



## Czech State Symbols, their Legal Regulation and Protection<sup>1</sup>

(Excerpts)

State symbols are important from the points of view of municipal and international law for the identification of states, resp. for the differentiation among them. Symbols and their appearance express the relationship between state and its traditions and continuity, but also reflects its territorial development (resp. its territorial claims) or its state idea. Symbols are one of the means to demonstrate its state sovereignty and also a means of representation vis-à-vis other states. State symbols are used for example for demarcation of state borders, in banknotes and state securities and stamps, in uniforms of members of armed corps, in documents and papers issued by state authorities, we can find them in public buildings and courthouses and so on. Their use and mutual recognition also express the mutual respect and recognition among states. The relationship of citizens vis-à-vis their own state is also reflected in their relationship vis-à-vis their state symbols – through symbols citizens identify themselves with the state, or, on the other hand, in the denial of state symbols they refuse their state, or identify themselves with the other state.<sup>2</sup> Next to states, symbols are used as expression of their identification and overall attitudes also by international organizations<sup>3</sup> and religious societies, associations, universities and private subjects too.

We can define state symbols rather widely. They can include for example crown jewels used for coronation, relics of particular saints and patrons of the country, national tree or plant, the capital, various memorials of rulers or of national heroes, eventually their photographs or pictures, or even buildings connected in various ways with the important historical moments of the states life. In this wider sense state holidays, important or memorable days, state decorations and medals, crown jewels of Czech kings, Prague Castle, capital Prague and the tomb of an unknown soldier belong to state symbols. They can be material or immaterial in their character; to the latter category belongs typically the national anthem.<sup>4</sup>

But we are first of all interested in state symbols in a narrow sense – it means symbols that got a special protection by the laws and laws (or constitution itself) also specifically regulate their use. The Constitution of Czech Republic (Law No. 1/1993 Sb.)<sup>5</sup> enumerates state symbols in its Art. 14, par. 1: The small and large state emblem (coat of arms), the state colours, the state flag, the flag of the President of the Republic, the state seal, and the national anthem.<sup>6</sup> Their order is determined by their mutual logical and graphic construction. From state emblem are derived state colours that form the basis of state flag and these symbols are in turn the basis for the creation of flag of the President of the Republic. In the same way the state emblem is the basis of state seal. Legal rules do not talk about the meaning of these symbols; it could be interpreted only from the Preamble of the Constitution that refers to historical tradition of the Czech state.<sup>7</sup> In the case of adoption of the flag we can talk about the reference to Czechoslovak tradition.

The notion "state symbols" appeared for the first time in Czechoslovak legal order only in 1936 in Law No. 269/1936 Sb., on the use of flags, emblems and other symbols, and of uniforms and badges and on measures against irregular emblems. Czechoslovak constitution from 1920 did not use this notion<sup>8</sup> and contemporary literature talked about "state emblems" ("odznaky státu")<sup>9</sup> or "external emblems" ("vnější odznaky").<sup>10</sup> The change of terminology was immediately reflected in literature.<sup>11</sup> On the constitutional level this notion was used for the first time in the constitutional law of Czech National Council No. 67/1990 Sb. on state symbols of Czech Republic.<sup>12</sup>

In general we can say that state symbols of Czech Republic developed from traditional symbols, continually used for centuries<sup>13</sup>, that were reflected also in the

<sup>1</sup> Originally published in *International Journal of Public Administration in Central and Eastern Europe*. No. 2010/1. p.42-50.

<sup>2</sup> See e.g. J. Sovinský, *Státní symboly České republiky*. In: K. Klíma et al., *Encyklopedie ústavního práva*. Praha 2007, p. 60–61; V. Pavlíček et al., *Ústavní právo a státověda*. II. díl. Ústavní právo České republiky. Část 1. Praha 2008, p. 309–310.

<sup>3</sup> E.g. United Nations Organization, European Union, North Atlantic Treaty Organization etc. Their symbols and use of them is usually regulated in documents founding these organizations.

<sup>4</sup> See e.g. V. Pavlíček – J. Hřebejk, *Ústava a ústavní řád České republiky. Komentář*. 1. díl. Ústavní systém. Praha 1998, p. 113–114; J. Sovinský, *Státní symboly...*, p. 60–61; V. Pavlíček et al., *Ústavní právo...*, p. 314–319; K. Klíma et al., *Komentář k Ústavě a Listině*. Plzeň 2009, p. 195. Take an example of Czech crown jewels. It is in fact the collection of artifacts that is composed of the St. Wenceslas Crown of emperor Charles IV. with a case and cushion, the royal sceptre with its case, the royal orb with its case and the coronation cloak (decorated with ermine, a belt, a stole and the so-called maniple). They are deposited in the Prague Castle and are not a state symbol according to Czech Constitution. By Decree of Czechoslovak Government No. 251/1962 Sb. they were declared to be a cultural monument in the sense of Law No. 22/1958 Sb. Later, on the basis of Art. 1 of Government Decree No. 337/2002 Sb., they became a national cultural monument. The special rules for their deposit and use are regulated by Government Decree No. 19 from January 13<sup>th</sup>, 1993 on the new distribution of keys to Czech crown jewels. The complex security

system for the protection of crown jewels belongs to classified information (Government Decree No. 522/2005 Sb., Supplement No. 14, No. 1). For the crown jewels in detail see M. Bravermanová et al., *České korunovační klenoty*. Praha 2008.

<sup>5</sup> For an English translation of the Czech Constitution (that is the primary source of terminology used in this article) see *The Constitution of the Czech Republic*. In: *The Constitutional Court of the Czech Republic*. [on line], last revision not mentioned [cit. 1<sup>st</sup> Oct. 2009]. URL: <[http://angl.concourt.cz/angl\\_verze/constitution.php](http://angl.concourt.cz/angl_verze/constitution.php)>.

<sup>6</sup> For an introduction to this topics see J. Sovinský, *Státní symboly...*, p. 60–66; for an introduction in English see K. Klíma, *Constitutional Law of the Czech Republic*. Plzeň 2008, p. 165–168.

<sup>7</sup> For the notion of historical tradition see K. Klíma et al., *Komentář...*, p. 29–33.

<sup>8</sup> See Art. 5 of Law No. 121/1920 Sb.z. a n., that introduces Constitutional Charter of Czechoslovak Republic.

<sup>9</sup> F. Adler, *Odznaky československého státu*. In: *Slovník veřejného práva československého*. Svazek II. Brno 1932, p. 1103–1106.

<sup>10</sup> F. Weyr, *Soustava československého práva státního*. Brno 1921, p. 87–88.

<sup>11</sup> F. Weyr, *Československé právo ústavní*. Praha 1937, p. 113–114.

<sup>12</sup> K. Klíma et al., *Komentář...*, p. 195.

<sup>13</sup> For the development of state symbols with many images see in detail P. Sedláček et al., *Česká panovnícká a státní symbolika. Vývoj od středověku do současnosti*. Katalog výstavy. Praha 2002. See also M. Hlinomaz, *Vývoj*

symbols of Hapsburg monarchy (especially in complex large state coats of arms). The origins of symbols of independent Czechoslovak state (that were more or less established in 1920) we can find in symbols of Czechoslovak Legions<sup>14</sup> that were inspired by traditional Czech symbols (symbols of Czech kingdom) and Slovak symbols (symbols of Hungarian state). State symbols of inter-wars Czechoslovakia were the origins of modern state symbols of Czech Republic and, to a certain extent, of Slovak Republic.

The constitutional provisions on state symbols remained practically the same for a long time. The Provisional Constitution from 1918 did not mention state symbols at all.<sup>15</sup> The so-called definitive Constitution from 1920 talked about colours of the Republic, state emblem and state flag.<sup>16</sup> The similar provisions were used in the so-called Constitution of 9<sup>th</sup> of May from 1948.<sup>17</sup> In spite of the fact that so-called socialist Constitution from 1960 talked only about state emblem and state flag,<sup>18</sup> in the Law No. 163/1960 Sb., on state emblem and state flag, we could find the provisions also on the flag of the president of the republic and on state seal. The federalization of Czechoslovakia from 1968 did not have any influence on the list of state symbols.<sup>19</sup> The fundamental quantitative change in the determination of state symbols on constitutional level brought only Constitutional Law on the State Symbols of Czechoslovak Federative Republic No. 102/1990 Sb. that enriched the list of state symbols: next to state emblem and state flag also the flag of the president of the republic, state seal and national anthem were added to the list. Similarly the above-mentioned Constitutional Law on State Symbols of Czech Republic No. 67/1990 Sb. enlisted among Czech state symbols state emblem, flag, seal and anthem.

The Constitution of Czech Republic merely gives us an exhaustive list of state symbols without prescribing how they look like. The actual depiction of state symbols can be found (on the basis of constitutional delegation in par. 2 of Art. 14 of the Constitution) in Law No. 3/1993 Sb. on state symbols, resp. the annex to this Law. The use of state symbols is then regulated by Law No. 352/2001 Sb., on the use of state symbols of Czech Republic. It is therefore necessary to change the constitution if we want to change the list of state symbols, whereas for the change of the "look" of these symbols it is sufficient to change an "ordinary" law. It is not quite a standard constitutional solution, because the description and images of state symbols are the usual parts of constitutions themselves.

Large state emblem (coat of arms) forms the quartered Spanish shield. In the first and fourth quartering is the traditional coat of arms of the Czech

country, the silver double-tailed lion with golden crown and golden armour on a red field. In the second quartering is the coat of arms of Moravian country, silver-red checky eagle with golden crown and golden armour on the blue field. In the third quartering is the Silesian black eagle with silver crescent with golden crown and red armour in a golden field (fig. 1).<sup>20</sup> Small state emblem forms the abovementioned coat of arms of the Czech country – Gothic shield with the silver double-tailed lion with golden crown and golden armour on a red field (fig. 2).<sup>21</sup> The author of the original appearance of Czech state emblem is heraldist Jiří Louda.

Traditional arms of Czech state was originally black eagle with red "flames" in a silver field connected with the house of Přemyslids, later at the end of the 12<sup>th</sup> century replaced with silver crowned lion with golden armour (that had originally only one tail, and from the 13<sup>th</sup> century onwards is double-tailed) in a red field.<sup>22</sup> Probably in connection with the original patrimonial character of the state the dynastic arms became also the arms of the state. Present day state emblem is in fact the intentional continuation of the Czechoslovak state emblem. This Czechoslovak emblem was for the first time legally regulated only provisionally in 1919 – at that time it was the contemporary coat of arms of the Czech kingdom.<sup>23</sup> This coat of arms was the part of complex arms of Hapsburg monarchy, for the last time regulated in 1915.<sup>24</sup> Czech state emblem then formed the basis of definitive state emblems with the more complicated structure.<sup>25</sup> In these more complex emblems we could find the arms of different parts of state territory, above all of Bohemia and Slovakia. The fundamental political and ideological change in 1948 was not for a long time reflected in state symbols.<sup>26</sup> The important change of the traditional state emblem took place in 1960. Socialist ideology affected this change in a numerous ways: crown over the lion's head was replaced by the five-pointed star, instead of the shield the allegedly "husite" pavise was used, the cross on the Slovak emblem was replaced by the allegedly "partisan" flame and three hills were replaced by the sharp silhouette signifying the mountain Kriváň.<sup>27</sup> Between 1968 and 1970 in connection with

československé státní symboliky 1918–1990. In: Sborník archivních prací, vol. 42, no. 1, 1992, p. 81–184; in English see P. Sedláček, *Symbole republiky. Symbols of the Czech Republic*. Praha 2007 (thereinafter P. Sedláček, *Symbols...*) (see too in: *Gouvernement of the Czech Republic*. [on line], last revision 22<sup>st</sup> Oct. 2007 [cit. 1<sup>st</sup> Oct. 2009]. URL: <[http://www.vlada.cz/assets/urad-vlady/udalosti/symbole-katalog\\_1.pdf](http://www.vlada.cz/assets/urad-vlady/udalosti/symbole-katalog_1.pdf)>).

<sup>14</sup> For these symbols see P. Sedláček et al., *Česká ...*, p. 87-88.

<sup>15</sup> Law No. 37/1918 Sb. z. a n., on Provisional Constitution.

<sup>16</sup> Art. 5. of Law No. 121/1920 Sb. z. a n.

<sup>17</sup> Art. 169 of Constitutional Law No. 150/1948 Sb., Constitution of Czechoslovak Republic.

<sup>18</sup> Art. 110 of Constitutional Law No. 100/1960 Sb., Constitution of Czechoslovak Socialist Republic.

<sup>19</sup> See Constitutional Law No. 143/1968 Sb., on Czechoslovak Federation, and Constitutional Law No. 125/1970 Sb. (that amended the law on federation).

<sup>20</sup> Art. 2 par. 1 of Law No. 3/1993 Sb.; P. Sedláček et al., *Česká...*, p. 121, 123.

<sup>21</sup> Art. 2 par. 3 of Law No. 3/1993 Sb.; P. Sedláček et al., *Česká...*, p. 120, 122.

<sup>22</sup> For the early development of Czech state emblem see e.g. P. Sedláček et al., *Česká...*, p. 19–29; P. Sedláček, *Symbols...*, p. 17–20.

<sup>23</sup> Decree of Government of Czechoslovak Republic No. 300/1919 Sb. that set down the state emblem; M. Hlinomaz, *Vývoj...*, p. 93; P. Sedláček et al., *Česká...*, p. 92–93.

<sup>24</sup> Decree of Imperial Royal Prime Minister No. 327/1915 Ř.z. that set down and describe the arms of Austrian countries. For state symbols of Hapsburg monarchy see T. Tyl, *Vývoj státní symboliky ve vztahu k zemím Koruny české mezi léty 1848 až 1918*. In: *Stát a právo v letech 1848–1918 ve středoevropském kontextu*, Bratislava 2007, p. 258–261; P. Sedláček, *Symbols...*, p. 7–13.

<sup>25</sup> There were used small, middle and large state emblems, regulated by Arts. 4-6 of Law No. 252/1920 Sb. z. a n. that set down provisions on state flag, state emblems and state seal. P. Sedláček et al., *Česká...*, p. 94–97; P. Sedláček, *Symbols...*, p. 13–14, 19–21. For the development of regulation of Czechoslovak state symbols in 1918–1938 (including proposals of variants) see M. Hlinomaz, *Vývoj...*, p. 88–106.

<sup>26</sup> Also the change of state territory was not reflected: From 1945 to 1960 were the arms of Podkarpatská Rus (sub-Carpathian Ruthenia) still the part of large and middle state emblem (although they were not used), although this territory was ceded to Soviet Union on the basis of Treaty from 29<sup>th</sup> of June 1945 (published as No. 186/1946 Sb.).

<sup>27</sup> Art. 110 par. 1 of Constitutional Law No. 100/1960 Sb., Constitution of Czechoslovak Socialist Republic; art. 1 of Law No. 163/1960 Sb., on the state emblem and state flag. See also S. Zdobinský et al., *Československá*

federalization of the state there were some discussions on the adoption of state emblem of more traditional appearance but they did not bring any changes.<sup>28</sup> Only in 1989 the new state emblem of the federation was considered during the works on the preparation of new constitution.<sup>29</sup> Finally the return to traditional emblem was made by constitutional law on state symbols in 1990.<sup>30</sup> As a part of the federation Czech Republic had its own state emblems only from 1990 to 1993.<sup>31</sup>

State colours are the white, red and blue in this particular order.<sup>32</sup> Colours are usually used in the form of tricolor (fig. 3). Its use is explained by the fact that red and white are the colours of the Czech kingdom, but they were also used in Moravia and Silesia. Because these two colours are also state colours of neighboring states (Austria, Poland), blue colour was added as an expression of the continuity with the so-called Slavic tricolor; its creation is allegedly connected with revolutionary year 1848.<sup>33</sup> In spite of the fact that traditional Czech colours were since Middle Ages only red and white, tricolor, for the first time regulated in the 1920 Czechoslovak Constitution<sup>34</sup>, was preserved also after the split of Czechoslovakia.

State flag has proportions of width and length 2 to 3. It is composed of the upper white strip and lower red strip; between these strips is inserted the blue wedge whose length is a half of the flag's length (fig. 4).<sup>35</sup> We have to distinguish between flag and banner that does not have to respect the abovementioned proportions.<sup>36</sup> It is interesting that the banner could be used according to Art. 7 of Law No. 352/2001 Sb. also for the flag decorations of buildings. Jaroslav Kursá is considered to be the author of the Czechoslovak flag, which is the basis of the Czech flag. It was regulated for the first time in 1920<sup>37</sup> as an expression of state colours.<sup>38</sup> Czech Republic use the older state flag of Czechoslovakia and

the use is in breach of the constitutional law about the division of state – according to this law no one of the successor states can use state symbols of the previous common state.<sup>39</sup> But neither Czech Republic, nor Slovakia respects this law in its entirety.<sup>40</sup> According to present day legal doctrine, constitutional laws are binding for the subjects only for the time of the state's existence and time of its extinguishment. On the basis of resolution of Czech National Council No. 5/1993<sup>41</sup> it is interpreted that Czech legislative assembly is sovereign and is not bound by the decision of Czechoslovak Federal Assembly. Slovak Republic did not accept Czechoslovak traditions and adopted different state symbols. Therefore after the end of the common state, the Czechoslovak flag became open for the use and as such was adopted by the Czech Republic.<sup>42</sup> It is also possible to argue that existence of federal state was a necessary condition for the existence of subject-matter of federal state symbols and it is not possible to apply the regulation of this non-existent subject-matter after the split of the common state.<sup>43</sup> Eventually we could also reason that Law No. 3/1993 Sb. on state symbols of Czech Republic indirectly abolished the previous legal regulation.<sup>44</sup> From 1990 to 1992 Czech Republic had within the framework of federation its own white-red flag (with strips of the same width) that was however used in practice only very rarely, inter alia for its resemblance with Polish flag.<sup>45</sup> As the oldest Czech stat flag we can consider probably St. Wenceslas standard that was in the Middle Ages composed of the standard of St. Adalbert and lance of St. Wenceslas.<sup>46</sup>

The flag of the President of the Republic is white with the border of white, red and blue flames; in the middle of the white field is the large state emblem under which there is the inscription "Pravda vítězí" (literal translation is "Truth gains victory" or "Truth prevails") in a red ribbon

ústava. Komentář. Praha 1988, p. 210; M. Hlinomaz, *Vývoj...*, p. 120–124; P. Sedláček et al., *Česká...*, p. 112; P. Sedláček, *Symbols...*, p. 21.

<sup>28</sup> M. Hlinomaz, *Vývoj...*, p. 124–126.

<sup>29</sup> Not less than six variants were prepared. M. Hlinomaz, *Vývoj...*, p. 126–128; P. Sedláček et al., *Česká...*, p. 114.

<sup>30</sup> Art. II of Constitutional Law No. 102/1990 Sb., on state symbols of Czech and Slovak Federal Republic; M. Hlinomaz, *Vývoj...*, p. 128–133; P. Sedláček et al., *Česká...*, p. 116.

<sup>31</sup> Large state emblem was composed of traditional arms of Czech countries: In the first and fourth field was Czech lion, on the second the Moravian eagle and on the third Silesian eagle. The small state emblem was Czech lion. Art. 1 of Constitutional Law No. 67/1990 Sb.; M. Hlinomaz, *Vývoj...*, p. 134–137; P. Sedláček et al., *Česká...*, p. 119, 120; P. Sedláček, *Symbols...*, p. 15–16, 21.

<sup>32</sup> Art. 3 of Law no. 3/1993 Sb.

<sup>33</sup> See travaux préparatoires to the government proposal of law on state colours and state flag etc. Document No. 1773/1919. Published in: *Společná česko-slovenská digitální parlamentní knihovna*. [online], last revision not mentioned [cit. 1<sup>st</sup> Oct. 2009]. URL: <[http://www.psp.cz/eknih/1918ns/ps/tisky/t1773\\_00.htm](http://www.psp.cz/eknih/1918ns/ps/tisky/t1773_00.htm)>. The so-called Slavic tricolor is in fact the Russian tricolor and its spread is connected with the spread of pan-Slavic ideas.

<sup>34</sup> Art. 5 par. 2 of Law No. 121/1920 Sb. z. a. n. Surprisingly, state colours were not mentioned in Constitution of 1960. P. Sedláček, *Symbols republiky*. *Symbols...*, p. 22–25.

<sup>35</sup> Art. 4 par. 1 of Law No. 3/1993 Sb.

<sup>36</sup> Flag is the banner emblem that is connected to flagstaff with a cord and whose proportions are set down. Only flag is the official emblem of state sovereignty. Banner is a piece of cloth of arbitrary proportions that is nailed on the flagstaff. Banner is not the official state emblem and international rules on flags do not apply to banners. F. Adler, *Oznaky...*, p. 1106; V. Sládeček – V. Mikule – J. Syllová, *Ústava České republiky*. Komentář. Praha 2007, p. 128.

<sup>37</sup> Art. 1 of Law No. 252/1920 Sb.

<sup>38</sup> M. Hlinomaz, *Vývoj...*, p. 93–94, 97–101; V. Pavlíček – J. Hřebejk, *Ústava...*, p. 111–112; P. Sedláček, *Symbols...*, p. 26–29.

<sup>39</sup> Art. 3 par. 2 of Constitutional Law No. 542/1992 Sb., on the dissolution of Czech and Slovak Federative Republic. To prevent the breach of the changes of the flag were considered, such as the shortening of the blue wedge of one third of flag's length and the change of blue colour for lighter azure. P. Sedláček et al., *Česká...*, p. 119.

<sup>40</sup> Neither of the new states respected Art. 4 of the above-mentioned law. V. Pavlíček – J. Hřebejk, *Ústava...*, p. 114; K. Klíma, *Ústavní právo*. Plzeň 2004, p. 143; V. Pavlíček et al., *Ústavní právo...*, p. 311; K. Klíma, *Constitutional Law...*, p. 121.

<sup>41</sup> Resolution of Czech National Council No. 5/1993 Sb., connected with the adoption of constitutional law of Czech National Council on measures related to the dissolution of Czech and Slovak Federative Republic.

<sup>42</sup> V. Pavlíček – J. Hřebejk, *Ústava...*, p. 114; V. Pavlíček et al., *Ústavní právo...*, p. 311. To the constitutional dissolution of federation see in brief K. Klíma, *Ústavní právo...*, p. 138–150; K. Klíma, *Constitutional Law...*, p. 118–129. For Slovak national symbols see the contribution of P. Kukliš, L. Kurlíovská and V. Janáč „Regulation of National Emblem in the Slovak Republic“, published in this journal.

<sup>43</sup> Art. 1 par. 1 of Constitutional Law No. 4/1993 Sb., on measures related to the dissolution of Czech and Slovak Federal Assembly.

<sup>44</sup> This reasoning is possible because of Art. 112 par. 3 of Constitution of Czech Republic. According to this article constitutional laws valid in the territory of Czech Republic at the moment, when the Constitution entered in force, changed their character to „ordinary“ laws. As a consequence of this „degradation“ of former constitutional laws to „ordinary“ laws, well-known principle of „lex posterior derogate legi priori“ applies. See K. Klíma, *Ústavní právo...*, p. 149; K. Klíma, *Constitutional Law...*, p. 128.

<sup>45</sup> Art. 2 of Constitutional Law No. 67/1990 Sb., on state symbols of Czech Republic. About the normal use of the „state“ white-red flag already in the eighties in the Czech part of Czechoslovak federation writes V. Pavlíček et al., *Ústavní právo...*, p. 239. There were only differences in proportions between Czech flag (2 to 3) and Polish flag (5 to 8). P. Sedláček, *Symbols...*, p. 28–29.

<sup>46</sup> Standard was probably taken by Austrians in 1278 after the battle on the Marchfeld (i.e. Morava Field) at Dürnkrut and we have no knowledge about it later. P. Sedláček et al., *Česká...*, p. 24–25.

underlined with golden lime spray (fig. 5).<sup>47</sup> This motto is traditionally ascribed to Jan Hus ("The Truth of the Lord prevails") and the first Czechoslovak president Tomáš Garrigue Masaryk popularized it. During the existence of Czechoslovakia president's flag was called a standard. It was regulated for the first time in 1920.<sup>48</sup> Its changes reflected especially the changes of the image of state emblem.<sup>49</sup> In 1990 was the motto changed after long discussions, as a consequence of Slovak objections, for Latin (i.e. neutral) "Veritas vincit", but it was only short-lived change.<sup>50</sup> The design of the flag is the work of Jiří Louda.

State seal that is kept by the president constitutes large state emblem underlaid with lime spray on the sides and overall there is the inscription "Česká republika" (fig. 6).<sup>51</sup> This is the work of Zdeněk Přikryl. It reflects the continuity with medieval state seals and its changes reflected changes of state emblem. It was regulated for the first time in 1920.<sup>52</sup> Till 1960 it was kept by the prime minister. The oldest state seal was made in the thirties of the 15<sup>th</sup> century and was used during interregnum till 1436 and later from 1452 till 1458.<sup>53</sup> Between 1990 and 1993 there existed also special seal of Czech Republic that was kept by the president of Czech National Council.<sup>54</sup>

National anthem is the first strophe of song "Kde domov můj" (fig. 7)<sup>55</sup> (literally translated "Where is my home?") by František Škroup and Josef Kajetán Tyl that was composed in 1834 for patriotic theatre play "Fidlovačka". Very soon this song became popular and was considered to be a national anthem. After the creation of independent Czechoslovakia in 1918 the anthem was regulated in many different laws and regulations (including ministry circulars<sup>56</sup>). In Czechoslovakia the second part of the anthem was the first strophe of Slovak song "Nad Tatrou sa blýská" (literal translation "Lightning over the Tatra") by Janko Matúška as a symbol of the equality between Czech and Slovak nation.<sup>57</sup> The Czech part of Czechoslovak anthem was considered to be the national anthem of Czech Republic.<sup>58</sup> From a historical perspective there were more songs considered in different times to be Czech state or national anthems, like medieval religious song

"Hospodine pomiluj ny" (literal translation "Lord, give us your love" or "Lord have mercy") and "Svatý Václave" ("Saint Wenceslas").<sup>59</sup> Also president as the head of the state uses traditionally the anthem – fanfare from the overture to opera "Libuše" by Bedřich Smetana. This anthem is however not regulated, but according to J. Sovinský its use is constitutional convention.<sup>60</sup>

Because there is no continuity in statehood between present day Czech Republic and the so-called Second Czecho-Slovak Republic, Protectorate of Bohemia and Moravia and Slovak Republic (according to Decree of President of the Republic No. 11/1944 Úř. věst. čsl.<sup>61</sup>), symbols of these legal entities existing from 1938 till 1945 does not form a part of the legal development of Czech state symbols.<sup>62</sup>

Next to above-mentioned state symbols Czech laws also mention other symbols that represent Czech Republic, are not regulated on the constitutional level, but are derived from state symbols. These are the military emblem, national distinctive emblem and emblem of the President's Castle Guard.<sup>63</sup> They are regulated in detail by the Regulation of Ministry of Defence No. 257/1999 Sb.<sup>64</sup> Emblem of Castle Guard is according its Art. 1 par. 2 three shields with the image of white Czech lion on the red field, Moravian eagle of red-blue colour in a blue field and Silesian eagle of black colour in a yellow field that are completed with golden lime leaves.<sup>65</sup> It is maybe a reminiscence of the so-called alliance emblem of Czechoslovak Legions from the First World War.<sup>66</sup> National distinctive emblem used in military equipment is according to Art. 11 of circular shape and divided on three equably wedges of white, red and blue colours. There could be border used dependent on the background or the colours could be omitted.<sup>67</sup> Military emblem is composed according to Art. 1 par. 1 of two crossed swords (described in details *ibid*).

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<sup>47</sup> Art. 5 par. 1 of Law No. 3/1993 Sb.; P. Sedláček et al., *Česká...*, p. 121, 124.

<sup>48</sup> Art. 2 of Law No. 252/1920 Sb., P. Sedláček et al., *Česká...*, p. 98; P. Sedláček, *Symbols...*, p. 30.

<sup>49</sup> P. Sedláček et al., *Česká...*, p. 116; P. Sedláček, *Symbols...*, p. 30–33. There is one interesting curiosity: Between 1954 and 1960 standard was used in its pre-war appearance, so there was still the large state emblem used including the arms of Sub-Carpathian Ruthenia ceded in 1945 to Soviet Union.

<sup>50</sup> Art. IV par. 1 of Constitutional Law No. 102/1990 Sb.; M. Hlinomaz, *Vývoj...*, p. 131–132; P. Sedláček et al., *Česká...*, p. 116.

<sup>51</sup> Art. 6 of Law No. 3/1993 Sb.; P. Sedláček et al., *Česká...*, p. 120, 121.

<sup>52</sup> Art. 8 of Law No. 252/1920 Sb. z. a n.; P. Sedláček et al., *Česká...*, p. 93, 98, 99, 113, 117, 120, 121; P. Sedláček, *Symbols...*, p. 35, 36–37.

<sup>53</sup> It is the seal of the Czech Crown. For this seal see P. Sedláček et al., *Česká...*, p. 24, 25; P. Sedláček, *Symbols...*, p. 34, 36.

<sup>54</sup> Art. 3 of Constitutional Law No. 67/1990 Sb.; P. Sedláček et al., *Česká...*, p. 120, 121.

<sup>55</sup> Art. 7 par. 1 of Law No. 3/1993 Sb.

<sup>56</sup> E.g. Journal of Ministry of Education and National Enlightenment, vol. 15, 1933 (decree no. 39 from 9<sup>th</sup> May 1933, *Kde domov můj*)

<sup>57</sup> V. Pavlíček – J. Hřebejk, *Ústava...*, p. 112. For details see G. Gössel et al., *Státní hymna České republiky v proměnách doby*. Praha 2008; P. Sedláček et al., *Česká...*, p. 84–85, 93; P. Sedláček, *Symbols...*, p. 38–39; J. Sovinský, *Státní symboly...*, p. 65–66.

<sup>58</sup> Art. 4 of Constitutional Law No. 67/1990 Sb.

<sup>59</sup> P. Sedláček et al., *Česká...*, p. 19–20, 21, 23–24, 26–27; P. Sedláček, *Symbols...*, p. 38.

<sup>60</sup> P. Sedláček et al., *Česká...*, p. 103; J. Sovinský, *Státní symboly...*, p. 61, 62.

<sup>61</sup> For this decree see J. Kuklík, *Mýty a realita tzv. Benešových dekretů*. Praha 2002, p. 160–168.

<sup>62</sup> For details of symbols of these entities see M. Hlinomaz, *K problematice státních symbolů pomnichovské ČSR a tzv. protektorátu*. In: *Archivní časopis*, vol. 37, no. 2, 1987, p. 79–89; M. Hlinomaz, *Vývoj...*, p. 106–119; P. Sedláček et al., *Česká...*, p. 105–109.

<sup>63</sup> See Law No. 219/1999 Sb., on military forces of Czech Republic (Art. 31, par. 4).

<sup>64</sup> Regulation of Ministry of Defence No. 257/1999 Sb. that set down the depiction of military emblem, national distinctive emblem and Castle Guard emblem, rules for the labeling of military material with military emblem, and national distinctive emblem, the depiction of military uniform and military badges and their use and rules for labeling of military equipment with national distinctive emblem or with state symbol or with Castle Guard emblem.

<sup>65</sup> P. Sedláček et al., *Česká...*, p. 116, 120–121.

<sup>66</sup> On this emblem and on its use see M. Hlinomaz, *Vývoj...*, p. 94–95; P. Sedláček et al., *Česká...*, p. 88; P. Sedláček, *Symbols...*, p. 12–13.

<sup>67</sup> In the past the military white-blue-red cockade was also used (1919–1921) that was replaced in 1921 by banner-like emblems. In 1926 they were replaced again by military cockade of 1926 type divided on the equal white, red and blue wedges – these became later the national distinctive emblem. Next to it ministry of interior from 1936 used the so-called spherical triangle composed of the wedges of the same colours. P. Sedláček et al., *Česká...*, p. 93–94, 99–100, 101–102; P. Sedláček, *Symbols...*, p. 24–25.