

V. ABSTRACT/ ENGLISH SUMMARY

The objects of this dissertation thesis are restitutions of property of former noble families in the Czech Republic after the year 1989. It concerns very controversial theme; this statements is even more valid if we speak about disputable restitutions of property. The issue is only rarely viewed from complex and impartial angle; this fact is caused i.a. by great complicacy of the factual and legal substance. Even the availability of historical documents is problematic, too. The public is frequently not aware of or has even no idea on certain key facts of individual cases, as a result of which usually only certain matters are perceived; this subjective perception is strengthened by individuals, who are from various reasons interested in ending the controversies concerning restitution of property of former noble families in favor of these former owners; these individuals use during their activities different instruments, which are described in detail in this dissertation thesis. In their efforts, the media are frequently their important backers, who not from interest, but due to unfamiliarity or ignorance, stress in some cases only the facts in favor of the former owners of property, which ends in deformed view of public on some very disputable cases. This dissertation thesis is intending to accomplish complex view and stress even the lesser-known facts.

Methodically, this thesis stems from both detailed legal analysis of major restitution legal regulations enacted after the year 1989 and general reference to the remaining ones, including their locking in period relationships, and detailed analysis of eight important disputable cases of restitution of property of former noble families; where the greatest part of this analysis is devoted to analysis of relevant court and administrative rulings. Last but not least, as a part of the analysis of these cases, also their media picture in Czech periodical press is pointed out; this is further critically evaluated.

In the introductory part, this dissertation thesis describes historical context, this from the creation of independent Czechoslovak state and the ideas of first Czechoslovak president Tomáš Garrigue Masaryk as expressed in his book *New Europe – Slavonic Position*, where it is i.a. stressed the idea that big land property should be divided into lots as it had been done in Ireland; first land reform, further international treaties concluded after the end of second world war (especially the Treaty No. 150/1947 Coll., on Reparations from Germany, creation of Inter-allied Reparation Office and on Return of Monetary Gold (the so called “Paris Reparation Treaty”)), the decrees of the president of the republic and post-war legislation, especially the Act No. 142/1947 Coll., on Revision of the First Land Reform. The dissertation thesis also subsequently evaluates political and other prerequisites for enactment of restitution laws enabling restitution of property in the period after the year 1989, and briefly compares the situation in Czechoslovakia, or in the Czech Republic respectively, with other post-communist countries. The essay also briefly mentions the extent of restitutions in the Czech Republic which under no circumstances related only to former noble families, stresses the fact that many cases are not yet finalized and that the restitution of further property (church) is currently subject of complicated political discussions and negotiations. The thesis further adverts to the effect of restitutions on peace of persons concerning ownership and other relations and the overall legal environment in the Czech Republic, as well as frequent complicated phenomenon connected with restitutions.

In the part devoted to analysis or restitution and related legal regulations the thesis focuses at first on general characteristics of all restitution legal regulations as well as on brief mentioning of the second way, by which some of former owners of confiscated property or their legal successors endeavor to regain it, and that are the civil law actions on ownership determination. The special legal regulations re mentioned: the Act No. 298/1990 Coll., on Modification of Some Property Relations of Holy Orders and Congregations and Olomouc Archbishopric, as amended, Act No. 172/1991 Coll., on Conditions of Transfer of Some Items

from Czech Republic to the Ownership of Municipalities, as amended, Act No.173/1990 Coll., by which the Act No. 68/1956 Coll., on Organization of Physical Training and by which Some Legal Relations Related to Voluntary Gym Organization is Repealed, as well as the Act No. 212/2000 Coll., on Mitigation of Some Property Wrongdoing Incurred by Holocaust and on Modification of the Act No. 243/1992 Coll., by which Some Legal Relations Connected to the Act No. č. 229/1991 Coll., on Modification of Ownership Relations to Soil and Other Agricultural Property, as modified by the Act No. 93/1992 Coll., are Regulated, as amended. Further, an analysis of basic principles or restitution legal regulations has been done.

Then, detailed interpretation of provisions of four general restitution laws that enable making claims on confiscated property follows. It concerns Act No. 403/1990 Coll., on Mitigation of Consequences of Some Property Wrongdoing; Act No. 87/1991 Coll., on Out-of-Court Rehabilitations; Act No. 229/1991 Coll., on Modification of Ownership Relations to Soil and Other Agricultural Property; and finally, Act No. 243/1992 Coll., by which some Legal Relations Connected with Act No. 229/1991 Coll., are Regulated; this in division to original wording of these restitution laws with general comments and to amended wording with detailed comments, including also notes to their numerous modifications and frequent reference to relevant court rulings.

The greatest part of this dissertation thesis is devoted to most-comprehensive mapping and legal analysis of restitution of property of former noble families, the study of which may be very beneficial from both the view of theory as well as from the view of professional experience; this is i.a. because some restitution cases are not yet finalized. Practically, the disputable restitutions of property are illustrated on eight (or by counting of both braches of cases Des Fours-Walderode and Colloredo-Mannsfeld on ten) big model cases. Four of these model cases are related to restitution claims exercised mainly through restitution legal regulation; this concerns concretely the cases Des Fours-Walderode (the former property of both Dřínov and Smržovka-Hrubý Rohozec branch of the family), Colloredo-Mannsfeld (the former property of both Opočno and Dobříš-Zbiroh branch of the family), Salm-Reifferscheidt and Trauttmansdorff-Weinsberg. Four more cases are dealing with restitution claims exercised mainly through civil-law actions on ownership determination; this concerns concretely the cases Kinsky, Harrach, Thun-Hohenstein a Schaumburg-Lippe, with the proviso that these cases are analyzed in their complexity, which means that should the former noble families assert claims on confiscated property through restitution legal regulations (the cases Harrach and Schaumburg-Lippe), this is mentioned in the thesis. Each of the eight cases is divided into five parts: history of confiscation, the property claimed, the persons asserting property claims, the restitution case and its media picture. These restitution cases may be appraised as very important and, from the legal and factual point of view, extremely complicated; also by these reasons, the extent of this dissertation thesis reached – even by using condensed line-space – almost 500 pages.

During this occasion it is eligible to stress that the individual restitution cases, though all complicated, are of different complexity; is some of them, it was necessary due to existence of many type-different disputes to treat them separately (e.g. in the Colloredo-Mannsfeld case there are four the basic groups); this was the main cause for different extent of individual cases. The most complicated case (Colloredo-Mannsfeld) is occupying almost ninety pages of this dissertation thesis, whereas the least complicated case (Thun-Hohenstein) only seven.

The main focus of attention of this dissertation thesis is therefore the disputable cases of restitutions of property. Even if it is the main goal of this dissertation thesis to serve the most comprehensive survey of eight great restitution cases, this thesis remembers also the other disputable and non-disputable cases of restitution of property of former noble families. These other cases of disputable restitutions of property of former noble families, and also te non-

disputable restitutions cases, in which the claimants from former noble families received their property based on agreements, as well as more important restitution of property of legal entities, are mentioned in this essay in well-arranged summary sheets in supplements to the dissertation thesis; these overviews were never elaborated in such a great detail in any expert work.

Finally, this dissertation thesis also briefly evaluates the media picture of restitutions of former noble families as was created in nationwide and regional daily newspapers, this at each analyzed case separately; the effort is to point out some excesses in news service, which were without the borders of matter-of-fact informing about the specific case. In relation to this it is eligible to remember that I dealt with the issue of periodical press ownership in separate monograph, where it was generally reminded that the field of restitutions of property of former noble families is one of the few areas in which there are remarkable excesses from fair-mindedness of informing.

At the close, this doctoral thesis evaluates the possibilities of further development of analyzed disputable restitutions of property of former noble families in the Czech Republic, and in relation to this, it tries to provide reasoning for the fact why the development of restitution of property in the Czech republic was as such and whether it was possible to prevent complicated court cases by sophisticated and properly elaborated legal regulations.

Also, an extensive 18-pages chronology of the most important occurrences and events in the individual restitution cases, as well as related event that took part during second world war and consequential time period.