



## Actor power in the restitution processes of forests in three European countries in transition

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### ABSTRACT

The political and economic transformations that have taken place since the early nineties in the former socialist countries in Europe have significantly influenced reforms of their forestry institutions. As part of these reforms, restitution processes were initiated with the aim of recognising private ownership of forests and returning forests to their former owners or heirs. Using institutional and actor perspectives, this paper analyses the power relations of the key actors in the restitution processes in three European countries: the Czech Republic, Slovakia and Serbia. The methodological approach combines multiple research methods: document analysis and a literature review to explain the restitution processes, and semi-structured in-depth interviews for analysing the actors' power in this process.

The results show that actors' power in the analysed restitution processes varied greatly between actor types and in different phases in the processes. In the initial phase, considerable power was wielded by the public, which demanded change, and by the policy makers, who enabled the necessary legislative changes. As the processes advanced, the power shifted to liable entities who administered the restitution processes. The analysed countries followed different pathways and had varying dynamics throughout their restitution processes due to their diverse historical and political legacies but the power of the respective types of responsible actors did not vary much between analysed countries. While the cases of the Czech Republic and Slovakia are relatively similar, Serbia proves to be different in terms of initial drivers as well as the phases and speed of the process. In the Czech Republic and Slovakia, the result of restitution has been the creation of a large number of small-scale private forest owners, while in Serbia property was given back principally to the church, a large-scale forest owner. These owner categories (small-scale private forest owners and church) were formally recognised as new in all three countries but their specific interests were not adequately translated to existing policy and management documents. The state forestry administration in each country has retained power in the field by continuing its supervisory and regulatory role in forest management. Even though the restitution processes are coming to an end in all analysed post-socialist countries, it can be noted that private forest owners are still under strong state supervision when it comes to forest management rights.

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## 1. Introduction

### 1.1. Background on restitution process in CEE and SEE countries

Since the 1990s, the post-socialist countries in Central-East (CEE) and South-East (SEE) Europe have faced challenging transition processes (Weiland, 2010). The process of political and economic reforms during transition has significantly influenced virtually all aspects of life in these countries, with forestry being no exception (PROFOR, 2005). Significant changes occurred due to the restitution of forest land (Bouriaud and Schmithusen, 2005). Restitution processes were initiated almost in all the former socialist countries with the aim of recognising and securing property rights as part of the harmonisation process with European Union (EU) heritage and in support of human right in all EU states. Changes in property rights were especially important in Eastern Europe in the post-Soviet era and continue to be so today since they represent “the foundation of how and why economies function” (Fisher and Jaffe, 2000, p. 233; Nichiforel et al., 2018).

Restitution is identified as one of the main processes that influenced significant changes in the forest ownership structure in Europe (UNECE, 2019, forthcoming). For the forestry sectors of CEE and SEE countries, it was one of the major challenges faced in the last three decades (Bouriaud and Schmithusen, 2005; Lidestav et al., 2019; forthcoming), because it brought many changes to national forest policies and regulations (Bouriaud and Schmithusen, 2005; Weiland, 2010), and was accompanied by harmonisation processes with international rules and regulations, primarily in the field of agriculture (Grešlová Kušková, 2013) and nature conservation (Csaki and Lerman, 1997; Ho and Spoor, 2006; Hartvigsen, 2014; Prazan et al., 2005).

Initially, changes to the forestry system through economic liberalisation and democratisation was intended to lead to the alleviation of sustainability and environmental problems as well as greatly assist in the modernisation of the forestry sector, making it more adaptable to future challenges and market needs (Solberg and Rykowski, 2000; Bouriaud and Schmithusen, 2005). However, the transition processes presented great challenges to the countries that had for a long time been dominated by top-down forest planning and management while also revealing inadequacies within existing forest related institutions (Živojinović et al., 2017; Živojinović et al., 2015).

The inclusion of land rights into the global development agenda, adopted within sustainable development goals (SDGs) in September 2015, marks a new era in this regard. Land rights feature in the SDGs 1, 2 and 5, which emphasise that the relationship of people (in the case of restitution – former forest owners) to land (in this case forest land) cannot be ignored if the aim is to achieve long-lasting beneficial change (Taylor, 2016). This highlights the importance of the restitution processes under consideration because it aims to re-establish and ensure land rights for the former owners.

The restitution processes are still ongoing in many countries of CEE and SEE and have thus far resulted in significant changes in the forest ownership structures in these parts of the continent. In some countries this process has seen the share of forests in the hands of private owners go from 0 to > 40–50% (Lithuania, Romania, etc.), while in other states this change has not been as significant in terms of the forested areas transferred to private owners (Serbia, Croatia, etc.) (Živojinović et al., 2015). Irrespective of the scales involved, in all these countries this rise of new private forest owners has proven challenging for forest management, primarily because many of those new owners have small, fragmented properties and do not have adequate knowledge and skill to effectively manage their newly acquired resources. Another issue that has come to the fore is conflict resulting from unclear or disputed forest ownership (especially in the Czech Republic, Romania.) (Živojinović et al., 2015; Lidestav et al., 2020). In Serbia (Nonić et al., 2015) and Croatia (Krajter Ostoić et al., 2015) not all private property was nationalised, therefore the scale of returned land was not as high as in other previously mentioned countries. However, the restitution

processes in these two Western Balkan countries have nevertheless led to the presence and active involvement of private owners (monastic orders and the church, private individuals etc.). It is important to emphasise that transitional changes have had impacts on all stakeholders in the forestry sector, i.e. owners, companies, professionals and policy makers (Ilavský, 2006). Restitution has had positive effects, especially concerning many aspects of national forest policy and governance processes (Jarský et al., 2018) as it has resulted in the establishment of various forest owners' associations which play a significant role in the formulation of such policy and management (Hrib et al., 2018; Kozová et al., 2018). These changes have had significant knock-on impacts for public administration and shared responsibilities (Nonić, 2004). However, as Schwartz (2006) and Sarvašová et al. (2013) point out restitution has not always been beneficial, for example from a conservation point of view.

### 1.2. Privatisation and restitution processes

One result of the major political and social changes in CEE and SEE has been an increased interest in privatisation in the forestry sector over the last three decades, something that has been described in a number of publications and papers published since 1990 (Lipton et al., 1990; Hanzl and Urban, 2001; Jager and Szepesi, 2002; Viitamo and Bilas, 2002; Ioras and Abrudan, 2006; Ilavský, 2006; Lawrence, 2009; Živojinović et al., 2017).

Privatisation is a key and integral part of any transformation process that moves an economy from a planned to a free market system. It is used as an important restructuring tool (Cook et al., 1998; p. 3) to reduce the overbearing role of the public sector and increases the size of the more entrepreneurial oriented private sector. In essence, as Harvie and Lee (2002) so succinctly put it, privatisation is a divestiture of state ownership to develop the private sector. Similarly, Lerman (2001) argues that private ownership, especially of agricultural land, is the accepted norm in market economies.

Ilavský (2006) states that any privatisation process must be linked to the political, social, historical and economic situation in a certain country and that the process of forest sector reform to be more market orientated does not always necessitate the privatisation of forests and forest land as such areas can remain public (state, municipal) even after a decentralisation process. In fact, in many ESEE countries the major distinction is not made between public and private ownership but rather between state and non-state ownership, the latter including private, church, common and municipal ownership (Weiss et al., 2019).

A key decision to be made by a government undertaking a programme of privatisation is on the method of transferring the state-owned asset to the private sector. This decision is difficult because, in addition to the economic factors such as valuing these assets, privatisation is generally a part of an ongoing and highly politicised process (Megginson and Netter, 2001). Privatisation in the broader sense includes as one of its key activities the restitution of property to former owners. The restitution of forest land considered here in CEE and SEE took different forms, at different times using several varied steps, which at times did not include all types of owners or property (Weiss et al., 2011). The changes to the structure of property ownership in CEE and SEE countries also included the privatisation of state forests, through vouchers in some countries (as was common for instance in the Baltic States), but occurred principally via the restitution of forest to the former owners. With the noticeable exception of Poland (Lawrence, 2009), restitution occurred in all European countries transiting from planned to market economies (Bouriaud and Schmithusen, 2005; Živojinović et al., 2015): i.e. Romania, Bulgaria, Hungary, the Czech Republic, Slovakia, Estonia, Latvia, Lithuania, Slovenia, Serbia, Croatia, Albania, and the former German Democratic Republic. However, the restitution of forests in these countries had very diverse goals and, as previously mentioned, was implemented by diverse means.

### 1.3. Institutional and actor-centred perspectives

Restitution is perceived as one of the biggest institutional reforms in countries transitioning to market economies. Therefore institutional theories present an appropriate theoretical framework to explain the changes when researching a country's institutional contexts (Schlager and Ostrom, 1992; Scott, 2010) and are viewed as one of the most promising and progressive scientific research approaches in forest policy analysis. (Arts, 2012; Böcher, 2012; Sotirov and Memmler, 2012). Since Ostrom's (1990) response to Hardin's (1968) "tragedy of the commons," questions about institutions and natural resources management have been heavily intertwined and studied (Agrawal, 2001; Agrawal and Ostrom, 2001; Briassoulis, 2005; Schlüter, 2007; Bartley et al., 2008).

Four different branches of neoinstitutionalism can be distinguished (Hall and Taylor, 1996; Schmidt, 2005, 2008), these are: a) *rational choice institutionalism*, (North, 1990) which analyses how rational actors are constrained by the rules of the game in their ranking of alternative options; b) *historical institutionalism* or path dependence (Pierson, 2000), which puts emphasis on the historical evolution and stability of institutions or how the legacies of past policies condition the present and an expectation that institutional complementarity raises the likelihood of effective policy implementation (Bartley et al., 2008); c) *sociological institutionalism*, (Powell and DiMaggio, 1991) which emphasises the role of culture where rules are symbolically important "scripts" and "models" of appropriate action (Bartley et al., 2008) and finally; d) *discursive institutionalism* (Schmidt, 2008), which analyses the role of ideas and narratives in institutional change. All share a commitment to understanding the sources and consequences of institutions, defined as relatively stable sets of rules (formal or informal) that prescribe and proscribe particular courses of action, although their particular conceptions of institutions and their analytical foci vary. Today, most neoinstitutionalists try to find a balance between actor and structure in seeking to answer the question of whether historical, social and political outcomes are the result of the intentions, motivations and behaviour of actors, or whether these are shaped by the social structures of societies, such as political institutions, power hierarchies and cultural conventions (Arts, 2012).

When analysing the role of actors and their interactions in policy processes, actor-centred theories (Mayntz and Scharpf, 1995; Scharpf, 2000) present a reliable empirically applicable basis that can be combined and complemented by other theories (Weber, 2012). Actors here are defined as any "acting entity that is involved in the formulation and implementation of a policy" (Schneider, 2003, p. 192). When new actors emerge on the sectoral policy stage they can bring new resources into the arena or they may try to change established rules or the political discourse (Healey, 1997; Ostrom, 1999; Schlüter, 2007). Actor-centred approaches focus on interactions between actors in a specific institutional setting which is characterised by rules, norms, institutions, legal and political culture (Scharpf, 2000). Actors are often members of different networks or groupings operating in an environment shaped by power relations and structures whose creation they cannot influence but where they can nevertheless create interactions of varying power and outreach (Briassoulis, 2005, p. 51).

Institutionalism puts the accent on rules, resources, interests and structure (Arts, 2012) rather than on the power of actors to influence policy processes. It is believed that the actor-structure dimension is still a valid axis on the basis of which different theories and models can be positioned. There is on-going debate among policy scientists about the inclusion of power relations into forest policy analysis (Arts and Tatenhove, 2004; Hassanag, 2004; Krott, 2005; Giessen et al., 2009), although policy analysis approaches regularly consider power as a central element, the power of actors is often dealt with in implicit ways and not as an explicit category. Krott et al. (2014) propose an explicit framework which is why we chose to apply this approach in our analysis as it focuses on the power resources of actors. The conceptual

framework for assessing actor-centred power (ACP) defines the term power as a "social relationship in which actor A alters the behaviour of actor B without recognising B's will" (Krott et al., 2014, p. 37). This can happen at all levels, concerns various interaction forms, forest management under the supervision of a public administration, receiving advice and extension service or paying for work (Krott et al., 2014) using three core elements; namely coercion, dis/incentives and information. Coercion here is defined as altering actors' behaviour by forcefully bringing pressure to bear. The proposed model looks chiefly at whose pressure prevails and describes the amount of dominance as power. No restriction on what constitutes one actor is given, and the term can also refer to an entity comprised of a network of actors (Krott et al., 2014, p. 38). Dis/incentives involve altering the behaviour of actors by means of presenting disadvantages or advantages without recognising their will. The actor-centred power theory assumes that within a power-free environment all actors would have free access to all resources (e.g. financial incentives). Limiting the resources of specific actors is a power process and without such limitations, the value decision of the actor will be different. Therefore, decisions are not only value-driven but power-driven as well (Krott et al., 2014, p. 37–38). Dominating the flow of information when used as a power process aims to "[alter] the behaviour of the subordinate by means of unverified information". If the subordinate does not verify the information received from the potentate and makes a decision based on this information the potentate will have altered the subordinate's behaviour without recognising its will (Krott et al., 2014, p. 38).

### 1.4. Aim of the paper

Current scientific knowledge on restitution process is descriptive. Studies usually focus only on administrative issues and present data on the area of returned land. This paper seeks to fill the research gap in scientific literature dealing with the restitution process by analysing the institutional setting, procedure of restitution and the role of actors involved. The main aim is to conduct a comparative in-depth analysis of the power relations between the actors involved in forestry restitution processes in the following countries: the Czech Republic, Serbia and Slovakia. We try to answer the research question how the power of actors involved in the restitution process has influenced the implementation.

First, an analysis of the institutional changes in the restitution processes is provided and related barriers are identified. Second, the power relations of the actors involved in the forestry restitution processes are examined, using the actor-centred power (ACP) framework as the key tool for analysis. Third, we evaluated the process and identified possible policy recommendations for other countries where the restitution process is still ongoing or is about to start.

## 2. Material and methods

This paper originates from the work in the COST Action FACES-MAP,<sup>1</sup> in which restitution was identified as one of the main processes which influenced forest ownership change in Europe (Živojinović et al., 2015; Lidestav et al., 2020; Weiss et al., 2019). This research aims to provide more in-depth insight into restitution processes, focusing our analysis on three countries in CEE and SEE, namely the Czech Republic (CZ), Slovakia (SK) and Serbia (RS). Using former communist countries where two are now EU member states and one which is an EU accession country is done to provide a more nuanced picture of European restitution processes. The EU political influence in transition countries are to be found in all those countries which joined the EU. While the transition in SEE has lagged behind that of Central Europe, the latter

<sup>1</sup> COST Action FP1201 FACESMAP (Forest Land Ownership Change in Europe: Significance for Management and Policy), [www.facesmap.boku.ac.at](http://www.facesmap.boku.ac.at).

**Table 1**  
Analysed policy documents and main literature sources per country.

	Czech Republic	Slovakia	Serbia
Legal acts	<p>Act no. 403/1990 of the Official Gazette on mitigating the consequences of some property injustices.</p> <p>Act no. 87/1991 of the Official Gazette on out of court rehabilitation.</p> <p>Act no. 229/1991 of the Official Gazette on the regulation of ownership rights to land and other agricultural property (Land Act)</p> <p>Act no. 212/2000 of the Official Gazette on mitigating the property injustices caused by the Holocaust.</p> <p>Act no. 172/1991 of the Official Gazette on the transfer of certain assets from the property of the Czech Republic to the ownership of municipalities.</p> <p>Act No. 428/2012 of the Official Gazette on property settlements with churches and religious societies.</p> <p>Resolution of the Government of the Czech Republic No. 168/1995 Official Gazette, on transfers of movable assets of former forest cooperatives to municipalities.</p> <p>Act No. 114/2000 Official Gazette, amending Act No. 172/1991 Coll., on the transfer of certain assets to the ownership of municipalities</p>	<p>Act No. 229/91 Official Gazette on the regulation of ownership rights to land and other agricultural property (Land Act). The law was changed by twelve amendments (last 549/2004 of the Official Gazette) and amended to mitigate the consequences of some of the property injustices that have occurred against owners of agricultural and forestry assets.</p> <p>Act No. 138/1991 of the Official Gazette, on municipal property, amended in 1992 due to the different interpretation of forest property that should be returned.</p> <p>Act No. 282/1993 Official Gazette to mitigate some property injustices caused by churches and religious societies.</p> <p>Act No. 503/2003 of the Official Gazette, on the return of land ownership rights</p>	<p>Law on the Restitution of Property to Churches and Religious Communities (Official Gazette, No. 46/2006)</p> <p>Law on Property Restitution and Compensation (Official Gazette, No. 72/2011, 108/2013, 142/2014 and 88/2015)</p>
Official documents	<p>Information on Forests and Forestry in the Czech Republic (annual)</p> <p>Kubačák and Jacko (2012)</p>	<p>Reports on the Forest Sector of the Slovak Republic (Green report) (annual)</p> <p>Report on the transformation of property and management rights to forest land (annual)</p>	/
SCI articles	<p>Kupčák (1998), Bičík and Jančák (2003), Kupčák (2005), Kupčák (2007), Bartůšková and Homolka (2009), Kušková (2013), Jarský et al. (2015), Jarský et al. (2018)</p>	<p>Ilavský (2001), Sarvašová and Tutka (2005), Šulek (2006), Ambrušová et al. (2015)</p>	<p>Pezdevšek Malovrh et al. (2017)</p>
Grey literature	<p>Řezáč (1999), Oliva (2004), Šimová, 2006, Jiráček (2011), Lasák (2012), Slavinger (2013), Zeman (2015)</p>	<p>Klacko (1993), Butor (1999), Hatlar (1994), Fischer (1995), Fischer, 1999, Scheimer and Hatlar (1999), Ilavský (2004), Vyhňálik (2004), Jablonovský (2010)</p>	<p>Agency for restitution (2016), Agency for restitution (2018), Petrović (2012), Nonić (2004), Nonić et al. (2011), Nonić et al. (2015), Weiss et al. (2011), Tykkä et al. (2010)</p>

provided the blueprint (Vachudova, 2005). Therefore, we choose two countries from CEE and one from SEE to illustrate the situation of property restitution in both European regions. The comparison of two similar CEE countries highlights how far development paths may diverge.

The methodological approach combines multiple research methods and is divided into two sections. The first part of the research is comprised of an extensive literature review (including grey literature) and content analysis of all relevant policy documents (Table 1), in order to identify the main actors involved in the restitution process, and to describe the process itself, its timeline, current status, as well as conflicts arising from it. This task was fulfilled by the authors of the paper, in close consultation with other experts in the field, where a snowball effect was used to collect a full set of nationally relevant documents and literature. A list of the analysed documents and literature is provided below in Table 1.

The second part of the research comprised of the collection of primary data by conducting 17 semi-structured in-depth interviews (6 in CZ, 5 in SK, and 6 in RS) with the main actors involved in the restitution process in forestry, following an interview guideline developed by the authors. The interviews were conducted by the authors with the interviewees from their respective countries in the period April–June 2016. Further details regarding these interviews are presented in Table 2.

Actors were chosen by a judgmental sampling procedure and were drawn from forest authorities (ministries), other relevant national ministries (e.g. economy), forest administrations (state forest service), private forest owners' associations, religious owners (churches), and the agencies for restitution to private companies. Interview respondents

were asked about their role in the restitution process, what goals they had and how far these were fulfilled, if they had to make compromises with other actors in the process, if they used any types of financial means that existed to support restitution, if the process incurred costs that restricted the fulfilment of their interest regarding restitution, if they had access to relevant information and with whom did they communicate (see specific questions in Appendix 1). To assess the power of each actor in the restitution process, a specific question was posed at the end of the interview (matrix provided in Appendix 1). Each actor was asked to assess the power elements of coercion, dis/incentives and information for the other actors in the process with + ('strong power in the process'), +/- ('neutral power in the process'), - ('weak power in the process') and to provide an assessment of their own power in the whole process related to the expected outcomes. The authors then summarised the power assessment made by the interviewees (results provided in Table 5). The expert knowledge of the authors was used to provide an overall picture on the restitution process, the role of actors and to put the answers of interviewees into context.

### 3. Results

#### 3.1. Overview of the restitution processes and actors

Based on the literature and document review (Table 1) and interviews (Table 2) we provide an overview of the main data related to forested areas and their ownership structure as well as the summarised data on the restitution processes in the analysed countries in Table 3.

In the former Czechoslovakia, profound political change in the

**Table 2**  
List of interviewees per country.

Expert	Country	Institution	Role in institution	Date of interview
E1CZ	Czech Republic	Ministry of Agriculture	Former deputy of Minister for Forest Management	10.06.2016
E2CZ	Czech Republic	State forest enterprise “Forests of the Czech Republic”	Director General	10.05.2016
E3CZ	Czech Republic	Large-scale forest owners	Representative	13.04.2016
E4CZ	Czech Republic	Small-scale forest owners	Representative	23.05.2016
E5CZ	Czech Republic	Association of Municipal Forests	Representative	19.04.2016
E6CZ	Czech Republic	Chamber of Deputies of the Parliament	Representative	6.06.2016
E1SK	Slovakia	Ministry of Agriculture and Rural Development	Former employee responsible for restitution	19.04.2016
E2SK	Slovakia	State forest enterprise “Forests Slovakia”	Former employee responsible for restitution	27.04.2016
E3SK	Slovakia	State forest administration	Head of the regional unit	11.05.2016
E4SK	Slovakia	Association of Private Forest Owners	Chief executive	26.05.2016
E5SK	Slovakia	National Assembly of Slovak Republic	Former Member of Parliament	02.06.2016
E1RS	Serbia	Ministry of Agriculture, Forestry and Water Management	Representative	19.04.2016
E2RS	Serbia	State forest enterprise “Serbian Forests”	Representative	23.05.2016
E3RS	Serbia	Right-wing party	Representative	02.06.2016
E4RS	Serbia	Left-wing party	Representative	02.06.2016
E5RS	Serbia	Orthodox church	Secretary for restitution process	13.04.2016
E6RS	Serbia	Agency for Restitution	Representative	11.05.2016

1990s and the transformation from a planned to a market economy brought up the issue of restitution as an important element in this transition process. The fundamental law targeting land restitution was adopted at the federal level in 1991 (Act no. 229/1991 of the Official Gazette, on modification of land and other agricultural property ownership, the so-called Land Act). The restitution process took different pathways in the Czech Republic and Slovakia after their separation in 1993 (see Jarský et al., 2018), especially due to different historical types of ownership (in SK the commons, in the CZ the forest municipal cooperatives) and different policy goals. According to §1 of the Land Act, restitution concerned agricultural and forest land, buildings and related structures, other agricultural and forest property. Natural and legal persons whose property was seized and held by the state from 25 February 1948 to 1 January 1990 were eligible for restitution. Forest land was returned to its original owners or their legal successors in integrated forest parts, so-called forest spatial distribution units (§22 of the Land Act), and forest roads were similarly restituted together with forest land. The liable entity responsible for processing property claims in CZ and SK were the state forest enterprises (SFEs)<sup>2</sup> both in CZ and SK. In SK restitution concerned all owners regardless of ownership, whereas in CZ there was a debate on secularisation and the politicians together with the church decided that the restitution of church property will take place after the state-church separation.<sup>3</sup> Therefore, there were three phases of the restitution process in CZ: (1) main restitution (1991–2000); (2) maintenance phase (2000–2012); (3) church restitution (2012 – ongoing). An overview of the various countries' legislation is presented in Table 3 and an even more detailed review can be found in Jarský et al. (2018). In contrast to CZ, in SK the whole restitution process was done in one phase and according to the above-mentioned Land Act. As a sign of how difficult restitution has proven to be, almost three decades after it began there are still many unsettled claims in a process that is clearly not finished yet. The return of property to churches was the most notable difference between CZ and SK, where the latter restituted church property concurrently with other ownership categories. In CZ there are still 45,000 ha of church forest property to be restituted, which represents approximately 2.5% of the country's total forest land.

In Serbia (RS), the restitution process officially started in 2006 as a

response to the requirements imposed by seeking EU accession. It consists of two distinctly separate processes: 1) restitution to churches and religious communities, which started in 2006 under the Law on the Restitution of Property to Churches and Religious Communities and 2) restitution to physical persons, started in 2011 after issuing Law on Property Restitution and Compensation. The claimed property had been confiscated on the basis of the regulations passed as a part of the agrarian reform (nationalisation) in 1945. Before WWII, these properties were typically located in the vicinity of the churches or homes of the physical persons who owned them. During the socialist period, forest land was taken from communal, private, monastery and church forests owners which had an area larger than the legal maximum, a process which saw rural and communal forests disappear as property category, although, small private property holdings continued to exist during the communist era. Therefore, the difference in the overall area to be restituted was significantly lower in RS compared to CZ or SK, where all forest land became state-owned. Thus, pressure the public in RS was not as high as in two other countries. Indeed, in RS the main driver of the restitution was the desire for EU accession, for which securing private property rights was one of the preconditions. By the end of December 2017, of the 33,867 ha of forests and forest land that was subject to restitution claims from churches and religious communities, 32,207 ha had been returned, which represented approximately 95% of the total claims, and 1.4% of the country's total forested area (Agency for restitution, 2018). The remaining 5% of claims are still being processed due to late registrations and tardiness on the part of the Agency for Restitution caused by the influx of new cases arising from claims by physical persons. By the end of June 2016, approximately 3690 ha of forests and forest land had been returned to individuals, which represents 0.16% of Serbia's total forested area (Agency for restitution, 2016). The current status of the restitution process in terms of outstanding claims is unknown as no concrete data is officially available.

### 3.2. Roles of actors and related barriers in the restitution processes

#### 3.2.1. Actor roles in forest land restitution in the Czech Republic

The debate about restitution began based on the common interests of historical owners (and their heirs) who wanted to regain their nationalised property, and new policy makers (in parliament as well as at other governmental levels) who wanted to satisfy the public demand for settling property injustices.

The restitution process has to be considered in the context of the comprehensive transformation of state property (Kupčák, 1998), including privatisation that took place during the same period. However, only forest land and forest stands were restituted according to the Land Act, while the forest enterprises (including all their assets and

<sup>2</sup> State forest enterprise exist in each of the three countries. Common abbreviation used in the text is SFE (or SFEs). In CZ name of the SFE is “Forests of the Czech Republic” (*Lesy České republiky*), in SK is “Forests Slovakia” (*LESY Slovenskej republiky*), in RS is “Serbian Forests” (*Srbija Sume*).

<sup>3</sup> In this paper we do not analyse church restitution in Czech Republic as it would need further investigation and in the interviews we did not asked about details of the church restitution.

**Table 3**  
Forest area, ownership structure and formal rules regarding the restitution process in the selected countries (elaborated by authors).

Country	TOTAL forest area [ha]	Ownership structure (%)			Restituted area of total forest area (still in process) [%]	No. of new private forest owners	Start of restitution process (Year)	End of restitution process (Year)	Relevant laws/legislation	Relevant for which type of private ownership
		State	Private	Other						
Czech Republic (CZ) <sup>a</sup>	2,606,000	57.4	42.6	/	/	350,450 individuals 27,937 co-ownership of spouses 13,200 legal entities of different types)	1991 (restitution phase 1)	circa 2000 (except court cases)	Act No. 229/1991 Official Gazette, on the adjustment of proprietary relations to land and other farm property Act No. 172/1991 Official Gazette, on the transfer of some property from the ownership of the Czech Republic to the ownership of municipalities Amendments to 229/1991 and 172/1991 (extension of the scope of the persons concerned) Act No. 212/2000 Official Gazette, on mitigation of certain property injustices caused by the Holocaust	All private persons (individuals) and legal entities except churches
							2000 (restitution phase 2)	circa 2010 (except court cases)	172/1991 (extension of the scope of the persons concerned) Act No. 212/2000 Official Gazette, on mitigation of certain property injustices caused by the Holocaust	All private persons (individuals) and legal entities except churches Victims of the Holocaust
Slovakia (SK)	1,941,521	39.7 <sup>b</sup>	41.4	18.9 (unidentified)	/ (45,000 to church property)	> 100,000 <sup>d</sup>	2013	ongoing	Act No. 428/2012 Official Gazette on property settlement with churches and religious societies Act No. 229/1991 on State Property Transfer Conditions to Other Persons (Land Act)	church
Serbia (RS) <sup>e</sup>	2,252,400	53	47	/	32,207 (9)	1.4	2006	ongoing	Law on the Restitution of Property to Churches and Religious Communities Law on Property Restitution and Compensation	to private, municipal, church, cooperative (urban) and community (komposesorat) ownership church and religious communities, their foundation and societies physical persons
					3690 (n.a.)	0.16 (n.a.)	2011			

<sup>a</sup> MZe (2017). Zpráva o stavu lesa a lesního hospodářství České republiky v roce 2016 [Report on the state of forest and forestry of the Czech Republic in 2016]. Ministerstvo zemědělství, Praha.

<sup>b</sup> MPRV SR (2017). Report on the state of the Slovak forestry 2016.

<sup>c</sup> MPRV SR (2016): Správa o transformácii vlastníckych a užívacích vzťahov k lesným pozemkom, so stavom k 31.12.2015 [Report on the transformation of property and management rights to forest property].

<sup>d</sup> Estimation based on former Reports on the transformation of property and management rights to forest property

<sup>e</sup> Nonić et al. (2015).

technologies) were privatised. Most of the remaining state forest properties were merged and the state forest enterprise (SFE) was created to manage these.

The Czech restitution process can be divided into three phases (Table 3). In the main phase, there were no big differences in the interests of actors (E3CZ, E4CZ, E5CZ, and E6CZ). Differing views between policy-makers and the SFE on one side and the subjects of restitution on the other were centred on compensation for property that no longer existed (e.g. former inventory, including stock) and compensation for damage incurred during the time when the owner was unable to manage the property (E1CZ, E5CZ). The Land Act proved inadequate to resolve all the practical problems, therefore the initial deadline of 31st December 1992 for entitled persons to register and claim for restitution had to be postponed. Specific requirements related to the accession of CZ to the EU and other shortcomings stemming from previous legislation were subsequently addressed in the form of legislative amendments.

The central interest of forest owners was to regain their property, which was eventually fulfilled. At the beginning of the process, owners were motivated by the wave of public enthusiasm supporting their property claims and they began to exert pressure on the liable entities to hasten the process of property transfer. This was especially the case in the area of proving the origin of the property and meeting demands for compensation for profits lost for the entire period when it was under state control (see Table 4). Although the law did not stipulate details concerning such compensation, some policy makers misinformed owners about the legitimacy of these compensation claims which then created unnecessary conflict (E5CZ). The majority of new forest owners demanded the immediate cessation of all activities on their property, especially logging which had become illegal under the new legislation. Interestingly, owners expressed that they had sufficient information on the restitution process at the time (E3CZ, E4CZ, E5CZ), although no specific informational programmes had been adopted. The restitution process was supported by owners' interest organisations, particularly by the Association of Municipal and Private Forest Owners (Weiss et al., 2012; Sarvašová et al., 2015), which represented these new forest owners in all important issues (negotiations with the government, parliamentary liaison etc.).

The SFE, as the liable entity, was responsible for the administration and implementation of the forest land restitution process and was financed from its own financial sources. The SFE acted in cooperation and accordance with the state administration, taking the lead in several restitution cases despite the fact that a number of owners had a negative view of the body, perceiving it as the representative of the state which had deprived them of their property (E3CZ, E4CZ, and E5CZ). As previously mentioned, no special information programmes were adopted in the Czech process, but SFE employees were helpful in addressing the needs of owners (e.g. they helped owners with demarcating property boundaries on site).

The state forestry administration (SFA), represented mainly by the Ministry of Agriculture supervised the state forest enterprise throughout the restitution process. It provided financial resources (subsidies) to compensate for the costly restitution process and to promote sustainable forest management for new forest owners, with payments based on a property being less than either 50 or 250 ha.

The policy-makers played a significant role in the formulation of legislation and by creating a completely new institutional context. This role was especially noteworthy as it prevented the "liquidation" of state forest ownership (E2CZ, E6CZ) which was touted in the debate about whether after restitution all state forest land property should be privatised or just the associated assets. In the end, a compromise was reached where the state-owned forest management company was created (SFE) and, while the forest land itself did not undergo wholesale privatisation, the technologies and machinery did and joint stock companies were established that provided services to SFE, primarily in harvesting timber.

The public was somewhat ambivalent towards the process at this point, mostly stemming from widespread sympathy for political parties and movements rather than to the principle of restitution. On the whole, the public supported the return of the property but did not favour paying financial compensation for lost profits (e.g. in case a young forest was restituted) (E1CZ), for a property that no longer exists, or for land that is no longer forested. A decidedly more negative attitude was expressed by a small section of the public in connection with the return of larger estates to former noble families (E3CZ).

### 3.2.2. Actor roles in forest land restitution in Slovakia

As with other countries in the region, political changes after 1989 have shaped the institutional setting for restitution in Slovakia. There was a strong groundswell of anti-Communism with people demanding the socialist legacy be dismantled and the nation embrace democracy. This was of course not possible without significantly changing or discarding existing legislation. After the Constitutional Law when all property was made state owned, specific legislation related to restitution was adopted in the form of the so-called Land Act (Act no 229/1991 of the Official Gazette, on State Property Transfer Conditions to Other Persons "Land Act") (Table 1).

There were several deadlines set for entitled persons to register a claim for restitution, but because of unclear ownership records, these cut-off dates were extended several times (Weiss et al., 2011). As a sign of how difficult restitution has proven to be in Slovakia, almost three decades after it began the process is clearly not finished yet as there are still many unsettled claims (Table 3).

Former forest owners could reclaim their nationalised property if the entitled persons were Slovak citizens with a permanent address in Slovak territory. Such former owners, or heirs thereof, could make a claim at the land office and at the same time they should call upon the current owner to return their property. Former forest owners and the responsible body, which was the state forest enterprise (SFE), should then conclude an agreement within a period of 60 days after the claim was raised. Restitution legislation created a legal right for former owners to regain their forest property, thus providing considerable coercive force to drive the process forward. This process though was both costly and administratively demanding, the latter became patently obvious as dealing with the plethora of smaller properties imposed the same administrative demands as larger properties. This situation became even more problematic as new forest owners had to self-finance the entire administrative procedure (e.g. identification of parcels, geometric plan) of obtaining their property, meaning the monetary burden was high even though the properties were small (E3SK, E4SK). Owners were also hampered by the lack of detailed information on such administratively demanding processes, thus regional interest groups were established and began providing advisory services for their members, which has remained their primary function to date (Weiss et al., 2012; Hricová et al., 2015).

The state forest enterprise (SFE) was responsible for the administration and implementation of restitution process, which was financed from its own financial sources, a key factor which the SFE often pointed to as the objective reason why the process of returning property to former owners was so slow (E2SK). The SFE was the principal beneficiary of the government's Forest Development Program fund which ensured sustainable forest management since the 1990s. The SFE regularly highlighting its access to only limited funding suggests that there was a mismatch between available financial resources and the sheer quantity of property claim applications that needed processing (E4SK). Another contributing factor has been that departments which were specifically created to administer restitution often had to restructure and lay off workers (who subsequently did not always find a job in the private forestry sector), once the property was returned to owners (E5SK). Due to this fact, we can assume that the SFE, with its desire to keep organizational stability, did not always do all in its power to push forward the process of returning land to former owners. This

assumption can be further supported by the SFE's reluctance to adopt any specific information programmes targeted at new forest owners. As a final note regarding the SFE's conduct, while seemingly trying diligently to ensure the correctness of the restitution process and avoid court cases, the SFE found this was not always possible (E2SK, E3SK).

The state forestry administration (SFA), which has supervised the SFE throughout the restitution process, was under pressure from both the government and the public (E3SK) to ensure that restitution went smoothly and to ensure sustainable forestry practices. The SFA participated in the creation and adoption of a program to financially support the privatisation process and has continually lobbied for additional funds to properly finance such programs (E3SK). However, they were not willing to change the allocation of funds from the Forest Development Program in favour of restitution (E4SK) and did not see any need to implement a special information program to assist former owners regarding restitution. Existing advisory services in sustainable forest management were given a higher funding priority and they provided ad hoc advisory services together with regional FOAs. In essence, this meant that although the SFA was higher up the governmental hierarchy than the SFE, its impact on the restitution process was minimal.

The policy-makers were involved in drafting the restitution legislation, which was adopted by the parliament, although with insufficient implementation mechanisms—both regulations and policy measures. They often used the restitution agenda in their political agendas at that time and they exerted pressure on the SFE via compulsory annual reports on the state of the restitution process, which had to be submitted to parliament for approval (E2SK, E5SK), because they wanted to demonstrate progress to the public. A financial aid programme was adopted by the Slovak parliament to support forest owners in the restitution process, however, no funds were allocated. The government did not see any need for special advisory programmes (E5SK) related to restitution or to promote sustainable forest management among the new forest owners.

The issue of returning properties to private ownership was debated by the public as well as in the media right from the beginning of the transition period and this had a great influence on policy formulation. The public strongly supported the legal rights of former owners and demanded systemic changes in forestry with many citizens having a stake in forests themselves (private, community or shared ownership), albeit very often only a small holding (< 1 ha). The pressure on policy makers regarding adopting legislation, providing financial support and information programmes to support the restitution process in the 1990s was somewhat side-lined by other issues related to privatisation (e.g. privatisation of industrial enterprises) (E4SK).

### 3.2.3. Actor roles in forest land restitution in Serbia

The transformation of former communist state institutions and structures to suit the new multi-party democratic system in Serbia after the year 2000 had very specific impacts on the country's own restitution process (Nonić et al., 2011). One of the largest influencing factors on the adoption of the key relevant legislation, the Law on Restitution of Property to Churches and Religious Communities was Serbia's EU accession process,<sup>4</sup> which cited restitution as a necessary prerequisite for membership (E3RS) (Petrović, 2012; Nonić et al., 2015). During 2006 a

coalition of right and left-centre parties was in power, with the centre-right party considering restitution a process of national importance (E3RS) while the leftist party recognised it more as an important step towards EU accession (E4RS).

The restitution in RS can be divided into two phases, the first one of returning properties to churches and religious communities, and the second dealing with restitution to physical persons (Table 3). The second phase was itself divided into two sub-phases: In the first of these (2012–2014) the submission of claims for restitution was undertaken, while the second sub-phase consisted of actually returning property, a process that is still ongoing. The Directorate for Restitution (later renamed<sup>5</sup> as the Agency for Restitution) was established as the main body responsible for overseeing the restitution process of all types of properties under the Law on Property Restitution passed in 2011.

The preferred form of return in Serbia is to restore the property in its original form as according to the existing legislation the church, religious community or physical person, have the right to seized property of the same shape and in the same condition to that which was confiscated. If the property cannot be returned as a whole for some mitigable reason, it is restored as fully as possible and, in such cases, the difference in market value is paid as compensation. If a property cannot be returned at all, the right to financial compensation in the form of government bonds or in cash was made available. Substitution can be applied in cases where the original asset cannot be returned (e.g. already a private property, the land use category has changed since it was nationalised) and in these cases, a similar parcel of state forest in the vicinity can be used as a substitute asset.

Actors who had the greatest influence on the initiation of the process of restitution were the former forest land owners and the right wing political parties. Other actors that were involved in the process, but were most heavily involved in its implementation were the Agency for Restitution, the Directorate for Forests, the SFE and various religious communities (Table 4).

The Serbian Orthodox Church was directly involved in both the initiation and implementation of the restitution process as it was the previous forest owner who had the largest claim against the state and, as such, one can anticipate that its influence on forest policy can be expected to increase as time passes (Nonić et al., 2015). Certain administrative problems were present during the process (cadastre data inaccuracy). Thus, negotiations and agreements of claimants with other actors (e.g. military, national park administrations etc.) in this process were needed. There was no financial support for former owners, despite there being a need for such, from either national or international organisations, although they were provided with tax exemptions on different documents needed for the restitution process.

The SFE was directly involved in the implementation process, meaning that it actively participated in the return of properties to previous owners and negotiations about compensation in cases where land could not be returned in its original condition. No financial support was provided from the SFA to the SFE as a consequence of losses in forest area under management and the resultant over employment.

The Ministry of the Economy led the process of restitution policy formulation, but after the adoption of the Law on the Restitution of Property to Churches and Religious Communities the implementation process fell under the jurisdiction of the Agency for Restitution which became the main liable entity but with no allocation of special financial means for restitution process in forestry being provided by the central government. Forest was normally kept under state ownership during the communist era and rarely changed owners after nationalisation, this has greatly facilitated making a natural form of restitution in most cases.

Restitution has brought new organisation structures to forest management in Serbia, which is reflected in the emergence of private

<sup>4</sup> Serbia was identified as a potential candidate for EU membership during the Thessaloniki European Council summit in 2003. In 2008, a European partnership for Serbia was adopted. In 2009 Serbia formally applied for EU membership and in March 2012 Serbia was granted EU candidate status. In September 2013 a Stabilisation and Association Agreement between the EU and Serbia entered into force. In line with the decision of the European Council in June 2013 to open accession negotiations with Serbia, the Council adopted in December 2013 the negotiating framework and agreed to hold the 1st Inter-governmental Conference with Serbia on 21 January 2014, signaling the formal start of Serbia's accession negotiations.

<sup>5</sup> The directorate itself started work on 1st March 2012.

**Table 4**  
Identified barriers in the restitution process in selected countries.

	Czech Republic	Slovakia	Serbia
Formal rules, norms, legislation related barriers	<ul style="list-style-type: none"> <li>– Imprecise cadastral data due to the superiority of use rights over property rights during the totalitarian regime (E1CZ).</li> <li>– Long and time-consuming administrative procedures.</li> <li>– Lack of funds for geodetic work necessary to identify boundaries in the field (E1CZ).</li> <li>– Lack of allocated funds to pay for compensation (E1CZ-E6CZ).</li> <li>– Huge number of restitution claims, which led to the current ownership structure (about 390,000 individual forest (co) owners and 12,000 legal entities as (co) owners)</li> </ul>	<ul style="list-style-type: none"> <li>– Different interpretation of the Act No. 229/1992 of the Coll. which resulted in court cases</li> <li>– No implementing decree was adopted so some legal terms were misinterpreted by the liable entity to slow down the restitution process (E3SK, E4SK, E5SK).</li> <li>– Insufficient amount of allocated financial resources to support the restitution process and to provide advisory services for new forest owners (E3SK, E4SK).</li> <li>– Documents proving ownership were missing, <ul style="list-style-type: none"> <li>– records on forests were inadequate, property boundaries were not identified and inheritance procedures were not completed (E2SK, E3SK, E4SK).</li> </ul> </li> <li>– Problems with advisory services provided to new forest owners on forest management</li> </ul>	<ul style="list-style-type: none"> <li>– Imprecise cadastral data, lack of documents proving ownership rights, inadequate records on forests (E2RS, E5RS).</li> <li>– Incomplete inheritance procedures (E2RS, E5RS).</li> <li>– Article 11 of Law on Restitution of Property to Churches and Religious Communities defines exceptions of restitution in natural form due to general interest. This was the case in military assets (certain forest areas which are liable to restitution but are used by the military). Restitution process in these cases was slow due to long negotiations between public enterprises, the military and the church (E5RS).</li> <li>– No financial means were available for the implementation of the restitution process (mainly at the expense of the former owner) (E5RS).</li> <li>– The problem of the accuracy of property borders was at the beginning of the process in a smaller number of cases (E1RS, E2RS, and E5RS).</li> </ul>
Actor related barriers	<ul style="list-style-type: none"> <li>– Efforts to restrict and complicate the process from the SFE and SFA</li> <li>– Unrealistic expectations of former owners on the speed of the process</li> </ul>	<ul style="list-style-type: none"> <li>– The disinterest of SFA and politicians in the implementation phase</li> <li>– The high administrative burden of owners and liable entities E1-E5SK)</li> </ul>	<ul style="list-style-type: none"> <li>– Negotiation needed between public enterprises and church owners for using less accurate GPS borders as a temporary solution, because the costs of delineation of the new border between new owners are high (E2RS, E5RS).</li> <li>– The high administrative burden of entitled persons (covering costs of collecting documentation and court procedures (E5RS)</li> </ul>
Indirect barriers – related to actors' informal interests	<ul style="list-style-type: none"> <li>– Traditional relationship to forest land had been interrupted due to previous practical liquidation of private property (E3CZ, E4CZ, E5CZ).</li> <li>– Little experience among judges and lawyers with this issue (E6CZ).</li> <li>– Insufficient capacity of the courts to resolve property disputes, which resulted in lengthy court proceedings (E1CZ, E5CZ).</li> <li>– Insufficient capacities for geodetic works necessary to identify the property (E2CZ, E5CZ).</li> </ul>	<ul style="list-style-type: none"> <li>– Process of institutional transformation to democracy was slow due to the socialist legacy and unclear legislation.</li> <li>– Lack of knowledge of FO about the legal and administrative requirements for forest land return.</li> <li>– Insufficient information from liable entities and the SFA regarding the technical procedure of the restitution process.</li> <li>– The situation at Slovak courts, notary's offices and Land Register Offices. Offices were not able to provide owners with the required information.</li> <li>– Other important issues on the policy agenda.</li> </ul>	<ul style="list-style-type: none"> <li>– Lack of information on former ownership (in case of church forests, some of the church entities possessed more documentation and were thus able to enter the process at the early stage).</li> <li>– Insufficient capacity of state administration and courts to resolve property disputes, which resulted in a lengthy process (E5RS).</li> <li>– Other important issues on the policy agenda.</li> </ul>

limited liability companies for forest management without the involvement or influence of public enterprises (Nonić et al., 2015; Keskitalo et al., 2017). These companies represent new forest actors in the policy arena that were not present in the formulation phase but appeared in its implementation. The interests of the limited liability companies established by churches or private limited liability companies, which make long-term contracts with some owners, was to optimise cost and benefit ratios while simultaneously implementing owner's objectives within the existing national legislation framework.

### 3.2.4. Identified barriers in the restitution process in selected countries

Table 4 summarily depicts the main barriers in the forest land restitution process related to formal rules and actors in the selected countries. Identified barriers related to the formal institutional context concern mainly imprecise cadastral data (CZ, SE) and allocated funds to support the restitution process (CZ, SK, SE). Informal barriers related to the actors' informal interests lie in the traditional approaches, limited capacities, experiences of new forest owners and the information provided for them from liable entities. In SK and RS it should be noted that other important issues on the policy agenda at the time led to the slowdown of forest restitution. The main critique from entitled persons was the high administrative and financial burden associated with

claiming property and the disinterest of the liable entities or complications arising from their involvement.

### 3.3. Actor power in the restitution processes process in three analysed countries

After describing the actors' roles in each of the analysed countries, we focused on the analysis of the relative power of the involved actors in this process. For this purpose, we asked each actor to assess the power elements of coercion, dis/incentives and information for the other actors with + (strong power in the process), +/– (neutral power in the process), – (weak power in the process). The summary of this assessment is presented in Table 5 and presents the views of the interviewed actors after having been summarised by the authors' and cross-checked using information obtained from the interviews and literature review. The power of the various actors changed in relation to the phases of the restitution and this assessment takes into account their role in the whole process (initial phase and implementation).

Former forest owners, driven by an interest to get back their property, were the authorised entities eligible to make claims for the restitution of nationalised forest land. In CZ and SK many different kinds of non-state forest properties and assets were subject to restitution from

**Table 5**  
Evaluation of the power of actors.

Actors	Elements of power					
	Coercion		Dis/Incentives		Information	
New forest owners and their interest groups	CZ	+	CZ	+/-	CZ	+
	SK	+/-	SK	-	SK	+/-
	RS	+/-	RS	-	RS	+
Institution responsible for restitution process (SFE in CZ and SK, Agency for Restitution in RS)	CZ	+	CZ	+/-	CZ	+
	SK	+	SK	+	SK	+
	RS	+/-	RS	-	RS	+/-
State forest administration (SFA)	CZ	+/-	CZ	+	CZ	+
	SK	-	SK	+	SK	+
	RS	+/-	RS	-	RS	-
Policy-makers	CZ	+	CZ	+	CZ	-
	SK	+/-	SK	+/-	SK	-
	RS	+/-	RS	-	RS	-
Public	CZ	+	CZ	-	CZ	-
	SK	+/-	SK	-	SK	-
	RS	-	RS	-	RS	-

+ (strong power/role in the process), +/- (neutral power/role in the process I), - (weak power/role in the process).

the beginning of the process, whereas in RS only church property was returned at first. According to the data gathered from the interviews, in all the selected countries the power of owners was strong when compared to many other involved actors (Table 5). New legislation was an empowering factor as it provided them with the legal right to reclaim their property; however, owners received no meaningful further support from the governments in any of the three countries. There were no financial assistance schemes to help them in the restitution process and they were burdened by bureaucratic requirements and considerable personal financial costs. In contrast to SK, owners in CZ and RS had sufficient information about the restitution process to allow them to effectively proceed. In RS the church, as the sole claimant in the initial phase of the process, had representatives in the working group making preparations for the law on restitution and hence had a more than adequate understanding of what was required. In SK individuals seeking to reclaim forests suffered from the lack of information on the administratively demanding process. In CZ and SK in this period, regional interest groups (forest owners' associations) were created to support owners in the restitution process and started to provide advisory services for their members, which remains their principal function even today as the process continues (Weiss et al., 2012; Sarvašová et al., 2015).

The liable entities in each state were responsible for the implementation process and administered the property claims raised by former forest owners. Their main focus was to settle the property claims with as smoothly as possible, which was not always possible. In CZ and SK this task was assigned to the existing state forest enterprises (SFEs) which are created by the government but are responsible for their own funding. In CZ and SK special departments were established within these SFEs to deal with forestland restitution. In RS the specialised Agency for Restitution was created by the state and it deals with restitution of different property types. SFE in RS was involved in the implementation phase, namely transferring property under its control to the various new private owners. In some cases, for example, National Parks, areas used by the military, or serving other public interests, its role was to negotiate a suitable settlement regarding such particular property transitions. Liable entities practically controlled the entire restitution process by having the necessary staff, information and financial resources at their disposal. The lack of regulations on implementation aspects of the process further empowered liable entities to create their own rules for the property transfer procedure. In CZ and SK, the liable entities financed most of their costs from their own resources, while in RS many costs (e.g. travel costs of responsible persons to the

agency's headquarters in Belgrade, collection and preparation of documents) had to be covered by the would-be new owners. Another key task of the liable entities was to provide information to forest owners in all the selected countries, which for example, in RS is done via the website of the Agency for Restitution. In addition to this, information was provided by the agency in several open meetings in municipalities where interested parties could get information regarding restitution. In SK, the local SFE used the absence of special information programmes in the implementation process to slow down the restitution process in order to secure the jobs of its employees. The liable entities were the strongest actors in all three states' restitution processes with their power resulting from the restitution legislation.

Interviewees indicated that the role of state forest administrations (SFAs) varied across the selected countries. Their main interests were successful property transfers and to ensure that the goals of sustainable forest management were and would continue to be met. In CZ they were the co-authors of the restitution laws together with the liable entities. In SK the state forest enterprise was formally subordinated to the local SFA in the restitution agenda, but the latter had very little impact on day-to-day implementation. In RS, the SFA was involved in the working groups for drafting the legal regulations concerning restitution but did not directly participate in the restitution process as such. After restitution was settled, the SFA was responsible for including new owners in forest management processes (i.e. elaboration of forest management plans). The SFA was powerful in CZ as it administered the funding for the new owners from the public Support and Guarantee Forestry Fund. In contrast to this, in SK these funds existed only on paper but no budget was actually allocated. Furthermore, in CZ the SFA provided educational support for professional organisations through its own materials and information service using the Forest Management Institute, a professional organisation created by the Ministry of Agriculture of the Czech Republic. In SK and RS, no targeted-forestry informational programmes related to new forest owners were provided as these were regarded as not being necessary.

Policy-makers in each state were responsible for the drafting and adoption of relevant legislation as well as the allocation of financial resources. In all the countries considered policy-makers were initially powerful as they developed the legislative framework that defined the process and had a decisive influence on the financial support through state budgets and support funds. They were interested in initiating a restitution process quickly to meet the pressing demands of the public and/or new owners in both CZ and SK, or to meet other politically relevant demands, such as the EU's accession requirements in RS.

Policy-makers in all three countries did not have significant power in the later implementation processes as the main competencies were passed to the liable entities (therefore policy-makers were assigned +/– in the assessment). In CZ and RS no special financial programmes were adopted, the restitution process was financed from the state budget. In RS only the operational costs of the Agency for Restitution were financed by the state budget while other costs had to be covered by the owners themselves. In SK, provision was made for a financial aid programme, but no funds were actually allocated from the Forest Development Program (public funds) or any other sources for this purpose.

The public supported forest owners in their attempts to reclaim the seized assets, and their demands for changes to property ownership were of vital importance in providing early impetus to the processes. While the majority of the public had little or no information on the details of the restitution process and forestry in general, many were eligible to claim forest land themselves (having private, community or shared ownership), albeit very often only small parcels of land were involved (< 1 ha). The pressure on the governments was initially enormous but diminished in the implementation phase in all three countries. In CZ and SK, the pressure regarding financial support for restitution also lessened over time when other issues were prioritised on the political agenda (e.g. industrial and commercial entity privatisation), while in RS no financial support for restitution process was ever made available.

### 3.4. Lessons learned from the comparison of three analysed countries

What can be learned from presented cases is that the power of actors plays a significant role in the implementation process and even though the institutional setting is provided in form of legislation, the success is very much dependent on the behaviour of involved actors. As we have shown, the same process resulted in different outcomes and took different pathways. In SK all property was returned regardless of ownership type, in CZ the German minority was entirely excluded from restitution and church property was excluded at first. In RS, Kosovo was also excluded and church property was returned first, followed by individual private owners. In SK the liable entity tried to slow down the implementation process. In SK and CZ the agenda was transferred to existing institutions (SFE) which has caused delays, because of other duties of the staff. In SE a specialised restitution agency was created, dealing only with this matter. Also the cadastral information was not always accurate. Owners had difficulties to justify their property claims. Often unnecessary documentation was asked and owners were administratively burdened. As there was uncertainty about the ownership, many cases ended at court. The restitution process started in 1991 (CZ, SK) and 2006 (RS) and is still not finished yet.

For a “successful” or “smooth” restitution process, the cooperation of all involved actors is needed. When we sum up the obtained information, we can conclude that the most important issues are land registration, legislative framework, institutions, clear deadline and information. The preconditions is to have detailed and accurate data on land ownership to avoid court cases. The restitution legislation should clearly stipulate competences of the liable entity and procedural rules for property claims to avoid the creation of own rules by liable entities. The procedure should be administratively simple, not overburdening the applicants. The process can be speed up by delegating competences to existing institutions as it was the case in CZ and SK. In RS the formalising the laws and establishment of a specialised agency delayed the process. Setting a deadline for claim settlement helps to put pressure on the owners and liable entities not to delay the process.

Restitution is a political process in its nature and is dependent on the power of actors involved, which was shown in our analysis. The analysis of power relations between actors revealed that despite the same goal which was property transfer from the state to former owners, similar rules (acts on restitution), and the implementation process took different pathways due to different interests of the actors.

## 4. Discussion

The transformation from planned to market economies in CEE and SEE countries required, for various fundamentally significant reasons, the return of nationalised and state-confiscated property to the original owners, a process that involved agriculture (Csaki and Lerman, 1997; Burger, 2006) and the forestry sector as well (Jarský et al., 2018). Restitution of forest land was a core element in the reforms that have swept through the forestry sector and resulted in unprecedented changes in forest ownership in last three decades across these regions (Lidestav et al., 2020). The return of confiscated property to former owners through a process of restitution acknowledges the continuity of private ownership rights on forest land in rendering them to the former owners or their heirs, be they individuals, local communities or institutions (Schmithüsen and Hirsch, 2010). Most of the former Soviet-bloc countries clearly stated their intention to restructure their national socio-economic model; some starting hesitantly (as was the case in Romania in the 1990s) whilst others rapidly embarked on the task they set themselves (as seen in Hungary). Irrespective of this, as time passed the speed of the reforms and restitution programmes has progressed in all such countries (Tykkä et al., 2010) mainly driven by the effort of the countries to join the EU.

Ensuring a stable and legitimate property rights regime is one of the EU's key requirements for each of its member states (Mungiu-Pippidi and Stefan, 2011). Even though this “Europeanisation” has helped in the transformation process (from communist/socialist regimes to democracy), the limits of the EU's power are nevertheless present at the member state level (Bejtja and Bejtja, 2014). This can be seen in the cases of CZ and SK, which are both EU member countries. The presence of diverse interest groups and fluid power relations makes the restitution process a complex issue. The EU has assisted the three selected countries examined here in terms of helping them to advance their processes of institutional transformation (such as promoting human rights, enhancing state capacity to facilitate reforms and reinforcing the rule of law). In RS, the transformational demands stemmed from the negotiation process regarding EU accession, which was seen as the main driver for starting restitution. Even though CZ and SK negotiated the 7 years exemption from EU rules with respect to the free movement of capital for the purpose of purchasing agricultural land (Burger, 2006), including forest land. As Burger (2006) further argues many accession countries preferred to put the protection of national land against ownership by aliens at the top of their negotiating agenda.

Similarly the UN's Sustainable Development Goals emphasise that ownership is central to the „common pursuit of sustainable development, including achieving the Sustainable Development Goals”. Thus restitution process is issue of relevance on so many levels not pure ownership and land rights, but securing human rights and satisfying justice. This confirms once more how restitution is complex and relevant political issue (UN, 2015).

There has been a general understanding that institutional and political reforms are crucial for the future of sustainable forest management in different CEE and SEE countries, however, there were different opinions and experiences presented about possible strategies to undertake such reforms (Ilavský, 2006). The main critique regarding the governance of the restitution process was that it has been done without first setting up proper institutional frameworks (Weiss et al., 2011). The RS process seems to have been better prepared, which was aided by the strong interests of the political parties in power at that time to initiate restitution as a politically relevant issue facing the country.<sup>6</sup> However, in all three analysed countries it can be seen that political goals changed repeatedly in the turmoil following communism's collapse in Europe, which is also evidenced through the different phases of the various restitution processes (especially in CZ and RS) where these

<sup>6</sup> Explained in footnote 4

goals became manifest. Another institutional weakness was the lack of or outdated information on properties from land cadastres, with such information clearly being a necessary prerequisite for any successful property claim.

Land registration has been an integral part of the restitution process in CEE and SEE countries and caused many practical problems. These highly complicated processes of land titling have taken place in very short time-spans which was the case in analysed countries. As side effect, thousands of claims had to be researched, and innumerable land conflicts had to (and still are to be) resolved also in other countries, especially in the Balkan region (Ho and Spoor, 2006). This situation is visible in CZ where there are still many unsettled court cases.

A further major challenge was identified in suitably adapting legislation to meet the needs of evolving restitution processes. This concerns not only the clarification of legal rights and duties between private and public institutions but also the duties between the national and local levels. In all three countries power was given to the liable entity without any supporting regulations, thus allowing them to autonomously shape the whole procedure of property transfer. This resulted in many court cases, a number of which are still not settled yet. (Table 4). In SK, policy makers were eager to return forest land without having to introduce a complicated administrative procedure (especially the right-oriented political parties). However, as the power to do so was transferred to the local SFA and SFE for implementation, both these bodies feared the loss of their power and influence on forest management, hence they insisted on detailed and complicated administrative procedures. This situation was further complicated by the fact that behind the public façade, the SFE seemingly had no interest in the rapid restitution and return of land to former owners as this would mean continuous restructuring and staff redundancies for the agency itself.

Introducing actors' power analysis helped us to better understand the interest of different actors in the process. The position of power shifted from the public and policy makers in the formulation phase to the liable entities in the implementation phase. Policy makers formally kept control (e.g. in SK through obligatory reports on the state of the property transformation process that were submitted to the parliament for approval), but the administration of claims remained in the hands of the liable entities. The latter faced overwhelming problems with workload arising from the high number of claims and the limited resource available to perform their duties. Meanwhile, the new or would-be forest owners complained about the administratively and financially demanding process, which ultimately proved to be futile as they must still supply all the necessary documents at their own cost.

One obvious result of restitution has been the fragmentation of land ownership (Hartvigsen, 2014), leading to creation of a large number of small forest owners, who often lack the knowledge, skills and resources needed for sustainable forest management (Paladinić et al., 2008; Glück et al., 2010; Pöllumäe et al., 2014; Sarvašová et al., 2015). This has influenced changes in management and considerably affected the forest sector across the region (Kajanus et al., 2018). In CZ and SK the lack of institutional development connected with private ownership has resulted in the creation of FOAs (Jarský et al., 2014; Šálka et al., 2016). Restitution has also highlighted the emotional role that the owners have regarding forests, as such property is seen as more than simply an investment and secure asset for them, it is an intrinsic part of their family identity (Matilainen et al., 2018).

## 5. Conclusions

Restitution has been a major element of institutional change in the forest sector in CEE and SEE for the past three decades. It has been a continuous process and each of the selected countries has dealt with it in the context of its own conditions. While in the case of the CZ and SK, restitution was a part of the overall transformation of the political situation (from communism to democracy), in the case of RS, this process was primarily driven by the requirements imposed by EU accession

negotiations.

The process of restitution in forestry is of great importance in the countries in transition, both for the former owners and for the state itself, as a part of institutional change. Furthermore, it is important not only because of the large forest area that is subject to restitution (such as in CZ and SK), but also due to influence on the structure of ownership of forests and the emergence of new actors in forest policy processes (in all three countries). The process of restitution formally recognised new private forest owners, but did not adequately recognise the specific interests of the church as a large private forest owner in RS and small-scale forest owners in SK and CZ for example, thus all three countries occupy a very low position in the property rights index in forestry (Nichiforel et al., 2018). The power assessment undertaken here showed that the most powerful actors at the beginning of the restitution processes were the public and the dominant political parties. In the implementation phase the power shifted to liable entities (the SFE or Agency for Restitution) that were solely responsible for the actual processes of property transfer and thus directed the restitution processes. That caused various types of delays, in SK due to the overwhelming administrative burden, while in CZ it was due to the many court cases. The shifts and changes of the actors' power were mirrored in all the compared countries. Differences are to be found in the initiation of the process and the pathways they took afterwards. Pressure from the owners for initiating the restitution process was stronger in CZ and SK, due to the larger areas to be given back (up to 48% of forest land in total). In RS the area to be given back was only some 3% of the total forest land, and the key drivers to start restitution were policy makers because it was required by the EU. The administration of the restitution process seemed to be smoother in RS when compared to SK and CZ, this is primarily because the process was better planned and because of fewer cases involving serious conflict. Although there were delays in the implementation processes and the institutional development connected to private ownership, restitution can be considered largely as a success in all three countries, which is evident by the area of forest land returned to former owners as well as current diversified ownership structure. The restitution process will soon end in all post-socialist countries, however, it can be noted that private forest owners are still striving to have more freedom in managing their properties, which is at the moment restricted by rigorous and binding regulations concerning forest management and timber sales by the various public forest administrations.

## Declaration of competing of interest

This authors of the paper declare no conflict of interest.

## Author contributions

D. Z. and Z.I. undertook the work in overall research design, case selection, writing up the paper and worked on the revision of the paper. S.J., S.Z. and W.G. contributed in conceptual framing and design. N.J., P.N., J.V., O.J., D.Z. contributed to the collection of data in single countries, and writing up specific parts on the country contexts. All authors contributed to overall paper writing.

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## Appendix 1. Semi-structured in-depth interviews with the main actors involved in the restitution process in forestry

### PART 1: Questions

1. What was your role in the restitution process?
2. Which interest did you have in it?
3. Are they fulfilled?
  - a. If yes – can you explain how?
  - b. In no – what was the reason that your interest is not fulfilled? What were the barriers?
4. Did you experience the need of making compromise with other actors involved during the process? Can you explain it?
5. Did you used some types of financial means existed that supported restitution? Can you explain it?
6. Did restitution process implied costs that restrict fulfilment of your interest regarding the restitution? Can you explain it?
7. Did you have access to information of relevance for restitution process? With whom did you communicated regarding it? Can you explain it?
8. What is your perception on the management of the restituted forest?

PART 2: After the interview, each actor should be asked to assess the power elements of coercion, incentives and trust for the other actors  
Instructions:

- Please use simple scaling systems for assessment and add it to the table below: + (strong power in the process), +/– (neutral power in the process), – (weak power in the process)
- For each assessment score please ADD short explanation provided by the interviewee in the brackets
- Legend: C – coercion<sup>1</sup>, M – incentives<sup>2</sup>, I – information<sup>3</sup>

<sup>1</sup>Coercion is defined as altering actors' behaviour by force. The proposed model looks mainly at whose force prevails, and describes the amount of dominance as power. No restriction on one actor is given, it can also comprise a network of actors (Krott et al. 2013, p. 5).

<sup>2</sup>Dis/incentives are altering the behaviour of the actor by means of disadvantages or advantages without recognising his will. The actor-centred power theory assumes that, within a power-free environment, all actors would have free access to all sources. Limiting the sources of specific actors is a power process and without such limitation, the value decision of the actor would be different. Therefore, decisions are not only value-driven but power-driven as well (Krott et al., 2014, p. 5–6).

<sup>3</sup>Dominant information when becoming a power process aims at “altering the behaviour of the subordinate by means of unverified information”. If the subordinate does not verify the information received from the potentate and makes a decision based on this information the potentate will have altered the subordinate's behaviour without recognising his will (Krott et al. 2013, p. 6).

	New forest owners and their interest groups	Institution responsible for restitution process	State forest administration (SFA)	Politicians – parliament and political representation	Public
New forest owners and their interest groups	x	C: M: I:	C: M: I:	C: M: I:	C: M: I:
Institution responsible for restitution process	C: M: I:	x	C: M: I:	C: M: I:	C: M: I:
State forest administration (SFA)	C: M: I:	C: M: I:	x	C: M: I:	C: M: I:
Politicians – parliament and political representation	C: M: I:	C: M: I:	C: M: I:	x	C: M: I:
Public	C: M: I:	C: M: I:	C: M: I:	C: M: I:	x

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