

ASSOCIATION OF ETHNIC GERMAN ORGANISATIONS IN AUSTRIA



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Author and Editor

Peter Wassertheurer

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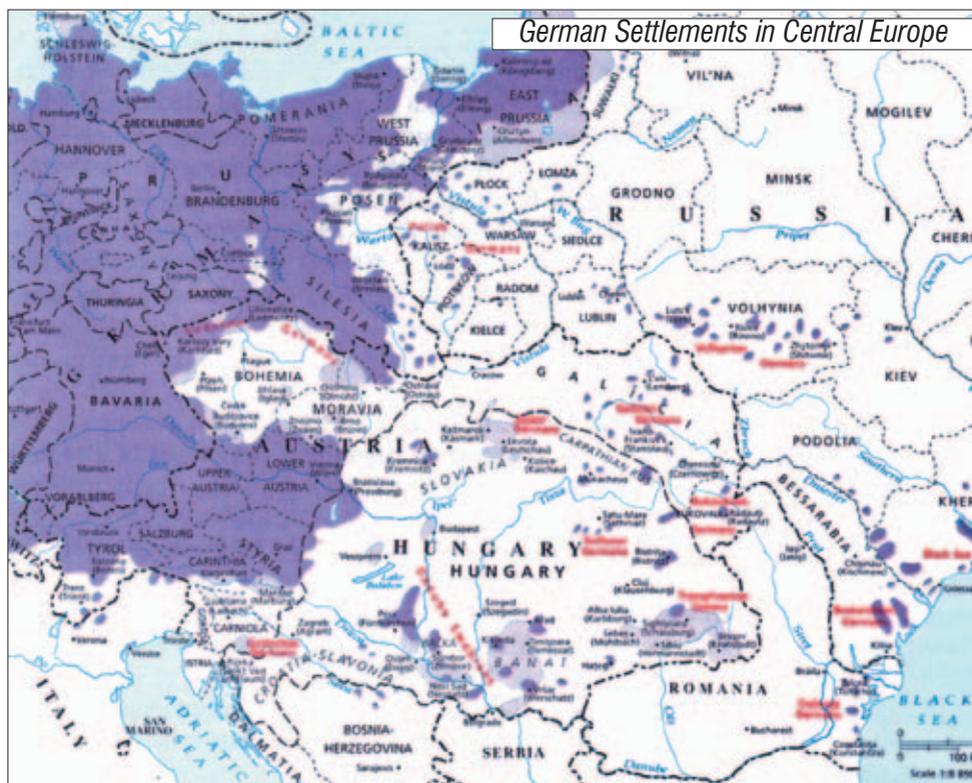
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CRIMES AGAINST FORMER AUSTRIAN ETHNIC GERMANS FROM EASTERN CENTRAL AND SOUTHEASTERN EUROPE AND THEIR CONTINUING INJUSTICE

The present expose is first intended to present a short history of the ethnic German expellees from the viewpoint of international law and then to show in the second section, that the injustices continue to exist today: among them the continued validity of the Beneš Decrees in the Czech Republic and Slovakia, discrimination against the German minority in Slovenia (as opposed to the treatment of the Italian and Hungarian ethnic groups) or the Czech Law on Restitution, which excludes Sudeten German expellees from any form of compensation.

1. THE HISTORY OF ETHNIC GERMAN EXPELLEES IN AUSTRIA



The fate of the ethnic Germans living in Austria varied depending on their country of origin and must be retrospectively interpreted within the framework of National Socialist ethnic policies, the final turn in the war after the German Army's failed summer offensive in 1943 and interallied policies. Between 1940 and 1947 there were resettlements, evacuations, flight, internments and expulsions. These actions against the former Austrian ethnic German groups in Czechoslovakia (Sudeten and Carpathian Germans) and in Yugoslavia (Danube Swabians, Germans from South Styria and Gottscheer) fulfill the requirements of genocide in the opinion of international law experts Alfred de Zayas, Felix Ermacora, Dieter Blumenwitz, and Gilbert Gornig.

The Third Reich concluded bilateral agreements for the resettlement of the ethnic



***ID card for a repatriate
from the Soviet Union***

German populations out of the Soviet Baltic, Romania and Italy. Other agreements, such as the Vienna Arbitration Decisions of 2 November 1938 and 30 August 1940 lead to not only revisions of the 1919/20 borders, but also caused changes in the political and constitutional situation within the areas of ethnic German settlement. Ethnic German „resettlers“ were either resettled in areas of Eastern Europe which had been conquered by the Wehrmacht (The Generalgouvernement) on Austrian territory or in the Reich itself. These resettlements involved, insofar as they effected Austrian territory, Germans from Bukovina, Bessarabia, Russian-Germans and Germans from the Gottscheer.

ETHNIC GERMAN RESETTLERS IN AUSTRIA DURING WWII BY GROUP	
Russian Germans	1142
Bessarabia Germans	9873
Bukovina Germans (North Bukovina)	1064
Ethnic Germans from “Ostland” and the “Generalgouvernement”	1336
Gottscheer	13.102 (Ranner Triangle in “Reichsgau Steiermark”)

1.1. The Evacuation of Northern Transylvania

The advance of the Red Army in early 1944 led to the evacuation of the ethnic Germans from Transnistria and the Ukraine, which also effected „Gau Oberdonau“ (Upper Austria). After the Red Army occupied the Bukovina and the area north of the Moldau, northern Transylvania became a hinterland to the front. Northern Transylvania had been given to Hungary as a result of the Second Vienna Arbitration decision. On 5th of September 1944 the evacuation order for the German population of northern Transylvania was given. Over 50 municipalities were evacuated, including border towns in Southern Transylvania. The last transport train left Bistritz on October 9, 1944. By mid-October the first treks crossed what was then the border



***Treks from
Transylvania***



of the Reich west of Ödenburg and entered what is now Austrian territory. A total of 48,000 took part in the evacuation of northern Transylvania, including Satmar Swabians and persons from the south Transylvanian border municipalities.

1.2. The Germans from Yugoslavia

On 26 November 1942, at the initiative of the military leadership of the partisan army, the Antifašističko veće narodnog oslobodjenja Jugoslavije (Anti-fascist council for the peoples' liberation of Yugoslavia, AVNOJ) was founded as the supreme legislative organ for the liberation of the peoples of Yugoslavia in the north-west Bosnian town of Bihac. At the head of the AVNOJ, which was intended to better coordinate the military cooperation of partisan units and the People's Liberation Committee, was the Croat Ivan Ribar. At the end of November 1943, at its second conference in the Bosnian town of Jajce, the Avnoj was declared to be the supreme legislative and executive organ as well. The 142 delegates decided to found a federative Yugoslavia on the basis of the right of self determination and national equality. Simultaneously, the Nacionalni komitet oslobodjenje Jugoslavije (National Committee For The Liberation Of Yugoslavia) was formed with Marshall Josip Broz Tito at its head.

On 21 November 1944 AVNOJ passed a series of regulations „regarding the transfer of enemy assets into state ownership, regarding the state administration of the assets of absent persons and regarding the seizure of assets, forcefully taken by the occupying powers“ which were then published in the Yugoslav official gazette on 6 February 1945. On the day of the regulations' entry into force, the following assets became state owned properties:

1. *the entire property of the German Reich and its citizens situated in Yugoslavian territory;*
2. *the entire property of persons belonging to the German people, with the exception of those Germans who have fought in the National Liberation Army, and the Yugoslavian Partisan units or those who are citizens of neutral states, who have not shown any hostility during the*

occupation.

3. the entire property of war criminals and their accomplices, without any consideration to their citizenship and the property of each person, who have been condemned to giveup their property in favor of the state by civil or military law courts. (Art. 1)

The evacuation of the ethnic German population from Yugoslavia did not occur uniformly. While the Germans in Slavonia and Sylvania could be evacuated, it was started too late in the west Banat. 90,000 Danube Swabians thus fell into the hands of the partisans. A similar fate was suffered by the Danube Swabians from the Batschka, who had been citizens of Hungary since Yugoslavia's military defeat in April 1941. There too the evacuations were only begun in the first weeks of October 1944. The delayed evacuation left over 80,000 Danube Swabians in their homeland.

In Fall 1944, the front overwhelmed more than 200.000 Danube Swabians. By 6 October 1944, the Red Army had occupied the West Banat and by 23 October



Danubeswabian Trek in East Steiermark (Styria), Winter 1945/46



1944 all of the Batschka. Before an organized military administration could be established, local Serbs created „People’s Liberation Committees“, which went after the German population with increasing brutality. Summary execution by firing squad and cleansing actions struck primarily well-off German citizens between 16 and 60 years of age (NS-Functionaries and „Class enemies“). The terror took place within the framework of the „Aktion Intelligenzija“ (Intelligencia Action) and cost the lives of around 9,500 persons. In Winter 1944/45 Labor and Concentration Camps for ethnic-German civilians were set up in areas settled by Danube Swabians. In the period between November 1944 and March 1948, at least 51,000 of the 170,000 German civilian internees died in the camps due to torture, hunger or illness, of that number were some 5,600 to 6,000 children under the age of 14. Over 12,000 Danube Swabians from the Batschka and Banat were deported to the Soviet Union for forced labor. At least 2,000 of them died due to hunger, exhaustion or illness. The total number of Danube Swabian civilians who died in Yugoslavia is in the area of 64,000.

1.3 German South Styrians

The fate of the German South Styrians, whose northerly area of settlement became part of the territory of the German Reich after Yugoslavia's destruction, was similar to that of the Danube Swabians. Those who did not flee across the border to Austria with German military units at the end of the war became victims of partisan repression. Hundreds were shot to death, locked in prisons or were put in internment camps. Every day trucks loaded with prisoners rolled to Koschnitz gorge, where they were mowed down by machine guns on the edge of anti-tank ditches. Towards the end of June, the first wave of brutality was followed by the transfer of the persecuted Germans to the large transit camps in Cilli, Tüchern, Herberstein castle near Marburg and Sterntal near Pettau. Most of the German South Styrians who survived were finally expelled from their homeland and deported across the border to Austria. The camp in Sterntal was open from May to October 1945 and filled to bursting

with 10,000 persons. In Sterntal it is estimated that 4,000 persons died due to maltreatment and as a result of disease. The situation in the Tüchern camp near Cilli was no less dramatic, that camp existed until June 1946. Disease, malnutrition and violence claimed over 3,000 lives in the Tüchern camp too. All totaled, the South Styrian Germans suffered losses up to 6,000

1.4. Sudeten- and Carpathian-Germans

In his radio speech on 27 October 1942, Czech President in exile Edvard Beneš predicted the events of 1945 with the following words: „In our country, the end of the war will be written in blood. The Germans will be paid back mercilessly and multiply for everything they have done to our country since 1938. The whole nation will participate in this fight. There will not be a Czech, who does not participate in this mission and there will not be a patriot, who does not take revenge for everything that the nation has had to endure ...“ On 5 May 1945 the uprising against the Nazi regime broke out in Prague. In the following months it was followed by pogroms against the German civilian population. The moving forces behind the anti-German terror in the Sudeten German border areas were procommunist partisan groups, revolutionary guards, national guards and paramilitary militias as well as the national committees, which had joined with the Czech army and security and administrative organs that frequently acted independently.

Violent excesses hit the German language islands and then step by step the whole border region during the period of „wild expulsions“ from May to July 1945. At the end of May 1945 over 25,000 Brünner Germans (Brünner Death March) were driven over the border to Austria, where hundreds died in the border area between South Moravia and Lower Austria. Similar tragedies occurred during the expulsion of the Germans from the Iglau linguistic island. There was excessive violence against the German civilian population in numerous other Sudeten locations like Brüx, Aussig, Postelberg, Taus, Ober-Moschtienitz, Prerau, Totzau, Duppau, Saaz, Podersam and in Landskron as well. In the wild expulsion phase,





Sudeten-German Expellees

it is estimated that between 600,000 and 800,000 Sudeten Germans were expelled over the borders into Germany or Austria. According to estimations of Czech historians, there were a total of 308 internment camps for Germans on Czech territory at the end of August, 1945. The majority of the camps, 175, were in Moravian-Silesia. The number of camps in Bohemia was 133. Red Cross information and the investigations of the German Expellee Ministry support Sudeten German losses of some 225, 600 persons, the fates of whom are uncertain to this day. „One must assume that this number closely reflects the number of direct and indirect victims of the Czech revenge and expulsion policies.“

On October 27, 1944 the order went out for the evacuation of the Carpathian Germans from Slovakia. In Summer 1945 a portion of the Carpathian Germans returned to their homeland, were not allowed to stay and were expelled again. At the same time violence broke out against the Carpathian Germans. On June 18, 1945 a terrible massacre took place near the railway station in the Moravian town of Přerau (Czech. Přerov). A total of 265 Carpathian Germans (71 men, 120 women and 74 children) who were heading home to Slovakia, were shot to death on the orders

of two Czech officers. In September 1944, the Hauerland section of Slovakia, all 187 male inhabitants of the village of Glaserhau were executed on the orders of the Soviet Commander.

Besides the Sudeten and Carpathian Germans, the German population of the Polish-Czech border area „West Beskiden,“ the former Duchy of Teschen, which was divided between Poland and Czechoslovakia after WWI, were hit by expulsion and property forfeiture as well. The Bierut Decrees were used against the Beskiden Germans living in Poland.

1.5. The Beneš Decrees in Czechoslovakia

Between May and October 1945 decrees were issued based on the Kaschauer Program, which were directed at re-establishing the legal system and making permanent changes in the economic and social system. The most important decrees in this phase were:

Decree of the President of the Republic, No. 5, 19th May, 1945

Concerning the Invalidity of Transactions Involving Property Rights from the Time of the Oppression and Concerning the National Administration of Property Assets of Germans, Hungarians, Traitors and Collaborators and of Certain Organizations and Associations

Decree of the President of the Republic, No. 16, 19 June, 1945

Concerning the punishment of Nazi criminals, traitors and their helpers and the extraordinary People's Courts.

Decree of the President of the Republic, No. 12, 21 June 1945

Concerning the confiscation and expedited distribution of the agricultural assets of the Germans and Hungarians as well as traitors and enemies of the Czech and Slovak nation.

Decree of the President of the Republic, No 27, 17 July 1945

Concerning the uniform direction of internal settlement.

Decree of the President of the Republic, No 28, 20 July 1945

Concerning the Settlement of the Agricultural Land of the Germans, Magyars, and Other Enemies of the State by Czech, Slovak, and Other Slavic Farmers





Decree of the President of the Republic, No. 108, 25 October 1945
Concerning the confiscation of enemy assets and the National Renewal Fund.

Decree of the President of the Republic, No. 126, 27 October 1945
Concerning the Forced Labor Special Departments

Constitutional Decree of the President of the Republic 137, 27 October 1945

Concerning the Preventive Detention of Persons Viewed as unreliable to the state in revolutionary times.

Decree of the President of the Republic, No. 138, 27 October 1945
Concerning Punishment of Crimes Against National Honor

Constitutional Decree Nr. 47/1945, 25 August 1945, transferred legislative power to the Provisional Assembly, which exercised legislative power until 18 July 1946. In Constitutional Law Nr. 57/1946, passed on 28 of March 1946 it was established that the Constitutional Decrees and Decrees based on Constitutional Decrees issued in London exile on 15 October 1940 were to be treated as laws or Constitutional laws from that date. With its publication, the decrees became part of the Czechoslovak post-war legal system.

The Beneš Decrees are only partially valid on Slovak territory, due to the fact that the Slovak government passed its own regulations regarding the expropriation of German assets.

2. ARGUMENTS AND FACTS FROM INTERNATIONAL LAW

After the unconditional surrender of the Third Reich, the victorious allies were of one mind that those responsible for the crimes of the National Socialist regime would have to be brought to justice. The International Military Tribunal in Nuremberg (Art. 6 lit. c IMT-Statute) condemned the horror of the NS regime as a crime against humanity, subject to punishment, with the following elements of the offense:

Murder, extermination, enslavement, deportation, *and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of*

or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated

2.1. Genocide Convention

In Article II of the Genocide Convention of December 1948, Genocide is defined as an act committed with the intention of destroying, in whole or in part, a national, ethnic, racial or religious group. Among the acts listed in the Genocide Convention are:

- (a) Killing members of the group;*
- (b) Causing serious bodily or mental harm to members of the group;*
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;*
- (d) Imposing measures intended to prevent births within the group;*
- (e) Forcibly transferring children of the group to another group.*



German Victims of the Genocide in Yugoslavia



It should be noted that the acts listed under Art. II lit a-e of the Genocide Convention only rise to the level of genocide „when they are committed with the intent to destroy a national, ethnic, racial or religious group in whole or in part.“ As long as it cannot be shown that the the perpetrator acted with this intent, one cannot speak of genocide. The intent must be able to be clearly documented because, „intent means that it is exactly the physical destruction of the group, in whole or part, that the perpetrator intends to cause.“

Not only the physical-biological destruction of an ethnic group is meant by the word, „destruction.“ Thus, in the case of the Germans from Yugoslavia, Blumenwitz comes to the opinion that the Yugoslav government intended to „eliminate the German population from their ancestral homeland, even if they were first to be exploited for their labor. But proof that the internment happened with the goal of exterminating the Yugoslav Germans does not exist.“

Felix Ermacora drew up the following thesis regarding the fate of the Sudeten Germans from after WWI until their expulsion from their ancestral homeland:

- 1) *The Sudeten Germans, who were taken from Austria and given to newly-created Czechoslovakia in 1918/1919 against their declared desires, never came to the enjoyment of the right to self determination“.*
- 2) *The expulsion of the Sudeten Germans from their ancestral homeland between 1945 to 1947 and their resettlement after WWII were in contradiction of not only the Atlantic Charter and the Charter of the UN, which promised self determination, the Expulsion was also Genocide and a crime against humanity as well, which has no statute of limitations.*

Dieter Blumenwitz comes to the same conclusion in assessing the horror and the measures which were taken against the German ethnic group in Yugoslavia (Danube Swabians and German South Styrians):

The measures taken in Yugoslavia against the whole of the German population between 1944 and 1948, which, on top of mass killings also included collective expropriation and loss of civil rights, internment and expulsion as well as the forced ethnic re-education of children, of a

group that had been rooted in the area for generations (long before it was given to Yugoslavia) fulfill the objective and subjective elements of the crime of genocide in the sense of the UN Genocide Convention of 9 December, 1948.“



German Cemetery in Kerndija (Krndija), Croatia

In their work, both authors point out that in both cases the intent to physically-biologically exterminate cannot be proven, they point out, however, that the intentional destruction of the the groups social existence fulfills the elements of the crime of genocide. Blumenwitz, using the presidences of the supreme courts of the German Federal Republic interprets the „intent to destroy“ in Art. II of the Genocide Convention as follows: „those who act with the intent to destroy the social existence of the group fulfill the elements of the crime of genocide, “because through their taking actions listed in Art. II of the Genocide Convention the feeling of belonging to a group and the social existence of the group are intended to be taken.

In this context Ermacora condemned the destruction of the homeland of the Sudeten Germans: „to the characteristics of the elements of the crime comes the intent to destroy the group. This intent is not directed at the physical extermination of the group, but rather at removing the group from its ancestral homeland.“

3. CONTINUED EXISTENCE OF THE INJUSTICE AND TODAY'S DEMANDS



German Cemetery, Czech Republic: Genocide unbarred by time

Along with the crimes in the months and years before and after the end of WWII, the injustice continued against the German minority in Czechoslovakia, in Yugoslavia and in a varied form in Romania. Members of the German minorities were dispossessed, politically disenfranchised through loss of citizenship, deported to perform forced labor in the Soviet Union, resettled, interned in Concentration Camps, discriminated against in the workplace and socially and subjected to ra-

dical assimilation. Even though there has been a significant lessening in discrimination since the collapse of communism, the historic injustices continue on, especially in the area of restitution law. German expellees are also impacted by this discrimination.

On 21 May 2008 the VLÖ, Verband der volksdeutschen Landsmannschaften Österreichs, (Association of Ethnic German Organizations in Austria) presented the Austrian Foreign Ministry with a comprehensive claims package, in which the VLOe demanded that Austrian institutions intensify their engagement for the topics listed under points 1 to 4 below in their bilateral relations and in the governing bodies of the EU:

1. Recognition of the German minority in Slovenia as a „autochthon ethnic group“ in the Slovenian constitution.
2. Amendment of the restitution law in the Republic of Croatia
3. Restitution law in the Republic of Serbia
4. „The Sudeten German Question“ viewed from the aspect of Czech restitution law and the demand for the nullification of the Beneš Decrees after their confirmation by the parliaments in Prague and Pressburg.

ad 1. The Problem of recognition of the German minority in Slovenia

In 1998, Austria and Slovenia signed a bilateral cultural agreement, in which the existence of a German speaking ethnic group in Slovenia was confirmed. Slovenia's Foreign Minister Dimitrij Rupel spoke on the occasion of the signing of the agreement in Vienna, that with the agreement, the German minority in Slovenia was recognized as an ethnic group and came under the protective provisions of Art. 61 of the Slovenian constitution.

The current situation of the German minority shows, however, that the German minority continues to be denied the basic state supports for the maintenance of the infrastructure in the ethnic group's organizations. The goal now has to be the recognition of the German minority as an „autochthon ethnic group“ in the Slovenian constitution. The models are the Hungarian and Italian minorities, which are mentioned in the constitution of the Republic of Slovenia as „autochthon ethnic groups“ and therefore enjoy state supports in the areas of culture, youth work and education.





The VLOe is against a discrimination of the German minority as opposed to the Hungarian and Italian minorities in the Republic of Slovenia and demands that the German minority in Slovenia be recognized as an autochthon ethnic group. In the future, the Republic of Austria and the Republic of Slovenia have to insure that representatives of the German minority in Slovenia are included in the governing bodies of the bilateral cultural agreement.

ad 2. Restitution Law in the Republic of Croatia

The Croatian Constitutional Court (CCC) has demanded an amendment of the Restitution Law since 1996, since the determination that only persons with Croatian citizenship have legal recourse represents a denial of basic equality. The VLOe demands that the Republic of Austria, in its bilateral relations with Croatia, insure that the amendment to the Croatian Restitution Law guaranty equal legal access to all persons, irrespective of their citizenship, who suffered illegal expropriation of their property since WWII. There must not be any further discrimination against foreign citizens.

ad 3. Restitution Law in the Republic of Serbia

On May 31, 2005 the Republic of Serbia announced the „Law regarding registration and evidence of expropriated property“ in its official gazette and used this as a basis to carry out an inquiry regarding property expropriated since 1945. According to information from the Austrian Foreign Ministry, one can assume that the Republic of Serbia wants to resolve the issue of property expropriation with a restitution law. The VLOe demands that Serbia too should not discriminate against persons with foreign citizenship and that everyone be guaranteed the same legal access.

ad 4. The Sudeten Germans: Beneš Decrees and Restitution

In 1999, before the Czech Republic (CR) and Slovakia (SR) joined the European Union (EU), the Austrian National Assembly demanded in a resolution the nullification of the Beneš Decrees, upon which the expropriation and deprivation of civil rights of the Sudeten German are based. A similar resolution was passed earlier by the European Parliament.

The VLOe and the Association of Sudeten Germans in Austria (SLOe) tied these demands to an EU entry by the Czech Republic and Slovakia, since one had to be afraid that neither Prague nor Pressburg could be expected to take such a step after having joined the EU. The view of Austrian politicians, that one should let the Czech Republic join the EU, because it would then be easier to resolve the so-called „Sudeten German Question“ in the EU, has now been proven as a heavy miscalculation. In reality, since CR and SR joined the EU, the matter has come to a standstill.

The VLOe's argument is oriented to the following standpoints

a.) According to Felix Ermacora, Dieter Blumenwirt, Alfred de Zayas, and Gilbert Gorning, the expulsion of the Sudeten-Germans are constituent facts of genocide



VLO (VLOe), Haus der Heimat, Steingasse 25, A-1030 Vienna

and not subject of the statute of limitations. Accordingly, the expellees have under international law the right for compensation. The question of restitution has to be resolved by dialogue between the Czech government and representatives of the Sudeten-Germans, where the principle of no new injustice is paramount.

b.) The program of restitution by the Czech Republic (in part also of the Slovakian Republic) contradicts the principle of equal rights since it excludes the expellees and the Germans remaining in their homeland. The re-privatization pertains only to the possessions expropriated after the Communists gained power in 1948. German property purloined under the Beneš decrees remains untouched. (An exception exists since 1994, only for aryanized properties owned by German Jews coming under the Beneš-rules of confiscation and expropriation. At that time, rules of exception for racially discriminated persons were also part of the Beneš Decrees.)



***VLOe-Delegation with Commissioner
of EU enlargement, Günter Verheugen, in Brussels, in the year 2000***

c.) In addition to the expellees, members of the German minority in the Czech Republic, in conjunction with the restitution, are being discriminated against be-

cause their property had been expropriated to a large extent by the Beneš Decrees, also. Such discrimination of an ethnic minority, in the opinion of the VLOe and the SLOe, contradicts the criteria for acceptance into the EU as defined in 1993 in Copenhagen. It continues even today, despite the fact that the VLOe informed of the injustice in discussions the then EU-Commissioner for expansion, Günter Vorheugen, and with numerous initiatives the delegates in the European Parliament.



Association of Ethnic German organisations in Austria (VLOe)



Members:

- Sudetendeutsche Landsmannschaft in Österreich* ¹⁾
- Donauschwäbische Arbeitsgemeinschaft* ²⁾
- Landsmannschaft der Siebenbürger Sachsen* ³⁾
- Karpatendeutsche Landsmannschaft in Österreich* ⁴⁾
- Landsmannschaft der Buchenlanddeutschen* ⁵⁾
- Landsmannschaft der Deutsch-Untersteirer in Österreich* ⁶⁾
- Österreichischer Heimatbund Beskidenland* ⁷⁾
- Verband der Banater Schwaben Österreichs* ⁸⁾
- Gottscheer Landsmannschaft in Klagenfurt* ⁹⁾