The Czechoslovak Law of Sale

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1. Introduction

In the contemporary world, individuals cannot produce all by themselves the goods they need to satisfy their wants. The basic needs, which must be satisfied, are those of food, clothing, housing, and tools to earn a living, and these needs are followed by an endless string of other vital wants. Raw materials such as corn, cattle, fish, wool, timber, coal, ore, and oil are provided by growers, farmers, fishermen, and miners. The producers supply raw materials to processing plants, like flour mills, lumber mills, steel mills, and to all types of factories and manufacturing plants. The final product leaving a factory may again serve as raw material for further processing plants, like bakeries, furniture factories, tailoring plants, etc. before it finds its way into shops, where it is acquired by the ultimate user. Transport of raw materials and products is required, and the service is given by a variety of carriers ranging from airplanes, seagoing vessels, and railroads to local delivery means. Labor is added to the product at every stage of the manufacturing process. In this way, goods are transferred from the original producers through manufacturers and middlemen to the final users. The method used to transfer the goods from one to the other, apart from barter and gift, is that of sale, which may be defined as an agreement whereby the seller transfers his title to the goods to the buyer for a consideration called the price. The above-outlined process is common to all advanced contemporary countries and nations, irrespective of form of government and economic system. The differences between individual systems consist only in the means and ways in which the process is accomplished. In the free world, based on individual freedom, on the freedom of every individual to choose the kind and place of his employment, on the freedom of personal initiative, on equality of all before the law, where one law applies to all and all are subject to one law, the entire process of production and sale is built up on these principles.

Contrary to the practice current in the free world, in the collectivist countries, of which Czechoslovakia is one since 1948, all means of production, distribution, exchange, and communication are public property, state-owned, and state-controlled. The state, through its numerous agencies and enterprises, is the only employer. Every person has to work and has to engage in a type of work and at a place assigned to him by the state. The whole process of production and sale...
is ordered by the state, and laws are enacted to regulate its various stages. One law applies to the process of production and manufacture, another to foreign trade, and yet another to that of acquisition of goods by the ultimate user. The state directs what is to be produced, how it is to be produced, and in what quantity and quality. As to the ultimate user, the state directs what he is going to eat, what he is going to wear, where he is going to live, and what he must do for the state in return.

The legal provisions dealing with the law of sale were, up to recently, embodied in the Civil Code of 1950 and in a number of other statutes which dealt chiefly with foreign trade and relations among government enterprises. The Civil Code of 1950 covered the area previously dealt with by the Civil Code of 1811 but was, as to its contents, modelled on Soviet civil law as it stood at that time. Having performed its task as a tool of class struggle, the Central Committee of the Communist Party of Czechoslovakia—in its session on 8 December 1960—decree that a new Civil Code should be enacted and that both internal and external trade should be newly regulated. Work on the new set-up was immediately begun, and the following three codes were duly enacted: Civil Code of 1964, Economic Code of 1964, and Code of International Trade of 1963. These three codes now embody the principles regulating the Czechoslovak law of sale.

2. Contract of Sale in Czechoslovak Law

Czechoslovak law distinguishes four types of contracts of sale: 1) between collectivist organizations and citizens (governed by the Civil Code and enforced by courts); 2) between citizens (governed by the Civil Code and enforced by courts); 3) between collectivist organizations (governed by the Economic Code and enforced by Economic Arbitration); and 4) in foreign trade (governed by the Code of International Trade and enforced by courts).

The provisions of the above three codes are modelled on the presently applicable provisions of Soviet law, which are freely reproduced in the Czech language. Apart from the language, the difference between Soviet and Czechoslovak law consists in form rather than in substance. So, the RSFSR Civil Code deals with all the relationships enumerated above under points 1-3, and forms the basis of the law of foreign trade, whereas in Czechoslovak law, the relationships under point 3 are regulated by a separate Economic Code, and those under point 4 by a separate Code of International Trade.

All four types of contracts of sale exhibit a common feature, in that goods and services are exchanged for a money consideration called the price, yet they differ as to the subjects who participate in the transaction. Transactions under point 1 above deal with sales by state-owned stores to the general public; those under 2, with sales by a citizen to a citizen or to a collectivist organization; those under 3,