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ACT

Of 20 July 2011

On the participants in anti-communist opposition and resistance**PREAMBLE**

The Parliament of the Czech Republic,
Led by the intention to show respect and gratitude to the women and men who actively defended the values of freedom and democracy, risking their lives, personal freedom and property during the period of the totalitarian communist power;

Determined to constantly commemorate the ideals of patriotism, honour, courage and self-sacrifice to the future generations;

Is voicing its profound sorrow over the innocent victims of the communist regime's terror;

And referring to the principles that it embedded in the Act on Illegality of the Communist Regime and on Resistance against It;

Has resolved to enact the present Act of the Czech Republic:

CHAPTER ONE**PARTICIPANTS IN ANTI-COMMUNIST OPPOSITION AND RESISTANCE****Section 1****Subject matter**

This Act defines the anti-communist opposition and resistance, stipulates the terms and conditions for the issuance of a certificate of a participant in anti-communist opposition and resistance, provides for rehabilitation, and defines certain tasks for the Ministry of Defence (hereinafter referred to as the "Ministry").

Section 2**Definition of terms**

For the purposes of this act,

a) The time of non-freedom means the period of Czechoslovak history from 25 February 1948 to 17 November 1989;

b) Anti-communist opposition and resistance means the involvement in actions directed against the communist regime in Czechoslovakia, shown individually or in groups on the basis of political, religious, or moral democratic convictions, or conscious and public shows of such resistance in the country and abroad, including in connection with a foreign democratic power, in some of the forms specified in Section 3, with the goal to eliminate, weaken or disturb significantly, or otherwise damage the communist totalitarian power in Czechoslovakia and to restore freedom and democracy;

c) Citizen means a person who, during the time of non-freedom, was a national of the Czechoslovak Socialist Republic or its legal predecessors (hereinafter referred to as the "Czechoslovak nationality"), as well as a person who was deprived of their Czechoslovak nationality by decision of the state authorities during the time of non-freedom.

Section 3**Forms of anti-communist opposition and resistance**

(1) Forms of anti-communist opposition and resistance are understood to include armed or other equal action against the communist regime in Czechoslovakia, sabotages, co-operation with international intelligence services of democratic countries, and trafficking people or crossing state borders for the purposes of involvement in anti-communist opposition and resistance (the pedestrian agents). The anti-communist opposition and resistance is also understood to include acts comparable to the above and other acts of courage or taking a courageous public stand in support of armed action against the communist regime in Czechoslovakia.

(2) Forms of anti-communist opposition and resistance are also understood to include continuous or long-lasting or otherwise significant activity consisting in the:

- a) Authorship of petitions or similar documents or public statements aimed directly or indirectly at restoring freedom and democracy or at weakening the communist regime and/or at providing the printing or distribution of the above;
- b) Organisation of public actions against the communist regime; pursuit of a political, journalistic or other demonstrably anti-communist activity focused directly or indirectly on restoring freedom and democracy or on weakening the communist regime, or
- c) Pursuit of a political, journalistic or other demonstrably anti-communist activity abroad, focusing directly or indirectly on restoring freedom and democracy or on weakening the communist regime.

(3) Forms of anti-communist opposition and resistance are also understood to include active involvement in an organisation or group whose members fought the communist regime in the manners specified in this provision.

(4) Forms of anti-communist opposition and resistance are also understood to include the taking of such public political and social stands, taken actively and of one's free will, which opposed the rise and duration of the communist totalitarian power, provided that their proponent was imprisoned, interned or their personal freedom was otherwise curtailed, or such person was forcibly evicted from their place of residence, or otherwise seriously affected.

(5) Forms of anti-communist opposition and resistance are also understood to include activities of importance comparable to that of the forms of anti-communist opposition and resistance specified in the previous sub-sections, pursued prior to the time of non-freedom, provided that their goal was to prevent the installation of the communist regime and preserve freedom and democracy in Czechoslovakia, unless such goal was attainable otherwise, and associated with a similar risk.

Section 4

Impediments to recognising the status of a participant in anti-communist opposition and resistance

(1) A citizen is not recognised as a participant in anti-communist opposition and resistance if he or she, during the time of non-freedom:

- a) Was a member or employee of security forces¹, except for basic or substitute active military service;
- b) Was on record in the documents of security forces as their collaborator or secret collaborator, and/or was a member of the Assistant Guards of the Police, an assistant of the Border Guards, or an informer to the intelligence apparatus of the Communist Party of Czechoslovakia, and/or otherwise collaborated with the security forces or the Communist Party of Czechoslovakia in a similar manner;
- c) Was a member or candidate member of the Communist Party of Czechoslovakia or the Communist Party of Slovakia;
- d) Was a member of the People's Militias;
- e) Was an individual member of the Union for Czechoslovak-Soviet Friendship after 21 August 1968, except for those who exited the Union for Czechoslovak-Soviet Friendship shortly after 21 August 1968,
- f) Was a member of the National Front Action Committee after 25 February 1948, of the trial committees after 25 February 1948, or

¹ Section 2 c) of Act No. 181/2007 Coll., on the Institute for the Study of Totalitarian Regimes and the Security Services Archive, and on amending certain acts.

- of the trial and normalisation committees after 21 August 1968;
- g) Was a student or a graduate of a political, security, or military university and/or of similar training in countries that were the high parties to the Warsaw Pact², and/or a fellow and/or participant in courses exceeding 3 months at such schools;
 - h) Was a member or collaborator of a foreign country's intelligence service at a time when a communist regime or a regime similar to a communist regime was in rule in such state; or
 - i) Was otherwise voluntarily, consciously and actively significantly involved in the building, development, and strengthening of the communist totalitarian power in Czechoslovakia.

(2) The impediment as per sub-section 1 shall not be taken into consideration if the citizen was seconded into the forces and organisations stated above, or became a member thereof for the purpose of combating the communist regime.

(3) A citizen specified in sub-section 1 shall be recognised as participant in anti-communist opposition and resistance, provided that the intensity, scope or duration of their involvement in the anti-communist opposition and resistance manifestly exceeded their involvement in the building, development, and strengthening of the communist totalitarian power. The status of a participant in anti-communist opposition and resistance shall also be recognised for a citizen specified in sub-section 1 who, risking their life, completed an exceptionally worthy feat as part of the anti-communist opposition and resistance.

(4) A citizen shall not be considered a participant in the anti-communist opposition and resistance if their involvement in the anti-communist opposition and resistance was led by condemnable motivation and/or who, during such an activity, acted in a condemnable manner leading towards the denial of the values of freedom and democracy, or acted in an especially condemnable manner leading towards the denial of individual principal human rights while such actions could be avoidable as part of acting against the communist regime in Czechoslovakia. Furthermore, a citizen

² The Treaty Organization of Friendship, Cooperation, and Mutual Assistance between the People's Republic of Albania, People's Republic of Bulgaria, People's Republic of Hungary, German Democratic Republic, People's Republic of Poland, People's Republic of Romania, the Union of Soviet Socialist Republics, and the Czechoslovak Republic, concluded in Warsaw on 14 May 1955 and published under No. 45/1955 Coll.

shall not be deemed to have been a participant in anti-communist opposition and resistance if their actions were led by the motivation of installing a regime that would trample the values of freedom and democracy similarly as the communist regime did.

Section 5

The status of a war veteran

The status of a war veteran under the Act on War Veterans shall be recognised in respect of a participant in anti-communist opposition and resistance who is a Czech Republic national and was involved in anti-communist opposition and resistance in the form specified in Section 3(1).

Section 6

Certificate

(1) The Ministry issues the certificate of a participant in anti-communist opposition and resistance upon a citizen's application. In addition to the general requirements for an application, the application shall include documents evidencing the meeting of the conditions for the issuance of the certificate and, if the applicant holds it, also a proof of the Czechoslovak nationality or a proof of having been deprived of it.

(2) If a person entitled to submit the application as per sub-section 1 has died or has been pronounced dead, the application for the certificate of a participant in anti-communist opposition and resistance may be submitted by their spouse, parent, child, an other direct relative or sibling, or a civic association or another legal entity whose business is the exploration of history, archiving, education, training, or human rights protection, and/or a civic association gathering the participants in anti-nazi resistance or anti-communist opposition and resistance or former political prisoners. In addition to the requirements specified in sub-section 1 regarding the applicant and the person for whom the issuance of the certificate is sought, the applicant shall include the information on the applicant's relation to the person for whom the issuance of the certificate is sought, if the application is submitted by a spouse, parent, child, other direct relative or sibling, and it shall always include the date and place of the person's death.

(3) The Ministry shall obtain an expert opinion from the Security Services Archive and the Institute for the Study of Totalitarian Regimes and other scholarly institutions, if appropriate with regard to the application submitted as per sub-section 1 or 2. If the conditions for the issuance of the certificate of a participant in anti-communist opposition and resistance are met, the Ministry will issue the certificate of a participant in anti-communist opposition and resistance. If the above conditions

are not met, the Ministry will issue a decision on not issuing the certificate. If the person for whom the certificate of a participant in anti-communist opposition and resistance is to be issued pursuant to the second sentence meets the conditions of Section 5, such person shall also be recognised as a war veteran in the certificate; the person who is thus recognised as a war veteran enjoys the rights that pertain to war veterans under the Act on War Veterans, and where certain rights under the Act on War Veterans apply to war veterans' spouses or partners, such rights will also apply to the spouse or the partner of that person who was recognised as a war veteran pursuant to the present Act.

(4) If the application under Section 2 is submitted after the Ministry has already issued a certificate of a participant in anti-communist opposition and resistance based on another application under Section 1 or 2 with regard to the same person, the Ministry shall defer the application and send an original copy of the certificate to the applicant.

(5) The certificate of a participant in anti-communist opposition and resistance include the given name or names, surname, degree if applicable, date and place of birth, the information on the form or forms and the description of their anti-communist opposition and resistance actions, and also the stamp, date, and signature of an authorised official; where the status of a war veteran pursuant to the present Act has been recognised, the certificate of a participant in anti-communist opposition and resistance shall also indicate this.

(6) If it becomes apparent that the conditions for the issuance of the certificate of a participant in anti-communist opposition and resistance have not been met, the Ministry shall issue a decision on cancelling the certificate and inform the Czech Social Security Administration accordingly.

(7) The Ministry will pay a one-off monetary allowance of CZK 100,000 to a living participant in anti-communist opposition and resistance who is a Czech Republic national within 30 days from the day of issuance of the certificate of a participant in anti-communist opposition and resistance; such one-off monetary allowance is not subject to personal income tax. If a participant in anti-communist opposition and resistance who is a Czech Republic national dies after the day of issuance of the certificate of a participant in anti-communist opposition and resistance or loses the Czech citizenship after such day and the one-off monetary allowance has not been paid in accordance with the first sentence, then the right of the participant in anti-communist opposition and

resistance to receive such monetary allowance ceases to exist and the allowance will not be paid. The Ministry will pay a person, who was the spouse of a participant in anti-communist opposition and resistance who has died or has been pronounced dead and has not been paid the one-off monetary allowance under the first sentence, at least for a part of the period when such participant was involved in anti-communist opposition and resistance, in respect of which they received the certificate of a participant in anti-communist opposition and resistance, a one-off monetary allowance of CZK 50,000 upon that person's request within 30 days after the submission of that person's application; such one-off monetary allowance is not subject to personal income tax. The one-off monetary allowance will not be paid to the person specified in the third sentence if that person acted in a condemnable manner vis-à-vis their spouse who was a participant in anti-communist opposition and resistance, in particular by collaborating with security forces. If the person specified in the third sentence dies after the day when they submitted the application as per the third sentence and the one-off monetary allowance has not been paid in accordance with the third sentence, that person's right to such one-off monetary allowance ceases to exist and the allowance will not be paid.

Section 7

Ethics Committee of the Czech Republic for the Appreciation of the Participants in Anti-communist Opposition and Resistance

(1) The Ethics Committee of the Czech Republic for the Appreciation of the Participants in Anti-communist Opposition and Resistance (hereinafter referred to as the "Committee") is established. The Committee rules on appeals of the Ministry's decisions under Section 6(3) and (6).

(2) The Committee has nine members; the Chamber of the Deputies, the Senate, the Government, and the Council of the Institute for the Study of Totalitarian Regimes each elect and recall two members; the President of the Czech Republic appoints and recalls one member. The Committee elects and recalls its chairperson from among the members elected by the Government.

(3) A natural person capable of legal acts that is reliable and of integrity may be elected a member of the Committee.

(4) The Committee members are elected for a term of office of five years. No one may be elected for more than two times consecutively.

(5) Committee membership is a public office³. The term of office of a Committee member is five years.

(6) The chairperson convenes and directs the sessions of the Committee. The Committee's resolutions require the approval of an absolute majority of all of its members to be valid. The committee adopts its rules of procedure wherein it defines the detailed rules for its deliberations.

(7) The Committee co-operates with the Institute for the Study of Totalitarian Regimes and Security Services Archive, which furnish the required documents and information to it upon request.

Section 8 Pensions

(1) The participants in anti-communist opposition and resistance issued with the certificate who receive an old age or disability pension under the Czech pension insurance system, and a widow or widower receiving the widow or widower pension under the Czech pension insurance system after a participant in anti-communist opposition and resistance who was issued with the certificate, are entitled for their amount of the percentage pension assessment to be set at least in the amount specified in sub-section 3.

(2) The basis for determining the amount of the percentage pension assessment due to the persons specified in sub-section 1 is the percentage assessment from the average old age pension determined for the purposes of pension increase as from January 2012⁴. The basis for determining the amount of the percentage pension assessment applicable from the day following 31 December 2011 is the amount determined pursuant to the first sentence and increased in accordance with the regulations on pension increase, which take effect until the day from which the pension is assessed.

- (3) The lowest percentage assessment
- a) of old age pension assessed under Section 29 of the act on pension insurance⁵ or under similar provisions of preceding regulations, and of third degree disability pension is the amount determined under sub-section 2;
 - b) of second degree disability pension, and of widow and widower pension amounts to one half of the amount determined under sub-section 2;

³ Section 201 of the Labour Code

⁴ Section 67 of Act No. 155/1995 Coll., on pension insurance, as amended

⁵ Act No. 155/1995 Coll., on pension insurance, as amended

- c) of first degree disability amounts to one-third of the amount determined under sub-section 2;
- d) of old age pension assessed under Section 31 of the act on pension insurance, determined under sub-section 2, is reduced by CZK 275 for each commenced period of 90 days for which the percentage assessment was reduced for the last time;

The provisions of Section 54(3) and Section 61(1) of the act on pension insurance⁵⁾ apply mutatis mutandis, and the provision of Section 59(1) of the pension insurance act⁵⁾ applies with the provision that in the event of pension concurrence, the pension amounts are not reassessed if the concurrence occurred prior to the day from which the pension in the lowest percentage assessment under this Act is due.

(4) Applications for pension adjustments are to be filed with the social security authority that pays the pension to the entitled beneficiary, and shall be accompanied by a certified duplicate or certified copy of the certificate under Section 6; if the pension beneficiary receives the pension from the Czech Social Security Administration, the application may be filed or executed at the district social security administration office relevant for the applicant's place of residence. If the entitlement to the pension came into existence prior to 17 November 2011, the pension in the amount as per sub-section 3 is due from the pension payment that is payable in December 2011. If the entitlement to the pension comes into existence after 16 November 2011, the pension in the amount as per sub-section 3 is due from the day it has been assessed, but no sooner than the pension payment payable in December 2011. The pension amount shall be adjusted pursuant to sub-section 3 no later than upon the payment in April 2012 if the application is filed by 31 December 2011; otherwise, within 3 months of filing.

Section 9 Records

The Ministry keeps records on the persons to whom the certificate of a participant in anti-communist opposition and resistance has been issued; the records contain an original copy of the written letter of certificate under Section 6(3) or the original copy of the written notice on the cancellation of the certificate, as applicable. The Ministry publishes the given name or names, surname, degree if applicable, date, and place of birth of the persons issued with the certificate of a participant in anti-communist opposition and resistance in a manner enabling remote access.

Section 10

Commemorative badge

(1) Along with the certificate of a participant in anti-communist opposition and resistance, the Ministry also bestows commemorative badges; the commemorative badge is a commemorative badge of a participant in anti-communist opposition and resistance and a commemorative badge for the survivor of a participant in anti-communist opposition and resistance. The commemorative badge of a participant in anti-communist opposition and resistance is only bestowed on living participants in anti-communist opposition and resistance. The commemorative badge for the survivor of a participant in anti-communist opposition and resistance is bestowed upon the relative of the participant in anti-communist opposition and resistance who submitted the application as per Section 6(2).

(2) The Ministry shall define the design of the commemorative badge of a participant in anti-communist opposition and resistance and a commemorative badge for the survivor of a participant in anti-communist opposition and resistance and the rules for wearing the badges in a regulation.

(3) If the Ministry cancels the certificate of a participant in anti-communist opposition and resistance, the person who received the commemorative badge or the person that holds it is shall return the badge to the Ministry.

Section 11 Rehabilitation

Upon proposal, a court shall abolish the conviction for a crime not subject to rehabilitation under Act No. 119/1990 Coll., on judicial rehabilitation, as amended, and/or rehabilitation under Section 6 of Act No. 198/1993 Coll., Act on Illegality of the Communist Regime and on Resistance against It, if it is determined during the proceedings that the convict's actions were led by the intention to weaken or disturb or otherwise damage the communist totalitarian power in Czechoslovakia, or to create the means for this. The proposal may be filed within 5 years of the effective date of this Act. For the purposes of such proceedings and the subsequent indemnification, the provisions of Section 4 et seq. of Act No. 119/1990 Coll., on judicial rehabilitation, shall apply reasonably. The compensation shall be paid in cash. This provision does not apply to crimes committed with vulgar or dishonest motivation.

CHAPTER TWO Amendment of Act on Administrative Charges

Section 12

Appendix to Act No. 634/2004 Coll., on administrative charges, as amended by Act No. 217/2005 Coll., Act No. 228/2005 Coll., Act No. 361/2005 Coll., Act No. 444/2005 Coll., Act No. 545/2005 Coll., Act No. 553/2005 Coll., Act No. 48/2006 Coll., Act No. 56//2006 Coll., Act No. 57/2006 Coll., Act No. 81/2006 Coll., Act No. 109/2006 Coll., Act No. 112/2006 Coll., Act No. 130/2006 Coll., Act No. 136/2006 Coll., Act No. 138//2006 Coll., Act No. 161/2006 Coll., Act No. 179/2006 Coll., Act No. 186/2006 Coll., Act No. 215/2006 Coll., Act No. 226/2006 Coll., Act No. 227/2006 Coll., Act No. 235/2006 Coll., Act No. 312/2006 Coll., Act No. 575//2006 Coll., Act No. 106/2007 Coll., Act No. 261/2007 Coll., Act No. 269/2007 Coll., Act No. 374/2007 Coll., Act No. 379/2007 Coll., Act No. 38/2008 Coll., Act No. 130/2008 Coll., Act No. 140/2008 Coll., Act No. 182//2008 Coll., Act No. 189/2008 Coll., Act No. 230/2008 Coll., Act No. 239/2008 Coll., Act No. 254/2008 Coll., Act No. 296/2008 Coll., Act No. 297/2008 Coll., Act No. 301/2008 Coll., Act No. 309/2008 Coll., Act No. 312//2008 Coll., Act No. 382/2008 Coll., Act No. 9/2009 Coll., Act No. 41/2009 Coll., Act No. 141/2009 Coll., Act No. 197/2009 Coll., Act No. 206/2009 Coll., Act No. 227//2009 Coll., Act No. 281/2009 Coll., Act No. 291/2009 Coll., Act No. 301/2009 Coll., Act No. 346/2009 Coll., Act No. 420/2009 Coll., Act No. 132/2010 Coll., Act No. 148/2010 Coll., Act No. 153/2010 Coll., Act No. 160//2010 Coll., Act No. 343/2010 Coll., Act No. 427/2010 Coll., Act No. 30/2011 Coll., Act No. 105/2011 Coll., Act No.

133/2011 Coll., Act No. 134/2011 Coll., and Act No. 152/2011 Coll., is amended as follows:

1. Chapter I, Item 3 in the Liberation text, Indent 3: The words “and to” are replaced with the word “to”; the full stop at the end of Indent 3 text is replaced with a comma, and the words “and to implement Act No. 262/2011 Coll., on participants in anti-communist opposition and resistance.” are added.

2. Chapter I, Item 4 in the Liberation text, Indent 1: The words “and to” are replaced with the word “to”; the full stop at the end of Indent 1 text is replaced with a comma, and the words “and to implement Act No. 262/2011 Coll., on participants in anti-communist opposition and resistance.” are added.

3. Chapter I, Item 5 in the Liberation text, Indent 1: The words “and to” are replaced with the word “to”; the full stop at the end of Indent 1 text is replaced with a comma, and the words “and to implement Act No. 262/2011 Coll., on participants in anti-communist opposition and resistance.” are added.

CHAPTER THREE EFFECT

Section 13

The present Act takes effect on 17 November 2011.

Němcová m. p.
Klaus m. p.
Nečas m. p.