

HELSINKI PROCESS, VELVET REVOLUTION OF 1989 AND THE CZECH TRANSFORMATION: LESSONS FOR KOREAN PENINSULA?

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*Stanislav Balík, Tomáš Pojar, Ivo Pospíšil, Michael Romancov, Dušan Tříška,
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CONTENTS

Alexandr Vondra Introduction	5
Michael Romancov Helsinki Process, Fall of Iron Curtain and Geopolitical Framework	6
Alexandr Vondra Helsinki Accords and Velvet Revolutions of 1989	15
Stanislav Balík Democratisation in Czechoslovakia	25
Dušan Tříška Institutional Change of the Czech Republic	39
Ivo Pospíšil Legal System and Judiciary	62
Tomáš Pojar Transformation and the Role and Limits of Foreign Assistance	72
Michal Vodrážka On the Importance of Building (and Planning) Bridges	83
Summary	93
List of authors	95

INTRODUCTION

In the last year, we commemorated the 25th anniversary of the fall of Communism in the Czech Republic and the Iron Curtain in Europe. In a cooperation with the Embassy of the Republic of Korea in Prague and the Korea Foundation in Seoul, we organized a conference under the title “Lessons of 1989, Czech Transition and Korean Peninsula: A Model for Peaceful Reunification?” at CEVRO Institute in Prague. The conference offered a good opportunity for mutual sharing of views between Czech and Korean experts and intellectuals on transition from Communism into democracy in the Czech Republic, focusing on possible application of the Czech experience on Korean Peninsula and its future security and unification.

After 25 years since the fall of the Berlin wall that triggered remarkable changes in Central and Eastern Europe, the international environment is still facing regimes which live in political and economic isolation and do not follow international agreements such is the one in North Korea. In recent years, the North Korean attacks against its southern neighbor, Pyongyang’s nuclear program, and constant violations of human rights have brought attention to North Korean issues. Some experts in Asia believe that learning the lessons from the Helsinki process in Europe before 1989 and from transformation processes in Central and Eastern Europe after 1989 may contribute to easing the tension in Northeastern Asia and finding the future solution for Korean Peninsula. Therefore, we decided to publish the contributions from the conference in this book as the final outcome of our research.

We have divided our work in three particular areas. Firstly, two authors (Romancov, Vondra) focused their attention toward the international context, from the Helsinki process and human rights agenda in the past, to the current geopolitical framework. Secondly, four authors (Balík, Tříška, Pospíšil, Pojar) focused their research on systemic transformations in the fields of politics, economics and judiciary, and the role of foreign assistance in the time of transition. And finally, the last author (Vodrážka) wrote a comparative study of Czechoslovakia of 1989 and North Korea of 2014.

Let me finally thank the Korean Foundation in Seoul and the Embassy of the Republic of Korea in Prague for their generous support.

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HELSINKI PROCESS, FALL OF IRON CURTAIN AND GEOPOLITICAL FRAMEWORK

Michael Romancov

War and territorial aggression were introduced in Europe in 1914 again. Armed units, no matter that light-armed only, of one state crossed an internationally recognized border, invaded its neighboring territory and annexed it. Such an unprecedented violation of the international law occurred in Europe for the first time since the end of the WWII, as previous Soviet aggressions, namely against Hungary (1956) and Czechoslovakia (1968), occurred within the block divided Europe, and didn't result in territorial annexation. This violent offence happened in Europe which has been so proud of its complex security architecture supported by peace solving problems tradition and numerous examples of confidence building measures. All these phenomena were deeply rooted in everyday political and diplomatic experience since August 1975, when famous Helsinki Declaration was adopted by all then existing European states plus USA and Canada.¹ It was widely believed, that a long tradition of gradually constructed network of international organizations with key position of Organization for Security and Co-operation in Europe, numerous and frequent bilateral contacts and general atmosphere of mutual trust will be able to overcome every existing problem resolvable through patient and advancing negotiation.

The unexpected collapse of this system not only brought shock among European power elites, but also articulated the question what will be the future development of European security architecture and whether European experience, which was offered many times by several European leaders as beneficial know-how, is still in demand and worth of attention. Those questions are of extreme importance within the region of Northeast Asia as this particular region bears many similar features

¹ Thirty-five states (32 from Europe + USA and Canada) signed the declaration, only Albania didn't sign.

with Europe. We believe that a comparison of similarities and dissimilarities is the best foundation for evaluation and prognosis of future development.

Political structure of both regions was affected and shaped by the WWII and subsequent Cold War. Its most visible features were the division of some states and creation of block division expressed through military-security and economic institutions. Germany in Europe and Korea and China² in Asia were divided, while Austria in Europe escaped this fate and assumed, together with Finland, imposed neutrality, once such a possibility of safeguarding of independence and security was offered by Moscow. Bulgaria, Czechoslovakia, Eastern Germany, Hungary, Poland and Rumania formed a so called “socialist/communist bloc” in Eastern Europe integrated within the frameworks of Council for Mutual Economic Assistance (COMECON) and Warsaw Pact respectively. The whole structure was dominated by USSR, where both organizations were headquartered.

In Northeast Asia, to which Russian territory already extended throughout the 19th century, Mongolia was turned into the first satellite of USSR as early as 1924, DPRK and PRC followed in 1948 and 1949 respectively. The communist world, according to its official appellation, was spanning from Berlin to Beijing, forming in reality a zone of Soviet military and economic hegemony – the Soviet bloc. As Moscow perceived itself as the sole and unique center of Communism and simultaneously a truly European country, no extra military-security or economic organizations were formed within this part of Soviet block, but existing structures were not extended either.

Only in 1962, on the eve of the Sino-Soviet split which flamed up in early 1960s, Mongolia was accepted as COMECON member state. The Sino-Soviet border war of 1969 was visible (yet within Eastern European communist countries partly denied) culmination of Sino-Soviet split that finally terminated the myth of peaceful and harmonious co-existence of communist states, which was already damaged by Soviet invasion of Hungary (1956) and Czechoslovakia (1968).

The reason, though not crucial one, for the Sino-Soviet split was then popular Soviet idea of peaceful coexistence between “socialist” and “capitalist” states, which presented a denial of the previous leading principle that communism and capitalism could never coexist in peace. But Europe in 1960–1980 was something quite different from Northeast Asia.

If we want to understand the difference, at least three points have to be highlighted. First of all, Europe was the main theatre of possible military confrontation between the East and West, but that was something valid for the whole period of Cold War.

2 Third country in Asia divided by the Cold War was Vietnam, which was divided from 1954 till 1975 to North and South. As Vietnam is not located in Northeast Asia this example is not quoted.

Secondly, Western Europe states, especially West Germany and France, emerged as highly-valued sources of a still more and more needed hard currency.³ Precisely in that period USSR was turned into an extremely reliable supplier of oil and natural gas in the eyes of its West European customers and thus, through mutually favorable trade relationship, the unfriendly part of Europe obtained at least some positive connotation. This paradigm shift was unthinkable without preceding political rapprochement reached, as was already mentioned above, through so called Helsinki process, which makes the third point.

Different states had different expectations, followed different goals, but once talks between “Soviet” and the free part of Europe were activated in 1973, their enormous potential was soon recognized. Thirty years after the end of the WWII all European states plus USA and Canada, which were part of the European security architecture, came finally together in one time and place in July/August 1975 in Helsinki. So called Helsinki Declaration, or the Decalogue, was adopted and even though the agreed principles were not binding as they did not have a treaty status, they created solid fundamentals for further security and political dialogue between the two blocks.

The principles were as follows:⁴

- 1/ Sovereign equality, respect for the rights inherent in sovereignty.
- 2/ Refraining from the threat or use of force.
- 3/ Inviolability of frontiers.
- 4/ Territorial integrity of States.
- 5/ Peaceful settlement of disputes.
- 6/ Non-intervention in internal affairs.
- 7/ Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief.
- 8/ Equal rights and self-determination of peoples.
- 9/ Co-operation among States.
- 10/ Fulfillment of obligations under international law in good faith.

Helsinki Accords came about to be a complicated compromise, where both blocks something gained and something lost. Soviets were perceived by many as victors as they pushed through the principle of inviolability of national frontiers and respect for territorial integrity, which was seen as consolidation of Moscow's power over Eastern Europe. On the other hand, paragraphs concerning civil rights

3 For more details see for example: Country listing. Soviet Union Table of Contents. Trade With Western Industrialized Countries. Available at: <http://www.country-data.com/cgi-bin/query/r-12794.html>.

4 Whole text of Helsinki Final Act is available at: <http://www.osce.org/mc/39501>.

provided legal basis for civil and human rights activities in communist Europe, which progressively helped to undermine its hard and severe control of all aspects of social life. After unexpectedly short period of time (14–16 years), the whole European security, military, political and economic environment suffered from an earthquake in form of the consequences of the collapse of communism in Eastern Europe (fall/winter 1989) and shortly afterwards of the dissolution of USSR (winter 1991).

Even though that from geopolitical perspective, which is predominantly paying attention to the material source of power, it is generally accepted, that it was economy which played the leading role in the collapse of communism/USSR, many other factors were involved too.⁵ Nevertheless since the beginning of 1980s, it was still more visible that all socialist countries are lagging behind, but their military potential, especially Soviet one, was still scary. Few years prior to the collapse, Soviet leader at the time, Mikhail Gorbachev, tried to cement the existing *status quo* in Europe, when he uttered the idea of “Common European Home” during his visit in Prague in April 1987. *“We assign an overriding significance to the European course of our foreign policy. ... We are resolutely against the division of the continent into military blocs facing each other, against the accumulation of military arsenals in Europe, against everything that is the source of the threat of war. In the spirit of the new thinking we introduced the idea of the ‘all-European house’ ... [which] signifies, above all, the acknowledgment of a certain integral whole, although the states in question belong to different social systems and are members of opposing military-political blocs standing against each other. This term includes both current problems and real possibilities for their solution”* (Svec 1988).

Gorbachev’s offer was entirely positive at first sight, but later it became evident that his unexpressed, but ultimate goal was to weaken, or perhaps entirely eliminate US position in Europe by suggestion that Europe belongs to all Europeans, which means to Europeans only. American response came in May 1989 in the form of President George Bush’s speech “Europe Whole and Free” during his visit in Mainz, West Germany. *“... our responsibility is to look ahead and grasp the promise of the future. I said recently that we’re at the end of one era and at the beginning of another. And I noted that in regard to the Soviet Union, our policy is to move beyond containment. For 40 years, the seeds of democracy in Eastern Europe lay dormant, buried under the frozen tundra of the Cold War. And for 40 years, the world has waited for the Cold War to end. And decade after decade, time after time, the flowering human spirit withered from the chill of conflict and oppression; and again, the world*

5 Since Helsinki, the heads of governments and foreign ministers, visiting the Soviet Union and the Eastern European states, had the authority of the Helsinki Final Act to bring up human rights issues. For details see: Brown, p. 463–464.

waited. But the passion for freedom cannot be denied forever. The world has waited long enough. The time is right. Let Europe be whole and free” (Bush 1989).

Because of the collapse of communism, Gorbachev’s idea sank into oblivion, while Bush’s idea flourished within the new environment, where the absolute majority of European nations voluntarily opted for liberal democracy (and market economy). New Europe was thus created not as a “certain integral whole where different states belong to different social systems and military-political blocs”, with the dominant role of Moscow, but as an ever-growing community of independent, sovereign and equal nations.

The new environment was convenient for all European nations, including USSR/Russia, at the beginning of 1990s. During Paris Summit, the so called “Peace conference of the Cold War”, which was held in November 1990, USSR agreed to the principle that political division of Europe was over and The Charter of Paris for a New Europe,⁶ which was established on same principles like Helsinki Accords, was widely accepted. The dream about Europe whole and free lasted till 2007.

In February 2007 Vladimir Putin, then (and now again) President of Russia, gave his rough, and, to a certain degree, aggressively anti-Western, speech at Munich Conference on Security Policy.⁷ He surprised his western partners already with his first sentences, when he openly declared: *“This conference’s structure allows me to avoid excessive politeness and the need to speak in roundabout, pleasant but empty diplomatic terms. This conference’s format will allow me to say what I really think about international security problems. And if my comments seem unduly polemical, pointed or inexact to our colleagues, then I would ask you not to get angry with me. After all, this is only a conference”* (Putin 2007).

Finally, it was absolutely clear that all important aspects of post-Cold War development in Europe, which by the western leaders was evaluated as a highly positive one, with many problems though, was perceived as a purely negative one by Russia. The Europeans like Carl Bildt and Franco Frattini or Javier Solana not only demonstrated positive aspects of European development on numerous occasions, but on top of that their confidence in correctness of European model was so great, that they didn’t hesitate to propose it as a nearly universal solution. *“Globally, Europe needs to promote an open, inclusive, and effective system of international governance. Through its wide-ranging experience of convergence of national interests and values, the EU has emerged as a model of multilateralism and as the most powerful normative actor in all areas of governance. The EU is ready to play a major role in building a new*

6 Whole text of the Charter is available at: <http://www.osce.org/mc/39516>.

7 Whole text of Putin speech is available at: http://archive.kremlin.ru/eng/speeches/2007/02/10/0138_type82912type82914type82917type84779_118123.shtml.

system of global governance. This requires further development and deepening of strategic relations with emerging powers, such as China, India, and Brazil, as well as with regional organizations. This is precisely what Italy has been promoting during its current presidency of the G-8. We need to integrate today's emerging powers into a new system of global governance. The latter, however, should be ready to share the burden with us" (Bildt, Fratini 2009). In spite of the fact that the latter quotation is not as optimistic as the former one, it is still possible to observe how deeply the values of cooperation, dialogue and partnership were rooted in political practice. "Other parts of the world are experiencing unprecedented economic growth, but that raises another great challenge: the need to build on the foundations of this growth a fairer political system and open, inclusive societies that respect human rights and the environment. Europe is a step ahead on all of these issues ... Turning to Europe's own neighborhood, the EU's unipolar moment of the 1990's has come to an end. Russia has not moved any closer to European standards; Turkey has already developed its own foreign policy and aspires to become a regional power; and the countries on the Mediterranean's southern shore have said 'Enough!' to the status quo through revolutions that no one saw coming. Yet soft power and the model of multilateral dialogue are still the way to achieve political, economic, and energy cooperation, thereby ensuring a prosperous neighborhood that includes these countries and those to the east" (Solana 2012).

In August 2008 Russia demonstrated her frustration with the European/global development by a short war with Georgia, in 2014 by annexation of Crimea and through support and shadow military presence in Eastern Ukraine. Putin switched from words to deeds. European peace was finally broken, the deceptive dream of perpetual peace ruined once again. Where are the roots of our current problems?

Even though it is too early for a complete analysis, the presumable answer will be found in the very roots of European and Russian political system. While Europe was successfully democratized, Russia was not. Therefore, cooperation which has historically occupied central place in all the discussion about security in Europe was understood differently. It is not a coincidence that the name of today's only pan-European security organization – Organization for Security and Cooperation in Europe – includes the word cooperation. For Russia, the only successful "cooperation" is based on "balance of power" through which exclusive zones of influence/responsibility are to be created and peace and security made. If balance is damaged, new equilibrium has to be established.

We have to admit that to certain extent Putin was quite frank as he mentioned and named all his objections in Munich: *"Dear ladies and gentlemen, speaking at the Conference on Security Policy, it is impossible not to mention the activities of the Organization for Security and Cooperation in Europe (OSCE). As is well-known, this organization was created to examine all – I shall emphasize this – all aspects of*

security: military, political, economic, humanitarian and, especially, the relations between these spheres. What do we see happening today? We see that this balance is clearly destroyed. People are trying to transform the OSCE into a vulgar instrument designed to promote the foreign policy interests of one or a group of countries. ... We expect that the OSCE be guided by its primary tasks and build relations with sovereign states based on respect, trust and transparency" (Putin 2007). But his words were evaluated within a different political discourse – a democratic one – than he was educated in and within which he thinks. His sentences about sovereign states, respect, trust and transparency were essentially misinterpreted as Russians do not understand our constant zeal and strain to promote the rule of law, freedom of press or free election. Why is that important for situation in Northeast Asia in general and the possibility of Korean re-union in particular?

There are several similarities between European and Northeast Asian political environment. A complex and complicated geopolitical picture with several local actors, and two “outsiders” which happen to be the same “outsiders” like in Europe: USA and Russia. There is, precisely identical to the situation in Europe, a general concern for peace and prosperity. Then there are few differences: the region is not divided into blocks arranged alongside ideology; DPRK is an unpredictable actor with truly devastating military potential; the absence of the regional political, economic and/or security organizations. But perhaps the most appalling new factor which emerged from current European crisis is that Russia, which is involved in Korean issues, evaluated past 20–25 years of political and security development in Europe negatively and publicly declared its intention to be an opponent to Western values and principles.

The Republic of South Korea is not only a democratic state, but it is simultaneously an actor concerned with unification of Korean peninsula, which prerequisite is a change of existing status quo and thus altering the existing balance of power.

The Northeast Asia Peace and Cooperation Initiative (NAPCI), which was announced and activated quite recently, is constructed alongside the same principles and values as were European activities. According to the official sounding: “*NAPCI seeks, through the pursuit of Trustpolitik in the region, to build trust in Northeast Asia, which suffers from a trust deficit. The aim of the initiative is to gradually build trust as participating countries open up their minds and take concrete action, ultimately achieving a Northeast Asia of peace and cooperation*” (Yun 2013). In November 2012 President Park openly stated in her article in The Wall Street Journal: “*That’s why I proposed a ‘Northeast Asian Peace and Cooperation Initiative’ geared specifically to addressing our region’s many quandaries. I believe that Northeast Asia can successfully implement measures that build political and military confidence, intensify economic cooperation, and attain mutually beneficial human security dividends. Although*

Asia's and Europe's historical trajectories and security environments are different, we are reminded of Europe's Helsinki Process in the midst of the Cold War that fostered the making of a common, integrated Europe. Likewise, military tensions in Asia should be further ameliorated through preventative diplomacy and tangible multilateral security cooperation" (Park 2012).

Announced plan and declared goals are absolutely positive, but the indicated trajectory of development as well as vocabulary, which was used, must be seen by current Russian leadership as another attempt how to humiliate and circumvent Russia. Not only because Russia was not mentioned among important security and political actors of North Asia, but mainly due to the fact it was not listed at all in the above mentioned President Park article.

European political leadership refused power logic, counted on Russian "democracy" and believed that frequent economic contacts and mutual economic dependency will prevent any major violation of the international law and the use of force. Now, we are confronted with the use of force again. The current Russian leadership acts precisely within the theorem of the founding father of offensive neorealism John Mearsheimer: "*The overriding goal of each state is to maximize its share of world power ... And (powers) almost always have revisionist intentions, and they will use force to alter the balance of power if they think it can be done at a reasonable price*" (Mearsheimer 2001). Russia did it, and surprisingly collided with (so far) a firm opposition. Kremlin isn't strong enough to open some other front of confrontation, but will do everything to maintain its position as strong and stable as possible. Therefore, prospects for the repetition of Helsinki process in Northeast Asia are rather low.

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HELSINKI ACCORDS AND VELVET REVOLUTIONS OF 1989

Alexandr Vondra

In the fall of the last year, countries of Central and Eastern Europe were commemorating the 25th anniversary of the so-called Velvet revolutions of 1989. Berlin, the capital of reunited Germany, was the central place of celebrations. The famous Brandenburg Gate in the center of the city was lightened up overnight in special colors, former leaders were invited, including Mikhail Gorbachev, the former President of the late Soviet Union, and numerous speeches were delivered and numerous articles were written. An entirely new generation has grown up in Central and Eastern Europe since 1989, which lives in freedom, democracy and market based on capitalism and which, due to the integration of this region into NATO and EU, may feel secured and can freely travel, study or enjoy liberties of movements of people, goods, capital, and services across the whole European market.

Without any doubts, transformation processes in Central Europe were successful. Shadows of their totalitarian and communist past are hardly detectable in Prague, Warsaw or Budapest and the debris of the Berlin Wall is preserved only for museum purposes. The general line of the former Iron Curtain, which divided Europe into the West and East during the Cold War, is almost invisible in reality. If there is some detectable division of a core Europe now, it is rather a North – South divide as a result of the Eurozone debt crisis.

VELVET REVOLUTIONS OF 1989: ROOT CAUSES

What the legendary *annus mirabilis*, the year of miracles, was all about? What were root causes of 1989? Was it a real (although peaceful) revolution, which had been rapidly spreading throughout the Eastern part of the continent, as the Czech term of the “Velvet Revolution” advises? Or was it just a “refolution”, a combination of revolutionary events and necessary reforms, which just transformed former Communist countries back to the standard system of Western type democracies,

as Timothy Garton Ash, a British historian and an eyewitness of events had once argued (Ash 1989)?

The events of 1989 were not the only trials to liberate Central and Eastern Europe from Communist and Soviet domination. However, they were the first successful ones. Previous attempts to change the system or at least to reform it – in 1956 (Hungarian Revolution), in 1968 (Czechoslovak Prague Spring), or in 1980–81 (Polish Solidarity Movement) – had failed or were suppressed by tanks. There are multiple reasons why the 1989 events brought the *ancient regime* down.

First and foremost, the Communist system as a whole started to collapse. Its economy was ineffective and could not compete with the Western markets anymore. The establishment in power was aging and its representatives were already lacking any revolutionary appeal. The omnipresent secret police and brutality were their arguments of the last resort. The remaining legitimacy of the Communist regime, which traced its roots to the past as a defender of workers' rights, had symbolically evaporated, when Polish armed and police forces attacked independent trade unions led by Lech Walesa at Lenin Shipyards in Gdansk.

Secondly, there was a reform movement within the Soviet system itself. It certainly makes a difference whether a revolt occurs on a periphery of the empire like in 1956 or 1968, or whether it starts in its heartland. Gorbachev's *perestroika* was an admission of the inefficiency of the economic system and his *glasnost* was an invitation to proclaim it openly and loudly. Then the oppressive construct of the system had started to crumble down in a domino effect like a house of cards. Internal dynamism of this process was spectacular: nobody, even the best intelligence services in the world, was unable to forecast the magnitude or speed of the change. What had taken ten long years to liberate people in Poland, "*it took in Hungary ten months, in East Germany ten weeks and in Czechoslovakia just ten days*" (Ash 1990).

Thirdly, there was a comfortable international environment in Europe in the late eighties. Although Tiananmen Square Democracy Movement of June 1989 was forcibly suppressed by hardliners in Beijing and thus failed to stimulate major political changes in China, Mikhail Gorbachev verbally renounced the use of force against revolting Eastern bloc in his speech to member states of the Council of Europe in July of 1989 and thus implicitly distanced his country from the so-called Brezhnev Doctrine (Markham 1989). (After the Warsaw Pact intervention in Czechoslovakia in 1968, Leonid Brezhnev, then the Soviet leader, had proclaimed the right to protect Communist regimes even if it means the use of force.) In the fall of 1989, a Soviet government spokesman jokingly described the new Soviet policy as the Sinatra Doctrine according to his famous song "My Way". The message was clear: Eastern nations were allowed to go their own way.

However, this newly benevolent Soviet policy did not come out of the blue. Some Western leaders, Ronald Reagan and Margaret Thatcher in particular, had made their signature under the successful end of the Cold War too. Their ideological offensive (Reagan called Communist Soviet Union an “evil empire”) and massive military buildup in the first half of the eighties pushed the Soviets into a corner and forced them to pursue substantial disarmament negotiations. Kremlin could not accelerate its military spending further because of the inefficiency of its economic system.

Last but not least, there were also resistance movements which had been helping to undermine Communist regimes from below and which also negotiated a peaceful and smooth transfer of power from dictatorship to democracy afterwards. The Polish Solidarity, the Czech Charter 77 as well as dissidents and human rights groups in Hungary, Eastern Germany, and also within the Soviet Union, had been openly critical about the oppressive nature of Communist regimes and their persecution had vindicated opinions that totalitarian governments did not honor their international human right obligations.

HUMAN RIGHTS AND THE ROAD TO HELSINKI

There are multiple international agreements and covenants on human rights which were signed by both democratic and communist states in the Euro-Atlantic area after 1945. However, their practical impact was rather limited in Eastern Europe during the Cold War. The Universal Declaration of Human Rights was adopted by the United Nation General Assembly in 1948 as a nonbinding declaration, not a piece of law. In 1966, the universal declaration was supplemented by two covenants, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights. These covenants as well as two Optional Protocols were already binding, but East European states did not ratify them until 1976. The most effective legally binding document, the European Convention on Human Rights, had until 1990 applied only to the states of Western Europe.

Then, in August 1, 1975, the Helsinki Final Act was signed as the first act of the Conference on Security and Cooperation in Europe (CSCE) by thirty-five states, including the U.S., Canada and most European states (except Albania). The so-called Helsinki Accords had tried to improve strained relations between the West and East. As such, they were a product of policy of *détente*. Although Helsinki Accords and their human rights provisions were not binding as they did not have treaty status, nor had they brought about any concrete improvement in respect of human rights other than perhaps some humanitarian gestures involving family reunifications, it had provided a point of reference and a source of encouragement

for East European dissidents. The text of Charter 77, firstly published in January 6, 1977, starts: *“In October 1976, there were published in the Czechoslovak Codex of Laws the International Pact on Civil and Political Rights and the International Pact on Economic, Social and Cultural Rights, which had been signed on behalf of Czechoslovakia in 1968, confirmed at Helsinki in 1975, and which came into force in our country in March of 1976. Since that time our citizens have had the right and our state the duty to be guided by them ... But their publication reminds us with new urgency how many fundamental civil rights for the time being are – unhappily – valid in our country only on paper.”*¹

The Helsinki Accords created an effective framework for bringing attention to human rights abuses in Eastern Europe. This effectiveness had resulted from three factors that distinguished them from the U.N.-sponsored human rights treaties and that served to mitigate the noxious impact of hypocrisy. Firstly, negotiations within the framework of the Helsinki process pressed states of Eastern Europe to promise the ratification of the U.N. covenants and their option protocols. In 1976, they finally have entered into force in Eastern Europe. Secondly, human rights commitments of the Helsinki Final Act were specific, more detailed and less far-reaching than those of the U.N. covenants and they included provisions that had allowed for regular, international and public review of their implementation. Thirdly, the totalitarian regimes constituted only a minority of the Helsinki signatories, while democracies constituted a clear majority. The tyrannies lied and postured in the Helsinki review meetings just as they did at the U.N., but because they were only a few against many, they did not succeed in creating the same contamination of lies and equivocations that so much shrouded the human rights deliberations of the U.N. (Muravchik 1986).

This is exactly where the role and significance of the Helsinki Accords became apparent. What was originally proposed by the former Soviet Union because of its interest to gain recognition of its postwar hegemony in Eastern Europe and what was primarily considered as an effort to reduce tension between the Soviet and Western blocs by securing their common acceptance of the post-World War II status quo in Europe, it had been slowly developing into a mechanism that helped to bring the Communist empire down.

Paradoxically, the Helsinki process was rather unpopular in the West in its beginnings. Particularly the exile groups and anticommunist emigration from Poland, Czechoslovakia, Hungary or the Baltic states living in the West, were concerned about petrifying the status quo and prevailing the so-called principle of non-interference in the internal affairs. The SPD-led government of Willy Brandt in

1 Charter 77 Declaration. Prague, January 6, 1977. The whole text is available at: http://libpro.cts.cuni.cz/charta/docs/declaration_of_charter_77.pdf.

West Germany was the only enthusiastic supporter of negotiations on the road to Helsinki, although Chancellor Brandt himself did not make it there: he had to resign in 1974 after one of his closest aides was exposed as the agent of the Stasi, the East German secret police. The Germans wanted to promote their *Ostpolitik* in a belief they would achieve normalization with East Germany through rapprochement, rather than through containment.

DEVELOPING STRATEGIES: FROM CONTAINMENT THROUGH DÉTENTE TO ROLLBACK

The United States under the Nixon and Ford administrations only reluctantly agreed, because they were seeking relief from the crisis of late 1960s, the unpopular Vietnam War, and from the Watergate scandal. But when the Jackson-Vanik amendment, the provision of the U.S. Congress to restrict trade relations with countries that restricted freedom of emigration and other human rights, entered into force, the U.S. government gained leverage in the final phase of Helsinki negotiations. Later on, Carter's administration began to support human rights groups directly in the former Eastern bloc and through the CSCE review conferences it maintained public pressure on the Soviets and their satellites to comply with the provisions of the Helsinki Accords. As Zbigniew Brzezinski, the national security advisor to President Carter, later recalled in his memoirs: *"I pushed hard and I believe effectively for a more assertive U.S. posture in CSCE. ... We did agree that a degree of differentiation in our relations with Eastern Europe was needed. We sought to reward those nations which demonstrated an evolution toward a more liberal internal political system and to call attention to the human-rights abuses in those nations which remained committed to totalitarianism"* (Brzezinski 1985). Similar policy in support of human rights in the former Eastern bloc was pursued by governments of the Netherlands, Sweden, Norway, Denmark, the United Kingdom, France and many other West European countries.

At the same time, numerous non-governmental organizations were established to monitor compliance with the human rights provisions of the Helsinki Final Act also behind the former Iron Curtain. The foundation of the Moscow Helsinki Group was announced by Andrei Sakharov and Yuri Orlov already in May 1976. Their pioneering effort inspired other dissidents like the Charter 77 in Czechoslovakia led by Vaclav Havel, Jan Patocka and Jiri Hajek. The Polish KOR (the Workers' Defense Committee) led by Jacek Kuroń, Antoni Macierewicz, Piotr Naimski, Jan Jozef Lipski and others was established even earlier to assist and protect oppressed Polish workers on strike in 1976. In 1978, the Helsinki Watch was established as a U.S. non-profit organization

to collect information on human rights abuses and to organize support and solidarity with human rights groups in Eastern bloc. And finally, the International Helsinki Federation for Human Rights (IHF), an international umbrella organization, was launched in 1982. Karel Schwarzenberg, later on a longtime serving Czech Foreign Minister, has been the IHF President.

All those activities contributed to a certain shift in strategies to promote freedom and democracy and to oppose dictatorship and totalitarianism during the Cold War. What had once started as a policy of containment in 1950s, and continued as a policy of détente in 1970s, had been slowly developing into a policy of rollback in 1980s. As President Ronald Reagan famously described new approach right after his inauguration in 1981: *“The West will not contain communism, it will transcend communism. It will not bother to denounce it, It will dismiss it as a sad, bizarre chapter in human history whose last pages are even now being written”* (Reagan 1981).

Against this backdrop, we should understand why leaders of Central and Eastern Europe had appreciated the importance of CSCE right after 1989. Dissidents who became politicians overnight (like Czech President Vaclav Havel or Polish Prime Minister Tadeusz Mazowiecki) simply acknowledged the “protective” role of CSCE: it helped to save lives of many political prisoners and to increase international and public attention as well as pressure towards democratization and liberalization. But quite a genuine acknowledgment has recently come also from the other side in the conflict when Milos Jakes, the Secretary General of the Czechoslovak Communist Party in 1989 and a well known hardliner, openly said for the Czech newspapers: *“Gorbachev perestroika was our Chernobyl ... But the key mistake has been already made by Brezhnev. Helsinki was the problem. How could he allow to interfere into our domestic affairs by human rights causes?”* (Jakes 2014). In the same interview, Jakes also argued that the Velvet Revolution of 1989 could be contained. *“The KSC (the Czechoslovak Communist Party) should have to send tanks against demonstrations. Like Deng Xiaoping in China in June 1989. Surely, people were killed but now they have a peace. It was the right approach.”*

CSCE: A VEHICLE FOR CHANGE OR A PERMANENT SECURITY ARRANGEMENT?

The role of CSCE in generating a momentum of change on the eve of 1989 is undisputable. Although a majority of its paper work has been dealing with various security measures and economic proposals, the driving force of a change within the process was the so-called third basket with its human rights provisions. However, developments right after 1990, the Soviet and Yugoslav crisis in particular, dramatized

also limitations of CSCE. Eastern countries have regained their democracy and freedom and the human rights agenda has lost its strong appeal. The economic cooperation in Europe has been dominated by a gravity of the European integration. And the concept of purely cooperative security was unable to respond to great challenges of this era.

The Soviets, in particular, had originally high expectations from the Helsinki process. When Gorbachev had presented himself to the Council of Europe in Strasbourg in July 1989 as the architect of “a common European house from the Atlantic to Urals and Vladivostok”, the Soviet leader had seemed to be setting the agenda for East-West security relations: conventional arms cuts, denuclearization, expansion of East-West trade – all on Soviet terms. Soviet Foreign Minister Eduard Shevardnadze proposed in early 1990 that “*permanent structures*” of perhaps “*even supranational character*” should be agreed in the CSCE as a part of the “*dismantling of the structure of military confrontation*” (Shevardnadze 1991) – as if the imposed Warsaw Pact and the democratic NATO were like identical creations. But in retrospect, the Gorbachev formula for the common European house can be seen to have precipitated not only the disintegration of the principal structures of the Soviet bloc (the Warsaw Pact, the Council for Mutual Economic Assistance, and the USSR itself), but also the unification of Germany.

In the period immediately following the collapse of Communism, the countries of Central and Eastern Europe have been among the strongest supporters of the CSCE too. For example, Czechoslovakia considered the CSCE as the main guarantor of European security in 1990. When President Vaclav Havel addressed the Council of Europe in May 1990, just ten months after Gorbachev's lecture on the “common European house”, Prague stood at the geopolitical intersection of simultaneous and contradictory processes: disintegration of the East, deepening economic integration of the West and withdrawing Soviet troops moving across the Czechoslovak territory. Havel had multiple reasons to be concerned. The security and wealth of smaller and medium size states always depend on the environment in their direct neighborhood and on relations among greater powers around. Therefore, the Czechs and Slovaks were taking cooperative security concepts seriously. In his Strasbourg speech, Havel had invoked how the King George of Bohemia sent a delegation from Prague to Paris in 1464 to propose the formation of a league of peace, embracing all the states of Christian Europe to protect them against Ottoman expansion, and then he proposed that the new European security structures “*could grow out of the foundations of the Helsinki process*” (Havel 1997). Czech Foreign Minister Jiri Dienstbier proposed the establishment, under a CSCE system, of a European Security Commission and lobbied hard to get the CSCE secretariat to Prague. When Dienstbier visited Harvard University in the U.S., he also proposed a “new Marshall Plan” for Central and

Eastern Europe, a program by which the capitalist states of the West would finance continuing export of goods from Central and Eastern Europe into the Soviet Union.

However, the attitude of Central and East European countries toward the CSCE evolved significantly shortly after 1990. First, Czechs, Poles or Hungarians have never seen NATO and Warsaw Pact as symmetrical alliances like the Soviets did. Havel already in his Strasbourg speech recognized that *“NATO, as more meaningful and more democratic and more effective structure, could become the seed of a new European security system.”* In his speech at NATO Headquarters in March 1991, Havel already argued that the door to NATO membership should be kept open: *“We know that for many different reasons we cannot become full members of NATO at present. At the same time, however, we feel that the alliance of countries united by a commitment to the ideal of freedom and democracy should not remain permanently closed to neighboring countries which are pursuing the same goals. History has taught us that certain values are indivisible; if they are threatened in one place, they are directly or indirectly threatened everywhere”* (Havel 1991). Secondly, the outbreak of the Yugoslav Wars in June 1991 and the coup d'état against Gorbachev in Moscow in August 1991 raised serious concerns throughout the whole region.

In October 1991, the leaders of the Visegrad Group (Hungary, Poland and former Czechoslovakia) openly declared their interest to seek NATO security guarantees as a protection against instability and threats stemming out of the East and South-East. The defense alliance with heavy security guarantees has been seen more and more as an assurance, in contrary to a promise of a vague cooperative security structure within CSCE bringing together states with very different interests and values. Also, the prospect of gaining the access to prosperous Western markets through the association with the European Communities was more attractive for Central and Eastern Europe than a vision of continuing export of goods to insolvent markets of the falling Soviet Union. The interests and consequent strategies of Central and East European countries have shifted: from a dialog and cooperation between the West and East toward anchoring the whole region into the West. It took just ten years to open the NATO doors to them and fifteen years to enlarge the European Union. Meanwhile, the CSCE was transformed into an organization (OSCE), but its role in shaping the international order in Europe has become rather marginal.

HELSINKI AS THE MODEL FOR KOREAN PENINSULA?

Even though the diversity of values, interests and cultures exposed substantial limitations incorporated within the CSCE/OSCE system, the Helsinki process has brought a couple of valuable innovations which are relevant in international affairs

and could serve as a model to follow. First, with the consensus based principle, smaller and medium size states have obtained a greater voice in European arena, which was traditionally dominated by a concert of large powers. Secondly, a concept of state security as something what traditionally mattered most in relations among states has been supplemented by a concept of human security. With current globalization processes, human security matters more than ever before and the so-called soft power is as important as the traditional hard power. And thirdly, the Helsinki process was successful in creating a cooperative multilateral framework and easing the Cold War tensions in Europe by adopting a comprehensive approach. By advocating a more active and more nuanced attitude, it has served as a vehicle to increase trust and cooperation among states which were members of different alliances and groupings. While a traditional containment just petrified the status quo, a policy of an active engagement helped to change rules of the game in the arena. For example, democratic Western states could start to differentiate among totalitarian states in the East: to reward more liberal and to punish dictators by leveraging trade and inter-state communication and cooperation.

The beginning of the Helsinki process is directly related to the German *Ostpolitik* of early 1970s and its peak is marked by German reunification of 1990. Therefore, it is not surprising that many leaders of the Republic of Korea were looking for “a Helsinki inspiration” in their efforts to de-escalate tension and to increase cooperation in the Korean peninsula. The “*Nordpolitik*” under President Roh Tae-woo in 1980s, or the “*Sunshine Policy*” under President Kim Dae Jung in the late 1990s serve as the well-known examples. However, in confrontation with lunatic hardliners in Pyongyang, they have brought only very modest results and at the end they had failed to achieve their aims.

In 2003, Korean President Park Geun-hye proposed her Northeast Asia Peace and Cooperative Initiative (NAPCI). In her speech to the U.S. Congress, she said: “*Asia suffers from what I call ‘Asia’s Paradox’, the disconnect between growing economic interdependence on the one hand, and backward political, security cooperation on the other*” (Park 2013). And her Foreign Minister Yun Byung-se speaks about “*trust building processes on Korean peninsula, efforts to seek a new paradigm in inter-Korean relations instead of scoring quick political points*” (Yun 2014). The word of “trust” is a key element in NAPCI concept.

In this regard, the Helsinki process in Europe was through 1980s marked by common efforts to increase a trust among states from different alliances and groupings, which were facing a similar “European” paradox. As a temporary solution, general grand strategies (either containing, or rolling back the Communists) have been subordinated to a partial tactics (let’s start with small steps of détente) in a belief that the real change would follow afterwards. As a result, the CSCE/OCSE

system neither produced a solution, nor constituted a backbone of new security arrangement, but it had provided a useful support for achieving a change. But we should also keep in mind differences in the international environment between 1980s and 2010s. In the course of 1980s, the U.S. were offensive and agenda-setting player in the global arena, the West European integration reached a peak of its optimism and served as a gravity force to the others, and Soviet Union was economically collapsing while politically was seeking a constructive outcome. Nowadays, the international environment around Northeast Asia is different by many aspects and only the future will show us if an inspiration by Helsinki may generate a brighter prospect for this part of the world.

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DEMOCRATISATION IN CZECHOSLOVAKIA

POLITICAL AND SOCIAL INSTITUTIONS

Stanislav Balík

The trigger for the collapse of the Communist regime in Czechoslovakia was the suppression of an authorised student demonstration by the police in Prague on 17th November 1989. The police beat many of the student demonstrators, but the mobilisation of the public is largely attributed to the rumour that a student had been killed. Although disproved by the regime two days later, the psychological impact of the accusation was nevertheless extraordinary. Outraged by the police action, the students called a protest strike and were soon joined by actors from Prague's theatres. Riding the wave of spontaneous mass protests, the Civic Forum (Občanské fórum, OF) emerged on 19th November 1989, with Vaclav Havel as the central figure. The existing opposition initiatives, but also many people from outside the known circles of dissent, quickly joined the Forum. In Slovakia the Public Against Violence (Verejnosc proti násiliu, VPN) movement, a "sister" movement to the Forum, emerged practically at the same time. Demonstrations in which hundreds of thousands participated began, first in Prague, before spreading to other large cities as well. They culminated in a successful two-hour general strike on 27th November 1989, confirming that the Forum commanded a broad public support (for more details, see e.g. Suk 2003: 73–92).

GOVERNMENT

It was symptomatic that when the Civic Forum issued its founding proclamation on 19th November 1989, it called for the resignation of eight particularly compromised Communist leaders, but only one was a member of the government (cf. Suk 1997a: 1). Evidently, at that time the Civic Forum was not considering the possibility of assuming executive power. The first phase focused not on altering the government, but on provoking unspecified changes within the Communist Party

of Czechoslovakia (Komunistická strana Československa, KSČ). The Czechoslovak opposition was entirely unprepared for the power takeover; it was lacking strategies for how it would proceed.

Dialogue became its chief strategy, but it was between an ill-defined “power” and a similarly vaguely defined “opposition”; the terms of this dialogue were not clearly established in advance. The Forum spoke for the opposition, but the question of who was to represent the state power remained. The leadership of the Communist Party held de facto power, yet it was unable to act and unwilling to engage in the dialogue. An attempt on the part of this leadership to use force (the party paramilitary units of People’s Militia – Lidové milice) ended in a fiasco. At that time, the mass media, i.e. state-controlled TV, radio, and newspapers also refused to obey the ruling forces in the state, facilitating the spread of protests beyond Prague. The National Front, the body “unifying” all the parties and those mass organisations that were permitted, had also begun to disintegrate (cf. *Poslední hurá* 1992: 70, Otáhal 1994: 110, Cysařová 1999: 297–307).

An extraordinary session of the Communist Party’s Central Committee, which was held on 24th November 1989, removed only some of the compromised politicians and ruled out the use of force. Thereby demonstrating that the Communist Party was unable to carry out either meaningful coordinated action against the opposition, or accommodate the latter’s demands. At that point, the Prime Minister of the Czechoslovak Federation, Ladislav Adamec, began to openly negotiate with the Forum, not in his capacity as a Party official, but in his constitutionally sanctioned political role. Thus, the once proclaimed and respected leading role of the KSČ in state and society came to an abrupt and decisive end, with further developments looking toward a future constitutional democratic political system.

The day before the successful two-hour general strike, in which seventy-five per cent of citizens participated (according to the Public Opinion Research Institute (Suk 1997b: 84)), a delegation of the Forum led by Havel met first with the Prime Minister Adamec. The Forum presented its demands as articulated in its founding proclamation. Adamec asked for the general strike to be limited to a few symbolic minutes in order to limit economic losses. Fearing possible minimisation of the strike’s psychological effect, the Forum rejected Adamec’s request. It also invited him to a rally in Letná, Prague. Facing the crowd of half-a-million people, Adamec misjudged the situation, repeating his demand that the strike should not take place. This triggered the multitude collected there to respond with mass expressions of disagreement (Otáhal 1994: 113, Suk 2003: 49). However, Adamec continued as the Forum’s main partner. After the general strike, the Forum no longer organised mass rallies, focusing on its negotiations with Adamec. Thus, it deprived itself of its strongest means of exerting pressure. A more serious problem was that in early

December 1989 the Forum still did not want to take over power, but merely to control it. It also sought constitutional and legal continuity at all costs. In practical terms, this gave Adamec a free hand to form a new government.

Adamec's "new" (or in constitutional terms more precisely "reconstructed") government, known as the "15+5" (i.e. fifteen Communists and five non-Communists) was presented to the public on 3rd December 1989. Initially, some of the Civic Forum's representatives did not oppose the new government. The public, however, was of a different opinion and soon after the government was unveiled, spontaneous demonstrations again began in earnest, under the influence of which the Forum rejected the government. The Forum then also altered its strategy and resolved to directly participate in the execution of power. The voices of the economists from the Prognostics Institute of the Czechoslovak Academy of Sciences, in particular that of Vaclav Klaus, were instrumental in this change. The economists were pragmatic and understood that by taking up posts in the executive, they would be able to influence the flow of events more effectively than they could by merely exerting external control. In response to this, Adamec resigned (Suk 2003: 58).

The negotiations between Adamec, who had already announced his resignation, and the Civic Forum resulted in the proposal of a new Federal Prime Minister: Marian Calfa, a KSČ member, who had been the minister for legislation until November 1989. The strength of the Forum and its will to govern became apparent for the first time in the composition of Calfa's "government of national understanding," which was appointed on 10th December 1989, with the chief task of leading the country to free elections. The Forum obtained a strong position within the Calfa's government, in particular those ministries concerned with the economy, but non-Communists also occupied the posts of the first Deputy Prime Minister, the foreign minister and the minister for labour and social affairs. In terms of party affiliations, the distribution of forces in the government did not secure dominance for the Forum: ten members of the government were Communists, two were from the Czechoslovak Socialist Party (Československá strana socialistická, ČSS), two were from the Czechoslovak People's Party (Československá strana lidová, ČSL), and seven were non-partisans (nominated by OF and VPN) (Fiala, Holzer, Mareš, Pšejka 1999: 95). However, for some of the Communists, party affiliation was merely a residue of its former meaning, and in practice, they no longer represented the party.

In terms of choosing the occupiers of the "power" ministries of defence and interior, which were of cardinal importance given the yet unachieved regime change, the Forum leaders displayed political naivety. The appointment of the Communist General Miroslav Vacek as Defence Minister, previously the Chief of the General Staff of the Czechoslovak People's Army (who, on Vaclav Havel's strange request,

remained in office even after the 1990 election, until October 1990), yielded no ill effects. The appointment to the ministry of the interior proved a much more serious problem, however. Until the end of December 1989, it was administered collectively. The portfolio was then given to Richard Sacher, whom Havel had preferred for the post. The period of collective administration and Sacher's tenure introduced a period of anarchy at the ministry, which was exploited in particular by representatives of the secret police, who shredded a vast number of documents that had borne witness to the work of secret agents (Suk 2003: 356–360).

When Calfa formed his government, Adamec believed that he would preserve some influence over the executive through the new Prime Minister. For its part, the Forum believed that Calfa was only a short-term solution. However, he proved a versatile and agile state official, familiar with both the constitutionally stipulated and informal aspects of the political structure at that time. He immediately severed his bond with Adamec and his group, reorienting himself in alignment with the Forum's leadership. Skilfully conducting behind-the-scenes politicking, he crucially secured Havel's election as the country's President, thereby winning his confidence. Havel later repaid him by pushing through his appointment as the Prime Minister after free elections in 1990, despite Calfa formerly being a prominent Communist.

PRESIDENT

In the Czechoslovak (and later, Czech) case, the position of the President is more complex than it may appear at first glance. According to the letter of the constitution, the President has never been the main representative of executive power; that is the role of the government and during the Communist non-democratic regime, the politburo. Although the President's powers have been and continue to be mostly ceremonial, the office has been considered central to the political system and has been imbued with deep symbolical meaning since the establishment of Czechoslovakia in 1918. There is no doubt that the first President, Tomas Garrigue Masaryk (1918–1935) endowed the post with gravitas, yet the roots of the President's importance are deeper and draw on the tradition of Czech Kings and Princes (the President's seat is the Prague castle, the residence of historical rulers of the Czech lands). The import attached to the presidency by Czechoslovak society is also apparent from the fact that Czechoslovakia was the only Communist country in Central and Eastern Europe in which this post was never abolished or even suspended. Indeed, the most powerful men of the regime, the successive heads of the Communist Party's Central Committee, usually felt

the need to categorically legitimise their position by election as Presidents of the Republic.

This explains why the Velvet revolution culminated in the election of a new President and not a new parliament. The last Communist President resigned on 10th December 1989, having appointed a new government. At that time it was unclear who his successor would be. Promoted vocally by the Communists, the direct method of election was not adopted, which left the task of electing the country's President in the hands of the parliament, as had formerly been the custom in Czechoslovakia. The problem was that the Communist Party wholly controlled the parliament, which had been elected in 1986. Eventually, the new Prime Minister, Marian Calfa, offered "help" in a form of convincing all the MPs to elect the dissident Vaclav Havel, the leading figure of anti-Communist resistance, as the new President. On 29th December 1989, he was unanimously elected in an open parliamentary vote (Fiala, Holzer, Mareš, Pšeja 1999: 99). At this symbolic moment, the fall of the communist regime was complete: the man who, only seven months ago, had been a political prisoner was now the President. This confirmed that Czechoslovakia was taking a democratic course.

REPRESENTATIVE BODIES

Only after the government and the office of the President were newly staffed did the attention turn to the legislature, which shows in retrospect the relative importance of the branches of government as they were perceived at the time. In late 1989, an act was adopted allowing the co-option of new MPs into the parliament, to replace those MPs who had resigned from their positions. The empty seats were filled not on the basis of elections, but on the basis of proposals by political forces (in particular the OF and VPN, but the KSČ as well). This was one of the fundamental traits of the earliest post-November 1989 period. The question of elections was pushed into the background and indeed the parliamentary election only took place in June 1990, more than half a year after the November 1989 events and Havel's election as President.

In January 1990, a constitutional law was adopted permitting the removal of MPs and the co-optation of other people into vacant seats, but this could only take place until the end of March 1990. The term of the parliament elected in 1986 was also shortened and the MPs mandate was changed from imperative to free.

Ultimately, more than half of the MPs were newly co-opted. In the reconstructed 350-strong Federal Assembly (comprised of 200 members in the Chamber of the People, 150 members in the Chamber of the Nations), the KSČ held 138 seats,

ČSL and ČSS 18 seats each, and OF with VPN 119 seats. The remaining seats were given to marginal parties and non-partisans (Suk 2003: 283–295, 492).

The co-option method, problematic in itself and defensible perhaps only for a necessarily brief period, was therefore used to create a legislature which adopted the first fundamental acts transforming the non-democratic substance of the Czechoslovak political regime. The name of the republic was changed (above all, the word “socialist” was removed) and new state symbols were adopted; the socialist preamble to the constitution was removed (however, the constitution as a whole remained in force; it was “merely” altered by almost fifty constitutional laws); actual, and not solely nominal, federalisation of the country was discussed; the state monopoly on education was lifted, and private and church schools could be established; the first steps towards a fundamental economic reform were taken, etc. However, further and exhaustive changes were only approached by the freely-elected parliament after June 1990. These were concerned with the renewal of territorial self-governance, liberalisation of economy, democratisation of judiciary, adoption of the Charter of Fundamental Rights and Freedoms, etc. (cf. Gerloch 1999: 41–43).

Nevertheless, already before the 1990 election, dysfunctions emerged in the constitutional system and fully developed in the period 1990–1992. As the new regime simply adopted parliamentary rules inherited from the non-democratic period, which did not work in practice, being merely written into the constitution, certain parts of the political process were blocked. Combined with other factors, this eventually resulted in the disintegration of Czechoslovakia into two independent Czech and Slovak Republics, effective from 1st January 1993. One crucial rule in the federal parliament was *zákaz majorizace* [*ban on majorization*], the consequence of which was that when discussing certain issues, the federal parliament effectively operated as a three-chamber body. In an extreme case, one tenth of MPs of either nation was sufficient to veto an important law (Vodička, Cabada 2007: 125–126).

The co-option law was also used to staff local authorities, the *národní výbory* [*national committees*], which represented public power in the municipalities and regions. Using this law, the most compromised deputies were removed from office and representatives of the non-communist opposition co-opted in their stead. This only happened on a substantial scale in larger cities. A fundamental change in personnel only took place after the November 1990 local election, which restored democratic local self-governance. This also means that for the entire year following the November 1989 regime change, municipalities and towns remained under the rule of the former exponents of the Communist power (Balík 2009: 57–58).

ELECTORAL SYSTEM

In 1990, the Czechoslovak polity faced a fundamental decision, which, as later became clear, placed significant limitations on future political developments; that was, which electoral system to choose? The choice was essentially between two basic options: a proportional or a majority system (one of innumerable possible combinations of both was also be considered). In general, the nature of electoral system is decided by both the domestic tradition and general situation at the point where the decision is being made; it does not tend to be influenced by local specificities.

Focusing now on these two basic options, we must note their consequences. Essentially, electoral systems can produce bodies that are highly representative (but not necessarily very operational), or highly operational in the sense that they make the process of forming a homogeneous majority government easier, but achieve this at the expense of representativeness. The two goals of inclusive representation and ability to act cannot be achieved concurrently. To simplify, proportional systems assist the former, whereas majority systems the latter (cf. e.g. Novák 1998; Sartori 2001).

To facilitate the development of plural politics, the Czechoslovak polity opted for a proportional electoral system, which, however, is more suited to societies that are internally divided in some way, whether along ethnic, linguistic, religious, geographic or other lines. Although justifiable in the early 1990s, this choice has rendered the functioning of Czech parliamentarism difficult. Czech society is essentially homogeneous, and the present proportional election system needlessly obstructs the formation of working majorities and their alternation.

PARTIES

After November 1989, the Czechoslovak/Czech party system began to constitute itself largely without continuity from previous developments, with the exception of two or three political parties. First amongst these was the Communist Party of Czechoslovakia, which in early 1990 achieved its federalisation, becoming a federation of the Communist Party of Bohemia and Moravia (Komunistická strana Čech a Moravy, KSČM) and the Communist Party of Slovakia (Komunistická strana Slovenska). In 1990, the latter took the same course as other Central European Communist parties, rejecting its Communist identity, changing its name (to the Party of the Democratic Left – Strana demokratickej ľavice) and becoming a social democratic party. Several mergers later, it had become one of the sources of

the main (and presently the only) governing party in Slovakia, the Direction – Social Democracy (Smer – sociálna demokracia). By contrast, the KSČM has been rather unique in the Central European space: it is the only Communist party in the region to preserve its legal and ideological continuity with the former non-democratic hegemonic party (as expressed by, among other things, the term “Communist” in its name), and, also uniquely, it has not been in power since 1990, despite regularly polling about 15 per cent of the vote, continuously winning seats in parliament, and, in some electoral terms, acting as the main opposition force.

The second party to draw on a historic legacy was the Czechoslovak People’s Party (Československá strana lidová, ČSL). Representing political Catholicism, it had existed in various forms since 1894, adopting that name in 1919. When the Communists came to power in 1948, it survived as a part of the so-called National Front, although it was transformed substantially, suffering purges. During the whole period 1948–1989 it represented a loyal force, endowing the Communist system with a semblance of pluralism. In the pre-1989 period, a movement for renewal constituted itself in the party, which after 17th November 1989 assumed the party leadership, transforming it into a modern Christian Democratic party. Using the existing organisational structure, it succeeded in the democratic system, and under the name of Christian and Democratic Union – Czechoslovak People’s Party (Křesťanská a demokratická unie – Československá strana lidová, KDU-ČSL) it continues to represent the minority interests of the Catholic electorate.

In theory, the Czechoslovak Socialist Party (Československá strana socialistická, ČSS) was also in a position to draw on its traditions and existing organisation, but it failed to do so. Its fate, in contrast with that of ČSL, is a good example of the fact that historical continuity, established party structures, and money, are insufficient to achieve political success. A party must also represent interests that actually exist in society, something that ČSS had not done since 1948.

The Czechoslovak Social Democracy (Československá sociální demokracie, ČSSD) represents a special case. Although it declared itself successor to a similarly named party, active before the Communist takeover of power in 1948, there was no real continuity in terms of either personnel or organisation. Although partially drawing on social democracy in exile, its later success, which only arrived after 1996, when it came to represent one of the two major poles in Czech politics, drew on different sources altogether.

That aside, all of the parties mentioned above tended to play rather minor roles in the period immediately following the fall of the Communist regime and during the transition to democracy. It was symptomatic of the Czechoslovak transition that the Czech political parties in particular had not achieved “universal recognition as privileged instruments of political competition and cooperation, socio-political

representation and mediation of interests” (Fiala, Strmiska 2005: 1361). Certainly, the causes of this situation were multiple, the most important among them being the ambivalence towards the phenomenon of partisanship, which many in the new political elites displayed. Political parties were also disadvantaged by the fact that in the earliest period up to 1990, informal models were preferred for communication between the political elites and the general public; attempts to personalise politics and to obtain political legitimacy by means of mechanisms other than elections had also been influential during that period. Thus, the concepts of partisanship and electoral competition were perceived solely as a “necessary evil”.

Thus, the Civic Forum, originally a body coordinating the “revolution”, later, a hybrid structure combining two characteristics: a post-revolutionary, umbrella, non-partisan, anti-Communist, anti-totalitarian, and pro-democracy organisation; and a mass popular movement, became the key component in the incipient party system. The contradiction between its two characteristics, which had already appeared ahead of the 1990 election, and fully developed in autumn 1990, led in early 1991 to the split of the Forum into the Civic Democratic Party (Občanská demokratická strana, ODS) and the Civic Movement (Občanské hnutí, OH). The conflict focused on whether the Forum should be a classical political party endowed with a territorial structure, exercising its influence on the locus of power (a position advocated by the representatives of the future ODS), or whether it should continue using the model of a narrow, elitist club of political notables (Vaclav Havel and the representatives of the future OH). Since its inception, the Civic Forum had brought together political currents with differing and even opposing orientations in terms of interests and ideologies.

The half-year between the events of November 1989 and June 1990 parliamentary election was marked by the emergence of a number of new parties and groups. The Civic Forum won the election decisively, polling more than half the vote; the Communists placed second with about 13 per cent of the vote. Two other small parties gained parliamentary representation. The 1990 election achieved the transition to democracy, not only in the political system as a whole, but also in its party subsystem (see Fiala and Strmiska 2005 for more detail).

EVALUATION OF THE SITUATION, TWENTY-FIVE YEARS LATER

The Czechoslovak situation was exceptional. Before November 1989, active opposition to the regime was very weak, comprising at best several thousand people (more likely just several hundred). The great majority of the population was silent, constituting a “grey zone”. This is why the opposition did not consider a takeover of

power – it had not been living in an environment where it felt that a regime change might be imminent, following which the opposition would bear the main political responsibility. The opposition largely recruited from artistic and intellectual circles, which gave it a specifically “philosophical” rather than a practical character.

Interestingly, neither was there a noticeable, coherent group ready for change within the Communist Party, one awaiting the old leadership to bow out. That leadership had been defined generationally, and based its legitimacy on the suppression of the Prague Spring in 1968 by the Soviet armies. The small number of isolated individuals who had been waiting for their chance within the Communist Party in 1989 certainly cannot be considered a group.

These two characteristics as observed here significantly influenced further developments. The lack of young technocrats within the Communist Party, ready to assume power in the state, caused it to develop along a trajectory different from that of other Central European Communist parties and eventually it was at the extreme left of the political spectrum, unable to participate in government. However, another consequence of this was that a share of seats in the Chamber of Deputies, ranging between one-seventh and one-fifth, fell out of consideration when forming coalition governments, which naturally limited possible options.

The small number of oppositional activists meant the new democratic regime desperately lacked experts able to participate in the exercise of power. Therefore, for the most part, it had to rely not only on the (often unprepared) people from the grey zone, but also on former Communist cadres. Most importantly, the opposition that almost overnight had become the political elite, lacked scenarios for political change, reform, or a planned course of action. The changes were thus often spontaneous, lacking in coordination and forethought.

We can then ask: what caused the growing public distrust of the Communist regime before November 1989? The economic reform rather than redress of grievances and injustices became the dominant topic of political and social discussion in early 1990 and this reveals something of note. It was the economic inefficiency that had alienated the people from the political regime. The systemic failures of central planning and shortages in most goods, including elementary goods, were increasingly obvious. Many could see that Czechoslovakia lagged behind its neighbours, the democratic Austria and Western Germany, countries with which it had once boldly compared itself. Moreover, the economic decline was accompanied by serious environmental concerns. The destruction of the environment led to people suffocating, rivers being poisoned, and forests ravaged by pollution and this damage entered the public discourse of late Communism. The economic reform, thus, understandably came to the fore once the events of November 1989 were concluded.

If the Communist regime lost its legitimacy in the eyes of the public, it was not because it failed to fulfil the goals of social justice and equality, nor because of the issue of collaboration with the Communist secret police; its demise was a consequence of economic inefficiency. This also explains why the secret police, its transformation, and the preservation of its archives, were not a priority for the new rulers. It is also the reason why many steps to redress old injustices were not taken as an immediate priority. In addition, it clarifies why, for the majority today, someone's cooperation with Communist secret services does not totally discredit that individual, why the desire to achieve the greatest possible economic equality is not considered a serious issue, and why the Communist regime is not completely disgraced by its human and religious rights record (in these respects, the Communist regime did not contradict the Czech mentality). For a long time, it enjoyed at least secret approval by society; an approval that fell apart only at the point when the regime ceased to be economically effective, when it lost its standing as a modernising force. Perhaps this is something the present democratic regime would do well to be more aware of.

The relatively late date of the parliamentary election (June 1990) seems strange from today's perspective. Nonetheless, it testifies to the position the idea of parliamentarism achieved, and continues to enjoy, in society. In Czechoslovak history, the parliament was never the crucible whence policy would emerge and where social conflict would be resolved. Understandably, then, a greater emphasis was placed on the takeover of power and choosing the new President, rather than on having an election as soon as possible.

In retrospect, personal continuity in the judiciary was a serious mistake. With a wave of a magic wand, the judges who served the non-democratic regime became democratic, which undermined the credibility of any subsequent changes to the procedural rules and courts organisation. The obvious continuity of personnel became one of the sources of general distrust in the justice system. The Communist history of the judges was blamed for long judicial delays in hearing cases aiming to redress wrongdoings of the past as well as entirely new cases.

The mere assertion that the procedure was faulty is insufficient; we ask what course of action should have been taken? Perhaps the judges should have been subjected to a vote of confidence before being reappointed in their jobs, and perhaps the decisions they made under the Communist regime should have been reviewed in some form.

Connected with this is the often-discussed question of legal continuity; was it right to preserve full legal continuity, which in fact prevented the punishment of the overwhelming majority of Communist crimes and their perpetrators? Most had acted within the framework of the so-called socialist legality, obeying illegitimate,

yet legal rules. Even where they were shown to have violated contemporary laws, their crimes were later declared either time-barred or subject to Presidential amnesty in early 1990. The acknowledgement of full legal continuity with *de facto* Communist lawlessness certainly did not aid in the construction of the legal state and the rule of law.

In addition, unfortunate in terms of citizen trust and the justice of the new democratic regime was the fact that large sections of middle – and upper – Communist party echelons crossed into the economic sphere, where, using their contacts, experiences and realistic outlook, they quickly found their footing and met with significant success in the new environment. Believing that the state is not to interfere at all with emerging market relations, the new regime did not regulate this sphere, allowing these cadres to substantially profit from the various forms of privatisation and to obtain privileged positions in the capitalist system.

TRANSFERABILITY OF THE CZECHOSLOVAK EXPERIENCE

I believe that a number of factors concerning the democratic transition in Czechoslovakia are not transferrable. The end of each non-democratic regime is largely unique and many subsequent steps depend on it. Whether a regime falls due to war, or whether its end had been initiated by socio-political factors, under whose influence it then unfolds, it is instrumental in determining the character of democratisation. Likewise, it matters whether the exponents of a regime play a decisive role in its demise, or whether the transformation is ushered in by oppositional pressure. Czechoslovakia, and with it the whole of late-1980s Central and Eastern Europe were instances of the afore-mentioned type, specifically, of the fifth of Stepan's eight models: "end of regime by social pressure". A weakness of this variant is that the dissatisfied opposition is often unable to create a unified and sufficiently strong group to negotiate with an ailing regime. Such a situation might merely result in a change of government and not of regime (Říchová 2000: 242–243).

It does matter whether the transition is a pact (enforced by the elites on the basis of a compromise); transition by imposition (enforced by the elites by force); transition by reform (enforced by the masses on the basis of a compromise); or a transition by revolution (enforced by the masses by force) (Dvořáková, Kunc 1994: 64–65).

Also important is the main factor that robs the regime of its legitimacy. If it is a drop in economic performance, as was the case in Czechoslovakia, topics connected with other great social values (justice, security, freedom) will be pushed into the background.

Czechoslovakia can in any case serve as an example of a successful transition from non-democracy to democracy. We can see on this example that it is not the most important thing to hold free elections as soon as possible; for a time, reforms can be undertaken without elections. Neither is the most important thing to exhaust the energy of the rulers in writing and discussing a new constitution.

What can be recommended on the basis of this example is that the rules be as simple as possible. The procedures of the Czechoslovak parliament were complex and many problems were left unresolved because of that (for example, the restitution of Church property, a topic that kept returning for the next twenty years and completely needlessly mobilised the public).

It is also possible to recommend on the basis of the Czechoslovak experience that the transformation be undertaken as quickly as possible; as time passes, the desire and willingness to change many things wanes and reforms are postponed. What is not achieved in the first two or three years might never happen.

Last but not least, a charismatic leader is necessary to convince citizens of the benefits of the many steps to be undertaken and to promote the whole process of transformation. Czechoslovakia was lucky to have had two such leaders, who – at least in the first years after regime change – were able to cooperate: Vaclav Havel and Vaclav Klaus. Nevertheless, these things are often purely a matter of historical accident.

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INSTITUTIONAL CHANGE OF THE CZECH REPUBLIC

THE LESSON THAT DPRK MAY BE INTERESTED IN

Dušan Tříška

1/ INTRODUCTION

It is more than apparent that the initial state and – most importantly – goals of the social, economic and political changes of DPRK can hardly be the same as was the case of the Czech Republic (CR)¹ in November 1989.

This admitted, the author should be conceived of as an expert – if ever – only as a policy maker and direct participant in the Czech transformation process. His immodest ambition thus may only be to attract attention to his experience. In other words, the author only hopes that the kind readers may find bits of inspiration in what has been accomplished – for good or bad – in his country during the 25 years passed. After all, it is a real-life example of how things may be done and readers could feel the same fascination by reforms elsewhere as was ours about developments in countries as remote as Chile or as close as Spain and Portugal, or still more importantly, neighboring Poland, Hungary and the former German Democratic Republic.

To begin with, the essentials of our policy were the following. Firstly, the necessity of a total and unconditional liquidation of the Communist political and economic system was something we took for granted. We explicitly and very early proclaimed that we wanted capitalism. That was our starting point. Secondly, the economic and political reforms were taken as interconnected and by no means divisible. Last but not least, the resultant strategy cannot be imported to any country concerned and the new institutions cannot be installed from abroad.

The latter point is highly relevant for this paper. However inspiring can and should be experiences of other countries – often embodied in the know-how of

1 Czechoslovakia until January 1, 1993.

international institutions such as the World Bank and IMF – the straightforward import of the know-how, not to mention legislation, may be even counterproductive. The process cannot be taken as an exercise in applied economics and the concepts of “optimal sequencing of reform measures”, so popular with economic theoreticians, were of a very limited use.²

2/ ECONOMIC STRATEGY

On the most fundamental basis, the strategy of economic transformation rested on four pillars, traditionally classified as macroeconomic stability, price liberalization, privatization and social safety net.

The main thesis was that – contrary to the commonplace wisdom – the so-called centrally planned economy must be taken as an economy “as any other” however heavily distorted it could have been in that time (Klaus, Tříska 1995). Then, in some more detail, the following, rather simple, scheme was adopted so as to also suggest essentials of the actual sequencing of our transformation process.³

As the first step, the macroeconomic stability was taken as a precondition of the success of transformation. It was fundamentally crucial to take control of the Ministry of Finance and from there give a strong signal in this respect at the very beginning. We succeeded in rapid correction of the – by the old “perestroika-type government” – prepared state budget for the first transformation year. We visibly cut government expenditures and were able to have a surplus budget. In cooperation with the ministry, the central bank continued with a rather cautious monetary policy. We introduced a restrictive macroeconomic policy which we considered a precondition for all liberalization measures.

At roughly the same time, we started a radical restructuring of government institutions – some were abolished, the role of others was substantially changed. The ministries ceased to issue all “planning” directives, the sector of firms started to be fully self-controlled and self-directed.

2 To what extent the very idea of “lessons to be taken” is productive can be seen, e.g., from the extensive almost infinite literature available on the topic – in the separate chapter only a sample of references can illustrate it. From among endless row of workshops the most recent and, perhaps, distinguished one can be “*Transition in Perspective*”, May 6–7, 2014, Budapest, Hungary, where the key architects of the change in Central and Easter Europe could meet “25 years on” (proceedings of the conference to be published shortly). Specifically, we should note the conference “Korea and East Asia: Transformation of Socialist Systems”, February 13–14, 2009. University of Vienna, Austria – see also Tříska (2009).

3 The following few points paraphrase Klaus (2014).

The elimination of the negative turnover tax had a significant impact upon the atmosphere in the country, upon the feeling of its citizens, upon the prices of consumer goods, upon the structure of consumer demand. Sufficiently announced and explained in advance and accompanied by explicit social subsidies, this move changed hundreds or thousands of prices which were in the last 40 years considered untouchable and were, therefore, totally out of touch with the economic reality.

Almost immediately we carried out a devaluation of the Czechoslovak crown which more or less accepted the level of the existing black market exchange rate. This decision was one of the most difficult ones made in the whole transformation era.⁴

Somewhat later, price and foreign trade liberalization opened space wide to market liberalization.

The decisive part of the transformation process happened to be privatization. We will deal with it more extensively in later sections. The following table is to summarize the above sequencing and – in particular – pin point the fact that the speed was what mattered to us most.

November 1989	the <i>Velvet revolution</i> (the collapse of Communism)
January 1990	the complete re-design of the state budget
July 1990	elimination of the negative turnover tax
October 1990	the strategy of the economic transformation is approved by the Parliaments (Slovak, Czech and Federal)
September 1990	small-scale privatization and restitutions adopted
February 1991	an extremely simplistic institutional frame is established for price liberalization, foreign trade liberalization, privatization and social safety net (prices increased by 25.8% in the first month, 7% in the second, 4.5% in the third, and then between 1–2% in the next 60 months – when we exclude the month of the tax reform)
February 1992	large-scale privatization and restitutions adopted
May 18, 1992	the first privatization round (of the First Privatization Wave for almost 1 500 state-owned enterprise – “SOEs”) started; within six months one third or so of the economy ended up in the hands of those of the citizens who showed interest.
January, 1993	Czechoslovakia disintegrated into CR and Slovakia

⁴ Part of the dispute was about whether to devalue prior to price and foreign trade liberalization or after it. We originally wanted to do it after but were convinced that the ex-ante devaluation is better. It proved to be a good advice on condition that we chose a “good” exchange rate.

3/ PRIVATIZATION

3.1/ MARKETS FOR CAPITAL GOODS

For the sake of simplicity, we may use the term “capital goods” to represent a concept complementary to consumer goods. By capital goods we thus understand such items as enterprise, shares, labor, land, buildings etc...

Due to nationalization and central planning, almost all of the above items lost their economic contents as they ceased to be subjects of market transactions. While consumer goods markets survived to some extent, markets for capital goods had to be established from scratch.

Privatization in a post-communist country (in contrast to that in a market economy), is therefore a process of (re)creating a capital good as a fundamental economic category. By ascribing an owner to, e.g., every piece of land and office building in the country, they become tradable by definition and the capital market may emerge. In order to allow for this change, the first owner has to be created (looked-for and found). Contrary to the western experience then, privatization in a post-communist world is not a process within which property changes hands. Rather, it is the process within which the “non-owner”, the Communist state, “packages” and “issues” thus created capital goods to their first (initial) master.

In order to distinguish the above defined two types of privatization we shall refer to them as W-privatization and E-privatization, according to whether they occur in the context of a market (“western”) economy or constitute a fundamental part of a post-communist transformation, respectively.

3.2/ PRIVATIZATION IN WESTERN COUNTRIES

Privatization is a notion well established both in the West (Western Europe in particular) and in the Central and Eastern Europe. This fact has made many politicians, analysts and advisors believed that the know-how of the former may be transferable to where it seemed to be needed most – to the post-communist countries.

The best known is the Thatcherite privatization of Great Britain in the 70s and 80s. Unfortunately, this experience has almost nothing in common with the post-communist E-privatization. As a matter of fact, the terms and concepts of the *British-style* (case-by-case, W-privatization) privatization may be even misleading when applied within the context of transforming Central and Eastern Europe. Unlike in the west, E-privatization – as already stressed – amounts to the very establishment of a heretofore non-existent property rights structure (and associated institutions).

Privatizing in the West may be viewed as a “reform” process; in the East, however, privatization must fulfill much more fundamental (transformation) objectives. Hence, the content of privatization may be substantially different in different socio-political environments. Unlike in the West, it was not enough for the CR to privatize in order to reform the country. The objectives of the Czech government had to be formulated far more extensively, i.e. in terms of a systemic change.

As a result, quite a number of various myths and misconceptions have been generated from the misunderstanding of the substantial differences between W- and E-privatization. Economically speaking, the objective of E-privatization amounts to establishing what we may refer to as capital goods markets. Only through these can the optimal allocation of capital resources be obtained and genuine restructuring of the economy be launched.

Within the post-communist countries various approaches have been applied. To compare them, we may seek to measure their closeness or remoteness to what was offered by the W-privatization.

The techniques elaborated throughout in the West were labeled in the CR “standard” – in the sense that, in the first place, an enterprise entering privatization is restructured (the so-called *privatized property* is established). Only then, the *privatized property* is valued and then offered for sale to more or less constrained group of purchasers.

3.3/ PRIVATIZATION IN POST-COMMUNIST COUNTRIES

Both restructuring and valuation of enterprises are well known for being extremely time consuming and costly. Put otherwise, the W-privatization strategy strongly depends on the obvious fact that the government is to privatize maybe tens, but certainly not thousands of enterprises. Moreover, the domestic supply of financial services is sufficient to cope with the restructuring tasks. Finally, the government, its personnel and agencies are stable, well organized and qualified.

To assume all this is, of course, a far cry from what could be observed in the CR in the early 1990s (or even today) and, we expect, the same applies to the other transforming countries.

The core of our privatization thus rested in the complete reversal of the standard *British-style* process. State owned enterprises were transferred to their new owners in order to open way for their restructuring and valuation. Before we proceed somewhat deeper into this, let us note that the influence of the western way of doing business was strong enough to provide for a false signal to the Czech managers that also their enterprises will be restructured first, namely relieved of their debts before being offered for sale. One of the additional tasks of the government thus became to

overcome these expectations and make absolutely clear from the very beginning that the enterprises will all be taken to be *going concerns* and privatized “as they are”; that there is neither time, nor human and financial resources to execute the (otherwise highly desirable) restructuring and valuation tasks.

3.4/ TRANSFORMATION VS. REFORM

As an interim summary we may thus emphasize again that there should not be any doubt that the damage caused by the Communist regime to the countries in the Central and Eastern Europe primarily rested in the overwhelming destruction of a guaranteed system of property rights, namely those towards the means of production.

In particular, the seemingly natural character of the ownership rights, their routine and everyday presence in developed countries, could make them forget that the constitution and enforcement of the rights has taken centuries of evolutionary developments. Given this, the government of CR – unlike many outside observers – has constantly stressed the institutional objectives of the transformation problem.

The main message of this paper thus is that in the Central and Eastern Europe a new society was to emerge – not only a particular business unit. Economically speaking: however disabled this or that individual enterprise may have appeared, it was not the enterprise itself, but the overall economy, which required therapy.

As said already, it is privatization that distinguishes a genuine, systemic change of a post-communist society from simple reforms or a *perestroika* as they emerged in countries like Hungary, Poland and even the Soviet Union throughout the 80s. The Czech government never wanted to reform what it regarded as unreformable. Its target has always been to establish an entirely new institutional set up.

4/ CZECH WAY

4.1/ PRINCIPLES

It may be of value to pinpoint our highly non-trivial, often counter-intuitive and mostly misinterpreted theses (Klaus 1993; Klaus, Tříška 2006; Tříška 1991, 1994, 1996, 2004, 2005, 2009).

Principle 1: However important may be the economic implications of privatization, its main target is not the economy, but the system of government.

- Principle 2: Privatization is a costly process. Its strategy should stress minimization of costs rather than maximization of proceedings.
- Principle 3: The goal of privatization cannot rest in increasing efficiency of the individual privatized enterprise, but of the institutional frame of the economy as a whole.
- Principle 4: As privatization seeks to establish optimal conditions for the adaptation of the ownership structure, its objective need not and cannot be the immediate installment of an optimal owner.
- Principle 5: Foreign investors do not deserve privileges; they should be treated as anybody else. Moreover, they can never play a leading role as the first owners – their role will rather be in the secondary market with capital goods – within the already established property rights, however imperfectly defined they may seem to be at the very beginning.
- Principle 6: The major contribution to the economic growth will not come from the privatized enterprises but the newly established (“green field”) companies. Privatization may be thus viewed as a process of opening up the economy to the newly emerging entrepreneurs.
- Principle 7: The fatal threat to privatization is the *ex ante* regulation, which seeks to introduce regulatory systems only on the bases of the would-be “market imperfections”. Institutional frame has to be an outcome, not a prerequisite of a transformation and the government has to be prepared, as a part of its strategy, to withstand the unavoidable privatization *casualties*.⁵

4.2/ PRIVATIZATION COSTS AND BENEFITS

Given that it is nothing smaller than the new institutional frame that is the objective of transformation, there is no reason why believe that it could be costless. Just the contrary, all the newly appointed governments of the post-communist area experienced, how high the costs can be in reality, if what is to be delivered to their nations amount to an economy based on markets and private ownership. Any country that decides upon a full-scale democracy and its institutional benefits has to be ready to bear enormous expenses of all imaginable kinds.

⁵ We have coined the term *casualty* here to express socially intolerable phenomena of all imaginable kinds, namely “unjustifiable enrichments” such as asset stripping, fraud etc.; “tunneling” of an enterprise became a Czech word for this type of behavior.

Among them the so-called social costs of transformation are of the prominent importance as they rest namely in that those who are to pay the highest price need not be the same who contributed the most to the evil of the past. Put alternatively, the winners of transformation could also be the infamous ex-communist nomenclature cadres.

With respect to what was said about the social costs, the problem of the mere economic costs seems to be marginal. A brief comment may be in order, though. It was soon accepted by the Czech officials that, unlike the British government, they should not expect substantial returns from privatization. However pleasant it would be, this dream can never come true in the case of E-privatization, whose only genuine principle should be defined in terms of costs minimization (or even loss optimization).

At times, it was also argued that the objective of obtaining the best sale price is inversely related to the privatization speed. In this line of argument, low privatization proceeds are believed to be the “price paid” for the speed.

Contrary to this, we soon concluded that if there was any correlation between proceeds and time, it was the opposite of what is usually hypothesized within *British-style* privatization. The slower the process, the higher will be the social and economic costs of our privatization. One obvious reason is that the true value of the privatized enterprise decreases due to its unavoidable pre-privatization limbo.

To conclude we should add that the non-standard nature of our privatization was based not only on that the enterprises were transferred as going concerns, but also on that a great portion of the overall state-owned property was transferred for free. Apart from the legendary (famous, infamous) voucher privatization, the principle was also applied to the methods lower indicated sub 3) through 6).

Various statistics can be found in data bases and literature. Our own rough estimates 1990–1998 of the overall amount of the property, classified according to the major methods of privatization are in the following table.⁶

6 Zemplinerová et al., 1997, pp. 55–67 write – with the reference to the CSU, 1998, p. 542–543 – that the property released officially from “public ownership” for privatization during 1990–1998 was estimated at US\$ 37 billion (at non-market book values), what represented 62% of all Czech productive assets. It comprised nearly all assets in agriculture, industries, construction and trade, and an important part of the assets in banking, healthcare and transport. Out of the total, 5% went to auctions and public tenders, 7% for restitutions, 7% for free transfers to municipalities, 9% for non-competing sales to pre-selected owners, 20% remained under the governance of National Property Fund and 52% were released for privatization by means of equity shares. The latter included voucher give-away privatization (34% of the total), stocks for sale (9%) and other privatization programs (9%).

Method	Value in billions CZK
Small-scale privatization	20
Large-scale, British-style privatization	400
Voucher privatization	300
Transformation of agricultural cooperatives	200
Restitution	100
Free transfer to municipalities	300

The data show that the voucher scheme was smaller in its magnitude than generally taken for granted. However, its political, social and economic power was enormous.

5/ THE VOUCHER OPTION

5.1/ THE OBJECTIVES AND PRECONDITIONS

To begin with, as stressed by many observers, the credible “threat” of privatization often exercised disciplinary pressure upon management of state-owned enterprises. Hence it was the very existence of the voucher plan that became the main vehicle how to spread the information – in an extremely bold and credible manner – that if there is a trust-worthy standard privatization project, it is highly welcome, but has to be presented “right now!”

Put differently, the government made everyone sure that there is no room for endless discussions about what and how should be valuated, restructured, de-monopolized, etc. Also, should only a part of the enterprise be privatized, the government insisted on explanation about the fate of the non-privatized remainder must be explained.

In sum, the message was that with only few exceptions, every enterprise will be privatized and the nearest voucher privatization wave is how it can be easily done.

5.2/ POLITICAL ARGUMENTS

In addition to the above threat, it may be of value to recall what we presented in 1990 to our Parliaments and general public as the major arguments supporting the scheme. To begin with, it was the policy that every citizen should be given a fair chance to participate. Consequently, the so-called spontaneous (wild) privatization

should be minimized, including the so-called management buy-outs. Also, the issue of restitution puzzle had to be addressed from the above perspective of a general fairness. This latter puzzle was greatly resolved by the scheme 97 + 3, e.g. 97% of the privatization shares for vouchers the rest to the Restitution fund from which the restitution claims were to be compensated.

The same general public should get a fair lesson about capitalist institutions, collective investment, share-holding companies, etc., even if it were by their “bad experience”. In the almost same sense the general public was to become new guardians over abandoned (by communist government), now privatized property. Institutionally, the new guardians were to be established by investment funds and individual share-holders; if damage should be caused by the so-called asset stripping (tunneling), it should be caused to the living agents, not the anonymous state.

Politically speaking, the most appealing argument rested in the fact that the disintegration of Czechoslovakia was “in the air” and that the expected division of property between the two states should be eased by any means.

Contrariwise, we never let anybody feel that what is being distributed was of a great value. As we will argue repeatedly in this paper, we stressed over and over that no one can pretend to know the genuine (market) value of the state-owned property and that the shares of the privatized enterprise represent their nominal, administratively set book-values. This message was understood very well by the general public as the data showed in the first round of the first wave already.

5.3/ THE SCHEME

Given its key role in the Czech transformation process and the many references to it throughout the paper, some more details of the scheme may well serve the purpose (Shafik 1993, 1994; Katz, Owens 1995, 1996; Schwarz 2008). The scheme was realized in two privatization waves. To illustrate the concept, the first one will be considered in this analysis.

To begin with, almost fifteen hundred of state-owned enterprises (SOEs)⁷ were selected and formally transformed into joint stock companies (JSCs). The respective number of shares were issued on the basis on the book-value of the company – an entirely unreliable value at that time.

Almost simultaneously, the so-called investment vouchers were offered to every adult citizen for a registration fee of CZK 1,000 (some 30 USD or an average weekly

7 In 1990, the Czechoslovak industrial sector consisted in some four thousand SOEs and only them.

salary at that time). The value of vouchers was denominated in investment points; each voucher-holder was entitled to use 1,000 investment points during each of the two privatization waves. No exchange rate between an investment point and the regular currency was suggested officially.

Shares of JSCs were repeatedly offered for investment points in consecutive privatization rounds, until the shares were all allocated and investment points spent.

However, in the so-called *Round Zero*, i.e., before the actual bidding started, voucher-holders could choose to entrust their investment points to one or several Investment Privatization Funds (“IPFs”) that would then act on its own, while the voucher holders were to become share-holders of the IPFs. Generally, whoever could establish his/her IPF (Simoneti, Tříska 1994; Egerer 1995; Coffee 1995).

5.4/ THE TIME TABLE

As the speed of the process is important, here is the summary of the corresponding times and events:

September 1991	the government accepts a decree with the details for investment vouchers and their application
October 1991	Ministries for Privatization (Slovak and Czech) publish their criteria for Investment Privatization Funds (“IPFs”) and their registration
November 1991	some 650 offices are opened for citizens to register their vouchers
February 2, 1992	registration of IPFs completed
February 17 – April 26	the <i>Round Zero</i> takes place
May 18, 1992	the first privatization round (of the First Privatization Wave) starts (first bids of IPFs and remaining individual voucher-holders are collected)
1994–1995	the Second Privatization Wave is organized for a further dose of some 800 SOEs

6/ PREREQUISITES OF TRANSFORMATION

By far the least understood has proved to be the above presented Principle 7 that warned against the *ex ante* regulations of the economy-to-be, of the would-be market imperfections.

6.1/ INTRODUCTION

A nice opportunity how to dwell on the topic may be to refer to our polemic with Svetozar Pejovich, namely because he is one of the founders of the New Institutional Economics and namely Property Rights School.⁸

To begin with, Pejovich needed to stress that (p. 215 of the op. cit.):

“[...] Russian president Vladimir Putin inadvertently provided the best evidence that the rule of law, the credibility of private-property rights, and the enforcement of contracts in the region should have come before the privatization of state-owned firms was initiated.”

Similarly on p. 222 he writes:

“[...] Credible private-property rights are the basic prerequisite for successful privatization. Government regulations distort the terms of exchange that individuals prefer. Hence, the incentive effects of the attenuation of private-property rights and of growing government regulation raise the transaction costs of moving privatized assets to their most valuable uses.”

Contrary to this, let us repeat, our concept is that the new institutional frame, including Pejovich's *credible private-property rights* is the objective (not a prerequisite) of the transformation process. Moreover, even if the preceding did not hold, the post-communist government does not have a choice how to sequence these or those transformation steps.

6.2/ LEGAL FRAME AND EX ANTE REGULATION

The public good provided by an efficient enforcement of law is only too obvious and no serious discussant would ever attempt to think otherwise. At the same time it should not be difficult to understand that if a post-communist government was able to introduce directly, right from the start, *rule of law* which would reasonably well award whatever is *good* and punish every *evil*, one could easily ask why transform this magnificent system, what improvements may privatization produce.

Moreover, statements like “rule of law first!” bring irresistible temptations for all who would rather block the transformation. They are those who understand immediately that the requirement can never be fulfilled during their lifetime, that there is no such thing as a legal frame apt for the process concerned. Still today the institutional frame is certainly not in the position to deal with problems of the scope and scale that the transformation brings forward. Put differently,

8 See Pejovich (2005), Klaus; Tříska (2006). We extend here upon the presentation of the polemic to the workshop “Korea and East Asia: Transformation of Socialist Systems” in Tříska (2009).

if ever today less *casualties* are observed, this can hardly be ascribed to a better developed regulatory frame and higher efficiency of law enforcement agencies. The improvements should rather be conceived of as a consolidation of the markets and a society as a whole – the above discussed final separation of wheat from shed.

Also in the CR, the attacks upon privatization were disguised by the seemingly serious proposals for legislative developments, without which, as Pejovich also believes, the society will not absorb the incredibly rapid growth of the private entrepreneurship and thus prevent massive occurrences of – you name them – money laundering, inside trading etc.

Even if for nothing else, it is the *selfinterest* of the “carriers of change” what makes them consider every way of how to improve the legal frame. They are well aware of the threat brought up upon them personally by the institutional inadequacy of the society in transition.

Put differently, a politician understands instinctually and thus almost instantly that they will have to defend themselves in the first place should there occur a genuine transformation *casualty* and that the defense against the charges (criminal ones in particular) will be processed by agencies (police units in particular) who never before heard of a *collective investment*, *enterprise valuation*, *call/put options*, *short sales*, *debt equity swaps* etc.

External observers from international organizations often call for courage of the governments in transition countries. Only rarely they understand the true contents of what they ask for. What we stress here thus is that very often personal security of the “carriers of change” may be at stake.

6.3/ EX POST REGULATION

Still today, it is almost impossible to indicate (in a “real time”) which *casualty* is of a really *systemic* nature and thus legitimizes a corresponding institutional adaptation – amendments to legislation, new government agency formation, reorganization of the police etc. Put differently, already now, it is not always easy to recognize whether a *casualty* is not only a failure of concrete people or companies, not to mention mere accidents that will most probably never repeat. Any mistaken interpretation is then immediately taken as a misbehavior of the Government and-or its respective official.

Very close to impossibility seem to be attempts to explain that *casualties* may be reasonably dealt with only *ex post*, or – said more precisely – with the help of agencies established only on the basis of the damages observed in reality and their proper interpretation. Given this, it is often so that only the real-world *casualties* provide reliable arguments why and which new agencies are to be formed and

properly staffed. In sum, the looked-for institutional frame, its contents and legal forms can only evolve – can never be installed, not to mention imported.

6.4/ INHERENT CONTRADICTION

We should not forget as well that at least many of the *casualties* described here can be traced back to the contradiction of the very process concerned, to the fact that the government is forced to execute a role which should be – in normal times – performed by non-governmental agents. On the face of it, privatization formally represents ordinary private transaction, a contract for sale, with the help of which – normally – a genuine (i.e. private) owner disposes of with his/her property. Normally, it thus follows from the very nature of private ownership that the seller is strongly motivated to obtain the best possible outcome and, if so, it would make little sense for the buyer to attempt for e.g. any kind of corruption.

The seller's ambition can be, of course, met with different degrees of efficiency. However, and this is absolutely crucial for our discussion, if he fails to sell at the "optimal" price, it is his/her private affair and it is nobody's business to ask why it happened. Even corruption is a private affair; if discovered by the firm's controlling system, it will remain hidden from negative publicity, which e.g. criminal procedure would certainly mean.

If the subject-matter of sale is state-owned, no such internalization is possible – if we confine to countries which, simultaneously with privatization, seek to establish democracy, or, more precisely, for which privatization is the vehicle towards a democratic society. Here, any *casualty* – rightly so – attracts the broadest possible public interest, which in turn, and this is **the contradiction** discussed here, may even paralyze further transactions with the state-owned property. As irresolvable thus may appear starting points such as in CR, where practically everything was in the ownership of the state and the legal protection of the "carriers of privatization" only emerges.

6.5/ POLITICAL CONSIDERATIONS

In the broadest and most general sense, the social costs of transformation rest in that that those who are to pay the highest price need not be the same, who contributed most to the evil of the past. Put alternatively, the winners of transformation could also be the infamous ex-communist nomenclature cadres.

Every government must be aware of the extremely high political sensitivity of privatization and precisely identify and come to grips namely with the unavoidable danger that its political opponents will use every occasion to abuse any *casualty* in

the process. However, similarly awkward would be any attempt to limit liberties of these political contenders.

Similarly dangerous are government bureaucrats (regardless of their political and ideological background) who will always exhibit various kinds of a 'rent seeking' behavior. Lastly, entrepreneurs (both domestic and foreign) will mobilize their lobbying practices for which the newly emerging society is by no means prepared.

All these dangers, though also attributable to W-privatization, have a much greater significance in a post-communist country, should the case-by-case method be applied.

7/ POST-PRIVATIZATION ISSUES

7.1/ SECONDARY TRADING

Sales and purchases of the privatized shares began immediately and would certainly deserve a separate paper to deal with (Tříška 1994, 1996). Let us then only note that a lot of the property was bought by various international investors and that the Czech government has made it very clear that they are welcome.

One of the major targets of the voucher privatization scheme was, therefore, to open wide (technically and politically) the doors to whoever might be interested in investing in the country's prosperity. From the very beginning, the Czech expressed its view that the international capital can never effectively come into a non-privatized economy.

7.2/ RESTRUCTURING OF THE PRIVATIZED ENTERPRISES

Let us repeat that W-privatization rightly seeks to bring up efficiency to a particular enterprise and that it was a common myth that E-privatization could and should have the same objective. Also for the CR questions of the following type were raised (Claessens 1995, 1997; Djankov 2002; Zemplerová 1997):

- a/** Has the restructuring of the privatized enterprises begun?
- b/** Are the new owners competent enough to fulfill the restructuring tasks?
- c/** Is the ownership structure generated by privatization optimal?

Let us stress again that despite the many individual privatization successes, what only matters for E-privatization is its institutional effect – on the society and economy as a whole. What is being generated are public goods and that this may bring forward individual evil to some of the enterprises under privatization.

This, in general, means that the above questions are wrong in their concept and that the only legitimate questions are of an entirely different nature: Is the economy being restructured? Has the privatization program been aggressive enough to promote a “critical amount of change”? What consequent changes in the initial ownership structure are expected? Should the secondary market with privatized assets be regulated – to what extent and how?

As already noted, the policy was that it is the new owner not the government who should find ideas, time and resources for the necessary financial and organizational restructuring of his/her company. The Czech government thus never listened to the advice that it should attempt for an increase in the efficiency of a SOE before it may be offered for sale. Later on, even the most prominent international financial organizations realized that a government of a transforming country is the worst imaginable agent to take care of an ailing economic unit. Similarly important message of the past years should be that the even the most internationally renowned consultant firms are not always fully aware of the genuine nature of the post-communist environment.

7.3/ RESTRUCTURING OF OWNERSHIP

7.3.1/ Initial owners

As one of the principles suggests, the objective of privatization should never consist in increasing efficiency of privatized companies that it is the economy as a whole what requires improvement. Put alternatively, many companies will not (and should not) survive their privatization and, at the same time, it is beyond anybody's capacity to indicate *ex ante* which of them will be these.⁹ In this context may only repeat that it is not within the capacity of the government to make the appropriate “ranking” of companies and that it has to be left to the new owners (initial or secondary) to differentiate “wheat from shed”; organize investors for the “good” enterprises and hopefully close the “bad” ones.

Another observation of a similar importance would claim that the owners emerging directly from privatization (“initial owners”) need not (and most probably will not) be the final, not to mention “optimal” rescuers of the ailing companies. As a result, governments should only create an environment so

9 Apparently, the Schumpeterian concept of “creative destruction” suggests itself here. Some estimates of that time suggested that up to 80% of the economy has no future, i.e., only 20% of the 4,000 or so enterprises will survive and the rest of the newly emerged economy will be of the green-field businesses.

that the “secondary restructuring of the ownership” may proceed smoothly and efficiently.

The above policy of the Czech government materialized in its liberalism – for example the easiness with which securities exchanges could be established, as well as markets with real estate and labor.

In sum, amongst the post-privatization processes the major importance was attached to (what we refer to as a secondary restructuring of ownership) was speed and efficiency. Consequently, massive transfers had been observed – of business units, blocks of shares, buildings, machinery, claims, obligations, inventories.

In voucher privatization, the initial structure of owners was to a great degree determined by the initial distribution of investment points among individuals and IPFs. As noted already, ten largest IPFs initially seemed to dominate the corporate control in the country.

The initial owner (privatization participant), if incapable of resolving the restructuring problem, must be motivated to sell fast. In some cases, of course, the (secondary) sale was his/her obligation.

7.3.2/ Foreign investors’ involvement

W- and E-privatization also substantially differ with respect to the way they deal with foreign investors. In the CR the presence of foreign investors has always been considered beneficial and, therefore, most welcome. However, it has never been accepted that, in the reality of E-privatization, they will play a pivotal role. It has become one of the fundamental theses of the Czech privatization program that foreign capital will ultimately enter the country in appropriate magnitudes only after privatization, because the desired influx of foreign capital must ultimately rely on private initiative rather than on the capacity of government bureaucrats.

Following this philosophy, the Czech government resisted strong temptations to implement a *foreign investment law*, according to which a foreign capitalist should receive better treatment than (an investor) of domestic origin. Still worse, with respect to the foreign advice, the government “dared” to remove the preferential taxation of foreign companies which had been granted by the communist parliament!

The wisdom of this strategy is now tested, among other things, on securities exchanges which emerged as a direct outcome of privatization. By licensing these exchanges, the government was keen to insure that there would be no constraints imposed upon foreign participants. Foreign buyers and sellers are offered to use the exchanges facilities on the same basis as domestic ones. They are thus in a position to take full advantage of the initial price level, which is for the time being relatively low due to a large supply and only limited demand.

Summarizing, then, in E-privatization foreign capital involvement can never play a crucial role. Only after the post-communist economy is privatized, foreign investors will enter in substantial numbers and magnitudes. The role of foreign advisors and consultants, in this respect, must not be exaggerated.

7.3.3/ Green-field entrepreneurs

If there is good news for post-communist countries, it is that the “rule of communism” left behind enormous vacancies in the market. Many goods and especially services have been (and often still are) in “short supply”. Not always these can be filled, in the short run, by imports. This situation makes it somewhat easier to open new business undertaking and make it profitable. As a rule, if you hit the vacancy, the profit margin is much higher than that in a stable Western-style (market) economy.

It is little understood that the objective of privatization should rests in opening space for all newly emerging entrepreneurial agents (domestic or foreign). The post-privatization economy should be a battle field for a competition between two types of agents: the “transformed old structures” (i.e. privatized companies) and the green-field undertakings (including such as McDonalds and Sony Music). Given the topic of this paper, and recalling that IPFs have been mainly active in the realm of the “old structures”, it may be of interest to give some comparisons of the “old” and “new”.

8/ LESSONS TO BE TAKEN

Quite a number of the architects of the institutional changes in the Central and Eastern Europe have a feeling of historical duty to share their experience. Given that it was them who were more than two decades ago actively involved in the historic transformation process in their countries, they are prepared for being confronted with similar challenges in the future.

Today, one generation away from the events, proper understanding of that era is more and more difficult, if not impossible. Often, rather than on facts, the history is based on a caricature of this unique social process. What is missed is a serious analytical contribution to this topic with at least an attempt to generalize the pros and cons of then applied policies.

Part of the blame inevitably falls on the architects themselves. It was also them who have often stressed the differences between individual countries, not similarities. We emphasized the originality of reforms (and reformers!) in one

country or another without trying to see the common denominator of all, at first sight very diverse experiences and procedures (very often different only because of different terminology!).¹⁰

Despite of our conviction that there exists no common wisdom to be exported and installed in other countries, the following few highly general points may be of value to those who consider fundamental institutional changes in other countries:

- 1/ The transformation of society – if genuine – amounts to the entirely new distribution of power and wealth. As such, it creates its fortunate winners and frustrated losers. The latter ones will be more willing to bear the unavoidable hardship of transformation should they have the clear notion that the “windows of opportunity” have been fairly opened to the nation as a whole. A “direct access” and “free entry” to the new chances should thus be kept open to the public, i.e., protected against the merciless attempts by namely the first winners, mostly under the disguise of regulation, customer protection and alike.
- 2/ Even if the previous did not hold, it goes by definition that the institutional change, if fundamental, necessarily brings up new agendas and-or their executors to the government. Its agencies may thus hardly have the competences to efficiently enforce regulation as known from already emerged economies. Hence, the emerging society cannot be other than much more liberal than the already developed systems – regardless of the ideological background of the politicians in charge. If so, this kind of liberalism only increases the already existing (unavoidable) level of spontaneity, i.e. the share of phenomena outside the government’s highly limited powers – including criminal activities. It is then of no surprise that the respective governments easily become the first victims of their own transformation policy.
- 3/ It must not be forgotten that it is the society and economy as a whole, not individual institutions and enterprises that need transformation. And that the existing economy may be un-transformable *vis a vis* the entirely transformed political and economic environment. The *creative destruction* may amount to 60–70% of the existing institutions and business units. The objective of the transformation must thus rest in establishing conditions for the so-called green-field (from scratch) entrepreneurs – domestic or foreign. The former ones must be assisted by the state, given the necessary lack of capital. As governments are short of financial resources themselves, the free distribution of production factors to their citizens suggests itself as an obvious solution.
- 4/ Reform enthusiasm decays incredibly fast – contrary to the increasing, as already noted, strength and appetite of the first winners – the newly born lobbyists (interest

10 This – as if – self-criticism is, again, a paraphrase of the already quoted Klaus (2014).

groups). The speed of the transformation is thus of the highest importance. Among the counter-arguments the key role is played by the seemingly obvious and politically correct requirement to establish “rule of law” first. In other words, a “correct” legal frame and its enforcement are to be installed as a prerequisite of transformation. However, it is obvious to claim that in the CR, even now – 25 years on –, this, otherwise indisputable, condition cannot be taken as fulfilled.

- 5/ Transformation process has its costs of whatever kind, from the social one to a territorial one. To the great many of us it became of a highly unpleasant surprise that the process of institutional change may include disintegration of not only COMECON, Warsaw Pact and Soviet Union, but also Czechoslovakia. Our observation here is that however hard it appeared in the early 1990s, the split of our country simplified quite a few of the otherwise extremely complex tasks.
- 6/ A complete opposite to disintegration is, obviously, unification of countries – such as that between the so-called West-Germany and what was then GDR. Unfortunately, this process, to the knowledge of the author, has not been analyzed and evaluated in the necessary detail, and – in particular – by independent observers.¹¹ At the same time, if for no other reasons, the above discussed weakness of the post-revolutionary government, it looks like a perfect solution to import legal frame and human resources from the more developed part of the unified country. For example, unlike in the CR, universities in GDR were quickly equipped by German speaking lecturers from the West. As suggested already, this phenomenon should be analyzed with a proper care.
- 7/ Architects of change need a lot of courage. Trivial as it may sound, the core of the statement is that the first government must forget its dreams about future respect for its work – both from future domestic politicians and international organizations, including conceited noble universities.¹² Their courage and energy must be based on something entirely different – on the fact that there is nothing as rewarding as the participation in a process that is to bring your country from the state that has definitely over lived itself, to the point from which new opportunities open to the nation as a whole.

11 It is author's experience from “hundreds” of workshops and conferences organized all over the world that the topic of German unification – as an ingredient of the institutional transformation of GDR – has never been discussed.

12 At least since 1995 the economic literature has been enriched by sharp exchanges between the team of Vaclav Klaus (including the author) and, e.g., Joseph Stiglitz, the US prominent university professor, then the Chief Economist of the World Bank and, after all, the Winner of the Nobel Prize in Economics. See Stiglitz (1999). Still harsher, however, have been later attacks on the Russian way of “doing things”. The initial concepts can be read from, e.g., Blanchard et al. (1993).

As the main point of this paper deals with the lessons to be transferred from the CR further east, it is in order to note that we still remember how irrelevant or even counterproductive could be the advices from abroad. Apparently, even these advices should be listened to and fully understood, as to why exactly they are irrelevant. Often, it can be disclosed that external observers have a strong tendency to assume existence of institutions that are only to be established. Moreover, they are often blind to the fact that in their countries, most institutions have taken centuries to fully develop. Even in the CR 25 years ago we cope with the observers' incapability of understanding the genuine scope and scale of the transformation still in process in the Central and Eastern Europe.¹³

Similarly, it is now our turn to ask to what extent we may understand the genuine contents of the changes observed in South-east Asia and whether we may rely on the traditional toolkit of the standard (mainstream) economics. Do our concepts of *justice*, *solidarity* and *discrimination* represent similar concepts here and there? To what extend does a cultural distance between nations and regions matter?

To conclude somewhat provocatively: Leaving aside developments in Vietnam and China, does a standard European economist really understand the nature of capitalism (democracy and market economy) in countries like Japan and Republic of Korea?¹⁴

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13 Interesting, rather critical notes on the Polish attempts to apply their transformation experience on Ukraine, can be found in Petrova (2014).

14 Here we refer to the hardly concluded debate on diverse kinds of capitalisms, e.g., the differences between Anglo-american and Franco-german systems. Is there in Europe anything that may resemble a chaebol?

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LEGAL SYSTEM AND JUDICIARY

LESSONS LEARNED FROM THE CZECH REPUBLIC'S TRANSITION AND THEIR IMPLICATIONS FOR POSSIBLE KOREAN RE-UNIFICATION

Ivo Pospišil

1/ INTRODUCTION

The following chapter will address in short some of the legal and judicial aspects of the Czech Republic's transition after 1989. As the topic of the article is not only an isolated presentation of the Czech experience, it will deal with the areas that can be relevant for the steps that could be necessary to do after the re-unification of the two Korean states. As we cannot presume from the today's perspectives what the form of the transition will be, we suppose in the article that the transition could acquire a form of an absorption, i.e. the current South Korean institutions will spread to the northern parts of the peninsula as it is presumed in the today's South Korean constitution (see later in the text). Other variants of transformation (e.g. transition negotiated with the representatives of North Korean political regime) would probably demand different instruments, or at least their intensity would be probably lower, and they would lead to different aims than those presented in this article.

While speaking of the transitional lessons, we are very well aware of the fact that the historical tradition of legal institutions as well as the circumstances, under which the transition took place in the Czech Republic and could happen in Korea, vary. On the other hand, these facts cannot represent an obstacle to present relevant moments that could be transferrable from the Czech Republic experience to the Korean case, though most of the ideas are rather of a speculative nature.

The democratic changes in Czechoslovakia and then the Czech Republic after 1989 affected not only the political system and economy, but the law and judiciary (including the system of constitutional institutions) as well. However at the beginning of the democratic changes the transformation of the legal system and judiciary has not been seen by the political elites to be as important as changes to the economic system or building a new pluralistic political system. In particular,

changes in the field of law and justice were regarded as subsidiary to changes in the economic system.

It is true that the judicial system in general worked very slowly, courts are not and cannot be anywhere near as flexible as political actors. This goes not only for countries in transition, but for stabilized democracies as well. This phenomenon was noted by German legal theorist R. Dahrendorf, who observed that the greater the power of the courts, the slower the tempo of reform (Dahrendorf 1997).

The current state of law, legal culture, and the judicial system in the Czech Republic twenty five years after the beginning of democratic changes reflects this shortfall of the transformation.

Meanwhile, the true role of the judicial system in the transformation of a political system towards democracy should have been pivotal. In a democratic society, the courts are the independent institutions that provide citizens with protection of their rights and protection from the state itself. They are usually vested the competence to decide on matters coping with the non-democratic past (such as the property restitution or criminal rehabilitation).

Therefore the effects of these procedures strongly depend on the judicial institutions. Assuring a truly independent judiciary should be a priority. The history of relations between the political elite and the judicial branch in the Czech Republic shows that during the transformation the independence of the judiciary can be limited or threatened in various ways. What is important during the course of the transformation are not only changes in the way laws are made and carried out by the legislature (parliament) and the executive (the government), but their application as well. The courts are the instruments which take legislation and apply it to citizens' everyday lives. Therefore a democratization of the judiciary should be an important part, or even the most important part, of the whole transition to democracy. However, mere changes to institutions and rules are not enough; personnel changes are often necessary as well, as well as changes in the attitudes of courts and judges towards law and the values it reflects.

Another problem in the democratic transformation was the issue of how should the newly-built democratic regime deal with the crimes of the previous non-democratic regime, and whether it is compatible with the principles of democracy and rule of law to punish crimes committed by the former non-democratic regime. A number of these crimes were legal under the law that the former regime had created and its courts applied. It was clear, however, that these acts were unacceptable under the rule of law state, and would have been regarded as crimes under democratic conditions.

2/ TRANSFORMATION OF CONSTITUTIONAL LAW

After 1989, the transformation of the legal order was slower than expected. At the beginning of the democratic changes the issue was raised whether a democratic country governed by the principles of rule of law can take the path of legal discontinuity, or whether the law adopted under the previous regime should remain in force and be changed only gradually. Legal discontinuity would mean a complete divorce with the system of law applied under the previous regime. That law would, from a certain moment, be pronounced invalid, along with legal relationships based on it. This method had been accompanied by a fear that such a step would lead to legal chaos and uncertainty in the legal order, and so the idea of legal discontinuity was abandoned. Instead the method of legal continuity has been chosen, based on keeping in place the existing legal system and changing it gradually (Přibáň 2001: 112–113). The greatest wrongs and injustices that took place under totalitarianism were to be remedied through rehabilitation (voiding criminal sentences), financial compensation for the victims of totalitarian wrongdoings, and restitution of property confiscated by the state.

The reconstruction of law has been taken from the top down. First, the constitution of Czechoslovakia was gradually changed, which was a precondition for changing the political system and relations between the highest bodies of the state.

The situation in Czechoslovakia at the beginning of transition was more complex and difficult than it could be in the case of Korean transformation. The Constitution of South Korea presumes the peninsula is still one state, so it will make no serious troubles to announce the reunification from one day to another, without any significant changes in the constitution. The situation is rather similar to that of Germany in 1990: from the constitutional perspective it has not been a reunification, but rather a presumed accession of East German States (Länder) into the existing Federal Republic of Germany. However, in Czechoslovakia the situation was more complicated: the state had to make gradual changes in the socialist constitution, which meant, at first, to cancel the leading role of the Communist Party and Marxism-Leninism as the fundamental state ideology. The continuing political transition presumed to change the constitutional source of state power from working class to the sovereignty of people, to introduce free competition of political parties and to start building new democratic institutions with the constitutional justice represented by the Constitutional Court that has been vested a competence to protect fundamental rights of individuals. A fundamental step was the adoption of the Charter of Fundamental Rights and Freedoms in 1991, which set forth a basic catalogue of human rights modeled after international treaties and other documents on human rights (International Covenant on Civil

and Political Rights, European Convention for the Protection of Human Rights and Fundamental Freedoms).

The Czechs faced even two constitutional transitions in that period: the first took place after 1989 in the surroundings of the Czechoslovak federation, the second followed after the split of federation in 1993. The newly created Czech Republic had to establish totally new constitutional institutions from the parliament and government to constitutional court. One can say after twenty-five years that the split of federation made the transformation rather easier as the situation has not demanded to continue the slow and gradual changes that took place in the federation: the Czech Republic could establish absolutely new constitutional design and the changes could be applied smoothly, not complicated by the complex situation in the previous federal state.

It seems these steps need not be done in the Korean case as the only thing is to announce or rather confirm the constitution is valid and effective on the whole area of the peninsula. However, changes will have to be done in the number of deputies, in electoral law, in laws regulating state administration, municipal and regional self-governance etc. There is no need for new inventions and for creating absolutely new institutions as they already exist in contemporary South Korea.

3/ TRANSFORMATION OF LAW AND COPING WITH THE NON-DEMOCRATIC PAST

Another important issue in the course of legal transformation is to decide on the way how to cope with the non-democratic past. The political and legal science started to call these methods as “transitional justice”, which can cover following areas: (1) the question of legal continuity and discontinuity (already mentioned above); (2) the declaration of unlawfulness of the previous regime; (3) lustrations that mean to settle special conditions for the proponents of the previous regime to remain in the civil service and other state functions; (4) criminal rehabilitations and (5) property restitutions.

As already mentioned, Czechoslovak as well as Czech state chose the method of legal continuity with the previous non-democratic regime: from today's perspective the other variant was not conceivable as the discontinuity would raise many additional questions and troubles (e. g. what legal tradition should the new regime follow – that one existing before the communist coup d'état in 1948 or even to go before the WWII, how to handle all the legal relations that were settled during the communist regime and under its law etc.). However, the situation in Korea could be different and the potential absorption would imply the legal method of discontinuity: after the unification, a law

would pronounce all the legal order of North Korea as undemocratic and unlawful and would open a deadline in which all the existing legal relations would have to be put in conformity with South Korean legal norms.

Only after the breakup of the Czechoslovak federation in 1993 the law on the unlawfulness of the communist regime was adopted. This law declared the previous totalitarian regime as criminal, illegitimate, and deplorable. According to this law, the previous regime was based on legality, but legality that was built against the will of the people, against whom the non-democratic regime committed its crimes. Therefore such a regime and its laws were declared illegitimate. At the same time, the law attempted to introduce the only element of discontinuity into the legal order by stipulating that the statute of limitations did not apply to crimes committed by officials and representatives of the non-democratic regime from 1948 to 1989, and those who committed them could be punished. This was only a partial discontinuity as the crimes to be punished were only those that were crimes under the law of the old regime, but not acts that were retroactively declared as crimes by the new democratic regime.

The Constitutional Court later declared this discontinuity to be in correspondence with the constitution and the principles of a democratic state of laws. It commented that law in the new democratic state is founded on continuity with the old law of the totalitarian state. But, of course, there is a value difference between these sets of laws. Justice is more than just a collection of written laws. Besides the law there are other principles that make law legitimate and secure true justice. These are the principles that make written law into true law, in a democratic country of laws, based on the real will of the people. Only this kind of law is legitimate. The task of the courts is to follow these principles as they apply the law and apply the laws within the bounds of higher principles. When applying the law of the totalitarian regime it is therefore necessary to keep in mind the values upon which the current law is based. Courts therefore have no choice but to use the old law, but they must use it in accordance with the new values of the democratic state. When using the old law, courts cannot rule in the same manner as the courts of the totalitarian regime.

However, the courts have never completely accepted this proposition. The ordinary courts were reluctant to make use of the law on the illegality of the communist regime to punish the officials of that regime. On the contrary, they used the principles of the new democratic state and observance of basic rights and freedoms to justify why these persons could not be punished.

In 1991 a law was passed that set certain conditions for the exercise of public office – the lustration law (Roman 2011). The preceding totalitarian regime relied on a large number of secret agents and collaborators of the communist regime's State Security. The law was designed to prevent these persons from serving in

a state office. In 2002, after a long public discussion, the archive of the former State Security was declassified. It documented the activities of this shadowy organization; it contained a list of agents and collaborators, and documentation on people who were monitored and persecuted by these servants of the totalitarian regime.

In 1991 the state also undertook criminal rehabilitations. This measure consisted of the overturning of criminal convictions of people who were persecuted by the regime. These people committed acts that were crimes under the totalitarian law, but are not criminal in democratic society. In applying this law, many courts chose a very conservative approach. Courts were far from willing to void every decision that seemed to have been unjust. In applying this law a dispute arose between the two highest judicial venues, the Supreme Court and the Constitutional Court. The Supreme Court, composed partly of justices from the dissolved military courts who served as judges under the former regime, refused to accept the approach of the Constitutional Court, which was very receptive to rehabilitation and redress for injustices committed by the totalitarian authorities.

Likewise, the process of returning property confiscated by the state under the former regime (restitution) progressed very slowly. Again, the restitution process was founded on the basis of continuity with the old law. Persons who had lost property under the former regime had to petition the court and the state to have their property restored. They were considered to have newly taken on the property rights and the property was not returned in the condition in which it was confiscated. Thus it was not a real restoration of the previous legal state of affairs. If the property had been transferred to a new person in the meantime, there were even greater barriers to getting one's property returned. In such cases the property was returned only if the current owner had acquired it from the state illegally (i.e. in violation of the then-prevailing communist law) or had acquired it through unfair advantage (as a state or party functionary). The view of the Constitutional Court and other courts differed on this issue as well. Courts tended to protect the interests of the state more often than the rights of people persecuted by the communist regime.

The process of restitution has begun in 1991 and still has not been fully completed (some disputes have been in the courts for over 20 years). In some cases there was found to be an obstacle to return a given property to its original owner and the state was required to provide a substitution. For the administration of these properties the state created special agencies separated from the state (the National Property Fund, Land Fund). These organs acted very slowly and preferred to sell these properties off rather than giving them back to their rightful owners.

The property restitution could be a serious issue in Korea as well. The newly formed North Korean regime conducted a land reform in 1946 that expropriated all the private lands exceeding more than 5 hectares and in 1950's continued

expropriating the rest. Most of the landlords escaped then to South Korea and their descendants are now waiting in the case of unification to claim their property rights. Therefore, it is evident that restitutions will be undoubtedly on the agenda after Korean reunification.

4/ THE TRANSFORMATION OF THE JUDICIARY IN THE DEMOCRATIC POLITICAL SYSTEM

Last but not least, the transformation of judiciary is very important: you can have very well written acts and laws, but if they are applied by bad lawyers, their effects could be very limited.

As concerns the Czech experience, the transformation of judiciary was burdened by the legacy of the previous totalitarian regime more than the other branches of government. Especially during the 1950s, the courts took part in stabilizing and maintaining the totalitarian system, staging show trials to punish political opponents. Under the old regime, judges were more interpreters of legal regulations than the ones looking for real justice (Kühn 2005: 91). The fundamental principle of independence on the part of courts and judges were declared on the constitutional level, but in practice it meant nothing. Judicial independence was negatively influenced by the principle of electability of judges and the requirement of judges to interpret laws in the context of socialist legal consciousness, which was defined by the ruling group. In their decisions, judges were bound not only by the law passed by the parliament, but also by regulations issued by the executive organs. Thus judges and the application of justice became officially dependent on the executive branch. The Office of the General Prosecutor was given, according to the Soviet model, the power to control and check functioning of courts.

The non-democratic regime abolished the system of administrative courts, the role of which is to provide citizens with protection against the decisions of the bureaucracy (the executive branch). Constitutional law No. 143/1968 established the existence of constitutional justice, but in practice the constitutional judiciary did not function.

By the beginning of the democratic transformation, the justice system had become severely distorted by the legacy of the previous non-democratic regime. At the same time, it showed great resistance against democratic changes.

Although fundamental changes in the political system took place in 1990, these changes affected the judicial system only later and gradually. It was not until late 1991 that the constitutional articles dealing with judicial power were changed. However, these changes were more or less symbolic and had a limited effect on

the practical aspects of judiciary functioning. In 1991 the Act on the Constitutional Court of the Czech and Slovak Federative Republic restored the existence of constitutional justice and the constitutional court as the body for the protection of constitutionality. The Constitutional Court was intended to help to stabilize the new democratic institutions at the constitutional level, and at the same time protect the basic rights of citizens against violation by the state.

In 1991 a new law on courts and judges that modified the court system was adopted. At the same time, basic principles were introduced concerning the organization and conduct of the judiciary that are part of the democratic system (especially independence of courts and judges, a unified court system, the right of participants in a legal case to a lawful hearing, decisions by the court of judges and single judge, judges bound by the law, equality of participants in a case before the court, public accessibility and verbal proceedings in court hearings). Judges were named by the President of the republic on the basis of recommendation by the Minister of justice. The term of office of a judge was not limited. A judge could not be removed from office, but instead he could only be removed through a disciplinary hearing by other judges.

Judiciary also underwent gradual personnel changes. At the beginning of the transformation, the issue was raised whether it is in harmony with the new democratic rules and the principle of separation of power for the existing judges to be removed from office if they abused their position under the previous regime. The judiciary was finally attributed the responsibility related to a certain category of public officials and subjected to a special review (so-called lustration) over whether they collaborated with the State Security or other repressive elements of the totalitarian state. Of a total of 1460 judges serving in January 1991, 484 were gone by 1993. Some were forced out because they had collaborated with the State Security Service; others left themselves for higher salaries as solicitors.

Even so, there is still a number of judges who were trained during the 1950s to 1970s at the law faculties of the time and this greatly influences their concept of law and justice. On the other hand, the Constitutional Court named in 1993 to a term of 10 years, was composed of persons persecuted by the former regime and people who returned to the country from exile. Thus tensions and many clashes of opinions between the Constitutional Court and other courts occurred during the course of democratic transformation.

According to the Constitution, the Constitutional Court is designed as a body to observe the constitutional conformity of state power. The constitutional justice system was not a novelty of the democratic transition; on the contrary, the tradition of constitutional judiciary in the Czech Republic goes back to the 1920s (at that time democratic Czechoslovakia was the first country in Europe to have a constitutional court as the body designed to protect the constitution).

The most important task of the Constitutional Court is to rule on the validity of laws and other legal regulations, and to void them if they are in conflict with the constitution. The Constitutional Court also rules on disputes between the highest constitutional bodies (especially parliament, the government, and the president) and the reach of their powers. In addition, the Constitutional Court decides on the so-called individual constitutional complaints. These may be submitted by individuals who believe that any organ of the state has violated their fundamental rights and freedoms (rulings in this procedure form the greatest part of the Constitutional Court's deliberations).

Since 1993 the Constitutional Court has thus played an important part in shaping the political system in the Czech Republic. It has influenced the relationship between the executive and judicial branches (in 2002 when it voided the reform of the judicial branch); it stood behind the reform of administrative justice, and in 2000 it intervened in the law that governs the electoral system. At that time, the two most powerful political parties pushed through changes in the electoral system that would significantly affect the system of political parties and the whole political system. The Constitutional Court ruled that these changes were unconstitutional, and voided them.

The Constitutional Court also contributed in an important manner to coming to terms with the Czech society's non-democratic past and influenced the decisions of other courts to put them in accordance with the principles of rule of law. It made a major contribution to remedying the injustices committed by the regime against its citizens. The Constitutional Court affected and corrected the interpretation of laws related to political rehabilitation or property restitution. It also gave its opinion on the law on the unlawfulness of the communist regime that was adopted in 1993 (Klokočka 2003: 12).

The opinions of the Constitutional Court were not always accepted by the ordinary courts, however, even though according to the Constitution, its decisions are binding for all agencies and officials. This was shown with the law on the unlawfulness of the communist regime, which the ordinary courts ignored, rejecting the Constitutional Court's interpretation. Similar conflicts broke out between the Constitutional Court and Supreme Court on the issue of criminal rehabilitation and restitution (Klokočka 2003: 13).

5/ LESSONS LEARNED FROM THE CZECH TRANSITION

To conclude we can sum up some of the important steps that officials of a new democratic regime should carry out in the process of transforming law and judicial system.

First of all (1.), the establishment of a new constitutional regime is necessarily followed by (2.) restoration of a democratic legal order, founded on principle of either continuity or discontinuity with the previous regime. Concerning the judicial branch, it is inevitable (3.) to make a complete replacement of the personnel at courts. Last but not least, the new regime must (4.) address the individual injustice that occurred under the former regime, which requires punishment of the previous regime's crimes, rehabilitation of the previous regime's victims, i.e. annulment of criminal convictions committed by the regime, and implement property restitution.

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TRANSFORMATION AND THE ROLE AND LIMITS OF FOREIGN ASSISTANCE

Tomáš Pojar

It is important to distinguish foreign assistance (governmental and non-governmental) in the pre-transformation period and during the transformation itself. Both periods are different in nature and provide different challenges and opportunities. Various tools and mechanisms must be therefore considered in order to achieve the intended results. Foreign assistance during the pre-transition period can help bring transition closer and prepare ground for a manageable transition environment. However, the start, depth, and rhythm of the transition are hard to predict and are always interlinked with many surprises. Last but not least, we must remember that transitional processes are unique in every country, region, and time and are impossible to predict in detail.

It is always important to bear in mind that situation in Czechoslovakia or Central Europe of the 1980s is very different from the situation inside the Democratic People's Republic of Korea now. At the same time, there are interesting moments of Czechoslovak transition to be studied and compared with other transitions of Central and Eastern European societies since "in any particular country, democratization was the result of a combination of some general causes plus other factors unique to the country" (Huntington 1993: 107). Such comparisons can be used in order to better predict some aspects of DPRK transition including its costs and effectiveness. The same is true regarding the evaluation of foreign assistance programs which were targeting Central Europe in the 1990s. This essay will focus on the limits and best use of foreign assistance during the time of transition, not during the pre-transition period.

CENTER OF GRAVITY

There are always few determinant factors which set up certain obstacles or, on the contrary, help the transformation process to succeed. They also significantly

influence costs and effectiveness of foreign assistance. The key determinant is the relationship of the given country or region in transition to the center of gravity. The center of gravity sets up the rules and determines the end goal of the transformation. Foreign assistance coming from the center of gravity is important in securing the success of the transformation itself.

The key factor is geography. The closer the country in transition is to the center of gravity, with which it wants to reunite, the better. Due to the geographical location of Czechoslovakia, Poland, and Hungary bordering the western European world, all Central European transitions were much easier compared to the situation in the Balkans or further to the East. In spite of the fact that there was, for example, no democratic tradition in Hungary. The other two important factors are history and culture, both intimately linked to geography itself. The closer the historical development of the country or region in transition is linked to the historical development of the center of gravity which it wants to join (or even to reunite with), the better. The closer the cultural bonds are, the easier the transformation is. The transition of Czechoslovakia, a country which was in the past deeply intertwined with the European world of western Christianity and of the Habsburg Empire, was much easier than the transformations of, for example, more distant Bulgaria or Ukraine have been.

The focus to entry or even reentry the center of gravity is extremely important in order to clearly formulate the basic idea (or ideology if you wish) necessary to navigate in time of transformation. The prevailing idea behind Czech transformation was to “return to Europe” and the main direction was not disputed. Disputed was the speed and the tools employed, but not the end goal to get closer to the center of gravity, meaning to rejoin the West. In the case of the Balkan countries or the former USSR (with the exception of the Baltic States) the main idea was not so clearly articulated and agreed upon. It was also contested by transformations linked to other centers of gravity (Non-Aligned Movement or the Russian Federation). The result is that the situation has remained problematic even twenty five years later.

Western foreign assistance was in general welcomed and was asked for in the case of the Czech Republic. Czech desire to get foreign assistance was not only aimed at getting needed financial support, but also at getting necessary expertise in order to change the system and to more easily and fully incorporate into the Euro Atlantic structures. Geography, history, culture, and the basic idea behind transformation are all key determinants to the shape and success of any transformation as well as any supportive foreign assistance. Thanks to the Czech proximity to Euro-Atlantic space the western foreign assistance programs were easier to negotiate, understand and implement. Transformations in more distant countries with deeper historical

and cultural differences with the center of gravity have not been as successful. The amount of provided transformation assistance has never had a real chance to change the substance.

LEADERSHIP

Samuel Huntington has observed that “a democratic regime is installed not by trends but by people. Democracies are created not by causes but by causers” (Huntington 1993: 107). Absolutely crucial role in the time of transition plays the local leadership of individual actors. It cannot be substituted by any external force. This does not mean that the leadership coming from politicians representing the outside world is not important. Special importance lies, naturally, with the leadership of the center of gravity. Neither the leadership coming from potentially contesting centers of gravity, nor the leadership coming from representatives of other relevant international actors should be neglected. The role of leadership of individual politicians is even more important in the time of crisis and tension.

“Economic development makes democracy possible; political leadership makes it real” (Huntington 1993: 316). Despite all the differences and disputes among relevant Czech political leaders, the dominant leadership coming from the Czech political spectrum in the time of transition was clear and navigating in the same direction. Situation in Poland, Hungary, and the Baltic States was similar. At the same time, the leadership in Washington, Berlin, Paris, and London was equally clear, while the leadership in contesting center of gravity in Moscow was in the 1990s in disarray. Due to the role of leadership on both sides of the Atlantic (and the fact that no interference of the leadership of a third force existed), the foreign assistance mechanisms organized by western governments as well as by NGOs found open doors and had a relatively easy start. The role of leadership was crucial in that sense.

In the case of DPRK transformation, the center of gravity will naturally be the Republic of Korea. Geography, history, and culture will all play positive roles in supporting transitional processes on the Korean Peninsula in the same way as it was in the case of Central European reunification with the Euro Atlantic world after the fall of the Berlin Wall. It can be presumed that the dominant idea behind any DPRK transformation will be the reunification of the island. There might be differences of opinion in speed and costs of the reunification process, but it is hard to imagine that the basic idea would not eventually go in the reunification direction.

The main unknown factor is therefore the issue of leadership: in Pyongyang, Seoul as well as in Beijing. The leadership in Washington, Tokyo and Moscow will also have its significance. Beijing can play a role of a competing center of

gravity and Washington, Tokyo and Moscow can push their own ideas regarding the post-transition order. All external players can have a significant role in sending foreign assistance. However, the desires of all external players do not have to be necessarily of the same nature and the assistance provided by them does not have to be in all cases a positive one. Some can even choose to harm the transformation via foreign assistance mechanisms or to promote their own version of transformation regarding the end game scenario. It will be difficult to fully challenge the center of gravity in Seoul and the predominant idea of reunification of the peninsula, but other external actors can definitely make transition harder to achieve.

NATO AND EU ACCESSION PROCESS

In the case of German reunification, West Germany fully dictated the form of transformation. In the case of Czechoslovakia, Poland, Hungary, Romania, Bulgaria and the Baltic countries of the former Soviet Union it was the accession process to the North Atlantic Treaty Organization (NATO) and European Union which dictated the general form of transformation.¹ (Membership in other organizations like Organization for Security and Cooperation in Europe or Council of Europe played only a negligible role.) Both accession processes set up basic rules and directions of foreign assistance – be it governmental or nongovernmental one. “Western aid to Eastern Europe and the former Soviet Union was on the order of USD 50 billion to USD 100 billion in the 1990s, depending on what one counts as aid and how one measures it. This is obviously a large amount of money but in per capita terms amounts roughly USD 100 to USD 200 per person over the decade, or USD 10 to USD 20 per person per year” (Carothers 2004: 112).

It will be only seen in what speed the events on the Korean Peninsula will evolve and how the reunification of Korean Peninsula will happen. Neither the fast but relatively costly example of East Germany, nor more gradual approach of Czechoslovakia, Poland, and Hungary can be ruled out. The gradual scenario

1 Samuel Huntington stressed the importance of EU enlargement already at the beginning of Central European transformations at early 1990s: “Germany’s made the future of democracy on what had been East Germany identical with that of the stable democratic environment of what had been West Germany. Membership in the European Community is extremely desirable for economic reasons, and democratic governance is a condition for membership; hence third wave EC members (Spain, Portugal, and Greece) have strong incentives to maintain their democratic institutions. Other countries, such as Turkey, Hungary, Czechoslovakia, and Poland aspire to the membership, and that possibility provides an incentive for them to sustain their democracy” (Huntington 1993: 274).

will be most likely preferred by majority of external players, including Republic of Korea itself and the main foreign assistance programs will be shaped accordingly. Even if that is the case, the East German big bang cannot be ruled out once things start happening. Under any circumstances, the main factor determining foreign assistance will be the “accession” framework set up by the Republic of Korea (understanding that it will be the North joining the wealthier and more populous South, not the opposite).

Primary assistance will come from the Republic of Korea. Secondary assistance programs from other developed countries, other members of Organization of Economic Cooperation and Development (OECD) will be beneficial, but secondary. In case of transformation of DPRK, there is no doubt that the main burden of providing assistance will be on Seoul itself, like it was Bonn in the case of East Germany or Brussels in the case of Central Europe. Many other external actors will also contribute, but much less significantly – measuring by amount of funds as well as by direct impact. It will not be easy for Seoul to manage, but it must be stressed that at the end it was also Washington, Brussels, and Bonn/Berlin gaining from NATO and EU enlargement. The transformation of Central Europe was by far not the one sided cost benefit track. The same logic will apply in the case of Korean reunification.

PRIMACY OF DOMESTIC PROCESSES VS. FOREIGN ASSISTANCE

The economic, social, and political situation in DPRK is much more severe than the situation in Central and Eastern Europe in the 1980s. The proportion between the center of gravity and the country in transformation is also much less favorable. The overall economic strength and population size of West Germany compared to East Germany as well as of the Euro-Atlantic world compared to the countries of Central and Eastern Europe was clearly a better starting point for European transformations of the 1990s.

There are five main areas of transformational focus and each can be assisted from abroad: 1) Economy, 2) Structure of Government, 3) Education, 4) Judiciary, and 5) Security. Neither one of them should be neglected. All can be assisted from outside. Another fact is that “when democracy assistance to a particular country is extensive enough and successful enough to contribute to positive change in several sectors simultaneously, these contributions may begin to build on each other, multiplying the effects” (Carothers 2003: 310). However, it must be always remembered that transformation support programs from abroad are important, but domestic support for transformation is the absolute key! It is the domestic situation that determines the shape and success of the transformation. External forces can help or harm, but at

the end of the day they play only a secondary role. It should be equally stressed that trade, investment, and movement of people (or lack of all) are much more powerful forces than any program of foreign transformation assistance. The success of DPRK transformation will be primarily dependent on economic integration into South Korean economy as well as on the broader integration into East Asian economy and the world economy. Economic integration must be of primary focus from the day one.

“Democracy aid often falls short in its methods and implementation” (Carothers 2003: 338). Foreign assistance programs can be helpful and supportive, but the main work must be done from within. Once foreign transformation assistance does not meet the wish of the people or if it goes against the policies of the leadership, such assistance leads to waste of resources. Foreign assistance which is not supported by people or which is opposed by local authorities can be counterproductive and can lead to undesirable results. There is never a substitute to local politics. The sustainability of any transformation is dependent on the demand of people and clear vision from the leadership. If the leadership has a clear mandate from the people, it is even better. It has been more than obvious that “countless projects have withered for lack of real ownership in the recipient countries” (Carothers 2003: 339).

The benefit of convergence of the demand of the people and strong leadership was clearly visible in Central Europe. The early reforms of Czechoslovakia and of the Czech Republic in the first half of the 1990s, of the Baltic States in the mid-1990s and of Slovakia at the end of 1990s are very illustrative examples. If foreign assistance meets the desires of the people and is coordinated with local authorities and supported by local leadership, then it can result in more effective and less painful transformation.

OPEN BORDERS POLICY

From the experience of Central and Eastern Europe it is clear that there were crucial foreign assistance programs which were extremely helpful in supporting the domestic processes. The most significant programs were those supporting opening, or rather dismantling of the borders with the center of gravity. Support of contacts with Euro Atlantic organizations, institutions and business linked with the possibility to freely travel brought immediate positive effects. Among the most significant long term exchange programs, which were financially supported by foreign governments, foundations and NGOs, were those linked to education. Sometimes their full effects do take time. In any case, they must start as soon as possible.

Since the Czech society is rather conservative in moving for work, the Czech Republic has never experienced any significant brain or labor drain. The cases of Poland, Romania, Bulgaria, and Easter Germany have been slightly different and it is true that the main wave of migration started only several years after the start of their respected transformations. There were, for example, many more Poles who left Poland and settled in the West. At the time Polish economy prospered some started to move back. The migration from East to West Germany has never fully stopped and the same can be said about Bulgaria and Romania, not speaking about Ukraine. The brain and labor drain from those countries has had some negative effects on their transformations and economies. At the same time the influx of Central and East Europeans caused some bad feelings inside Western European societies. However, despite all negative voices from some West European societies (especially in the time of economic troubles), the migration from Central and Eastern Europe positively contributed to development of their economies. Much less numerous migration in the opposite direction – from West to East, which was in some cases supported by foreign assistance programs – had very positive effects on transformations. Any opening of the borders must support movement of people in both directions.

Dismantling of the border dividing Korean Peninsula as well as the possibility for DPRK citizens to travel, work, and study in other parts of the developed world will have a lasting impact. It is hard to predict the level of the desire of DPRK citizens to move to South Korea and the ability of South Korean society and economy to absorb the possible North Korean influx. The level of openness of the borders will definitely shape the speed and success of DPRK transformation and integration of both countries. Foreign assistance programs can very much help those processes and can at least partly ease the burden on South Korean society and economy. There should be assistance in supporting movement in the opposite direction as well.

TRANSFORMATION OF ECONOMY AND STABILIZATION OF INSTITUTIONS

In order to support deep exposure, competition, and efficiency it is of utmost importance to incorporate the country in transition into the regional trade organizations and structures. The European Union accession process was extremely helpful in the case of those Central and East European countries. Foreign assistance to transformation of economy and stabilization of institutions is therefore important. “It is now conventional wisdom to say that institutions are critical variable in development, and over the past few years a whole host of studies have provided empirical documentation that this is so” (Fukuyama 2004: 29). However, any program

must be strictly conditioned on the reform processes. Without mutually agreed conditionality, the danger of waste of funds and the emergence of transformation fatigue would be rising – on all sides. Core funding for basic transformation processes immediately after the change (or collapse) of the DPRK regime is unavoidable. Any foreign assistance must, however, go exclusively to viable organizations, institutions and programs. The Central and East European experience clearly shows that to support bottom up approach is usually far better than the top down one.

The top down approach is necessary only in building internal frameworks and structures as well as in supporting compatibility with the outside world. The opening of the system must go hand in hand with support of efficiency and foreign assistance must avoid supporting rigidity and inefficiency. Programs and initiatives supporting artificial structures lead only to waste of funds and energy and result in demotivation of local population as well as local leadership. Nonstop reevaluation of foreign assistance is needed and unnecessary bureaucracy must be avoided. Bureaucracy and rigidity leads to stagnation and kills any attempts of serious transformation.

The goal in the pre-transformation period is to break the isolation. The goal of international presence in general and presence from the center of gravity in particular, is to secure the openness of previously isolated society and support for painful reforms. Foreign assistance can boost international cooperation and foreign presence inside the countries in transition helps as well. The Radio Free Europe – Radio Liberty relocation from West German city of Munich to Prague is one example of such concrete support. The more international institutions and organizations move from the center of gravity to the country in transition, the more chances there are that transformational processes will be transparent and supported by local leadership. Real action is more important than support of conferences just for conferences or empty trainings just for trainings, attended all the time by the same participants. Clear purpose of any supported project is fundamental in guaranteeing its impact and survival.

LESSONS TO BE LEARNED FROM CZECH EXPERIENCE?

In general, it can be argued that the Czechoslovak and Czech transitions have been a success. The country has never descended into chaos and despite the breakup of Czechoslovakia, it did not experience a civil war or any other significant turbulence. The transition was the least painful from other transitions in the region and the majority of population gained – in terms of all: freedom, prosperity, and security. It took time to create a sustainable, efficient, and competitive economic and pluralistic political system. The transformation was over after integration into

NATO 10 years and EU 15 years after the collapse of Central and East European communist regimes. The fulfillment of both processes does not mean that there are no more challenges. However, current challenges of the Czech Republic, Poland, and Hungary are very much similar in nature to the challenges faced by any other West European state of the same size.

The fundamental question is how relevant is Czech experience to possible reunification of Korean Peninsula. On one hand its relevance is limited to the fact that each transformation is unique. On the other hand it is always worthy to study foreign experience and compare costs, benefits, and efficiency of various cases. In the case of Korean reunification, it will be worthy to study differences between East Germany unification into West Germany and gradual Czech reintegration into Western Europe. Such study might provide useful insights into decision making dilemmas of DPRK and South Korean leadership, once the situation is ripe and events start moving. To reinvent the wheel always costs time and money. However, the North Korean regime is very unique, extremely brutal and citizens of DPRK are and will be in need of basic humanitarian aid. The gap between North and South of Korean Peninsula is much deeper than the gap between Central, Eastern, and Western Europe in the revolutionary year 1989. The reunification of Korean Peninsula will therefore have a different rhythm than the reunification of Europe.

Foreign assistance in case of Central Europe was much more of a transitional nature than that of humanitarian one. Foreign assistance to DPRK after the collapse of the regime will have to be, necessarily, of humanitarian nature and possibly the humanitarian nature will be the dominant one in the first phase. Such assistance must aim at basic stabilization of the situation and must help to share the burden of the center of gravity, the Republic of Korea. It can also bring necessary support of the local population for the transition itself and can be important in opening of the system. Seoul should therefore seek to build a broad humanitarian aid coalition to be ready, once the situation permits its beneficial action. At the same time, any humanitarian assistance has to be implemented for limited time only. Humanitarian aid is not a solution to the problem. If such aid is unnecessarily prolonged, it can even petrify the problem and make it a chronic one. Once local economy and society start to be chronically dependent on foreign assistance, then the chances that transformation will be successful are limited. There are many cases of such dependency around the world, including Europe, where Bosnia and Hercegovina or Kosovo are probably the best cases to study.

The question is not if the reunification of Korean Peninsula happens, but how fast (it can still take decades), under what circumstances, and what will be the costs. To study the German reunification is therefore of utmost importance. It was costly, it resulted in many East Germans moving into West Germany and the social, political

as well as economic differences between both parts of the country are still clearly visible quarter of a century after the reunification process began. At the same time there was never a viable alternative to reunification of Germany as there will not be any viable alternative to reunification of Korean Peninsula. The status quo can still last for a long time, but in the end it will be changed. Once the change happens, it will be a rapid process.

The fact that there was never a viable alternative to reunification of Germany does not mean that the transformation of East German society and its reintegration to Western Europe could not have been done differently. The more gradual approach was definitely an option. German Mark did not have to be unified in such a speed and the exchange rate at the time of currency unification did not have to be 1:1. By swift currency unification, East German economy gained subsidies (huge amounts of foreign/West German/European Union assistance), but lost much of its competitiveness. The question of speed and the costs of reunification are the most tricky ones. For Korean leaders it is therefore worthy to study differences between East German transformation, respectively German reunification and more gradual Czech transformation, respectively Czech reintegration into Euro Atlantic structures, including all foreign mechanisms which were utilized.

SUMMARY

Based on the experience of Czechoslovakia and other countries of Central and Eastern Europe, South Korea will play a role of the center of gravity and key role in the North Korean transformation, no matter if it wishes to play it or not. It will also cover most of the costs of the North Korean transformation. The regional trade and investment architecture is the key factor in shaping the success of any transformation. International framework and environment at the time of changes will have a significant impact, but the role of the local leadership and the desire of local population will be much more important than that of foreign assistance. The long term impact of foreign assistance is important, but secondary. It has to be always kept in mind that foreign assistance can have positive as well as negative effects. Foreign assistance can definitely and significantly help in burden sharing and in opening of the country in transition. Both are important for securing success of transition itself.

Lessons from Central and East European transitions and from German reunification should be studied. No transition can be copied and successful solution must be fully or at last partly local. At the same time, every transition strategy has its costs and benefits and it is always useful to keep in mind that reinventing the wheel

is a costly option. Foreign assistance has to be constantly reevaluated and focused. Simple ideas do work and bureaucratic processes lead to stagnation. The key to success of the DPRK transformation and of the Korean Peninsula reintegration is opening of North Korea in general and dismantling of the “Iron Curtain” of the 38th parallel between the North and South in particular.

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ON THE IMPORTANCE OF BUILDING (AND PLANNING) BRIDGES

Michal Vodrážka

Majority of scholars that looked to Central and Eastern Europe for possible lessons on do's and don'ts for Korean unification focused, for obvious reasons, on the unification of West and East Germany. Like Germany's unification, Korea's will entail a dual transition from a totalitarian to a democratic society, coupled with a change from a centrally planned economy to a market based one. Also, the fact that three German think tanks affiliated with the three main German political parties have been operating in South Korea since 1987 and "deal, among other things, with reunification issues", with "the Friedrich Naumann and Hanns Seidel foundations very active in North Korean issues, organizing conferences and workshops in North as well as in South Korea" (Wrobel 2014: 16), might explain why so much effort has been spent on studying the case of German unification by both South Korean and foreign scholars. In comparison, transitions in other Central and Eastern European states were much less an object of study and search for analogies.

But if we are to parse the transition experience of Czech Republic for any potential tips on what actions to undertake, and which are better to be avoided, we should first answer the following; how, if at all, the Czech transition differed from other transitions that took place in Central and Eastern Europe, and if there are any similarities whatsoever between Czechoslovakia in the year 1989 and North Korea today.

Considering the latter question first, the former Czechoslovakia in the year 1989 and North Korea nowadays do have something in common. The communist regime that entrenched itself in Czechoslovakia after Soviet occupation in 1968 and the so-called normalization measures was the most ideologically rigid (unlike for example the Hungarian regime, it did not attempt any economic reforms whatsoever, and it opposed any reforms until its end), and especially in 1970s also most repressive in Central and Eastern Europe (Šipulová, Hloušek 2012: 63, 64 and 72).

One can find some similarities between Czechoslovakia in 1989 and North Korea today in the economic sphere as well. Czechoslovakia's exporters were more oriented

towards the planned markets of Eastern Bloc than exporters in rest of the European socialist states. In 1989 more than half of Czechoslovakia's exports were headed to other countries of the Eastern Bloc, while only less than a quarter was exported to member states of European Economic Community (EEC) and European Free Trade Area (EFTA), in other words to developed European economies. In contrast, over third of Hungary's and Romania's exports went to EEC and EFTA countries, and in the case of Poland it was over 43%, while their exports to other countries of Eastern Bloc were 41%, 33% and 35% respectively (Myant, Drahoukoupil: 43).

The lower exposure of Czech exporters to developed markets and their heavy reliance on exports to other Eastern Bloc states and to USSR in particular, had two negative effects during transition. First, Czech exporters were not as exposed to competition from developed markets as exporters in other Eastern Bloc countries and found competing with those exporters much harder. Skoda, for example, although from 1991 a part of the Volkswagen group, had to deal with terrible reputation in the United Kingdom for at least a decade. Second, with the economic collapse that took place in all the transition economies, but particularly in the successor states of the USSR, Czech exporters had to start exporting to other markets and either succeed in the face of competition from the rest of the world, or cease to exist. Lastly, Czechoslovakia was a major arms producer (weapons represented 11% of all mechanical engineering output) and exporter, with exports of 2.7 billion USD in the years 1984 to 1988, thus ranking number 7 in the world (Tůma, Janošec, Procházka 2009: 140). According to Military History Institute's Vladimír Francev's calculations, Czechoslovakia exported more than 35 000 tanks and armored personnel carriers between the years 1945 and 1992, ranking third just behind the two superpowers, U.S. and USSR (VHU 2012). Majority of arms exports, fully 80%, went to allied Eastern Bloc countries. The collapse of demand in former Eastern Bloc after 1989, coupled with ethically motivated political decision of reformers to decrease arms production quickly, without considering the economic consequences of such a move, led to the collapse of arms production. In 1992, the arms production dropped to roughly 20% of 1987 output (ibid: 141–142). Slovakia, where tank and armored personnel carrier production was concentrated, was hit particularly hard, with 35 000 people losing jobs.

The similarity with DPRK, whose exports go almost exclusively to China, and apart from minerals, agricultural, and fishery products consist mostly of metallurgical products and manufactures including armaments and textiles (CIA 2013), is clear. It is also safe to make an assumption that DPRK's bloated armament industry will follow Czechoslovakia's into the dustbin of history and its contributions to future exports of unified Korea will be miniscule or none at all. Unification planners should take this into consideration.

On the other hand, one particular difference between Czechoslovakia and DPRK is that Czechoslovakia was economically the second most developed country from the whole Eastern Bloc, behind East Germany. Van Ark puts Czechoslovakian and East German GDP per capita at 40.1 (in 1989) and 57.5 (in 1987) percent of US GDP per capita respectively (2007: 295 – Table 7.8). In comparison with other European Eastern Bloc states, Czechoslovakia in 1989 had GDP per capita (measured in 1990 international Geary-Khamis dollars, a measure of purchasing parity) 8513, followed by USSR itself with 7098 (16% lower), Hungary with 6459 (almost a quarter lower), Yugoslavia and Bulgaria with 5779 and 5597 respectively (about a third lower) and neighboring Poland with 5113 (lower by almost 40%) (Myant, Drahokoupil 2011: 12). It is important to stress that Czechoslovakia's starting position was totally different from the one North Korea finds itself today as one of the poorest countries in the world, 180th out of 193 countries, with GDP per capita in 2012 at 583 USD, according to United Nations statistical data.

CATCHING UP IS A DIFFICULT AND PROTRACTED PROCESS

A fundamental lesson from the Czech Republic, but more generally from all the transition economies, is that economic transformation is a complicated and long process. Even when the transition results in economic growth (after the collapse in output as the central planning and various protections of domestic producers are abandoned), convergence with more developed economies takes time and is not automatic.

The transformation depression resulted in Czech GDP shrinking by 11.5% in 1991 and by further 3.3% in 1992 (EBRD 1999). Data from Czech Statistical Office are a little bit more generous, reporting “only” a 10% and 2% falls in years 1991 and 1992, respectively. There is an ongoing discussion whether the so-called “shock” transition that quickly exposed the companies to hard budget constraints, economic competition from the rest of the world, and liberalized prices was preferable to a slower, gradual transition. The benefits of “shock” were supposedly lower falls in output in countries that adopted reforms quickly (Tomšík 2014). A much more detailed argument that recognizes that different states had different starting positions and adopted the supposed “shock” differently is made by Myant and Drahokoupil (2011). But even they argue that as quick as possible a removal of restrictions on private enterprise (p. xxi) and liberalization of prices and foreign trade, but not necessarily all prices and all trade protection at once, are preferable (p. xx-xxi). They are more skeptical about the benefits of fast privatization and speedy liberalization of banking, and warn about ignoring the role that the state should, and has to, play in transition.

A notable point is made by Tomšík (2014), who compares the falls in output in the Czech Republic and the former East Germany. Although East Germany received the legal framework and working institutions once it unified with West Germany, the fall in output was much steeper than in the Czech Republic (roughly to 66% of 1989 level in contrast with 86% in Czech Republic), and it took much longer for the output of former East German territory to reach 1989 level. This happened only after 2011, while the Czech Republic recovered the lost ground much sooner, by 1996, and by 2008 output has reached 140% of 1989 level. How much of the divergence that can be explained by a politically motivated monetary union between the two Germanies, that made East German companies rather uncompetitive, is debatable. Tomšík draws a different conclusion – although the institutional framework was provided from the beginning in East Germany, it didn't make the transition any less difficult. Therefore, institutional framework, or rather its absence and slow development in the case of Czech Republic, didn't hamper transition much.

Tomšík also compares unemployment in East Germany and the Czech Republic, where in the former unemployment stayed substantially over 10% for the whole quarter of century, and even reached up to 20% in the years 2003 to 2005, while Czech unemployment remained between 5% and 10%. Unemployment in eastern Germany also led to a substantial population movement to the western part, with up to a fifth of all inhabitants of eventually moving in search of work.

The conclusion to be drawn for eventual unification of Koreas is that every year that the economies of North and South Korea keep diverging, means that the opposite process – that of North Korean economic output and productivity catching up with the South – will take that much longer and will be marginally more difficult. A simple recommendation, therefore follows, be that a pre-unification convergence should be a priority for the South. On the other hand, this has to be done keeping in mind that ending the economic stagnation in the North Korea might actually prolong the life of the regime and postpone the unification. Not to mention that it might allow the regime to waste the increased tax or other income on more unproductive militarization or prestige projects.

INFRASTRUCTURE IMPROVEMENTS SHOULD BE PLANNED EARLY

One area where South Korea might learn from Czech Republic's failures is planning and building of transport infrastructure. Czech Republic's roads in 1989 were not prepared on the increase in car and truck traffic increased prosperity would bring, and the country also lacked highway and railway connections to the neighboring

states considered adversaries during the Cold War (that is to say to West German state of Bavaria and to Austria). There was no highway connecting Czech Republic with the German Autobahns. The only finished highway D1 ran east from Prague to Brno and Bratislava. It took 17 years, until October 2006, to finish D5 highway connecting Prague with Bavarian highways through Rozvadov,¹ although it was considered a priority from 1990 as the first highway connection with the West.

The most complicated issue was the Plzen ring road that was mired in controversies from 1994 to 2002. The highway D8 connecting Prague with Dresden has 17 km still waiting to be built. Work on D3 that will connect Czech Republic with Austria only started in 2002 and it is unclear when, if ever, it will be finished. So far only a 42 km fragment out of 170 kms exists. D11 that should connect Prague with regional capital Hradec Králové and eventually with Poland still has not reached Hradec Králové. Last 3 km are unfinished due to two decades of haggling with two sisters who received the land necessary for finishing the highway in land restitution in 1992 only to negotiate about selling it back to the government for 20 years from 1994 to 2014. Many more examples could be cited (e.g. still missing modern railway connection between Czech Republic and Bavaria, the new runway for Prague airport), but that is not necessary to draw some lessons for Korean unification.

Planning of roads, railways and other transportation infrastructure for unified Korea should be done well ahead of actual unification. These plans should be kept in mind if a land restitution or redistribution takes place in North Korea as well as when environmental law is applied to North Korean territory. Land needed in future should be kept as property of state. Moreover, crucial transport infrastructure should be built early on, before the rise of “Not In My Back Yard” sentiments in the population.

ENERGY GENERATION AND TRANSMISSION WILL BE CRUCIAL

The most significant difference between pre-transition Czechoslovakia in 1989 and North Korea of today is the infrastructural decay in the DPRK. The degradation of North Korean infrastructure is beyond anything ever experienced in communist Czechoslovakia. This is particularly the case for electric power generation and transmission. The satellite pictures of nighttime Korean peninsula speak for themselves, with the blaze of South Korea ending at the demilitarized zone, while

¹ It took Germany the same number of years to build connecting highway on its side of the border. During Cold War it was customary to end the highways at least 50 km from the frontline, in order not to give advantage to the enemy.

only Pyongyang and a few major cities are illuminated in the otherwise dark North Korean territory. Shortages of power, and unstable voltage, are commonplace in the DPRK (Yoon 2010; von Hippel 2010). The primary cause is insufficient generation capacity combined with an inefficient power grid and coal mining and transportation in a state of semi-collapse. As for the generating capacity, it consists of ageing hydropower and coal-burning thermal power plants in various state of disrepair. Estimates of the DPRK's electrical output vary substantially. Bank of Korea's estimates indicate that North Korea's capacity and output in recent years are similar to the estimates for year 1980 (Melvin 2014). Nautilus institute estimates indicate a drop in gross generation between 1990 and 2010 by almost three quarters (von Hippel, Hayes 2014).

Another issue is the inefficient North Korean electrical grid that is "largely underground for security purposes" (Noland 2000) and "apparently dates back to 1958" (von Hippel, Hayes 2014). The power grid was estimated to cause losses of as much as 20% of net generation. In comparison, last time such a high level of transmission and distribution losses has been experienced in South Korea was in the 1960s; today's losses are about 4% (Yoon 2010). It is therefore not surprising that in order for the only significant venture involving foreign investors in North Korea – Kaesong Industrial Complex – to be able to operate without disruptions, South Korea had to ensure the power supply from its own grid.

In comparison, the World Bank estimated Czech transmission and distribution losses to be equal to 7% of output in 1989, and this was lowered by almost a third to 5% after 2 decades of modernization of power transmission network. As for electricity generation, according to the World Bank's World Development Indicators, the Czech Republic generated slightly more than 65 GWh in 1989. Power generation bottomed out with the economy in 1994 at 58.3 GWh, and it grew by almost a half to 86.8 GWh in 2012. It is worth pointing out that growth in power generation is roughly equal to the growth of the output of the economy as a whole during the years in question.

It is self-evident that in order for North Korean economy to grow, sufficient and reliable supply of electricity is a *sine qua non*. Unfortunately, construction of power plants is a long and complicated process. It takes years to plan and build a natural gas power plant. In a recent record in South Korea, it took 24 months to build one, while "[p]revious projects of this kind had taken between 30 and 40 months to complete" (Larson 2014). Other, quicker ways of supplying electricity to North Korea should be considered.

While the Czech Republic was not exactly strategic when it came to developing its transport networks, as we saw above, it has certainly paid more attention to the issue of energy security, and moreover, from early on. Already in 1990

planning of a new oil pipeline began that would connect the then Czechoslovakia to the Western European pipeline network carrying Persian Gulf crude oil from the Mediterranean port of Trieste northwards to Austria and Germany.² In 1989 Czechoslovakia was completely dependent on crude oil supplied by the Druzhba pipeline from the Soviet Union. Concerns about the state of the pipeline and about the Soviet oil reserves led to discussions about alternative oil supplies already before the Velvet revolution, but the political changes gave a much stronger impetus. Negotiations about what would become the IKL pipeline started in October 1990. Strong support from the Czech government, including eventually a state guarantee for the repayment of the bank credits necessary for the construction of the pipeline issued in 1993, meant that project got from the planning stages to implementation rather quickly. Czech government financed the construction of the whole pipeline; including the part in Germany, at the significant cost of 14 billion Czech crowns (528 million USD). Czech government's goal was to have the pipeline built by the end of 1995. After Bavarian government agreed with the project in February 1992, and the necessary environmental impact assessments and construction planning procedures took place, construction started in December 1994 and was finished in a year. The pipeline was tested in January 1996 and has been operational ever since. Usually only about a third of IKL's capacity is used, but in cases of disruption of flow of Russian oil it's capacity is sufficient to supply 100% of Czech Republic's needs. As Kramer noted in 2008 *"the Czech Republic became the only East European nation in the 1990s to build, at great expense, a transnational oil pipeline from the West to diversify supplies away from Russia, so is less vulnerable than its neighbors."*

Czechoslovakia has also actively worked on connecting its power grid to the Western European grid and on regional power grid issues. As was the case with the Druzhba pipeline, the existing Eastern Bloc power transmission infrastructure was connected with the USSR and after the political upheaval of 1989, "there became a need to create a stable electrical grid for the entire [Central and Eastern European] region. As the Soviets were no longer maintaining these networks, someone had to step in and fill the void" (CENTREL 2014). In May 1992 Czechoslovakia initiated negotiations with representatives of electric power industry from Germany, Austria, Yugoslavia and Greece about connecting the power grids of Czechoslovakia, Poland and Hungary (so called Visegrad four or V4 countries) with the Western European grid UCPTE (Petružela 2006). In October 1992 the V4 countries established CENTREL as the controlling body of the V4 regional power grid. After a number of improvements in the V4 grids and necessary testing CENTREL and UCPTE were

2 This paragraph draws heavily on Volf (1999).

connected in October 1995 through a 400kV power line between the Czech Republic and Germany. CENTREL eventually merged with UCPTE (which by then became UCTE) in 1999.³

The final lesson for Korean unification therefore is that reducing the North Korean power shortage should be considered a priority. Proposals to connect Russian grid with South Korean grid, and transmit power from Siberian hydroelectric power stations to South Korea has been already debated for some time. Similarly, a gas pipeline that would allow Russia to export its gas to South Korea has also been discussed. If these infrastructures were built through North Korea, they could provide a solution to the energy shortages crippling North Korean economy either before, or at least very soon after unification.

CONCLUSION

Although there are major differences between the situation in Czechoslovakia in 1989 and North Korea today, there are some remarkable similarities as well. Ideologically rigid regimes were ruling countries dependent on arms manufacturing and exports, with otherwise uncompetitive industries and poor infrastructure links to some of their neighbors. Achieving North Korean economic convergence with South Korea will be difficult and will take decades, but if this process can be started now, together with planning of sorely needed transport and energy infrastructure, it should make the process smoother. Moreover, more effort should be put into long discussed power grid and pipeline connections between South Korea and other Northeast Asian countries through North Korea, even if investing in North Korea is an extremely risky venture.

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Michael Romancov compares the similarities and highlights the differences in geopolitical make-up of Europe during the Cold War and present Northeast Asia. According to Romancov, Russia's current leadership, with its realistic attitude to international relations, will oppose any attempt to duplicate the Helsinki approach in Northeast Asia in the form of the recently proposed Northeast Asia Peace and Cooperation Initiative, all the more because it won't be a major player in it.

Alexandr Vondra identifies the domestic and international roots of the "Velvet revolution" in 1989. Economic inefficiency, regime lacking legitimacy and headed by aged and incompetent leaders, and the existence of opposition movement, combined with the reform-minded leaders in the USSR and favorable conditions in Europe, led to a smooth handover of power. Vondra then analyzes the negotiations of Helsinki Accords and how they and CSCE helped bring about the demise of Communism in Europe. Approaching security in a comprehensive way, particularly together with human security, and active engagement are singled out as the features of Helsinki Accords that might play a role on Korean peninsula as well.

Stanislav Balík discusses in detail the process of regime change that took place during the first months of the Czechoslovakia's transformation. The economic inefficiency of the Communist regime and the environmental crisis it has created were the triggers for revolution. However, the opposition, recruited mostly from intellectual circles, was unprepared to assume power and lacking experts and scenarios for political reform. Balík considers personal continuity in the judiciary as a serious mistake that led to the distrust in the judicial system. Balík notes that free elections and constitutional change are not preconditions for reforms, argues for speedy transformation, and highlights the importance of charismatic leader(s).

Dušan Tříška describes the strategy of the initial economic reforms in Czechoslovakia and later the Czech Republic, paying particular attention to privatization as its most important element, and to the issue of regulatory framework. Tříška warns that trying to import reform strategy or new institutions from abroad is futile, as is treating transformation as an exercise in applied economics. Nevertheless, he does offer some general remarks on issues facing the future reformers and in particular emphasizes the costliness of transformation.

Ivo Pospíšil looks at how the transition impacted Czech legal system and judiciary. Although the Communist regime was pronounced unlawful and illegal, and lustration law blocked secret agents and collaborators of the Communist

secret police from holding public offices, Czech courts mostly failed to punish former officials. Criminal rehabilitation and restitution of confiscated property also proved problematic. Like Balík, Pospíšil identifies insufficient personal changes in the courts as the main obstacle of judicial transformation, and argues that a complete replacement of judges is necessary. This will then make sure that individual injustices that occurred under the former regime will be addressed.

Tomáš Pojar's chapter focuses on the role and limits of foreign assistance. He emphasizes how crucial the role of domestic leadership and its vision will be in transforming North Korea and stresses the importance of opening borders between Koreas for both trade and people. Pojar also underlines the fact that supporting educational exchanges and movement of South Koreans to the North will positively impact the transformation, even if only in the long run.

Michal Vodrážka finds some remarkable similarities shared by 1989's Czechoslovakia and North Korea of today. Both were ideologically rigid, dependent on arms manufacturing and exports, but with otherwise uncompetitive industries and poor infrastructure links to neighboring countries. Vodrážka points out that badly needed transport and energy infrastructure upgrades should be planned well ahead and ideally constructed before the unification itself takes place.

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