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# THE EVOLVING REGIME OF THE NEW PROPERTY LAW IN THE CZECH AND SLOVAK FEDERAL REPUBLIC

Mahulena Hoskova\*

## INTRODUCTION

Article 11 of the Constitutional Act of the Czech and Slovak Federal Republic (CSFR) of January 9, 1991, also known as the Charter of Fundamental Rights and Freedoms (the Charter)<sup>1</sup> states that everyone has the right to own property. Limitations of these property rights are permissible only where the public interest in so doing is great and the rightful owner is fully compensated.<sup>2</sup> The Charter as a whole embodies the new democratic spirit of the CSFR.<sup>3</sup> Moreover, Article 11 specifi-

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1. 23 UST.ZAK.CSFR (Jan. 1991); zakon c.2/1991 Sb. [hereinafter Charter]. See M. Hoskova, *Die Charta der Grundrechte und Grundfreiheiten der CSFR*, 18 EUROPÄISCHE GRUNDRECHTE ZETISCHRIFT 369 (1991) (giving a presentation of the Charter in German).

2. Article 11 of the Charter reads:

(1) Everybody has the right to own property. The ownership right of all owners has the same statutory contents and enjoys the same protection. Inheritance is guaranteed. (2) The law shall specify which property essential for securing the needs of the whole society, development of the national economy, and public welfare may be owned exclusively by the state, the community, or by specified legal persons; the law may also specify that some properties may be owned exclusively by citizens of or by legal persons seated in the Czech and Slovak Federal Republic. (3) Ownership is binding. It may not be misused to the detriment of the rights of others or against legally protected public interests. Its exercise may not cause damage to human health, nature and the environment beyond statutory limits. (4) Expropriation or other forcible limitation of the ownership right is possible only in public interest and on the basis of law, and against compensation. (5) Taxes and fees may be levied only on the basis of law.

Charter, *supra* note 1, at art. 11 (translation by the author).

3. The fundamental importance of the Charter for the future constitutional order of the CSFR is reflected in the on-going preparatory work for the new Constitution (which is to replace the 1960 Constitution that, notwithstanding profound reforms in areas such as fundamental rights and freedoms, is still in force): The two most important drafts for this new Constitution, the Working Draft of the Constitution of the CSFR of August 1991 (in its Chapter II) and the Working Draft of the Constitution of the Czech Republic of June 1991 (in its Article 3), include the whole text of the 1991 Charter of Fundamental Rights and Freedoms; see Hoskova, *supra* note 1, at 369.

cally provides for liberal economic relations between the government and the Czechoslovakian people.<sup>4</sup>

In August 1990, the Czechoslovakian Federal Government submitted its blueprint for economic reform<sup>5</sup> to the Federal Assembly to be instituted through extensive legislation. The government's efforts seek to denationalize state-owned property. Moreover, the legislation attempts to restore ownership rights which existed prior to certain nationalization acts passed between 1948 and 1989. These broad objectives have been implemented through a series of parliamentary acts. Legislation, issued nationally by the Federal Assembly and regionally by Czech and Slovak National Councils, creates an entirely new structure of ownership as well as commercial, financial, entrepreneurial, and legal rights.<sup>6</sup> The restructuring of Czechoslovakian freedoms, however, becomes complicated by the CSFR's involvement with the world community. Membership in international organizations such as the Council of Eu-

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4. The relevant provisions are Arts. 26-28 of the Charter which read as follows (Translation by the author):

(1) Everybody has the right to choose freely his or her profession and the training for such profession, as well as the right to engage in entrepreneurial and other economic activities. (2) The conditions and limitations for the exercise of certain professions or activities may be set by law. (3) Everybody has the right to acquire the means of his or her livelihood by work. The state shall provide appropriate material security to those citizens who are unable without their fault to exercise this right; the respective conditions shall be set by law. (4) Different rules may be set by law for foreign citizens.

Charter, *supra* note 1, at art. 26.

(1) Everybody has the right to associate freely with others for the protection of his or her economic and social interests. (2) Trade unions are established independently of the state. There shall be no limit placed on the number of trade unions and similar organizations, nor shall any of them be given preferential treatment in an enterprise or economic branch. (3) Activities of trade unions and the formation and activity of similar organizations for the protection of economic and social interests may be limited by law in the case of measures essential in a democratic society for the protection of state security or public order, or of the rights and freedoms of others. (4) The right to strike is guaranteed under conditions set by law; this right does not appertain to judges, prosecutors, and members of the armed and police forces.

*Id.* at art. 27.

Employees are entitled to fair remuneration for work and to satisfactory working conditions. Detailed provisions shall be set by law.

*Id.* at art. 28.

5. See Czech and Slovak Fed. Rep. VI/87 (Aug. 30, 1990) (containing documents of the Czech and Slovak Parliamentary Assembly).

6. *Id.* Another issue of fundamental importance to be mentioned in this context concerns the intricate problems connected with the future structure of the CSFR as a state (Federation or Confederation or even two separate sovereign states) which, for obvious reasons, will have a most considerable impact on the economic and legal situation of the country. *Id.*

rope,<sup>7</sup> the European Community,<sup>8</sup> and the International Monetary Fund<sup>9</sup> could require various changes in Czechoslovakian law.

The CSFR seeks to establish a market economy immediately. Yet, because the transition affects a tremendously wide range of people and institutions, an immediate transition is impossible. Despite its inevitable hardships, the transition process must advance rather than falter. Economic and legal reforms are necessary to ensure the CSFR's economic survival following the collapse of her previous markets—the Soviet Union and former members of the recently dissolved COMECON.

## I. THE NEW ECONOMIC ORDER AND CONSTITUTIONAL LAW

Constitutional Act No. 100,<sup>10</sup> enacted April 1990, abolished article 7 of the 1960 Constitution which had based the CSFR's economic structure upon the socialization of all means of production and the exclusion of all forms of exploitation. Act No. 100 guarantees equal legal protection to all property owners. Furthermore, article 4(1) of Constitutional Act No. 103,<sup>11</sup> enacted April 1991, bases the Czechoslovakian economy upon the integrated economies of its two component republics, Czech and Slovak, and upon the country's unified internal market. The April 1991 Act provides for the issuance of a common currency and the guarantee of free movement of labor, goods, and monetary resources.

Article 11 of the Charter guarantees the right of inheritance. The law further allocates property rights according to the property owner's residency status. Particular property items may be owned exclusively by Czechoslovakian citizens actually residing in the country or by persons legally domiciled in the CSFR.

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7. *Czechoslovakia Becomes 25th Member of Council of Europe*, Reuters, Feb. 21, 1991 (stating that on February 21, 1991, the CSFR became the twenty-fifth member state of the Council of Europe). Recently, membership in the Council of Europe has been contingent upon the willingness of new member states to ratify the 1950 European Convention on Human Rights whose First Additional Protocol contains a guarantee of the right to property. *Id.*

8. *EC to Sign Association Accords with Eastern Europe*, Agence France Presse, Nov. 22, 1991 (stating that subsequent to rather difficult negotiations, the pertinent "Association Agreement" between the CSFR and the European Communities was initiated on November 22, 1991).

9. See 373 zakon c.9/1990 Sb. (discussing notification of the Federal Ministry of Foreign Affairs).

10. 100 UST.ZAK.CSFR (April 1990); zakon c.4/1990 Sb. [hereinafter APRIL 1990 ACT].

11. 103 UST.ZAK.CSFR (April 1991); zakon c.4/1991 Sb. [hereinafter APRIL 1991 ACT].

In addition to the laws regarding property owner's rights, article 11(4) of the Charter protects foreign investment in the CSFR. Expropriation and other forcible limitations of ownership rights can occur only where the public interest is great, and where, under the applicable law, the property owner will be compensated.<sup>12</sup> Additionally, taxes and fees may only be levied pursuant to applicable law. Finally, the constitution provides for the adjudication of property rights by the constitutional court.<sup>13</sup>

## II. THE RESTITUTION ACTS

One of the boldest initiatives taken by the Czechoslovakian government is the restitution of certain nationalized properties to their previous owners or the former owner's direct heirs.<sup>14</sup> Act No. 403 concerning the Alleviation of Certain Property Injustices provides for the restitution of property which had been nationalized under decrees passed between 1955 and 1959.<sup>15</sup> Act No. 403 applies to immovable and movable properties which were nationalized on the basis of the Second Two-Year Plan. In particular, Act No. 403 refers to privately owned apartment houses expropriated under Act No. 71<sup>16</sup> and some properties taken by local District National Committees under Government Decree No. 15.<sup>17</sup> Act No. 403's settlement provision consists of restitution of the taken properties or payment of compensation to the original owner or the owner's successor.<sup>18</sup> It should be emphasized that restitution or compensation rights are not limited to Czechoslovakian citizens.<sup>19</sup> Thus, aliens may claim restitution or compensation provided that their claims have not been previously settled by bilateral international treaties concluded between the CSFR and the alien's respective country.<sup>20</sup> Applications for restitution or compensation must be filed

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12. See APRIL 1990 ACT, *supra* note 10, at art. 9 (stating that the government can only expropriate property when the public interest is great).

13. 91 UST.ZAK.CSFR (March 1991); zakon c.3/1991 Sb. See 91 UST.ZAK.CSFR (Feb. 1991) (stating that the Constitutional court was established on February 27, 1991).

14. See V. Pechota, *Privatization and Foreign Investment in Czechoslovakia: The Legal Dimension*, 24 VAND. J. TRANSNAT'L L. 305 (1991) [hereinafter PECHOTA] (providing an English interpretative translation).

15. See Act No. 403 Zakon c.10/1990 Sb. (amended by Act No. 458 zakon c.10/1990 Sb., and Act No. 137 zakon c.4/1991 Sb).

16. Act No. 71 zakon c.11/1959 Sb.

17. Government Decree No. 15 zakon c.3/1959 Sb.

18. Act No. 403 §§ 2, 3 zakon, *supra* note 15.

19. See April 1990 Act, *supra* note 10, at § 20 (stating that restitution and compensation rights are not limited to Czechoslovakian citizens).

20. Agreement on the Settlement of Certain Outstanding Claims and Financial Issues, Nov. 6, 1981, *reprinted in* 21 I.L.M. 371 (1982); see V. Pechota, *The 1981 U.S.-*

within six months of Act No. 403's entry into force. Applications filed after expiration of this term are considered to be without legal effect.

Act No. 87 on Out-of-Court Rehabilitations<sup>21</sup> addresses the rehabilitation of original owners of properties nationalized between 1948 and 1949.<sup>22</sup> Because it provides for the return of, or compensation for properties valued at more than ten billion dollars,<sup>23</sup> Act No. 87 has resulted in the transfer of wealth on an unprecedented scale. The purpose of Act No. 87 is to remedy losses prompted by operations under civil, labor, and administrative law.

Act No. 87 enumerates the conditions for filing claims originating from the abolishment of sentences on forfeited property and forfeited goods. Moreover, Act No. 87 describes actual compensation procedures and the scope of allowable claims.<sup>24</sup> Despite Act No. 87's broad coverage, the legislation states that restitution and compensation are not available for losses of property resulting from specific acts. These particularized expropriatory acts include property owned by churches and holy orders, and properties taken for state agricultural purposes. In addition, Act No. 87 permits restitution only to original owners, or their heirs, provided they are Czechoslovakian citizens with permanent residences in the country. Act No. 87 does not apply to legal persons, either foreign nationals or Czechoslovakian citizens, who permanently reside abroad.

As a rule, the settlement of claims under Act No. 87 will most often be the return of similar properties to the original owner. In certain extraordinary cases, compensation claims will be paid in cash. Act No. 87 stipulates that the state entity or legal person in possession of the property must return the property to the person who filed a written claim between April 1 and October 1, 1991. If, however, no such claim was filed within this period, the state itself became entitled to submit, within eighteen months of Act No. 87's entry into force, an application for the final transferral of the property to state ownership.

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*Czechoslovak Claims Settlement Agreement: An Epilogue to Postwar Nationalism and Expropriation Disputes*, 76 AM. J. INT'L L. 639 (1982) (analyzing restitution and compensation for non-Czechoslovakian citizens under international agreements).

21. See Act No. 87 zakon c.3/1991 Sb. (amended by Decree No. 392 of the Ministry of Finance of the Slovak Republic Oct. 4, 1991, and Reg. No. 289 zakon c.6/1991 Sb.).

22. See *id.* (stating that this temporal limitation excludes all those persons from the possibility of claiming the restitution of their properties taken that were expropriated prior to the Communist takeover on February 25, 1948).

23. PECHOTA, *supra* note 14, at 310.

24. These provisions connect this Act with pertinent provisions of Act No. 119 of April 23, 1990 on Court Rehabilitation. Zakon c.4/1991 Sb.

### III. THE PRIVATIZATION ACTS

#### A. SMALL-SCALE PRIVATIZATION

Act 427 of October 25, 1990<sup>25</sup> constitutes a significant step in the establishment of the new property regime in the CSFR. Act 541,<sup>26</sup> usually referred to as the Small-Scale Privatization Act<sup>27</sup> does not apply to those properties for which claims may be filed under the Restitution Acts discussed above. Movable and immovable properties, connected with services and businesses other than agriculture, may be transferred into private ownership provided no claim has been filed within the period stipulated in the Restitution Acts. Czechoslovakian citizens or individuals who held citizenship for any period of time after February 25, 1948, are eligible to obtain private ownership of these small-scale enterprises. Titles of ownership will be transferred to the highest bidder at a public auction. If, however, a certain enterprise cannot be sold to Czechoslovakian citizens after several auctions, other individuals are entitled to acquire ownership of such enterprises.

The two republics organize the public auctions. Highest bidders acquire the enterprise upon payment of the purchase price to a special account controlled by the respective republic. If, however, the bidder fails to remit the purchase price, the respective republic declares the transfer of ownership null and void.

#### B. LARGE-SCALE PRIVATIZATION

Act No. 92<sup>28</sup> regarding Conditions of the Transfer of State Property to Other Persons, commonly known as the Large-Scale Privatization Act,<sup>29</sup> plays the most important role in the transfer of state-owned

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25. Act No. 427 zakon c.10/1990 Sb.

26. See Act No. 541 zakon c.12/1990 Sb. (enunciating that the Act took effect on December 1, 1990). See also Act No. 500 zakon c.12/1990 Sb. (amending the Transfer of Some State Property to the Ownership of Individuals or Legal Persons); Decree No. 568 zakon c.12/1990 Sb. (emanating from the Ministry for the Administration and Privatization of the National Property of the Slovak Republic).

27. PECHOTA, *supra* note 14, at 312.

28. See Act No. 92 zakon c.2/1991 Sb. (stating that this Act entered into force on April 1, 1991). See also Act No. 171 zakon c.5/1991 Sb. (amending Act No. 92 zakon c.2/1991 by the Czech National Council on the Competencies of the Organs of the Czech Republic Regarding the Transfer of State Property to Other Persons and by use of the Fund by the Czech Republic). See generally Act No. 285 zakon c.6/1991 Sb. (stating that the Ministry of Administration of National Property which handles privatization in the Czech Republic implemented the Act); Decree No. 324 zakon c.8/1991 Sb. (Stating that the Ministry of Administration of National Property, which handles privatization in the Czech Republic, implemented the Act).

29. PECHOTA, *supra* note 14, at 313.

property to private ownership. This Act excludes properties which are subject to restitution under the specific Restitution Acts.<sup>30</sup> Similarly, this Act excludes properties which, according to Constitutional Acts or other legislation, the state exclusively owns. Notwithstanding these limitations, a considerable number of medium and large-size enterprises remain for privatization purposes.

Both Czechoslovakian citizens and foreign investors may acquire ownership under this Act. Organizations available for acquisition of ownership include all entities formerly administered by state enterprises, state-owned monetary institutions, state-owned insurance companies. Additionally, corporate entities such as foreign trade companies may also be procured.

This "Privatization-Project" encompasses an evaluation of the properties to be privatized and the proposed method of privatization. These methods include the formation of a joint stock or limited liability company or the direct sale to investors. When the founder of a particular privatization project is a federal agency, the Federal Ministry of Finance must approve the project. Any other privatization project must be approved by the competent authority of the particular Republic in which the project situs is located. Section 27 of this Act creates the Federal Fund of National Property, a legal entity separate from the State, which will regulate transfers of ownership. Moreover, agencies analogous to the Federal Fund of National Property will be created in both national Republics. Each respective Fund will acquire properties and will either use the properties to promote joint stock companies or sell the properties to individual investors. All legal rights and obligations connected with the ownership of properties will be transferred to the new owner on a date determined by contract to which a Fund will be a party.

An additional means of privatization, which will encourage extensive popular participation in the privatization process, is the concept of investment-vouchers. Possession of a voucher allows the holder to purchase stocks. Such vouchers are non-transferrable and the proceeds of their purchase are to be remitted to the Funds of the Republics. Every domiciled Czechoslovakian citizen over the age of eighteen may obtain vouchers necessary for the purchase of shares in designated companies or investment companies created as part of the investment-voucher concept.

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30. See *supra* notes 25 - 26 and accompanying text (referencing Acts 427 and 541 regarding general restitution).



One of privatization's problems will be an increased workload for the country's bureaucracy. According to Decree No. 324<sup>31</sup> on Preconditions for Privatization-Projects, a considerable amount of financial data such as valuation estimates for property and property rights will be needed. Moreover, accurate financial data will be difficult to obtain given that the Czechoslovak currency is not yet fully convertible.

### C. AGRICULTURAL PRIVATIZATION

In addition to privatization of industry, agricultural privatization has also been contemplated. In 1972, the 4353 farming cooperatives and 850 state-owned estates cultivated more than ninety percent of the lands suitable for agricultural purposes. Unlike the former Soviet Union, where nationalization of land resulted in the transfer of private property to state-ownership, nationalization of the CSFR's agricultural lands extended only to the use of those lands. Thus, the CSFR did not expropriate property but only the right to exploit the land indiscriminately. Private owners remained in place while the government designated specific agricultural objectives for nationalized property.

Act No. 229<sup>32</sup> on the Regulation of the Property Relations to the Land and Other Agricultural Property restores the property rights of original owners. Section 4 states that only Czechoslovak citizens residing in the country or their heirs, provided the latter are also Czechoslovak citizens residing in the country, may claim their original property rights. The return of original property rights is, however, limited by Section 3 of the Act which prohibits the transfer of ownership rights of agricultural lands to foreigners. According to its Section 6, the Act applies only to those properties taken between February 25, 1948 and January 1, 1990. This section also covers property which was the subject of a forced transfer of property rights by original owners to the state. Finally, in exceptional cases, the Act provides for compensation in cash.

To regulate the agricultural produce market, Decree No. 340<sup>33</sup> of the Presidium of the Federal Assembly established the Market Regulation Fund. This Fund will engage in price fixing of agricultural products by means of buying such products at guaranteed minimum prices and selling them on the market. The Fund may also issue regulations

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31. Decree No. 324 zakon c.8/1991 Sb.

32. See Act No. 229 zakon c.6/1991 Sb. (stating that the Act entered into force on June 25, 1991).

33. Decree No. 340 zakon c.8/1991 Sb.

as to the export and import of agricultural products. Similar Funds have been created in the two Republics.<sup>34</sup>

#### IV. THE LEGAL FRAMEWORK FOR PRIVATE ECONOMIC RELATIONS

The legal framework for private economic relations has been established upon market economy principles. The Federal Assembly has approved Acts including Foreign Currency,<sup>35</sup> Employment,<sup>36</sup> Competition (Anti-Trust),<sup>37</sup> Customs,<sup>38</sup> Properties of the Churches and the Holy Orders,<sup>39</sup> and State Control.<sup>40</sup>

##### A. TRADE AND COMMERCIAL ENTERPRISES ACT

The Trade and Commercial Enterprises Act articulates the legal preconditions for obtaining the license needed to perform a series of permanent activities,<sup>41</sup> performed independently, to make a profit. Individuals and legal entities meeting the preconditions may obtain such a license. According to the Act, individuals must be at least eighteen years old with full legal capacity and an undisputed personal integrity. In certain cases, the Act may require specific professional expertise. From an international law perspective, section 73 of the Trade and Commercial Enterprises Act states that the Act will be inapplicable if an international treaty, binding upon the CSFR and published in the official Law Gazette, provides regulations contrary to those contained in this Act.<sup>42</sup>

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34. See Act No. 270 zakon c.6/1991 Sb. (regarding the Slovak National Council on State Fund's of the Slovak Republic for Market Regulation of Agriculture).

35. Act No. 528 zakon c.12/1990 Sb.

36. Act No. 1 zakon c.1/1991 Sb., *as amended by* Act No. 305 zakon c.6/1991 Sb. (addressing employment).

37. Act No. 63 zakon c.1/1991 Sb.

38. Act No. 287 zakon c.7/1991 Sb.

39. Act No. 298 zakon c.6/1990 Sb., *as amended by* Act No. 338 zakon c.8/1991 Sb.

40. Act No. 405 zakon c.10/1991 Sb.

41. See Act No. 455 § 2 zakon c.10/1991 Sb. (listing the specific types of activities considered to be permanent).

42. See Act No. 455 § 73 zakon c.10/1991 (articulating that this provision was drafted to facilitate the CSFR's future relations with the European Communities and is analogous with the freedom of establishment and the freedom to provide services as laid down in Articles 52 *et seq.* of the EEC treaty).

## B. THE COMMERCIAL CODE

The Commercial Code, passed on November 5, 1991, merged the formerly separate Civil, Economic and International Trade Codes into one legal system.<sup>43</sup> The new legislation reflects the popular belief that, in the commercial law field, Czechoslovakian and foreign legal subjects should be treated similarly. Consequently, eighty-four laws will cease to have any legal effect upon the entry into force of the new Commercial Code.

The nearly 800 provisions of the Commercial Code are subdivided into four parts. Part I contains general provisions which define the scope of the Code's applicability. According to that section, the Code will regulate, *inter alia*, the legal position of the entrepreneurs and the legal principles of commercial contracts. If the Commercial Code fails to resolve a specific legal problem, parties may resort to the general provisions of the Civil Code as a subsidiary source of law.<sup>44</sup> Part II of the Commercial Code is devoted to the legal status of commercial companies and cooperatives whereas Part III provides for regulation of the contractual relations in the field of commercial law. Part IV contains provisions such as section 756 which states that the Commercial Code will not apply if an international treaty, binding upon the CSFR and published in the official Law Gazette, provides for regulations contrary to those contained in the Code. Obviously, the return to a uniform Commercial Code is a major step in the CSFR's move toward legal systems based upon a market economy.

## V. SOME COMMENTS ON THE LEGAL STATUS OF FOREIGN INVESTORS

Article 14 of Act No. 100, enacted April 1990, serves as the constitutional basis for the Czechoslovakian foreign investment regime. This article states that foreign individuals and legal persons may acquire property, property rights and enterprises under the conditions prescribed by law.<sup>45</sup> Obviously, such conditions may include restrictions,

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43. See M. Pauknerová, *Svoboda podnikání a právní regulace zahraničné obchodních vztahů* (*Liberty of Entrepreneurial Activities and Legal Regulation of Foreign Trade Relations*), 130 *Právník* 675 (1991) (discussing the trend to establish a single legal regime of trade relations in the CSFR).

44. A. Kanda, *K problematice nového cs. občanského práva* (*The Problem of the New Czechoslovak Civil Law*), 130 *Právník* 518 (1991).

45. J. Zemánek, *Majetková práva zahraničních investorů a nová cs. ustava* (*Property Rights of Foreign Investors and the New Czechoslovak Constitution*), 130 *Právník* 709 (1991).

as well as preferential treatment, of foreign subjects on the basis of international legal obligations incurred by the CSFR.

The new Commercial Code, which regulates Czechoslovak entrepreneurial activities, provides for the application of the same legal regime to both national and foreign entrepreneurs.<sup>46</sup> Section 21 of the Commercial Code states that foreign persons may engage in entrepreneurial activities on Czechoslovakian territory, under the same conditions and to the same extent as Czechoslovakian persons, provided no provision to the contrary exists within the Code. A foreign person means any individual domiciled outside the CSFR or any Czechoslovakian citizen residing outside the CSFR. Foreigners are entitled to resume their entrepreneurial activities in the CSFR upon their registration in the official enterprise or commercial register. Pursuant to section 24 of the Code, foreigners may establish a Czechoslovakian legal entity or may engage in a partnership with an already existing Czechoslovakian legal entity. Moreover, foreigners may create, under specific conditions set forth in the Code, a Czechoslovakian legal entity as a subsidiary chartered under Czechoslovakian or foreign law.

Section 25 of the Code focuses on the legal protection of foreign property interests. Specifically, this section provides that property owned by foreigners may be taken or their property rights restricted only where there exists a legal basis and a public interest for so doing. A foreign property owner may appeal a decision restricting his or her property rights in a court of law. With regard to compensation for such expropriatory measures, the Commercial Code goes beyond the protection afforded by either Article 11 of the 1991 Charter of Fundamental Rights and Freedoms or Article 9 of the April 1990 Act. Under the Commercial Code, compensation must be prompt and must correspond to the actual value of the property in a freely transferable foreign currency. Bilateral agreements,<sup>47</sup> between the CSFR and market economies, further protect foreign investment in Czechoslovakia through their emphasis on mutual support and protection of foreign investment.<sup>48</sup>

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46. PECHOTA, *supra* note 14, at 321.

47. *Czechoslovakia Rejoins World Bank*, Xinhua General News Service, Sept. 20, 1990 (noting the accession of the CSFR to the Multilateral Investment Guarantee Agency (MIGA) on September 13, 1990).

48. See No. 62 zakon c.9/1990 Sb. (giving Notification of the Federal Ministry of Foreign Affairs for accession to the Multilateral Guarantee Agency (MIGA) on Sept. 13, 1990).

## CONCLUSION

Recent Czechoslovakian legislation regarding economic and property law envisions fundamental and far-reaching changes. These changes are so profound that a detailed analysis of the Scenario of the Economic Reform's<sup>49</sup> impact on the CSFR's future economic and legal order is presently impossible. The emerging new regime will abandon the old concept of attempting to regulate the entire system of economic relations. In that vein, the legislation introduces a wide framework of relatively few norms of a non-dispositive, binding character. The new economic regime reflects the new socio-political path of the CSFR. On all levels, the country steers away from a closed-system society to an open society. In addition to its internal component, the CSFR's journey to a market economy includes external efforts to gain membership in the European Community and other international organizations such as NATO. Notwithstanding the obvious and quite serious social problems connected with this process, the legislative work so far accomplished will serve as an appropriate framework for the creation of a democratic system based upon the express recognition of the fundamental role of the individual in a truly open society. Such a concept presupposes the establishment of a market economy which, however, does not necessarily require that the major actors in such an economic system should be left in complete freedom. Presently in the CSFR, as in other countries of the region, a democratic system lacking social justice and responsibility is not a solution which would be accepted by the people.

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49. Charter, *supra* note 1.