

**Lustration in the Czech Republic
(Czechoslovakia)
1991 - 2014**

Czechoslovakia was the first country in the post-Soviet region to adopt lustration law. The main „**Large lustration law**“ was passed by the Federal parliament in **October 1991** – 2 years after the regime change.

Second „**Small Lustration law**“ was passed in **April 1992**. Focused on police, prison guards and some units of Ministry of the interior.

Tasks and goals

Practical motive – prevent persons who collaborated with or worked for political or repressive institutions of the communist system from leading public positions during the transition process to stable democracy.

In response to the findings of a Federal Assembly committee, which revealed the contexts of 17 November 1989 events.

1990 laws on nationalization of the property of the Communist Party of Czechoslovakia and the Socialist Association of the Youth.

1990 Law on Judicial Rehabilitation of political prisoners + financial compensation

1991 Law on Extra-Judicial Rehabilitations – restitution of property

1991 - 1992 Lustration laws

1993 Law on the illegal character of the communist regime
parliamentary declaration.

1995 Office for the Investigation and Documentation of the Crimes of Communism

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Found guilty: 30. In jail: 8.

1994, 2004 Archive law

the most liberal in Central Europe.

2007 Institute for the Study of Totalitarian Regimes

Studies and impartially evaluates the time of non-freedom (WW II) and the time of Communist totalitarian power Research, documentation, commemoration, education

+ Security services archive

Opening the security archives (1948 – 1989) to the public and research.

2011 Law on anti-communist resistance

2013 Law on restitution of churches and religious congregations

Debate

The law faced opposition mainly from ex-communists for ideological reasons (Alexander Dubček, leading figure of “Prague Spring”),

or others for humanistic and pragmatic reasons (Václav Havel) – „We are not like them“

There was also a significant opposition to the lustration process in Western media and several institutions (see: *Czech Witch Hunts: Are You 'Stb Positive'?* Newsweek 1991).

The law was challenged several times in front of the Constitution court but the claims against it were rejected.

February 2014 - the proposal of the Communist party to cancel the lustration law was rejected by the Czech parliament (with center-left majority).

Time frame

The law was originally intended to be effective for five years – transition period.

The law was extended in Czech Republic after fierce political debates. First in 1995 (for another five years) and then in the year 2000 indefinitely.

Slovakia

After the breakup of Czechoslovakia in December 1992 Slovakia did not implement the federal Lustration Law due the lack of political will.

In 2002 the “Law on National Memory” was passed and Nations Memory Institute was created on its bases. Among its tasks is collecting and publishing information on collaborators with the secret police.

The law does not stipulate any legal sanctions against the implicated persons nor does it bar them from running for or remaining in public office.

Criteria used

A condition of service in public posts (listed later in **Objects of lustration** chapter) according the lustration law is that the citizen (born before 1971) during the period 25. 2. 1948 (communist coup in Czechoslovakia) to 17. 11. 1989 („Velvet revolution“) was not:

- an **officer of the National Security Corps engaged in the State Security Service,**

- recorded in the materials of the State Security Service as a **resident, agent, or occupier of an apartment lent to the State Security Service,** or used as a place of conspiracy, **an informer,** or an **ideological collaborator of the State Security Service,**

- a **conscious collaborator of the State Security Service,**

- a **Secretary of a branch of the Communist Party of Czechoslovakia** or Communist Party of Slovakia **from the district or similar level upwards** or in the rank of a high standing committee official of the above, a member of the presidium of these committees, a member of the Central Committee of the Communist Party of Czechoslovakia

with the exception of those who only filled these posts in the period 1. 1. 1968 to 1. 5. 1969 (roughly the period from the „Prague spring“ till the purges of normalization era),

- an employee of the system of structures named in clause d) in the division in charge of the political running of the National Security Corps,
- an **officer of the People's Militia,**
- a **member of the action committee of the National Front after 25. 2. 1948, the vetting committee after 25. 2. 1948 or the vetting and normalization committee after 21. 8. 1968,**
- a **student at the Felix Edmundovic Dzerzinky training college at the Council of Ministers of the USSR** for officers of the State Security Service, the Training College of the USSR Ministry of the Interior for officers of the Public Security Service, the Higher Political School of the USSR Ministry of the Interior, or a postgraduate or participant of courses lasting longer than 3 months in these schools.

Conscious cooperation with the State Security Service

the citizen was recorded in the materials of the State Security Service as a confident, candidate for secret service cooperation or a reliable secret service collaborator and **who knew that he had contact with an officer of the National Security Corps and that he submitted information to him in the form of confidential dealing or carried out for him set tasks.**

A condition of service for a post in the **Federal ministry of the interior, the Federal Security Information Service, the Federal Police Force and the Castle Police Guards** is that the citizen during the period 25th February 1948 to 17th November 1989 was not:

- An officer of the National Security Corps engaged in the State Security Service in a section with a counterintelligence orientation,
- employed in the post of head of department and higher up in the State Security Service,
- a student at the Felix Edmundovic Dzerzinsky Training College at the Council of Ministers of the USSR for officers of the State Security Service, the Training College of the USSR Ministry of the Interior, or a postgraduate or participant of courses lasting longer than 3 months in these schools,
- in the National Security Corps in the post of secretary of the main committee of the Communist Party of Czechoslovakia, a member of the main committee of the Communist Party of Czechoslovakia, a member of the all-party committee of the Communist Party of Czechoslovakia or an officer of the National Security Corps engaged in the Department for political education and educational, cultural and propaganda activity of the federal ministry of the interior.

Exceptions

In justified cases the minister of defense of the Czech and Slovak Federative Republic, the minister of the interior of the Czech and Slovak Federative Republic, the director of the Federal Security Information Service and the director of the Federal Police Force may **exempt the condition if its implementation would affect important security interests of the state and the aim of this law is not challenged.**

Objects of lustration

The law determines conditions of service for **public posts filled by election, nomination or appointment:**

- in bodies of the **state administration** of the Czech and Slovak Federative Republic, the Czech Republic and the Slovak Republic,
- in the **Czechoslovak army and in the federal ministry of defense are understood to mean posts leading to the rank of colonel and general, and the posts of military attaches,**
- in the **Federal Security Information Service, Federal Police Force, the Castle Police Guards,**
- in the Czech and Slovak Federative Republic **President's Office**, the **Federal Parliament Office**, the Czech National Council Office, or the Slovak National Council Office, in a Czech and Slovak Federative Republic government department, Czech Republic government department, or Slovak Republic government department,

- the **Office of the Constitutional Court** of the Czech and Slovak Federative Republic, Office of the Constitutional Court of the Czech Republic, Office of the Constitutional Court of the Slovak Republic, **Office of the Supreme Court** of the Czech and Slovak Federative Republic, Office of the Supreme Court of the Czech Republic and Office of the Supreme Court of the Slovak Republic, in the presidium of the Czechoslovak **Academy of Science** and in the board of the Slovak Academy of Science,

- in the **Czechoslovak Radio, Czech Radio, Slovak Radio, Czechoslovak Television, Czech Television, Slovak Television; Czechoslovak Press Agency (CTK), Czechoslovak Press Agency of the Czech Republic and Czechoslovak Press Agency of the Slovak Republic,**

- in **state firms, state organizations, share-holding companies in which the largest shareholder is the state, foreign trade companies, the state organization the Czechoslovak State Railways, state funds, state financial institutions and the Czechoslovak State Bank,**

It applies to: head of an organization and employees in charge of the direct running of its operation. In colleges these posts are likewise understood to mean the posts of elected academic officials and posts approved by the academic senate.

This law also determines some further conditions of service for the posts of judge, associate judge, prosecutor, investigator of the prosecution, state notary, state arbiter, and for persons serving as judicial pretender, legal pretender of the prosecution, notarial pretender and arbitration pretender.

Procedures of lustration

Before the election, nomination or appointment to public post specified by the law, the citizen had to present “negative lustration certificate” issued by the Ministry of the Interior and affidavit declaring the person didn’t belong to other groups specified by the law.

Each case was investigated by the Ministry of Interior, Military intelligence and Czech counterintelligence office.

Since 2008 the newly established Security Services Archive took over the task as all the archival materials of communist repressive forces are housed in the archive. The archive searches for and prepares all the sources for the Ministry of Interior which issues the certificates.

In case of the “positive” lustration the person was **not allowed to accept the public** office and the person’s superior was required to **terminate his or her employment, or to transfer him to a lower position** which was not subjected to lustration law within 15 days after the certificate reached the institution.

Any person could object to the termination of his or her employment at a second-level regional court and could accordingly appeal the decision at the High Court. Further guarantees were provided by existing laws; according to the Supreme Court, the truthfulness of the certificate issued by the Ministry could be challenged on the basis of civil procedures. Moreover, additional legal protections in this area were guaranteed by the civil code. (Person could submit a constitutional complaint if his or her rights were challenged).

The publication of a lustration certificate is impermissible without the written consent of the person.

Lustration findings 1991 - 2014

Law No. 451/1991 Sb.			Law No. 279/1992 Sb.		
Total	Positive	Negative	Total	Positive	Negative
463 552	10 136	453 416	24 460	475	23 985

Mistakes made and lessons learned

Publication of unofficial list of collaborators of the State Security Service by a political activist Petr Cibulka in 1992.

Dismissal of Bedřich Moldan from the office of the Minister of the environment.

- Prominent figures of the previous regimes Gen. Miroslav Vacek, Marián Čalfa as key figures of the power transfer.
- The case of Czech tycoon/Finance Minister Andrej Babiš.

Used literature, further readings:

- The main lustration law in Czechoslovakia

(Act No. 451/1991 Coll.)

- David, Roman: Twenty Years of Transitional Justice in the Czech lands, 2012
- Kunicová, Jana: Coming To Terms With the Past: Strategic Institutional Choice in Post-Communist Europe, 2006
- Žáček, Pavel: Lustration laws in the Czech Republic: The application of Act No. 451/1991 Coll. and Act No. 279/1992 Coll.), 2009.