



Honouring Civil Courage

On the situation of
victims of communism
in Europe



Imprint

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Photo credits

Front page (from top left to bottom)

- 1) Bundesstiftung Aufarbeitung, Harald Schmitt, Photo 72-10a.
After Latvia's unilateral declaration of independence from the USSR, riots erupted in January 1991 which led to five deaths in shootouts with the Russian Omon troops in Riga. The picture shows the funeral, which was accompanied by a great show of sympathy from the population.
- 2) Bundesstiftung Aufarbeitung, Harald Schmitt, Photo Schmitt 301(1)
Stalin Memorial brought down after Lithuania's independence.
- 3) Bundesstiftung Aufarbeitung, Harald Schmitt, Photo H. Schmitt 02
„Velvet Revolution“. More than 20,000 people gathered in the centre of Prague and called for the end of communist rule.
- 4) Bundesstiftung Aufarbeitung, Harald Schmitt, Photo Schmitt_209
1980 strike at the Lenin Shipyard in Gdansk, Poland. The picture shows the strike leader Lech Walesa.
- 5) Bundesstiftung Aufarbeitung, Uwe Gerig, Photo 4531

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Federal Government /Lehnartz, Klaus, Photo 10487_1_58447
Residents from both parts of Berlin on top of the Wall near the Reichstag building talking to a GDR police officer.



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Victim without a lobby?

He is considered the last political prisoner in Communist Poland: Because Józef Szaniawski had been secretly working for the Munich-based radio station "Radio Free Europe", he was sentenced to ten years in prison in 1985 – for "espionage". He wasn't let out of prison until 19 December 1989, when a non-communist prime minister was already in charge in Poland. One year later he was acquitted by the Supreme Court of Poland. In 2005, the wrongfully convicted Szaniawski received a victim's pension equivalent to about 215 euros. His request for a special pension was repeatedly denied. "A prison sentence as a result of a judgment, which was subsequently repealed as inadmissible, cannot be regarded as an extraordinary and fateful event," was the reason given in the decision. Before his case came to trial again, Szaniawski passed away in September 2012.

Tens of thousands of other people in Europe are suffering the same fate as Józef Szaniawski. 25 years after the end of the Communist regimes, their resistance is still not adequately recognized. Many people who were persecuted are destitute, sick and disappointed, because the former officials in charge are often doing better than themselves. Does history teach us that in Europe it's not worthwhile to resist dictators and courageously stand up for freedom and democracy?

Who is considered a victim?

The European Parliament and the Council have recently set out a broad definition of who is considered a victim of crime in the **"Directive 2012/29 / EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime"**. "Victim" within the meaning of the directive is "a natural person who has suffered harm, including physical, mental or emotional harm or economic loss, which was directly caused by a criminal offence", and "family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death".

The fact that victims of state violence in communist systems have also suffered such harm is beyond question. However, there are no exact figures about them to this day. On the one hand, this is due to the fact that a significant proportion of acts of violence took place

immediately after the Second World War, when revenge, punishment and enforcement of dictatorship overlapped. On the other hand, communist authorities used very different measures to eliminate actual or suspected opponents of the regime: arrest, deportation or death were only the most extreme forms. Difficulties at work, denial of a place at university or slander by police spies could serve the same purpose. Political reprisals were often disguised – for example in the form of investigations against political opponents for alleged economic crimes.

This is why today there are only estimates regarding the number of victims. In the GDR, up to 280,000 people are thought to have been imprisoned for political reasons. In the early post-war years, another 384,000 German civilians disappeared in Soviet prison camps, where about one third of the prisoners died. In addition, at least 1,200 people were executed and tens of thousands killed at random. In other countries the numbers are just as high. In Estonia, the number of victims is estimated at 126,000, in Latvia at 230,000, in Lithuania at more than 350,000. In Poland, the number of victims of communism is even assumed to be 3.1 million, in the Czech Republic and Slovakia together as high as 2.8 million, in Hungary as high as 1.2 million. In total, more than 10 million people are likely to be affected, of which only a part is still alive.

The number of victims is much higher still if one adds other measures of state persecution such as torture, relocations, forced adoptions, professional bans, expropriations, to name just a few. To collect the names and numbers of all those affected it is a daunting task.

How are the victims of communism compensated?

In all former socialist EU member states, there are rules on compensation for the victims to retroactively provide at least some compensation for the injustice they suffered.

The nature and extent of compensation also varies from country to country. In Lithuania, for example, victims of political persecution, former deportees and children of abducted parents get free health insurance and a state pension. In Poland, the time spent in prison is factored into the pension calculation. Where necessary, the persons affected also receive a preferred place in a nursing home. In Estonia,

The project "Honouring Civil Courage"

The Berlin-Hohenschönhausen Memorial in the former central prison of the East German State Security Service has implemented a two-year project to learn more about the situation of the victims of communism. Under the title "Honouring Civil Courage", their situation in all former socialist countries belonging to the EU in 2013 (Bulgaria, Germany, Estonia, Latvia, Lithuania, Poland, Romania, Czech Republic, Slovakia, Slovenia and Hungary) was examined. The result is a more than 600-page study with expert reports from eleven countries.

Project partners were the Latvian Occupation Museum, the Institute for the Study of the Crimes of Communism in Romania and the "Platform of European Memory and Conscience", a consortium of 48 institutions working on coming to terms with Nazism and communism.

The project was sponsored by the Directorate-General for Justice of the European Commission. The European Union (EU) wants to strengthen the rights of victims of crime. It has therefore adopted a new directive on minimum standards in 2012. The project's aim was to find out more about the situation of what is probably the largest group of those affected, people who hardly played a role in previous considerations: the victims of state persecution during the communist era.

victims of communism are allowed to use public transport for free. They also receive free admission to state cultural institutions such as museums or theatres. In Germany, victims get 307 euros in compensation for each month of imprisonment, while the socially disadvantaged get a victim's pension of 300 euros a month.

However, in almost all former Eastern Bloc countries there are also groups of victims who do not receive any compensation. In Latvia, children of parents who had been imprisoned or murdered by the communist security service receive no financial compensation. The same goes for women or doctors in Romania who were persecuted for carrying out abortions. In Germany, people who were persecuted only receive a disability pension if they can prove that the damage to their health was caused by their detention. Victims of so-called subversive measures generally receive no compensation at all.

It's not only the exclusion of entire groups of people that is a problem. The process leading to the recognition as a victim and to rehabilitation is also a lengthy and difficult one in many states. In some countries such as Bulgaria, Estonia and Latvia, victims were automatically rehabilitated by law. In other states, rehabilitation requires the initiative of the person affected or that of his family, i.e. each case will be reopened upon application. This is the case, for example, in Germany, Lithuania, the Czech Republic and Poland. Many victims of communism see the red tape involved in rehabilitation as degrading, sometimes even as harassment.

In almost all countries, the victims of persecution are materially much worse off than the average person in society. Many even live in poverty. The reasons for this usually lie in persecution-related disadvantages in pursuing one's professional career and in health problems. Many victims of persecution still suffer from the experience of detention, torture and forced labour to this day. They usually receive medical care only within the scope of the overall health care system. Special facilities such as the "Gegenwind Counselling Centre for those politically traumatized by the SED dictatorship" in Berlin are extremely rare. However, for many injuries, particularly in cases of post-traumatic stress syndrome, any knowledge of what happened in the past is vitally important for the treatment, because the root causes of insomnia, anxiety or psychosomatic illnesses can otherwise not be recognized.

In most countries there is also no nationwide system offering social and legal counselling for the victims. Only in Lithuania are there mobile counselling centres that also visit the formerly persecuted at home. Poland, whose Institute of National Remembrance offers free legal advice for victims of political persecution once a week in its headquarters in Warsaw and in seventeen other cities, is also doing comparatively well in this regard. In Germany, it is the State Commissioners for Stasi documents as well as associations such as the Union of Victims Associations of Communist Tyranny (UOKG) who take on this task. However, whether there are any counselling services at all is different from region to region; State Commissioners for Stasi documents, for example, can only be found in the territory of the former GDR. In most federal states, it is up to the victims' associations to advise their members; but these are suffering from old age and a lack of financial and personal resources.

In summary, one must conclude that the victims of communism are often left to their own devices when it comes to getting compensa-

tion. Many give up in the face of bureaucratic processes to which they are subjected, for example to get their detention-related health problems recognized in the calculation of their pension. Some even experience a renewed victimization when facing a state apparatus that appears as powerful and obscure to them as before. A special system of free legal aid for victims of communist crimes, up to the possibility of hiring a lawyer in order to act as a co-plaintiff in a criminal case, for example, is nowhere in sight.

How were the perpetrators punished?

For victims of crime, it is usually very important that the perpetrators receive their just punishment. This not only serves as a deterrence to any future perpetrators, but also helps to restore the rule of law, by which manifest injustice simply does not go unpunished.

Unfortunately for the victims of communism, very few of those officials responsible for the crimes were ever held accountable in a trial. While about 100,000 preliminary investigations were initiated in Germany, only 40 people have gone to prison – usually only for a short time. The three main SED politicians responsible – party leader Erich Honecker, Prime Minister Willi Stoph and the Minister of State Security Erich Mielke – benefited from the very due process of law that didn't exist in the GDR: all three were prematurely released from prison, citing their poor health; Stoph even received compensation for wrongful imprisonment. The same goes for Polish General Czesław Kiszczak, who was largely responsible for the imposition of martial law in Poland in 1981 and probably also for the deaths of several striking miners. In Slovakia, only two trials have taken place so far: one against the former head of the secret police, Alojz Lorenc, and one against the former leader of the Slovak Communist Party, Vasil Biľak. Lorenc was sentenced to three years probation, while the case against Biľak petered out after almost 20 years without result. The situation in the other former communist EU states is hardly different.

If the main perpetrators usually went unpunished, this was all the more true for the lower cadres who were responsible for carrying out the crimes. Virtually no member of the secret police, no border guard, prosecutor or judge had to go to jail for his actions after the fall of the communist regimes. The so-called border guard trials in Germany were an exception. In a total of 112 trials, about half of the 246 defendants, including former border guards, military leaders and other members of the SED leadership, were sentenced to imprisonment or received suspended sentences.

Those who generally got off were prison camp staff, prison guards or spies who had put others in prison with their information. Even the most serious crimes such as torture or murder usually went unpunished. The fact that prosecutors and judges who had been serving under the communist dictatorship at that time were often entrusted with investigating and passing judgment on the crimes committed under that very dictatorship is something that is hard to fathom for the victims.

The former state and party officials are often even better off today than their victims. Since their years of active involvement in the dictatorship are counted in the pension calculation like years in any other ordinary occupation, the pensions of those responsible are correspondingly high – the higher their function (and therefore their salary), the higher their pension. Only in a few cases were the pension

entitlements of the communist cadres cut back. The victims' employment history, however, has been severely affected by imprisonment, occupational harassment or health damage, so that they usually receive only a small pension.

Many of those responsible for the crimes remained in their posts, even after the fall of communism. In most former communist EU states, a strong continuity of the social elites is evident to this day – even in particularly sensitive areas such as the military, police or intelligence services. Many former party and state officials can even be found in governments and parliaments today.

After the end of communist rule, there was no full review of the personnel in the political, administrative or judicial system in any of the countries included in the study. Though around 1.7 million checks on earlier work for the State Security Service have been carried out in Germany since 1992, these were not mandatory – not even for members of parliament. There were no reviews at all regarding a responsible function in the party and state apparatus. In Poland, the past of senior officials and politicians was not reviewed until the Institute of National Remembrance was founded in 1998. In Hungary, the Stasi checks initiated in 1997 were stopped again in 2005, while in Slovenia there were no checks at all. Moreover, most countries don't have any provisions that would preclude former leaders from working in certain positions, so that these could often continue to hold high office.

What are the victims' rights to information?

According to *Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime*, such victims should always receive comprehensive information rights. "When providing information, sufficient detail should be given to ensure that victims are treated in a respectful manner and to enable them to make informed decisions about their participation in proceedings." They should in particular be informed about the current status of any proceedings.

The victims of communist state crimes generally do not get such information. The main reason is that there have only been very few cases against their tormentors in the EU Member States. Even in other ways, their access to information about the crimes committed against them is often insufficient. Since these crimes are most often only documented in documents that were originally classified as top secret, they can't even press charges without knowledge of these documents.

It is crucial for victims to have access to government documents – in particular to those of the communist secret police – not only for any potential prosecution, but also to back up their claims for compensation. In Germany, the Stasi Records Act of 1992 established such access. Other countries have failed to adopt similar laws until much later, so that the crimes were often time-barred already.

In most former socialist countries, the victims now have access to the records – free of charge. As a rule, they also learn the real name of the informants assigned to them. But some countries have even more

stringent regulations. Thus, the Institute of National Remembrance (UPN) in Slovakia not only makes the records concerning the victims themselves available to them, but also those of the agent and his case officer. The Institute for the Study of Totalitarian Regimes (USTR) in the Czech Republic furthermore provides insight into their personnel files, and third-party names are not blacked out in their own files. In Romania, those persecuted also get copies that are not blacked out, and if a death is involved, relatives to the fourth degree may see the files. In Bulgaria, the victim may send authorized representatives to inspect the files, which was impossible in Germany for a long time. In some countries, the victims must be notified in writing of when and where they can inspect the records within 30 or 60 days of their request. In other countries, such as Germany, there are waiting periods of more than two years.

The institutions charged with the custody of the Stasi files are also responsible for the rehabilitation of the victims in some countries. This means that the documents must not be passed back and forth between different institutions – which saves time and is therefore in the interest of the victims, some of whom are very old. Furthermore, this is helpful in that experts familiar with the problem are assessing the case, and not some judge who is not familiar with it. Thus, the Commission for Disclosure of Documents and on Bulgarian citizens belonging to the national security and intelligence services of the Bulgarian People's Army (COMDOS) issues certificates of suffered repressions which entitle the victims to receive statutory compensation. In Slovakia, the Institute of National Remembrance (UPN) bestows the status of a fighter of the anti-communist resistance on former opponents of the regime, which entitles them to the same privileges as war veterans. In Romania, the National Council for the Study of the Securitate Archives (CNSAS) reports certain victims to the court and supports a commission of the Ministry of Justice which determines their classification as a resistance fighter. The latter are not only entitled to material compensation, but are also awarded a memorial cross for their anti-communist resistance.

How are the victims being honoured?

For the victims of communism, just as important as financial compensation is that their courage and suffering be acknowledged by society. This also means that the dictatorships, under which they have suffered, are politically condemned. However, this is not the case everywhere. This is why in 2006 the Parliamentary Assembly of the Council of Europe emphasized the need for "international condemnation of the crimes of totalitarian communist regimes" in its resolution 1481, and also made concrete proposals in this regard.

The communist dictatorships were only formally condemned in few EU countries. Unlike in Germany after the Second World War, their organizations were not declared criminal organizations, so that membership or a leading role in such an organization was not prosecuted. While in Germany, the German Democratic Republic was indeed referred to as an "Unrechtsregime" (illegitimate regime) in the 1990 Unification Treaty of Accession of the GDR to the Federal Republic, the state was never officially condemned by the all-German parliament. However, a commission of inquiry set up by the Bundestag in 1992 looked into the "history and consequences of the SED dictatorship" for a number of years. In 1993, the Czech Republic passed the law "On the Illegality of the Communist Regime and the Resistance Against it" which, among other things, concludes that the

Communist Party, its leadership and its members were responsible for the "deliberate erosion of human rights and freedoms". In 2006, Romanian President Traian Basescu condemned "the Communist system in Romania explicitly and categorically" on the basis of a Commission report.

On the other hand, there are numerous attempts to whitewash or idealize the Communist dictatorships. They are not only publicly defended by former officials or intelligence staff, but their nature is often downplayed in the media, in the parliaments, political parties and broader social layers. The denial of Nazi and communist crimes is prohibited only in Latvia, Hungary, the Czech Republic and Poland. In Latvia, one could face up to five years' imprisonment, in other countries up to three years. An initiative of the Czech government in 2007 to introduce similar regulations in Europe was rejected mainly by Germany, which at the time held the EU presidency.

The efforts to honour the victims of communism and to keep the memory of their suffering alive often go back to especially committed people who have suffered. It was not until later that government or government-sponsored institutions were established that were dedicated to this task. In Germany, for example, the Stasi Records Authority, which was set up in 1992, also has an informational and educational mandate. The same is true for the Institute of National Remembrance in Poland, which was founded in 1999, and the Institute for Research into the Crimes of Communism in Romania, founded in 2006. By now there are museums or memorials in most countries. One can find monuments, streets and squares named after victims or events almost everywhere, though the numbers vary. Official memorial days and holidays for the victims of communism, however, can only be found in few EU countries. The school curriculum about the experiences under communist dictatorships is also very different and inadequate in many countries.

How is the public being informed?

Information requires knowledge. This is why access to the files of the communist regimes is of great importance for science and the media. The process is least complicated in the Czech Republic and Bulgaria, where every citizen can access all Stasi files for scientific and journalistic purposes. Only in copies are third-party data blacked out, provided they have not given permission for their release. In Bulgaria, the users are required to sign a confidentiality agreement in these cases, while in the Czech Republic it is assumed that they comply with the law protecting personal and confidential information.

In Germany, documents relating to employees and beneficiaries of the State Security Service are freely accessible, whereas information about other people usually isn't. Stasi documents must therefore often be rendered highly anonymous before they are surrendered, so much so that they are barely understandable. What is more, if the files concern people of public interest, these people also have to be notified in advance, and they can take legal action against their surrender. In the case of dead people, access to the files is blocked for 30 years. Any research is also made difficult by the fact that more than half of the files have not yet been factually reviewed and that digital research is hardly possible.

Some countries have solved the problem of protecting personal data by allowing scientists privileged access to the files. In Hungary,

one must first apply for permission to use the files. Such authorization is granted by an independent research advisory board upon presentation of certain documents and can be secured by court action, if necessary. You have to sign a declaration in advance promising to comply with data protection provisions in the publication, though exceptions are possible in the case of central historical events. Then you have the possibility of viewing the unredacted Stasi documents, unless the victims explicitly object to this. In Germany, however, you need their express consent. In Romania, the researchers can be accredited with the competent CNSAS institution and then also get access to unredacted copies. Violations of data protection provisions can result in prosecution under civil and criminal law here.

To facilitate the research, some countries have strongly pressed ahead with the digitization of documents. Especially the Czech Republic, which has already digitized more than 20 million pages, is a leader here. The competent USTR has even put the file directories of the secret police in the Internet, so that people can look there for any name and immediately know which department registered a person as what in which file. Prior to that, one has to acknowledge per mouse click that the information may also be incorrect.

Proposals for improving the protection of victims

The situation of victims of communist crimes is not satisfactory in any European country. Ironically, those who rebelled against totalitarianism and were therefore persecuted by the state are now often left without adequate support. This is not only contrary to the minimum standards on the rights, support and protection of victims of crime, but also to a policy approved by the European Parliament Resolution of 2 April 2009 on European conscience and totalitarianism. Among other things, this resolution strongly condemns "the massive human rights violations that have been committed by all totalitarian and authoritarian regimes" and expresses sympathy for the victims of these crimes and their family members.

In light of this, the EU should help to ensure that the following measures are taken in all countries:

- **Adequate compensation**

The European Commission should work to ensure that the victims of communist state crimes are adequately compensated and supported in court proceedings as well as in coping with their trauma. The EU Directive on Victims of Crime should serve as an orientation for national regulations, but since this policy has no retroactive effect, the governments of the countries concerned are called on to provide for comprehensive legal regulations and counselling services. It would also be desirable to extend the Directive by adding appropriate articles that deal with the rights of victims of state violence.

Certain groups of people should simply be rehabilitated, since the victims are often traumatized again when having to relive the injustices they suffered. Exemplary measures such as free access

to cultural institutions or to public transport should be advocated throughout Europe, as should the establishment of compensation funds which in special cases could provide unbureaucratic help in addition to the statutory services.

- **Medical help**

The victims of communism must receive appropriate medical care. Initiatives should be funded to close existing gaps.

- **Punishment of perpetrators**

Those responsible for the crimes of communist states must be held criminally responsible. Where this is not done, a special European court should be instituted, if need be. Since the crimes, except for murder, are generally time-barred already, the deaths in particular must be investigated by the competent prosecutors.

- **Access to information**

The European Commission should work to ensure that the victims of communism can get adequate access to information about the crimes committed against them. Given the advanced age of those affected, it is particularly important to ensure quick access to secret service files. The existing obstacles to historians should be

eliminated. In addition, care must be taken to ensure that an adequate number of counselling services are available. To do so, victims' associations in particular must be better funded and staffed.

- **Public recognition**

The public recognition of the victims must be improved. The European Commission should make proposals to this end and institute special support programmes. The Directorate-General for Justice of the European Commission should advocate a consistent prohibition of the denial and the display of symbols of both totalitarian dictatorships. Similar to that of the Parliamentary Assembly of the Council of Europe, the European Parliament should adopt a resolution which condemns the communist dictatorships and proposes measures to outlaw them. As resolved by the European Parliament in 2009, 23 August should become an official day of remembrance for the victims of all totalitarian and authoritarian regimes in all EU member states. The recognition of individuals and the establishment of central monuments and memorials honouring the victims of communism should be supported.

The remembrance of the totalitarian legacy and the dignified treatment of victims should be a permanent obligation not only for each country, but for all European institutions.

Federal Government/Perlia Archive, Photo 12083_1_58447

Demonstrators in front of a destroyed sector sign (with Russian characters) on the border of the American sector



