

History of the Freedom of the Press in the Territory of Slovakia and Czech Republic

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ABSTRACT

This study aims to examine the history of the freedom of the press from the 19th century until the present in the territories of the current Slovakia and Czech Republic. As the histories of these countries have been strongly connected since the 20th century, this study deals with the development of the freedom of the press from the perspective of both countries. The evolution in both countries, despite the many periods in which their fates and united sovereignty were identical, underwent many changes that also affected the press law. The analysis is divided by period into five chapters dealing with this freedom in the context of the pertinent historical background.

KEYWORDS

freedom of the press, Czechoslovakia, Slovakia, Czech Republic.

Istoria libertății presei pe teritoriul Slovaciei și al Republicii Ceha

REZUMAT

Acest studiu își propune să examineze istoria libertății presei din secolul al XIX-lea și până în prezent pe teritoriile actualei Slovacie și Cehia. Întrucât istoriile acestor țări au fost strâns legate încă din secolul al XX-lea, acest studiu tratează dezvoltarea libertății presei din perspectiva ambelor țări. Schimbările în ambele țări, în ciuda numeroaselor perioade în care soarta și suveranitatea lor comună au fost identice, a suferit multe modificări care au afectat și legea presei. Analiza este împărțită pe perioade în cinci capitole care tratează această libertate din perspectiva circumstanțelor contextului istoric pertinent.

CUVINTE CHEIE

libertatea presei, Cehoslovacia, Slovacia, Cehia.

I. INTRODUCTION

Press law is the branch of law that regulates the freedom of speech in the media. State power generally seeks to restrict the freedom of speech by means of the press law. Accordingly, constitutional law, general law, and case law are intertwined in questions of the freedom of speech and the freedom of the press. Originally, the legal norms of the press law regulated the implementation or non-realization of freedom of speech and the right to information—the right to disseminate information in science, technology, and culture, as well as the freedom of expression and the dissemination and expression of religious faith in public.¹

Historical tensions and changes of regimes have had a huge impact on the freedom of speech. Their relaxation or restriction of the political sphere accordingly affected the freedom of the press. The turn of the nineteenth and twentieth centuries and the turbulent events of the following years brought radical socio-cultural renewal in many areas. World trends accordingly affected the development of the press law in the territories of Slovakia and the Czech Republic, which, however, naturally reflected the influence of local peculiarities. The tone of these developments was set by frequent changes in the state system. Over the course of several decades, a remarkable number of governmental bodies took turns exercising authority in this territory. The Austro-Hungarian monarchy gave way to Czechoslovakia, which was then changed into the Slovak state and the Protectorate of Bohemia and Moravia. Subsequently, we saw the renewal of Czechoslovakia, which was later dissolved into the current Slovakia and Czech Republic. The common constitutional changes justified regular interventions in the legal system. The rise of each state from its predecessor cultivated the reflexive view in each generation that the previous legislature dealing with the press law was unprofessional and inadequate, resulting in the adoption of new regulations by each regime in the pertinent territories. Interestingly, much legislation was abandoned with the creation of each new system of regulation, weakening legal certainty in the field. In addition, many of these abandoned regulations dealt with the positions of press employees or with persons who have been the subject of scholarly investigation. However, it is also interesting that during this period, many long accepted but never revoked press regulations may be found as well.²

II. PERIOD PRECEDING WORLD WAR I

The printed press was subject to strict censorship until the 19th century. The press measures adopted between 1849 and 1852 show that the Viennese government had the intention of restricting press freedoms through censorship. At first the role of the censor was invested in religious institutions; later, the absolutist regime handed this task over to the police. By 1852, results had also been achieved in this field, primarily

1 Ján Drgonec (1995): *Tlačové právo na Slovensku*, Archa, Bratislava, p. 14.

2 Mihály T. Révész (2015): A sajtó jog metamorfózisa az első világháború esztendeiben Magyarországon in *Jogtörténeti Szemle*, 2015/4, p. 35.

through the creation of legal regulations. The shortcomings and limited scope of the Press Act of 1849 were replaced and extended by the Press Patent of 1852.³

Interestingly, in this period these institutions had investigated not only books and magazines but even the inscriptions on tombstones and writing on clothing. Professor Malý stated that society had to be protected from the poison of revolution and perverted ideas of social equality. Accordingly, prior restraint was instituted, whereby all published publications had to be reviewed by a state employee responsible for the final text. Consequently, not the author itself but this employee was responsible for the content of the article.⁴

However, even before the partition of the Austro-Hungarian Monarchy by the Treaty of Versailles in 1918, the duality in law was present within the still united territories. Consequently, this entailed a duality in the law related to the freedom of the press.

1. Legislation in force in the territory of Slovakia until 1918

Political tensions in the Austro-Hungarian Monarchy forced the ruler in Vienna to abandon some of its well-known methods intended to limit the spread of ideas, as the April laws and its Article XVIII stipulated the abolishment of prior restraint. Consequently, this led to the spread of political competition and enhanced the freedom of speech. However, this also caused the spread of unpleasant thoughts and opinions concerning the ruler.

Based on the duality of law, Slovakia and its territories fell under the part governed by the Hungarian legislation. Therefore Press Law n. XIV/1914 was binding on Slovakia. This law enabled the spread of the press; the sale of magazines on streets became legal. The Hungarian law explicitly permitted posters to be placed in public on the streets, although the consent of the owner of the building was required. The law established the protection of the editor from the publisher, who could not dismiss the editor simply because he was not willing to include articles related to certain political content. The editor was thus protected from the politization of their work.

Additionally, there was an obligation of the press owner or the publisher to send every issue of the paper to certain offices: the local public prosecutor's office, the library of Comenius University, the public prosecutor of Prague, the library of the National Assembly, the library of the Press Department of the Presidium of the Ministerial Council, and the library of the respective regional office.

Nonetheless, the law had huge gaps. It established the right of correction, but only for individuals and state offices. In addition, the editor had the right to refuse to publish a correction in certain cases. When the article was published more than a month

3 Petr Bednařík, Jan Jiráček, Barbara Kopplová (2011): *Dějiny českých médií: Od počátku do současnosti*, Grada, Praha, p. 80.

4 Karel Malý (2001): Tiskový zákon- konec staré a počátek nové právní úpravy vydávání periodického tisku, in Tomáš Sokol (ed.): *Tisk a právo*, Orac, Praha, p. 5.

before, when the article was not written in the official language,⁵ or when the correction states that the information was false without any new information proving it.

The subject acting as a guarantee that the freedom of the press would not be abused or used against the state was in fact the responsible editor. The press law furthermore stated the exact conditions for this position. The responsible editor had to be a citizen who was resident in the state, had not been convicted of an offense in the preceding three years or for a crime in the preceding five years, was not under guardianship, was not in bankruptcy, was not deprived of political rights, or was not in custody or pre-trial detention. In addition, it was necessary to explicitly include the editor's name as the party responsible for the content. Furthermore, other provisions stated that the editor committed an offense when in exchange for money or other advantage he intentionally made concrete changes to or corrected a text or published a presumed false text, or to the contrary concealed information.⁶

2. Legislation in force in the territory of the Czech Republic until 1918

From the fall of 1848 to the spring of 1849, the room for civilian and military authorities to maneuver against the press was limited. The situation changed with the publication of the Press Act (*Preßgesetz* / *PreßG* 1849) a few days after the enactment of the March Constitution in 1849. The law did not apply to the territories of Hungary and current Slovakia, and its introduction was limited by the siege in force in Prague and Vienna. In any case, with the enactment of the law, the basis for action against press offenses was created, as well as the possibility of further tightening the restrictions in the future.⁷

Enforcement of the freedom of speech without censorship was a result of the 1848 Revolution. Society began to understand the freedom of the press as an inseparable part of the freedom of speech. The Emperor's Patent n. 151/1849, published together with the March Constitution, stated that everyone had the right to express himself orally, in writing, or by any form of the press. In addition, it was stated that the state should not resort to censorship or to repressive law to prevent abuse of the press.⁸ However, to the contrary, the repressive law in Patent n. 161/1849 again restricted the freedom of the press.

The Criminal Code of 1850 regulated so-called verbal crimes, which also pertained to crimes that could be committed in the form of press. Gradually, censorship was re-established and press publication was permitted on the basis of concessions. Jury courts were set up for criminal proceedings for crimes committed by the press, but this did not differ much from the government's persecution of disobedient

5 Author's note: Only Hungarian and German were considered official languages.

6 Press law n. XIV/1914, Art. 24.

7 Österreichisches Staatsarchiv (ÖStA), Allgemeines Verwaltungsarchiv (AVA), Inneres, Ministerium des Innern (Mdl), Präsidium, Akten, Teil I (1848–1899), Kt. 596 (1848–1851).

8 Emperor's patent n. 151/1849 from 4.3.1849.

journalists and publishers. As an example, the famous trials against K. H. Borovský before the Kutná Hora jury might be mentioned.⁹

However, the beginnings of the modern history of press law in the territory of the Czech lands can be dated to 1862, when on December 17, Act no. 6/1863 on the Press was enacted. This law was eventually to be replaced by a new press law after the establishment of an independent Czechoslovak state; however, in amended form it was part of the legal system until the mid-1930s.

This imperial Act on printing underwent six amendments during its existence. Based on this law, the freedom of the press was established and preventive censorship was erased. The Austrian law banned the posting of news on the streets without official permission. However, advertising for plays in theaters, public festivals, or insertion was also permitted. Based on the set fees, the news could be sent just by post and not by private providers. A person who wrote true facts related to the work of the government could not be punished for it. The right of correction was reestablished, which meant that the correction had to be included, at least in the next issue of the paper, and was printed free of charge.¹⁰

According to the Press Act, anyone could publish and sell printed matter on their own, either in their own home or in another room designated for that purpose. Before opening such a room prior to commencing this activity, the intention to publish had to be notified to the public prosecutor and the state security office of the district in which was the publishing place.

Dissemination of printed matter was considered as consisting of the sale or distribution, nailing up, posting, or display in public places, such as in reading associations and libraries.¹¹ According to the Press Act, the periodical press was that which was published at least once a month, even if the periods were unequal. The Press Act laid down the mandatory information that had to be included in each issue of the periodical, which included the name of at least one responsible editor. The responsible editor could only be a citizen who was independent, lived in the place where the periodical was published, and was not excluded from election to the municipal council owing to the perpetration of a crime. An additional obligation to pay bail was imposed for the publication of such periodicals. This obligation was abolished only in 1894.¹²

According to this regulation, the publisher had an obligation of a priori notification of the commencement of its activities, which had to be rectified by the Security Office. In case of failure to fulfill this duty, there was a stipulated sanction of a fine (10 to 100 gold coins).¹³ The prints had to be properly marked with the place of publication and the name of the publisher. The law also mentions the person of the

9 Case of Karel Havlíček Borovský (Tuma)/ XL. Porota Kutnohorská. In: Karel Tuma (1885) *Nejslavnější publicista českého národa*. Díl druhý. Kutná Hora: Karel Šolc. pp. 536–558.

10 Law of the Press n. 6/1863 from 17.11.1863.

11 Law of the Press n. 6/1863 from 17.11.1863. Art. 6.

12 Law of the Press n. 6/1863 from 17.11.1863. Arts. 9 and 12.

13 The present value of the fine would be from 18,510 to 185,100 HUF, based on the calculation from <https://artortenet.hu/magyar-penzertekindex-arak-es-devizak-alapjan-1754-tol/>. (Accessed on 1 December 2021).

editor-in-chief, who was required to be an Austrian citizen. Publishers had to pay bail for issuing periodicals, although government-issued periodicals were exempt from such fee. Published publications had to be sent to the state office and police ministries and libraries. The application and enforcement of the mentioned provisions was duly performed.¹⁴

The enforcement of these provisions is demonstrated by some relevant case law of the period. For example, the Court of Cassation in 1883 had to decide the interpretation of the term “print expansion” as used in the law in force. It stated that the borrowing of a press could not be considered expansion, and that the throwing of leaflets on streets can be considered expansion. Therefore, in the case of leaflets with banned criminal content, the act was deemed punishable.¹⁵

III. PERIOD OF CZECHOSLOVAKIA AFTER WORLD WAR I (THE INTERWAR PERIOD)

After World War I, the Austro-Hungarian Monarchy ceased to exist and Czechoslovakia was created. The new legislator in the territory of Czechia and Slovakia was the National Assembly of the Czech-Slovak Republic. The change of the state system in a given region was combined with the efforts of the successor state to take over the legal order of the previous state. Therefore, the National Assembly of the Czech-Slovak Republic faced the task of adopting a constitution and constitutional laws. By law, it either changed the legal regulations that the Czech-Slovak Republic took over from the defunct Austro-Hungarian monarchy or adopted new legal regulations in the field of media, laying the foundation of completely new laws. If the newly created state had not taken over the legal order of its predecessor, it would have become a state without legislation, a situation that would have taken a long time to remedy. The necessity of maintaining legal continuity with Austro-Hungary led to the adoption of Act no. 11/1918 and Regulations on the Establishment of an Independent Czechoslovak State. According to Art. 2 of this Act, all existing Land and imperial laws and regulations remained in force.¹⁶

Based on this general provision, the aforementioned Austrian Press Act of 1863 and the Hungarian Press Act of 1914 were maintained after the establishment of the Czechoslovak Republic. This situation did not change two years later, when relations related to the activities of newspapers and magazines in the Czechoslovak Republic began to develop based on the provisions of Act no. 121/1920, which introduced the Constitution of the Czechoslovak Republic. According to §113 Par. 1 of this Constitution, freedom of the press was protected. In principle, under this provision the press could not be placed under prior restraint. Restrictions on the prohibition of prior restraint according to §113 Par. 3 of the Constitution, could be enacted only by law in case of war, or when similar events broke out within the state that threatened the

14 Aleš Rozehnal (2007): *Mediální právo*, Plzeň: Vydavatelství a nakladatelství Aleš Čeněk, p. 13.

15 Plenary decision n. 522 of the Court of Cassation from 14.3.1883.

16 Peter Muriň (2010): *Slovenské masmediálne právo*. Epos, p. 55.

republican state form, the constitution itself, or the public order. In addition to the censorship regime, the constitution developed the rights of individuals under the provisions of §117, which granted the right to express an opinion orally, in writing, in print, via image, or via a different method.¹⁷

The Czech-Slovak Republic was for almost its entire existence a unitary state. During its later existence, various rights related to press freedom were established, among them rights related to periodicals, non-periodicals, and sound recordings or cinematographic films. The common executive body was the government of the Czechoslovak Republic in Prague. However, there was an extra-ordinary Law no. 64/1918 concerning temporary regulations for the territory of Slovakia. Under this law, a body was established for the territory of the Slovak Republic, called the Ministry with Power for the Administration of Slovakia. This was a regional government body with considerable powers. The Ministry implemented several executive measures in the area of periodical legislation. Later, after the consolidation of state law, measures for the entire territory of Czechoslovakia were taken by unitary executive bodies, that is, by the common government and ministries. However, Czechoslovak journalists hastily interpreted the Constitution in such a way that if everyone could express their opinion in the press within the limits of the law, then the freedom of the press itself depended on the law being accepted and voted for in the Chamber of Deputies. Groups of academics and journalists therefore interpreted such a statement as granting the power to issue a new press law. The intention was nonetheless clearly appropriate in seeking to overcome the dualism of Austro-Hungarian legislation and the restrictions placed on the work of journalists resulting from the two laws still in force. The unification of the Press Law on the basis of more modern Hungarian law subsequently became a springboard for drafting a new press law in 1921. It seemed that the freedom of speech would be secured by measures by which the region could catch up to the developments in neighboring states. However, the hopes of the journalists ended in disappointment. A modern press law was not discussed in parliament. Instead, Act no. 50/1923 became binding and was applicable to the whole territory of Czechoslovakia.¹⁸

While under the provisions of Act no. 50/1923, the scope of the freedom of the press was broader than under earlier Austro-Hungarian legislature, there remained evident gaps in the rights of the journalist. Art. 18 stated a punishment of imprisonment from three days to three months for anyone responsible for spreading false information for which he had no sufficient reason to consider it true. Art. 39 specified what the term “publicly” means, such that when something is public, it has to be in a form of a press publication or disseminated document, or in front of a group of people or representation of people. Based on the fact that it would be hard to exactly stipulate the necessary number of readers into whose hands a given document came, there were huge possibilities for abuse in the interpretation of the term “publicly.” Nonetheless, the vague wording of the term “publicly” was supplemented by case law, where the audience of the disseminated information was specified as referring

17 Drgonec (1995): p. 18.

18 Ján Hrabánek (1934): *Soustava československého práva tiskového*, Praha-Brno, Orbis, p. 25.

to a situation where some people met intentionally or even by chance.¹⁹ A representation, based on the argumentation of the court, however, referred to more people, such that the individuality of the individual person recedes and the group interest prevails.²⁰

Perhaps the most interesting article of the aforementioned law was the provisions of §23 of the Act, under which the authorities could prohibit the publication of certain military reports as well as reports on security measures to maintain or restore order. The law did not specify that the authorities that had the power to issue a ban, nor was a public statement of the ban required. Thanks to such a vague definition, the ban also applied to cases of rail accidents, in which journalists were banned from accessing the crash site and reporting the situation in the news.²¹

In addition, in this period, the Military Press Service was established, which had its own laws related to the press. In these regulations it was stated that members of the military could not be writers or editors of political papers, although they had the opportunity to publish articles. If these articles were related to the military itself, its offices had to previously approve the publication. The Ministry of National Defense then decided in which specific paper these articles could be published.²²

Act no. 124/1924 on the change of jurisdiction of criminal courts and liability for the content of the press in matters of false accusation, slander, and defamation also amended the legislation in force. However, the core of the rights were mostly derived from the previous Hungarian Law no. XIV/1914. The amendment stipulated the liability of the editor, or else publisher for official reports. If the report was not published faithfully, the entity obtained the right to compensation from the editor.²³ The amendment also abolished editorial secrecy; the responsible editor was afforded impunity for a published report if he proved that he had published the report because he was threatened with dismissal or significant material damage if he refused publication. The condition for acknowledging impunity was that he correctly identify the originator of the report. However, if the editor identified the wrong author of the report, the law penalized him by stripping him of the ability to hold the position of responsible editor for two years.²⁴

The correlation between Acts 50/1923 and 124/1924 resulted in strict regulation of the press. In addition, their application in case law made the interpretation of the exact provisions even more restrictive. The High Court declared in its decision that the limiting provisions are not just binding upon the periodical press but upon all published documents.²⁵ Furthermore, the case law stated that the editor must carefully evaluate the ideas of legal nature only from the point of view of the correct

19 Decision from 25.I.1924, Kr I 519/23, sb. N. 1465.

20 Decision Zm I 10/24, sb.n. 1613, also decision from 17.IX.1924, Zm I 236/24, sb. N. 1726.

21 Hrabánek (1934): p. 61.

22 Military Service Staff Regulations. (Služebný řád vojenský služby). Regulation A-I-1. 24.4.1926.

23 Antonín Hartman (1923): *Zákon o nakladatelské smlouvě z edene 11. května 1923*, č. 106 Sb. Z. A. n., Praha, Nakl.Československého kompasu, p. 32.

24 Drgonec (1995): p. 20.

25 Decision of the High Court from 1925, Zm I 362/25.

interpretation of the law.²⁶ The Supreme Court additionally stipulated the right to press correction, which the law granted only to offices and private persons or to political parties, but only in cases where there was a notification suitable for the members of the party concerned.²⁷

Restrictions on press freedom, as known to legal science of the mentioned time period, were of two kinds: Formal restrictions on the freedom of the press and material restrictions on the freedom of the press. The first way to restrict the freedom of the press was to prevent or make it more difficult for the press to print. This category therefore included rules such as unjustified or even meaningless conditions on the issuance of printed matter and distribution of printed documents. On the other hand, material restrictions on freedom of the press lay in strict responsibility for the content of the printed matter, even in cases where the guilt of the responsible person was not proven by an arbitrary interpretation. All restrictions naturally entailed strict sanctions for violation of the provisions. In fact, the formal restrictions from the period of Austro-Hungary remained in force, although in the new form of regulations more suitable for a new form of state.²⁸

Nevertheless the new form of state sought to become democratic not just on paper but in reality as well, and therefore the journalistic community strongly highlighted the need to create a new, modern press act. Following the coup, with the establishment of independent Czechoslovak state authorities, press issues were based on the misconception that it was sufficient to change only formal law, namely judicial jurisdiction in press matters, and that there was no need to change substantive criminal law.

To draft the new legislation, a seven-member commission was formed in 1929 at the Press Department of the Prime Minister of Czechoslovakia to create a legislative proposal. Four Czech, two German, and one Hungarian representative of journalist organizations had the task of preparing concrete reforming proposals in the field of press law. After several interventions by journalists, a government bill on the protection of honor was created in 1931, and 1932 saw a government bill on the press in the Chamber of Deputies. The commission therefore prepared a draft of the new press law. The government proposal from 1932 was a modern work of unification. It redefined the concept of the form, introduced a new report and a new basis for the ideological justification of press law, and limited the right to confiscate the form of journal reports, and in addition the proceedings on relevant issues were to be public. As the political will was not so strong for the creation of the formal as well as the material conditions for press freedom, the result could not be achieved and there was no possibility of creating a comprehensive new press law regulating both material law and procedural law.²⁹

On this basis, the commission created a revised press amendment to the Act of 1924, namely Act no. 126 of 1933, which dealt mainly with questions of the

26 Decision of the High Court from 1927, Zm I 60/27.

27 Decision of the High Court from 1924, Zm I 693/24.

28 Hrabánek (1934): p. 66.

29 Ján Hrabánek a Albert Milota (1933): *Nové československé právo tiskové*, Praha, Linhart, p. 7.

distribution of periodicals and other press documents. The main restrictions on distribution were applied in the areas of schools between minors, in dormitories for soldiers, and in areas close to the aforementioned. The right to issue a ban on the distribution of certain press publications was invested in the regional office, the Ministry of the Interior, and the State Security Office. The conditions for such a ban were cases of publications that directly denigrated independence, constitutional unity, or the democratic-republican form, threatened public order, or grossly insulted morality. Therefore it can be stated with certainty that despite the establishment of a modern democratic state, the modern conception of freedom of the press remained far away.

IV. DURING WORLD WAR II

During the existence of the common Czechoslovak Republic, some groups of the Slovak society perceived the constitutional status of Slovakia as a basic problem of constitutional law. Already in the process of drafting the Constitutional Charter of the Czechoslovak Republic, some deputies demanded the enactment of Slovak autonomy. However, these efforts were successful only through major political changes in the European region ushered in by the Munich Agreement and the ambitions of Germany, through which there was first a change in the form of state establishment to a unitary Czechoslovak state with the autonomy of Slovakia and Subcarpathian Russia. Later, with the declaration of the Slovak State by Act no. 1/1939 and with the issuance of the Decree on the Establishment of the Protectorate of Bohemia and Moravia, the Slovak Republic was created.³⁰

1. The Slovak state

The Constitution of the Slovak State (officially the Slovak Republic) was enacted on July 21, 1939, as Constitutional Law no. 185/1939. Based on the fact that it was a puppet-state of Nazi Germany, the sovereignty of the state and basic fundamental rights were sharply curtailed, and fascist values were broadly reflected in the articles of the Constitution. Non-recognition of the sovereignty of the people but the leader, the principle of status instead of citizen, the priority of obligations over rights, and the possibility of restricting basic human rights by ordinary law all strongly influenced the freedom of the press.

By an order from the year 1941, the Office of Propaganda was established under the department of the Prime Minister's Office. The Office issued general guidelines for prior restraint of the press. Every press publisher was officially controlled by this office and operated in accordance with the interests of the state and in the spirit of Hlinka's Slovak People's Party as the leading party of the state. The Office carried out propaganda, informed foreigners about the internal life of the state, performed state

30 Adriana Švecová a Tomáš Gábriš (2009): *Dejiny štátu, správy a súdnictva na Slovensku*, Vydavateľstvi a nakladateľstvi Aleš Čeněk, p. 152.

administration in matters of the Slovak Press Office, and directed the press, film, and other fine arts in terms of content and form.³¹

The institutional provision of state interference in the activities of the mass media was completed by the issuance of Decree no. 140/1944, which amended the regulations on the Central Censorship Commission. This law stipulated the possibility of establishing ad hoc censorship commissions subordinate to the Propaganda Office or under the jurisdiction of a certain government member. Based on the instruction of the leading organ, the commission examined, guided, controlled, and censored the work of the press.³²

The Constitution of 1939 enacted the establishment of a state structured like a realm of estates. On this basis citizens were grouped on the basis of their profession. Accordingly, every citizen had to have a particular status, and only members of the governing political party could hold an official position. These principles were subsequently reflected in the 1944 Press Chamber Act, which also reflected the necessities of the fascist regime. It stipulated the conditions for being a journalist. A journalist had to be at least 21 years old, not previously convicted of a crime or an offense of a low moral motive, not a Jew, and able to provide a high school graduation certificate or who had successfully completed a journalism school in a domestic or recognized foreign school. This shows that antisemitism likewise affected journalists.³³

However, the freedom of the press was also regulated differently than usual, namely through editorial law. In any case, it not only matters whether the principle of freedom of the press was enshrined in the Constitutional Charter or in the Press Act; account must also be taken of what criminal laws allowed the press to express, as well as whether those who shaped public opinion were allowed to do so.³⁴

This model of restricting freedom of speech and the freedom of the press in Slovakia was introduced even before Act no. 65/1944 by Act no. 320/1940 on crimes against the state, which created the factual basis of the crime of publishing the image of a criminal. This criminal offense was committed by a person who published images of a person prosecuted by the authorities of the Slovak Republic for criminal offenses such as state treason, treason of state secrets, intelligence, or betrayal of military secrets.³⁵

The exercise of the journalistic profession was allowed only after the fulfillment of the condition that the journalist be registered in the list of journalists. The conditions of enrollment in the mentioned list could not be met by persons whose contributions the state did not explicitly request. This method represented a regular way to legally restrict freedom of expression and the freedom of the press.³⁶

31 Česko-slovenská/Slovensko-česká komisie historiků (2006): Yearbook of Czech-Slovak historians (*Česko-slovenská historická ročenka*), Vydavatelství Masarykovy univerzity, p. 257.

32 Valerián Bystrický and Jaroslava Rogulova (2005): *Storočie propagandy: Slovensko v osidlach ideológií*, AEP, p. 103.

33 Drgonec (1995): p. 30.

34 Drgonec (1995): p. 18.

35 Murín (2010): p. 57.

36 Hrabánek (1934): p. 25.

2. The Protectorate of Bohemia and Moravia

After the declaration on the establishment of the Slovak state, German militia began the occupation of the territory of the current Czech lands. In the spring of 1939, the autonomy of the Protectorate of Bohemia and Moravia was declared. The leading authority was represented through the Protectorate Government and President Emil Hácha. However, the entire national administration was subject to the occupational forces. The German leaders of the occupation directly controlled the state and led it in accordance with their interests.

In 1938 emergency measures came into force, the state of military readiness was declared, and the press was significantly reduced. In September, the Central Censorship Commission (subordinated to the Ministry of the Interior) was established, which had the task of controlling periodicals and non-periodicals, radio, film, and theater as well. The director of the mentioned Commission was photographer, journalist, and SS officer Wolfgang Wolfram von Wolmar. This exceptionally influential officer was able to suppress any disagreement with the regime based on the established censorship, regulations introducing strict requirements for publishing, and even individual meetings with editors. Wolmar was the leader of the so-called “Gruppe Presse” of the cultural-political department of the Office of the Reich Protectorate until 1943.³⁷

During this period, post-publication censorship was added to prior restraint under pressure from the German Third Reich. At the time of the establishment of the Protectorate of Bohemia and Moravia, the media were consistently subordinated to the needs of the state, becoming an instrument of propaganda led by German Nazis, namely the Minister of Propaganda Joseph Goebbels. The aim was to place journalists under the greatest possible control in order to direct them and govern their activities. In 1939 the Press Office came under the control of the Occupation Office. In addition, the Czechoslovak Press Office was renamed as the Czech Press Office with the separation of the states. The journalist had the opportunity to publish legally in accordance with German propaganda. On the other hand, many journalists refused to write in accordance with the needs of the regime and continued illegal work as part of the resistance groups. This kind of conspiratorial publishing, editing, printing, distribution, or collaboration at all stages reflected strong state repression and draconian sanctions that rendered such activities extremely dangerous.³⁸

37 Jakub Končelík, Barbara Köpplová, Jitka Kryšpínová (2003): *Český tisk pod vládou Wolfganga Wolframa von Wolmara*, Praha, p. 402.

38 Jakub Končelík, Jakub Večeřa, Pavel Orság: *Dejiny českých médií 20. století*, Portál, Praha, p. 94.

V. PERIOD OF CZECHOSLOVAKIA AFTER WORLD WAR II

1. Restoration of the law system

The validity of the Czechoslovak legal order was confirmed even before the end of World War II. Initially, the regulatory power of the Slovak National Council was revolutionary, based on the provisions of its first regulation (No. 1/1944 Coll. N. SNR of September 1, 1944). The Regulation declared the Slovak National Council the executor of all legislative, governmental, and executive power in Slovakia. Therefore, it rejected the principle of the division of power and concentrated all power in the hands of a single body. The Assembly of the Slovak National Council reserved the power to adopt legal regulations with the highest legal force. As a result, the validity of the Czechoslovak legal order in Slovakia was renewed indirectly as part of the legal order of the Slovak Republic and the Czechoslovak regulations adopted by it.³⁹

The explicit restoration of the Czechoslovak legal system took place in August 1944 in London. According to the direction of the President of the Republic, it was a matter of renewing the constitutional and other legal regulations of the Czechoslovak state that had been issued by September 29, 1938. However, the regulations of the London Provisional State Act were not recast into the legal order in Slovakia, as these regulations were not applicable at the time when the first National Council Regulation was issued. The negotiations in London in 1944 showed that the government had to respect this concept of the Slovak National Council, even though this perturbed many of its members. Its acceptance was reflected in the concept of the Decree of the Minister of the Interior No. 30 Coll. of 27 July 1945, which specified that the Constitutional Decree of the President of the Republic No. 11/1944, stating that the legislation thus far applicable only in the Czech and Moravian-Silesian countries remained in force. From the fact that the legislation of the National Council was based on the first regulation of this body, some legal theorists and historians have deduced that until the issuance of Regulation No. 30/1945 Coll. n. SNR, Slovakia normatively did not belong to Czechoslovakia.⁴⁰ However, given the situation at the time, I do not consider this argument adequate.

The orders of the new power initially focused on regulating issues not directly related to press law that nonetheless had an impact on the activities of the mass media. Decree of the President of the Republic no. 50/1945 narrowed the scope of persons who could apply for protection against abuse of freedom of expression in the mass media. Moreover, according to §1 of Decree no. 108/1945 Coll. and the Regulation on Confiscation of Enemy Property and the National Reconstruction Funds,

39 Vladimír Flegl (1989): *Dokumenty k vývoji československého ústavního práva, Ústav státní správy, Praha*, p. 30.

40 Ladislav Vojáček (2004): *První pražská dohoda- přijatelný kompromis nebo úspěch pražského centralismu?* In: *K 75. narozeninám profesora Hubenáka. Zborník z medzinárodnej právno-historickej konferencie konanej pri tejto príležitosti*, pp. 69–77.

requirements were established for valid property confiscation, which enhanced the need for establishing a position of a state officer dealing with the question of censorship.⁴¹

After World War II, the unified term “press law” was replaced in Czechoslovak legal terminology by two terms, “legal regulation of periodicals” and “legal regulation of non-periodical publications.” Both of these terms referred to the partiality of a set of legal norms regulating social relations that arose, changed, and disappeared in connection with political-ideological activities. They included periodical and non-periodical publications, as well as cinematographic films, sound recordings, and radio broadcasting. The regulation of freedom of expression and the right to information had thus come to the fore.⁴²

Ideas on the exact management of press law were outlined by Act no. 101/1947 on the position of editors and the Association of Journalists. It indicated the will of the new power to take over the regulative rights from previous holders of power, namely the right for regulation of freedom of speech through editorial law. Act no. 101/1947 thus on the day it entered into force abolished the Press Chamber based in Bratislava and the National Union of Journalists based in Prague. It defined an editor as an employee of a magazine or news or other similar establishment who, as his main occupation, carries out intellectual activity that is expressed in words or images. An editor had to be a Czechoslovak citizen who had reached the age of 21, had not been convicted under the regulations on the punishment of Nazi criminals and collaborators, and had not been legally convicted of a criminal offense.⁴³

A new chapter in the history of press law was written by the Constitution of the Czechoslovak Republic. According to §21, freedom of the press was formally guaranteed. Therefore, it appeared that the state was not allowed to subject the press to prior restraint. In practical application, however, the situation many times proved to the contrary. The law subsequently stipulated who had the right to publish newspapers and magazines and under what conditions. The constitution further granted the state the exclusive right to produce, distribute, publicly screen, and import and export films. Act no. 184/1950 specified all the conditions for the publication of magazines, stipulating that the publication of the press and periodicals could not be the subject of private enterprise. Everyone had to be authorized to print, and the authorization was granted by the political parties of the National Front, state bodies, and united trade unions, as well as leading cultural, economic, interest, sports, and social organizations.⁴⁴

Later legislative changes made in 1950 strongly affected the press law. It is worth mentioning §311 of Act no. 86/1950 and all its provisions related to the procedural criminal law. Act no. 108/1933 on the protection of honor had moved the question

41 Ladislav Vojáček (2004): Příčiny sporu o dekret prezidenta republiky č. 5/1945 Sb. In: *Dekréty Edvarda Beneše v povojnovom období*, Prešov, Spoločenskovedný ústav SAV v Košiciach vo vydavateľstve Universum, pp. 81–89.

42 Muriň (2010): p. 9.

43 Drgonec (1995): p. 34.

44 Muriň (2010): p. 59.

of personal protection from criminal law to civil law. According to the Civil Code of 1950, if someone's rights were infringed by someone else by using his name illegally, he could demand that the action be waived. However, privacy, honor, and dignity were not considered values on the basis of which the injured party could seek redress or at least waive the activity. From this point it can be deduced that the abuse of freedom of expression remained intangible in the press if it was a private person and not a state body.⁴⁵

The following period in the history of Czechoslovakia may be assessed more or less negatively. During this time strict censorship of the press was applied in practice. Censorship as a method of maintaining control by the state was performed through three main legal instruments. First was nationalization of the publishers. Second was the placement of politically loyal officers into the leading positions of these publishing state companies. Third was the institutional assuring of the censorship through the establishment of prior restraint and post-publication censorship. Later, the Constitution from the year 1960 neglected even formally to stipulate a prohibition of censorship. The general attitude toward the protection of human rights and freedoms was therefore reflected in the regulation of the press. The state had a general interest in consolidating the dictatorship of the proletariat, including preventing the exercise of various rights.

2. The Czechoslovak Socialistic Republic

On January 1, 1969, the Czechoslovak Socialist Republic became a federal state. Within the framework of the internal integration of the state, Constitutional Act no. 143/1968 Coll. on the Czechoslovak Federation strengthened the powers of the Slovak state authorities in the field of Slovak press law. The competencies were technically constructed in such a way that according to Art. 1 of the above-mentioned constitutional law, The Czechoslovak Socialist Republic consists of the Czech Socialist Republic and the Slovak Socialist Republic and, as a result, the powers have been divided into exclusively federal, common and exclusively national competences.⁴⁶

However, even earlier, Act no. 81/1966 on periodicals and other mass media brought a fundamental change in the press law. For the first time, this law transcended the boundaries of press law and acquired the nature of media law by introducing the category of mass media, which included periodicals, agency news, ordinary news, and other journalistic sections as well as radio and television broadcasting. In addition to the conceptual novelty, the law also meant a return to traditional institutions of the press law such as the press release. Regulation no. 119/1966 also issued the statute governing the Central Publication Report Office. The official responsible for the activities of this body was the Minister of the Interior. The Authority's remit covered periodicals, other mass media, and all public media. The role of the report was to ensure that information that was the subject of a state, economic, or professional secret was not published in the press. However, it also had the task of ensuring

45 Rudolf Glogar (1958): *Trestní zákon: Komentář*, Praha, Orbis, p. 24.

46 Muriň (2010): p. 60.

that reports contrary to other interests of society were not disclosed. Such information was interpreted as information whose content was: related to a criminal offense, directed against the political and ideological line of the state, or demonstrably likely to harm the societal interests protected by central state authorities. Therefore it was clear that the authority censored the press in accordance with the aims of the ruling Communist Party.⁴⁷

Later, Act no. 180/1980 Coll. established the Federal Office for Press and Information, a state administrative body for the control of the exercise of freedom of expression, which replaced the authoritarian Central Publication Report Office. Under this law, the Federal Information Press Office was the federal central government agency responsible for the press and other media. This body had many different tasks and duties, such as proposing to the government the principles and main political direction of the press policy, responsibility for the registration of periodicals and non-periodicals, protection of the state's press interests, decisions on the import and permits of the foreign press, granting permission to become editor-in-chief for foreigners, and issuing permission for civil organizations to publish printed information. We may conjecture that the execution of its decisions was ensured by extraordinary means under the dominant processes in the post-normalization environment of Czechoslovakia.⁴⁸

The period of the creation of the socialist press law was concluded in a debatable way. On the one hand, the Chairmanship of the Central Committee approved the establishment of 16-member Scientific Law Committee in 1987 to lay down the new guiding principles of the press law; nevertheless, the actual legislative work never started.⁴⁹ The Velvet Revolution in November 1989 replaced the socialist regime with a new democratic federative solution that subsequently even resulted in separate democratic states. The press law was built on completely new grounds and the current democratic level of the freedom of the press was established.

VI. CONCLUSION

Under the specific conditions of the complex establishment of national identity, the press saw significant development in the Czech and Slovak environment from the 19th to the 20th century. At a time marked by the division of the public into individual political directions and parties, the interest of societies and associations became divided as well. In addition, the political press developed in correlation with number of magazines devoted to federal, educational, cultural, or labor issues. However, we can state with certainty that owing to the oppression of a strong state, the development of the press freedom was clearly hindered. The duality of legislature in the Austro-Hungarian Monarchy consequently caused a duality in law in both pertinent

47 Drgonec (1995): p. 42.

48 Petr Bednařík, Jan Jiráček, Barbara Köpplová (2011): p. 328.

49 Veronika Šutková a Marek Vagovič: *Dozeral na tlač, teraz na zákon*. <https://www.sme.sk/c/3716914/dozeral-na-tlac-teraz-na-zakon.html> (Accessed on 1 December 2021).

territories. On the one hand, Current Czech lands were governed by Austrian law and its Press Law no. 161/1849, while on the other hand, in the current Slovak lands, Hungarian law and its Press Law no. XIV/1914 were applied. This resulted in greater difficulty in implementing the new law in the interwar period of common Czechoslovakia. During World War II, the Slovak State and the Protectorate of Bohemia and Moravia served only as puppets of the Nazi regime. Therefore, strong prior restraint with an emphasis on Nazi propaganda was perceptible. With the end of World War II, changes in press freedom were strongly desired and needed; however, the press in this period rather became an instrument of propaganda and an ideological tool, which was made part of systematic education as the ruling Communist Party made huge efforts to prevent the public from coming into contact with foreign, especially Western, trends and developments.⁵⁰ Just after the Velvet Revolution and the establishment of new democratic state forms, censorship was abandoned and the current form of the freedom of the press had the opportunity to fully develop.

50 Authors note: Some examples that should be mentioned in relevance. For example, the late start of television broadcasting in 1953 or the resumption and spread of the so-called Evening press “trans. Večerník” in the 50s.