZDS and SDL, who claimed that the property of the Catholic Church originally belonged to the state,³⁷ but also by five Hungarian deputies, who explicitly conditioned their support for the proposal on the extension of restitution to other churches in Slovakia. The motion by 62 MPs was rejected. The restitution of property to the churches

³⁵ PEŠEK–BARNOVSKÝ 1997: 17–18; PEŠEK–BARNOVSKÝ 1999: 28.

³⁶ In the trial against Bishops Ján Vojtaššák, Michal Buzalka and Pavel Gojdič, which took place on 10–15 January 1951 before the State Court in Bratislava, Vojtaššák was accused of having acquired the Baldov Spa by means of Aryanisation. Vojtaššák defended himself by saying that it was a purchase for the Bishopric of Spiš. See *Proces proti vlastizradným biskupom Jánovi Vojtaššákovi, Michalovi Buzalkovi a Pavlovi Gojdičovi* 1951. As we know today, the trial was rigged and therefore all accusations should be treated with great caution. I have not had the opportunity to verify the truth of the allegations about the Aryanisation of the Baldov Spa by the Bishopric of Spiš. The Slovak lawyer Katarína Zavacká published in the article *Nie je hrdina ako hrdina* (ZAVACKÁ 2001: 6) a part of a letter of the Spiš Chapter to the Central Economic Office (No. 6497/41 of 4 February 1941), in which it is requested “to buy the Baldovce Spa in the ownership of Ing. Ladislav Fried, a Jew from Levoča”.

³⁷ RYCHLÍK 1992b: 5.

was only addressed in independent Slovakia as part of the efforts of Vladimír Mečiar's government to win their support. The restitution process was renewed in 2005–2006, but has not been fully completed to date. In the Czech Republic, the restitution of the property of churches and their settlement with the state only took place in 2012 (Act No 428/2012 Coll.).

A bill addressing the restitution claims of Czech Germans was submitted to the Czech National Council as a parliamentary initiative. It provoked (as expected) negative reactions and great emotions among the Czech public, similar to the alleged return of land to “Hungarian irredentists” in Slovakia a year earlier.³⁸ For example, *Rudé právo* reported on the proposal under the telling headline “Will the Settlers in the Borderlands Give Back Their Land?”³⁹ This was a demagogic question intended only to arouse further emotions: settlers in the borderlands were not threatened, because the restitution concerned, of course, only land property held by the state or in the use of JZD.⁴⁰ It is also interesting that no one asked why property was confiscated in 1945 from persons who had not lost their Czechoslovak citizenship and who were, therefore, recognised by the state as having done nothing wrong. The Czech National Council approved the law on 15 April 1992, and emotions quickly subsided.

In the end, the issue of restitution of minority property was indeed dealt with differently in the two republics. Members of the German minority in the Czech Republic, unless they had been displaced after the war and had regained their citizenship by 1953, had their landed property returned to the same extent as to the Czech owners. However, compared to the total number of members of this minority in 1945, this was only a fraction of the population, as the vast majority of them were living in the Federal Republic of Germany in 1991 and had German citizenship, thus being excluded from restitution. In Slovakia, on the other hand, members of the rest of the German minority were not included in the restitution at all, unless their property was left to them

³⁸ RYCHLÍK 1992a: 9.

³⁹ GÖTZOVÁ–HOFFMANN 1992: 1.

⁴⁰ Act of CNR No 243/1992 Coll.

immediately after the war. Members of the Hungarian minority in Slovakia were included in restitution if they had not committed any crimes against the Czechoslovak State and had regained their citizenship by 1948 at the latest, but only up to an area of 50 hectares and only if the land was still owned by the State in 1948, i.e. if it had not already been allocated to Slovak applicants under the land reform before that date. Given that the number of members of the Hungarian minority in 1945 did not change substantially in 1991, the problem in Slovakia was much more acute.

The compensation of members of the Hungarian minority was a subject of dispute in independent Slovakia in the following years, and it complicated cooperation with Hungarian parties within the governmental anti-Mečiar coalition after 1998. The Hungarian Coalition Party (*Strana maďarskej koalície* – SMK)⁴¹ demanded that the so-called unidentified land held by the state be transferred to the municipalities. It could be assumed that these were confiscations from former Hungarian owners. The transfer to the municipalities, which usually have a Hungarian majority in southern Slovakia, opened the way for compensation for the original owners. The ruling coalition, especially the SDL, rejected this proposal, for which the Hungarian Coalition Party refused to support the planned constitutional amendment in early 2001. The issue remains unresolved to this day.

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⁴¹ In Hungarian: *Magyar Koalíció Pártja* – MKP.

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