Cent. Eur. For. J. 64 (2018) 195–206 sciendo DOI: 10.1515/forj-2017-0045
CENTRAL EUROPEAN Forestry Journal
http://www.nlcsk.sk/fj/

REVIEW PAPER

Restitution of forest property in the Czech Republic and Slovakia – common beginnings with different outcomes?

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Abstract
Restitution of private land ownership has been a major undertaking influencing the forest sector in many post-communist countries. The Czech Republic and Slovakia are typical representatives of the countries where major societal changes have taken place since the fall of communism in 1989, including the restitution process of the nationalized property. The aim of this article is to analyse the process of the forest land restitution with the emphasis on common and different features between the two countries. Based on a critical evaluation of published reports, articles and valid legislation, the course of the restitution process and its current state and situation in the Czech Republic and Slovakia are described. The restitution of the property collectivized by the communist regime, including forest property, was enabled by the federal law in both countries. Even after their split in 1993 the restitution process unfolded in a similar way in both states, with the notable exception of church property in the Czech Republic. Unlike Slovakia, a country with high religious predominance, where the church property restitution was resolved almost immediately, in the Czech Republic the legislation governing the church property restitution was not issued till 2012. In both countries the restitution process resulted in the differentiation of forest land ownership, now presenting challenges for the formulation of forestry policies. In terms of forest management and protection, the most problematic are small-scale forest owners who have lost ties to their restituted forest property and cannot or do not want to manage it.

Key words: legislation; economic in transition; forest land; forest owners; implementation deficits; restitution

Editor: Špela Pezdevšek Malovrh

1. Introduction

In the late 1980s and early 1990s, a substantial part of the countries of Central and Eastern Europe (CEE) underwent fundamental societal changes leading to the democratization of society. One of the many visible impacts was the return of state-confiscated property to original owners. This process, commonly known as restitution of property, is not only privileged in this part of Europe. Similarly, property was returned after the end of apartheid in South Africa (see e.g. Christopher 1995; Fraser 2007; May & Lahiff 2007; Fay 2009; Barry 2011); the complex of housing, land, and property restitution related to civilian population dislocation during armed conflicts in Liberia, Sierra Leone, Somalia, Angola, Mozambique, Uganda, Ethiopia, Kenya, Sudan, East Timor and Colombia has been analysed by Unruh (2014).

Restitution of forests acknowledges the continuity of private ownership rights on forestland in rendering them to the former owners or their heirs and/or to local communities and institutions (Schmithüsen & Hirsch 2010). By restitution "prior claims of property ownership are honoured against current, competing claims" (Fisher & Jaffe 2000).

From a sectoral point of view (Giessen & Krott 2009), there is a scholarly debate about restitution, decollectivisation and related land fragmentation rather in CEE agricultural (rural areas) sector (Kopeva et al. 1994; Yarnal 1994; Born 1997; Lerman 2001; Blacksell & Born 2002; Johannsen 2003; Pašakarnis et al. 2013; Roose et al. 2013; Bański 2017), including some qualitative studies (Di Falco 2010; Grubbström 2011; Grubbström & Sooväli-Sepping 2012), or in forestry as a part of the agricultural sector (Hedin 2005; Premrl et al. 2015).

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An in-depth analysis of the land reform in CEE countries has been performed by Hartvigsen (2013, 2014) who distinguished two fundamentally different overall approaches to land reform in the CEE countries - *restitution* of land rights to former owners (four approaches) and *distribution* of land rights to the rural population (two approaches). Until quite recently, there had been only few studies (e.g. Lazdinis et al. 2009) dedicated to the analysis of the restitution process in forestry sector. A significant shift in this context were the outputs of the European COST project FP1201 FACESMAP published as a set of national reports (Živojinović et al. 2015) including the Czech republic (Jarský et al. 2015) and Slovakia (Ambrušová et al. 2015). The project was focused on changes in forest ownership and their impacts on forest policy and forest management. It has been shown that in the countries of Central, Eastern and South-Eastern Europe, the restitution process was the most significant cause of changes in the ownership structure of forests after 1990 (Živojinović et al. 2015).

The Czech Republic and Slovakia are countries connected from the past – geographically, politically and linguistically. They were part of the Austro-Hungarian Empire, which had its impact on the forestry sector, including forestry education. However, it is essential that in the years 1918–1992 (with the exception of World War 2) a common state was formed – Czechoslovakia. Together they have gone through all the socio-political stages since 1945, from post-war revival, communist coup, to political liberalization, normalization up to democratic changes in 1989. On the basis of a mutual political agreement, in 1993 two independent states have emerged – the Czech Republic and Slovakia. Both countries are typical representatives of the CEE countries where major societal changes have occurred since 1989, including the restitution process.

Leaving behind the property changes in the period of the Protectorate of Bohemia and Moravia or the Slovak State, the process of nationalization of forests was very dynamic after 1945. Significant in this sense was the Decree of the President of the Republic No. 12/1945 Coll., on confiscation and accelerated division of property of Germans, Hungarians and enemies of the republic, on whose basis 1.08 million ha of forests were expropriated and allocated to the state and to units of territorial self-administration and forest cooperatives. Act No. 142/1947 Coll., on the revision of the first land reform, affected all estates with an area over 50 ha. This involved the nationalization of approximately 450,000 hectares of landowners, church and endowment forests. By Act No. 143/1947 Coll. 50,000 ha of forests of the Schwarzenberg family were taken over by the state. Act No. 46/1948 Coll., on the new land reform, transferred to the state ownership another approximately 70 000 ha of land and residual forests. This meant that – apart from small forests – the private sector in forestry was virtually eliminated. By Act No. 279/1949 Coll. and the subsequent Government Decree No. 90/1950 Coll., on the administration of national property by national committees, the state took over most of the municipal and urban forests, with the exception of several cities such as Prague, Brno, Tábor, Písek, Kutná Hora or Přerov. These cities passed their forest property to the state between 1954 and 1963, and particularly in 1958.

The Government Decree No. 81/1958 Coll., on the management of national property, nationalized the forests of cooperatives and other entities. Thus, in the Czech lands, the total area of state forests reached 2,574,000 ha. Under Acts No. 166/60 Coll. and No. 61/1977 Coll. all forests managed by the agricultural cooperative were transferred to the state. Similarly, other small forest owners were forced to give their forests to the use or ownership of the state.

The aim of this article is to analyse the implementation process of the restitution of the nationalized forests in the Czech Republic and Slovakia with the emphasis on common and different features between the two countries. We ask the question whether or not the common starting point (legislation) has led to different outcomes and implementation deficits. The restitution process began during a brief existence of post-communist Czechoslovakia and continued after the separation of Slovakia from the Czech Republic with different pace and development in each country.

2. Material and methods

The main research method that was used was document content analysis. Policy analysis was used in order to analyze the process of the restitution (Windhoff-Heritier 1987; Schubert & Bandelow 2003; Šálka 2006). Policy outputs in form of legislative acts, sub-statutory acts and official ministry documents were analyzed in order to describe the institutional context of the restitution process. Content analysis allows making replicable and valid inferences from data to their context. Thus, content analysis is all about making valid, replicable and objective inferences about the message on the basis of explicit rules (Stemler 2001). Following steps we applied:
Formulation of the research question and objectives: The research question is *whether or not the common history led to the same (or similar) current situation (from the restitution process point of view*). One of the important bullet points within the changes after 1989 was the recovery of the private ownership, including the forest land. Such situation could be analyzed formally or informally. The formal analysis consists in a critical evaluation of officially published reports or is performed on the basis of an analysis of valid law, not field research or evaluation using sociolinguistic research methods such as e.g. opinion polls, etc. (Potter & Levine-Donnerstein 1999). In the article the formal analysis was used, although of course any formal tools are strongly influenced by infor-

mal relations between actors, which was not the purpose of this study.

Selection of sample. The focus was put on the legislation regulating the restitution process in Czech Republic and Slovakia complemented by relevant grey literature and scientific papers. Legal acts regulating the restitution process and official ministry documents were the main information sources (Table 1).

describing the process itself, its timeline and current status as well as conflicts arising from the restitution. This task was fulfilled by the authors of the paper, with close consultation of experts in the field.

Analyzing the collected data: The related results of the analysis are explained in the Results section.

Table 1. Analyzed policy documents.

	Czech Republic	Slovakia
Acts	Act no. 403/1990 Act no. 87/1991 of the Coll. Act no. 172/1991 of the Coll. Act no. 229/1991 of the Coll. Act no. 212/2000 of the Coll. Act no. 428/2012 of the Coll.	Act no. 138/1991 of the Coll. Act no. 229/91 Coll. Act No. 282/1993 Coll. Act no. 503/2003 of the Coll.
Official documents	Information on Forests and Forestry in the Czech Republic (annual) Kubačák & Jacko 2012	Reports on the Forest Sector of the Slovak Republic (Green report) (annual) Report on the transformation of property and management rights to forest land (annual)

Table 2. Analyzed scientific and technical documents.

	SCI articles on restitution and transformation process	Grey literature
Czech Republic	Kupčák 1998; Bičík & Jančák 2003; Kupčák 2005, 2007; Bartušková & Homolka 2009; Jarský et al. 2015	Řezáč, 1999; Oliva 2004; Šímová, 2006; Jiráček, 2011; Lasák 2012; Slavinger, 2013; Zeman 2015
Slovakia	Ilavský 2001; Sarvašová & Tutka 2005; Šulek 2006; Ambrušová et al. 2015	Klacko 1993; Bútor 1999; Hatiar et al. 1994; Fischer 1995, 1999; Scheimer & Hatiar 1999; Ilavský 2004; Vyhnálik 2004
CEEC-SEE	Johannsen 2003; Bouriaud & Schmitthusen 2005; Dawidson 2005; Hedin 2005; Schwartz, 2006; Kuemmerle et al. 2007; Paladinić et al. 2008; Lazdinis et al. 2009; Di Falco et al. 2010; Grubbström 2011; Weiss et al. 2011; Grubbström & Sooväli-Sepping, 2012; Knorn et al. 2012; Hartvigsen, 2013; Paladinić 2013; Roose et al. 2013; Hartvigsen, 2014; Pöllumäe et al. 2014; Stojanovska et al. 2014; Premrl et al. 2015; Stanislovaitis et al. 2015; Živojinović et al. 2015; Paladinić et al. 2016; Bánski 2017; Pezdevšek Malovrh et al. 2017; Scriban et al. 2017; Shafik 1995; Kopeva et al. 1994; Yarnal, 1994; Fisher & Jaffe 2000; Lerman 2001; Vranken et al. 2001	
Other European ccountries	Born 1997, Blacksell & Born 2002; Schmithüsen & Hirsch 2010	
World	Christopher 1995; Fraser 2007; May et al. 2007; Fay 2009; Barry 2011; Unruh 2014	

Grey literature in Czech and Slovak language and scientific articles dealing with restitution and the transformation process in CEEC-SEE countries, other European countries and rest of the world were analyzed to get a complex view on the restitution process in Europe and rest of the world. The overview is presented in Table 2. Grey literature refers to both published and unpublished research material that is not available commercially. The search for, and inclusion of, grey literature in a systematic review is an important way to help overcome some of the problems of publication bias. Grey literature is defined as 'that which is produced on all levels of government, academia, business and industry in print and electronic formats, but which is not controlled by commercial publishers (Hopewell et al. 2005). A systematic review can be biased when it fails to report crucial information that may be hidden in some grey literature.

Forming content categories: All relevant information regarding the restitution process on country level was collected in order to identify main historical events and milestones in the restitution process. We aimed at

3. Results

In 1991, the process of restitution started when the so-called Restitution Law came into force, which allowed the return and use of property to former landowners. Equality of all kinds of ownership was assured firstly by constitutional law and then by adoption of so-called "Land law" No. 229/1991 of the Coll. on the 24th June 1991 in the Federal Assembly. Due to the change all kinds of ownership were restored and made equal and a process or restitution of forest property to former owners started altogether with diversified management of this property. It concerns all estates that were taken by the state illegally and then were socialized. Re-privatization should serve as a process that will improve the management of former state agricultural and forest land that was farmed in very ineffective way.

The purpose of the restitution process in the Czech Republic and Slovakia was the restoration of confiscated property to the condition prior to 1948. The forest ownership structure in both the Czech Republic and Slovakia differed markedly in 1947 and in 1990 (Table 3).

Table 3. Forest ownership structure in 1947 and 1990.

Owner	Czech Republic [%]		Slovakia [%]	
	1947	1990**	1947	1990*
State	60.1	95.8	32	99.7
Municipalities	17.4	none	12	none
Private	12.2	none	23	slight
Shared (Urbariat)	none	none	26	none
Churches	7.1	none	5	none
Forest co-operatives	3.2	0.1	none	none
Co-operative farms	none	4.1	2	0.3

Source: * NLC-ULZI Zvolen, Permanent forest inventory 1990; **Green report CZ, 1999.

3.1. Results from literature review in the Czech Republic

Forest ownership issue was very lively debated in the past 20 years and more, especially in professional networks (including professional journals such as "Lesnická práce" – "Forestry Work"), but has not been evaluated by scientific methods, which is the basis for publishing in scientific journals. In the journal "Lesnická práce" and professional web site "www.silvarium.cz" there were hundreds of different opinions published (among others Jiráček 2011; Lasák 2012; Oliva 2004; Řezáč 1999; Slavinger 2013; Šímová 2006; Zahradník 2000). However, these opinions are individual and very often contradictory, from which as sole sources it is almost impossible to deduce any conclusions.

The literature dealing with the transformation of Czech forestry can be diversified into three groups:
1) Restitution – return of nationalized property – e.g. Bartůšková & Homola (2009), Bičík & Jančák (2003),
2) Privatization of forestry technologies, including several forestry operations (the creation of business entities in forestry), e.g. Kupčák (1998; 2003; 2007),
3) The creation of state enterprises managing state-owned forests, e.g. Kupčák (2005).

The whole restitution process in-depth analysis is provided by Zeman (2015), according to whom the depreciation of property owned by the state was realized in the fourth pillar of the transformation process of the national economy of the Czech Republic. This pillar – the transformation of property rights – consists of the privatization, restitution, liquidation and bankruptcy processes of state-owned enterprises and the transformation process of state property into communal property. For this pillar six specific acts were adopted.

3.2. Results from literature review in Slovakia

Very little scientific papers were published on the issue of forest ownership and restitution in the past 20 years in Slovakia. Similar to the Czech Republic, some articles can be found in professional journals ("Forest" - a journal for forestry professionals). The main theme concerns the current state and problems with restitution of forest land (Fisher 1995; Fisher 1999; Scheimer & Hatiar 1999; Vyhnálik 2004) and the privatization of the State forest enterprise (e.g. Klacko 1993; Hatiar 1994; Ilavský 2004). Short articles and communications can be found in periodical printed media. These articles either inform on the state of the restitution process or present opinions of individuals. In domestic scientific journals restitution is mentioned only in the context of the current property structure (in "Forestry Journal").

Bútor et al. (1999) provide an overview of the process of the restitution of forest land ownership rights and all related legislative norms. The present state in re-privatization and main reasons for delays and stagnation in this process are investigated, such as difficulties in providing proof of ownership, difficulties with returning the land of small forest owners in coherent forest areas.

Ilavský (2001) discusses the process of restitution of non-state forests, development of ownership structure, results of an opinion survey on preparedness of private forest owners to manage their forests and identification of the main problems and constrains in the private forestry sector. Documents proving ownership of private owners and identification of holdings in the fields are the main problems in the process of restitution. Another constraint is that private owners are insufficiently prepared for the management of forest.

Sarvašová & Tutka (2005) analyse the differences in the ownership and management of forests in the context of socio-economic changes in Slovakia. In addition to unambiguous positive results, the process of re-privatization has also brought problems and non-standard situations, such as difficulties in providing proves of ownership and difficulties with returning the land of small forest owners in coherent forest areas.

Šulek (2006) analyses the origin and history of common property of forest resources in the region of Slovakia in the past. Due to the fact that the forest property regimes have significantly changed from the one to the other especially in the 20th century, the changes in ownership structure and common property of forest resources in the 20th century in the region of Slovakia are discussed – social, political and economic reasons for the institutional changes in forest property rights regimes are covered.

3.3. Restitution process in the Czech and Slovak forestry sector

It is necessary to distinguish two separate periods – years 1990–1992 and period after the year 1993.

3.3.1 Period 1990–1992

In this time period the common state of Czechoslovakia still existed. Czechoslovakia was a federal state, where two levels of law were valid – the federal acts and the national acts. Following the social changes it has been, on the federal level, decided on the procedure of property

return to former owners of agricultural and forest land by adopting the Act no. 229/1991 Coll., on modification of land and other agricultural property ownership. The restitution process was understood as a process of restoring property rights of the original owners, for property confiscated after 25 February, 1948. Subjected to the process were agricultural and forest land, buildings and related structures, other agricultural and forest property (and compensations for non-existent assets, or those which cannot be issued, and for alive and dead inventory and supplies). One of the basic criteria was the citizenship of Czechoslovakia (the Czech or Slovak Republic). This act did not concern the church and church legal entities, which was stated in the so called blocking § 29, saying that "property whose original owners were churches, religious societies, orders, and congregations cannot be transferred to the possession of other persons until the laws of that property have been adopted." This act was considered the general legal norm for forest land restitution, but its incompleteness soon emerged, which was further addressed by adjustments at national levels. In the same year both national assemblies adopted separate legislation regarding the property of cities and municipalities – Act no. 172/1991 Coll., on transfer of certain property from the Czech Republic to the property of municipalities and Act no. 138/1991 Coll., on the municipal property in Slovakia. They concerned estates, buildings and agricultural and forest land of municipalities and forest cooperatives. Both acts were similar, allowing the transfer of property from the state to the municipalities.

As a result of the elections in 1992, the agreement on the separation of federal Czechoslovakia was accepted. On the 1st of January 1993 two states were created – the Czech Republic and the Slovak Republic. From the perspective of the restitution process it could be stated that at the beginning of the year 1993 the legal framework was almost the same in both countries (one same or similar act).

3.3.2 Period after 1993

The following analysis deals with the differences related to restitutions between the Czech Republic and Slovakia which have arisen from the specific legislation changes in both states.

3.4. The specific legislation in the Czech Republic

The main legislative acts concerning restitution were:

- Act no. 403/1990 of the Coll. of 2nd October 1990 on mitigating the consequences of some property injustices.
- Act no. 87/1991 of the Coll. of 21st February 1991 on out of court rehabilitation.
- Act no. 229/1991 of 21st May 1991of the Coll. on the regulation of ownership rights to land and other agricultural property (Land Act).
- Act no. 212/2000 of the Coll. of 21st July 2000 on mitigating the property injustices caused by the holocaust.
- Act no. 172/1991 of the Coll. of 24th April 1991 on the transfer of certain assets from the property of the Czech Republic to the ownership of municipalities.
- Act No. 428/2012 of the Coll. of 8th November 2012 on property settlements with churches and religious societies.
- Resolution of the Government of the Czech Republic No. 168/1995 Coll., on transfers of movable assets of former forest cooperatives to municipalities.
- Act No. 114/2000 Coll., amending Act No. 172/1991 Coll., on the transfer of certain assets to the ownership of municipalities, as amended, transferred by 1 July 2000 to the ownership of municipalities which were allocated to municipalities in the years 1945 to 1948 according to the valid legal regulations, but they were not legally registered in the Land Register (estimated at about 40,000 ha).
- Pursuant to the amendment to Act No. 172/1991 Coll. No. 277/2002 Coll., 29,000 ha of forests belonged to forest cooperatives of municipalities.

In this time period few amendments to the basic restitution legislation occurred. For example regarding the original legislation, only persons who were permanent residents in the Czech Republic could have applied for restitution. On the basis of findings of the Constitutional Court No. 29/1996 Coll., which cancels some provisions of Act No. 229/1991 Coll. and law No. 243/1992 Coll., in favour of persons who did not fulfil the condition of being permanent resident on the area of the Czech Republic, new restitution claims in 2870 cases were staked in compliance with Act No. 30/1996 Coll.

Another act that partly affected forest land restitution was Act No. 212/2000 Coll., on mitigation of certain property injustices caused by the Holocaust, concerning the return of immovable and movable property, particularly works and objects of art to the holocaust victims, which went beyond the restitution logic after the year 1948.

The last restitution laws regarding forest property is related to the property of the Churches. As noted above, the General Restitution Act did not apply to religious property. The first attempts for a special law appeared in 1993 and periodically repeated in the 1990s. However, it had never been possible to reach political agreement on the drafting of the law. This happened only in 2008, but its adoption prevented the early dissolution of the Chamber of Deputies of the Parliament of the Czech Republic. The new law was prepared in 2011 and approved by the Chamber of Deputies in 2012 as Act No. 428/2012 Coll., on property settlement with churches and religious communities. The law determined the property (including

forest land) and property compensation that cannot be issued (in 30 annual instalments) for 17 churches and religious societies. At the same time, it stipulated that the state's contribution to the operation of the churches would be reduced and completely terminated after 17 years, when the practical separation of churches from the state would occur.

3.5. The specific legislation in Slovakia

The main legislative acts concerning restitution were:

- Act No. 229/91 Coll. on the regulation of ownership rights to land and other agricultural property (Land Act). The law was changed by twelve amendments (last 549/2004 of the Coll.) and amended to mitigate the consequences of some of the property injustices that have occurred against owners of agricultural and forestry assets.
- Act No. 138/1991 of the Coll., on municipal property, amended in 1992 due to the different interpretation of forest property that should be returned.
- Act No. 282/1993 Coll. to mitigate some property injustices caused by churches and religious societies.
- Act No. 503/2003 of the Coll., on the return of land ownership rights that changed and amended the Act of the National Council of the Slovak Republic No. 180/1995 of the Coll., on certain measures for the arrangement of ownership of land. This law regulates the return of ownership to land not returned under the regulations of the land act.

In Slovakia soon after the beginning of the restitution process problem arose with the interpretation of Act No. 229/1991 where it was not clear to which extend the restitution of land should be made. The Supreme Court decided in 1998 that forest property will be returned according to this act also in the case of municipal and church forest property. The specific historical common ownership category (urbariat and komposesorat) where shared ownership to land is possible was returned to the many shareholders in the same extent as it was taken. Specific situation arose when the church was one of the shareholders. In this case the property was returned together with the co-owners.

The property which was up to the 31st of January 1949 in municipal property and went to state ownership was returned according to Act No 138/1991 of the Coll., on municipal property. Municipalities have acquired back forest land, including forest stands.

The Slovak Republic took the question of church restitutions more urgently than the Czech Republic. The first attempts to solve the claims of the churches of seized property fall within the scope of Act No. 282/1993 Coll. to mitigate some property injustices caused by churches and religious societies. This Act was amended by the provisions of Act No. 97/2002 Coll., and Act No. 161/2005 Coll. and the process ended.

The restitution process is still not finished yet. Since the effectiveness of the restitution laws up to the 31 December 2015, still 33,693 applications remain in the handling (forest land physically not handed over to former owners), which represents 33.45% of the total number of applications received, with a required area of 67 767 ha (6.45% of the required area). From the total number of applications received within the Slovak Republic, 66.56% of applications were positively solved. Usage rights to forest land were returned up to 93.55% of the requested amount (MPRV 2016).

4. Comparison by countries

The result of the restitution process is the creation of a current ownership structure. Although it is a dynamic story (thanks to sales, inheritance, etc.), the restitution process is undoubtedly the main reason. Table 4 displays the status of ownership structure in 2016. No official data for 2017 were available at the time of the article preparation; the data for 2017 will be published in the third quarter of 2018.

Table 4. Ownership structure in 2016.

Type of owner	Czech Republic [%]**	Slovakia [%]*
State	57.4	39.7
Private	22.3	10.6
Municipal	17.1	8.7
Co-operatives	1.2	0.3
Church	2.0	2.4
Commons (Urbariat)	0	19.4
Unknown (unidentified)	0	18.9

Source: *Green report SR (MARD SR, 2017); **Green report CZ (MA CZ, 2017). According to MA CZ (2017) another 5,860 ha of forests should be issued to churches in 2017 and beyond, hence the share of forests owned by the churches is projected to be 2.2%.

When looking at Table 3 and Table 4, it is clear that the return to the state before 1948 has largely succeeded in both states. The only notable difference is the relatively significant share of the unknown owners in Slovakia, who in 1947 were mainly in the category "private" before. This is due to the crumbling of ownership under Hungarian law on the one hand and also due to the reluctance of authorities to identify (within the restitution process) the original owner on the other. The unknown ownership is somehow similar to the Czech category of unidentified ownership, because in the land register only the name and date of birth is shown. The land of such owners is administered by the Slovak Land Fund. In the Czech Republic the issue of unknown owners is important in the agricultural sector. In forest land parcels it is possible to find the category "owner cannot be identified". Such owners of these estates are registered in the real estate cadastre by their names and surnames only. They cannot be properly identified; therefore, they cannot be found in the population register or declared dead.

Apart from the ownership structure, the size of the property is also essential. In the Czech Republic, according to the Cadastre of Real Estate, about 390 thousand

owners own at least one forest plot, of which 90% are natural persons, 7% are joint-ownership cooperatives of spouses and 3% of legal entities of various types. Especially for natural persons, the fragmentation of ownership is considerable, 64% of them own property smaller than 0.5 ha, 93% less than 3 ha.

In Slovakia up to now 100,736 subjects required the arrangement of the ownership and usage rights of a total of 1,050,414 ha of forest land (10,4 ha per claim). Private forest owners restituted on average less than 3 ha each, the mean of returned property for municipalities varies around 394 ha and restituted church forests present on average 94 ha. Special attention should be given to shared property where per one claim was restituted on average 134 ha, but one subject is usually represented by hundreds to thousands owners. From the beginning of restitution process bigger estates were logically claimed first. Now it remains to transfer usage rights on an average of about 2 hectares per subject.

The biggest differences occur due to historical reasons. Again we can state that "history matters". In both countries there were different historical types of ownership (for example in Slovakia there existed very important commons, in the Czech Republic the forest municipal cooperatives). The most significant difference was the situation related to the return of property to Churches. The Slovak Churches were seen as normal restituents (the relevant law was approved already in the year 1993). In the Czech Republic, the situation was different. The historic forest property of the churches (about 7% of the forest area) was left in the hands of the state because it was supposed that restitution would be part of a complex settlement. Negotiations on the settlement, however, took nearly 20 years before Act No. 428/2012 Coll., on property settlement with churches and religious communities, was approved. On its basis, the separation of the churches from the state takes place through property settlement, including the restoration of forest assets.

5. Discussion

According to Hartvigsen (2013), there were four different land reform approaches related to restitution in the CEE countries:

- Restitution to former owners (including allocation of other land if restitution in the old boundaries is not possible).
- Withdrawal of formally private land from collective farms.
- Compensation (in state vouchers, bonds or money).
- Privatization through sale of state land.

The political representatives in former socialistic countries in Europe had to decide how to deal with property that had been confiscated from private owners. Dawidson (2005) in her research discusses that a heated debate arose as to who should be entitled to become the rightful owner of confiscated properties; former owners or current users? In the Czech Republic and Slovakia, there was a strong political will that the property should be returned to former owners due to historical reasons and the share of privately owned forests before the collectivization. The only way how to achieve it was restitution. In several cases, when the forest property was destroyed or non-existent, compensation payments were possible.

The fundamental significance of the restitution process is the achievement of a fair state by returning the nationalized or state-confiscated property to the original owners. In addition to this unambiguously positive impact, this process has a number of positive and negative impacts.

The positive affects concern the forest policy and governance processes. Kozová et al. (2018) as well as Hrib et al. (2018) emphasized the importance of the restitution process for the establishment of different association of forest owners, who play significant role in the formulation of forest policy on national levels.

On the contrary, Schwartz (2006) or Sarvašová et al. (2013) point out that the impact of the restitution process is not always beneficial from the point of view of nature conservation.

Knorn et al. (2012) and Kuemmerle et al. (2007) mentioned that the collapse of socialism in the former Soviet bloc and transitions from planned to market economies generated drastic land use changes. Similarly Pătru-Stupariu et al. (2016) showed that the main drivers of deforestation in Romania are related to forest restitution. Stojanovska et al. (2014) mentioned that an on-going restitution process could significantly influence the forest management planning. In the short and medium term, the impact of the restitution process is difficult to analyse. Griffiths et al. (2012) have chosen an interesting procedure and used an annual time series of Landsat images to investigate how three phases of forest restitution affected forest disturbances. The consequences of restitution process and the new owners' management could be also visible in Slovakia, as it is documented in the work of Barka et al. (2018) and Šebeň et al. (2018).

The problematic impact of the restitution is the current large fragmentation of forest property, which can be further increased by inheritance (Vranken et al. 2011). In our region, there is the prescribed smallest size of the forest property, but not the smallest size of the property or the co-ownership share (in the Czech Republic the smallest ownership share is 8 m^2, in Slovakia it is even less because of shared ownership).

Due to the restitution process in Europe, however, there was not only a large quantitative fragmentation of ownership (i.e. a large number of small forest owners), but different types of owners could also be distinguished on the basis of qualitative indicators such as owners' objectives, motivations and management decisions (Ficko & Boncina 2013; Stanislovaitis et al. 2015; Mozgeris et al. 2017). As the analysis of Feliciano et al. (2017) shows,

there are no significant differences in these qualitative categories between the Czech Republic and Slovakia.

On Romanian case Scriban et al. (2017) illustrate that the forest restitution has been used as a trade-off between politicians' interest in winning political capital and owners' interest in getting short-term benefits from the forest.

Former forest owners, whose property rights had been interrupted during the socialist regime and who therefore had no knowledge of forestry. New owners with no experience of administering and managing private property joined together to form associations that could advocate for their interests in the formation of suitable economic, social, organizational and legislative conditions. For these "new" forest owners, interest or stakeholder organizations are a way of protecting and representing their common interests in the policy-making process (Weiss et al., 2011). The establishment of adequate mechanisms to assist and support former forest owners in the sustainable forest management is also perceived as crucial. These new forest owners were large scale owners as for example in Serbia (Pezdevšek Malovrh et al. 2017), but typically rather small-scale forest owners (Sarvašová et al. 2015; Paladinić et. al. 2008; Pöllumäe et al. 2014).

The literature on restitution also underlines that many countries have faced the problem of lack of properly registered and documented ownership rights especially since the majority of the original owners were dead before the fall of communism. This creates a considerable risk of overburdening the court system. Allocation of substitution property makes the issue even more complicated; the 300,000 court actions in Romania indicate this very clearly. Other problems hindering the restitution process are related to the fact that during the communist rule the property in question has changed significantly in value, physical form, and use (Kozminski 1997). This was also the case of the Czech Republic and Slovakia where many restitution claims ended in a court procedure.

The empirical cross-countries analyses as well as national studies have shown that the restitution process in CEE region has been only partially an efficient way of transferring the property to the former owners. Besides the moral compensation to former owners the process has not busted the situation in post-socialist forest economies. Thus, the fact that the forest owners share their management rights with the State even on timber utilisation, and the fact that the forest utilisation is formulated collectively in policy-driven decision making processes which they are not able to attempt argues that the forests are referred in the policy as a common-pool resource, irrespective to the legal regimes of the forestlands (Bouriaud & Schmithüsen 2005). Measures have to be adopted to facilitate the private owner's participation in the political processes, as a tentative to balance the trend of considering forests, irrespective to the legal regime of ownership, as a common-pool resource (Weiss et al. 2011).

6. Conclusions

We analysed the formal legal system and we can conclude that the restitution process was very similar in both the Czech Republic and Slovakia thanks to the same or similar legislation of the two countries. Following conclusions can be drawn upon the analysis:

The legal basis for the restitution process were the changes adopted after 1989, the changes still adopted during the existence of the federal state. The most important and decisive factor was the Federal Act No. 229/1991 Coll., on the regulation of ownership relations to land and other agricultural property. Under this Act, property was returned to individuals in both countries. However, the practical application of this legislation further required significant refinements and changes - for example in the Czech Republic 26 amendments to this Act were adopted to date. Yet the laws allowing for the restitution of historical assets of towns and municipalities were adopted even in the period of the common federal state - in the Czech Republic it was Act No. 172/1992 Coll., and in the Slovak Republic it was Act No. 138/1991 Coll.

The biggest differences between the two countries occur due to historical reasons. Again we can state that "history matters". In both countries there were different historical types of ownership (in Slovakia very important commons, in the Czech Republic the forest municipal cooperatives). The biggest differences occurred in connection with church property. While Slovakia is a typical catholic country, the Czech Republic is counted as one of the least religious countries in Europe, which was also strongly reflected in the ongoing restitution process. In Slovakia, a country with a predominance of the Roman Catholic religion and the strong influence of the Catholic Church, the process of restitution of church property was relatively soon resolved after the breakup of the federal state (Act No. 282/1993). In the Czech Republic, following several unsuccessful legislative attempts, a specific law governing the restitution of church property was finally adopted in 2012 (Act No. 428/2012). It can thus be stated that despite several still undecided persistent and complicated legal disputes over the restituted property, more than 90% of the restitution demands for forests are resolved in both countries.

In both countries the restitution process resulted in the emergence of differentiated land ownership. Such differentiation of land ownership, the different interests of individual owners and specific processes in the management of newly created (or renewed) ownership forms thus present a challenge for the formulation of effective forestry policy.

The differentiation of forest ownership also plays a very significant role in "the learning of democracy" in the democracy of both countries. This is very significant for post-communist countries in order for the democratic principles of the state management to become a common and universally accepted part of political culture and behaviour of the state and its citizens.

However, in both republics there is a very high proportion of the state in the ownership of forests. This again puts high demands on both countries, including their functional state apparatus, to make this extensive forest property effectively managed so that decision-making processes are transparent and to manage this specific forest property so that it fulfils other functions and objectives with a strong public interest (e.g. a strong interest in using the recreational potential of forests).

In both countries, public corporations such as cities and municipalities or urban areas also play a significant role as owners of forests. Again, in connection with the responsibility of these entities for the status of their property, the role of civil society and the democratic principles on which their administration should be based is growing.

In the case of restitution of forests to both private and private legal entities, part of the large (former aristocratic) property has undoubtedly succeeded in establishing a tradition of high forest management in these forests, which was typical of these large estates before their nationalization.

From the point of view of forest management and protection of forests in particular, the problem however occurs with restituted small forest owners. Most of the small-scale forest owners have already lost an authentic relationship to forest property and do not want or cannot administer the property at all.

Acknowledgement

This article originated thanks to the joint work in the European project COST FP1201 FACESMAP. The authors ZS, ZD and JS were supported by the Slovak Research and Development Agency under the contract no. APVV-15-0715. ZD was also supported by the Slovak Scientific Grant Agency VEGA 1/0688/16. VJ, MH and JO were supported by the Czech National Agency for Agricultural Research under the contract no. NAZV QK1820041 and the Czech Ministry of Education, Youth and Sports under the contract no COST CZ LD14083.

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