

## The Second Austrian Republic and the Sequels of the Nazi Dictatorship

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When the Habsburg empire collapsed at the end of World War I in November 1918 one of the new established states on its territories was the Republic of Austria, covering most of those parts of the former empire in which people spoke German. This was the First Austrian Republic.

In 1934 two short, but cruel civil wars took place in Austria. The first, in February 1934, was fought out between organisations of the labor movement on the one hand and an authoritarian, catholic government, supported by fascist organizations on the other hand. The second civil war of only two days followed to a failed Nazi coup d'état against this catholic government in July 1934. During the next years the clandestine Austrian Nazi party was part of Hitler's attempts to force the Viennese government to agree to the union of Austria with Nazi Germany. The Austrian dictator Schuschnigg vacillated between struggle against and compromises with Hitler. On the 11th of March in 1938, after an ultimatum of the German government, he resigned and handed power over to the Austrian Nazis. On the next morning German troops occupied the country, and when Hitler arrived at Linz and Vienna, he was enthusiastically welcomed by huge crowds of people, not all of them Nazis. The pictures of the screaming crowds were circulated around the world and formed the image of Austria and of the attitude of Austria's population towards Hitler. Austria became part of Greater Germany, the Austrian Federal Army was incorporated into the German Wehrmacht.

After the defeat of Nazi Germany in World War II Austria was re-established as an independent state by the Allies of the Anti-Hitler-Coalition. This Second Austrian Republic was proclaimed on the 27th of April in 1945.

While the Eastern part of the country was liberated and afterwards occupied by the Soviet army, the Western parts of Austria were liberated by Allied troops under Anglo American command. The United States, Great Britain and France established their respective zones of occupation both in the Western federal states ("Bundesländer" in German) and in Vienna. But unlike Berlin in Vienna the city, called first district, did not belong to any occupation zone but was

controlled by a common Allied police unit, the so called “4 in the jeep”. Thus the town remained united despite its division into 4 occupation zones. The most important difference to Germany was the existence of a common government for the whole country, recognized first only by the Soviets, but in October 1945 also by the Western Allies. This helped to maintain the unity of the country also in the times of Cold War.

From 1945 thru 1955 Austria was divided in four occupation zones. Only in 1955 the Allies agreed in withdrawing their soldiers, which was a first sign of beginning détente after years of Cold War between the Western and the Eastern block.

But back to the last days of the Second World War, in April 1945.

Two weeks after the liberation of Vienna by the Soviet Army, representatives of anti-fascist, democratic tendencies in Austria formed a Provisional Government. It consisted of members of the conservative People’s Party, the Socialist Party and the Communist Party. Similar tripartite administrations were installed in other towns and villages. These “men and women of the first hour”, as they were called later on, had to face miscellaneous problems: After the war, some cities and the majority of the factories were destroyed, the infrastructure (like traffic, energy and water supply) was out of function, there was – in some parts of the country – a considerable lack of food, and, above all, new democratic administrations and new political structures had to be built up. In addition to that there were conflicts and problems with the Allied occupation armies in general and particularly with Soviet soldiers during the first weeks after the liberation.

All these problems were soluble yet, at least with the support of the Allied military authorities. But the largest problem was somewhere else: The government and the new anti-fascist local administrations consisted of people who had just left the German jails and concentration camps, who had lived in underground for years, who had fought within the the Allied armies or the Austrian battalions of the partisan troops in Yugoslavia, who had had to flee from Austria in 1938, after the annexation of the country to the German Reich, and came back now from emigration in the United States, Great Britain or the Soviet Union. These men and women had to rule over a people who’s majority was still influenced by Nazi ideas, people who were unwilling to take upon responsibility for what they had done or neglected during the Nazi period.

When the Allies had met in Moscow in October 1943 in order to coordinate their efforts to beat Nazi Germany, they had released two public declarations. The first concerned the punishment of atrocities committed by the German troops in occupied countries all over Europe. The second concerned Austria.

The United States, Great Britain and the Soviet Union agreed upon the restoration of Austria as an independent state, for it had been the first victim of Hitlerite aggression. But, as the declaration read, the Austrians had to take upon responsibility for their participation in the war against the Allies.

The Provisional Government made efforts to cope with this responsibility, by establishing special courts for Nazis crimes, committed by Austrian nationals. I'll come back to the problem of punishing Nazi criminals later.

Of greater importance was the recognition of Austria as Hitler's first victim by the Allies.

This was true, of course, for Austria as a state, the government of which had been forced to resign under the military, economical and political pressure of Nazi Germany on the 11th of March in 1938. Austrian statehood had ceased to exist in March 1938, Austria was incorporated into Germany before the fake plebiscite of the 10th of April in 1938 had taken place.

This was true also for the members of the new democratic administrations, most of who had been either victims of Nazi persecution themselves or had to deplore relatives and friends killed by the Nazis.

But this was not true for the vast majority of the Austrian population. Hundreds of thousands of them had welcomed Hitler in 1938, had joined the Nazi party then. And even more of them had been impassible bystanders when their Jewish neighbours were first deprived of their rights, then expelled from their apartments and finally either exiled or deported to the camps in the East. Only a small minority had helped those who were persecuted by the Nazi regime, for instance in hiding Jews or aiding Allied prisoners of war and starving forced laborers from Eastern Europe. And only some thousands (out of a population of about 7 Millions) had joined the clandestine resistance movements – organized by catholic, monarchistic and communist activists – or the partisan groups in some mountainous regions of the country. They were cruelly persecuted by the Nazi dictatorship, 2,500 of them were sentenced to death and executed between 1938 and 1945.

But when the war was over, despite all those obvious facts, most of the Austrians, who had supported the Nazi dictatorship until the last months before the liberation, considered themselves as "victims". They adopted the first-victim's-ideology of the democratic government and the Allies and transformed it to an excuse for everything, in order to avoid any responsibility. There was no discussion – I mean, a broad public debate – about the consequences of the participation of 1 Million Austrian soldiers in the Nazi wars of aggression. On the contrary. The surviving 750.000 soldiers – many of them for months or even years in Allied custody – and their families saw themselves as victims of the

war, who had had a hard time and demanded compensation for their sufferings by the Austrian government.

Almost every village in Austria got its monument for the dead soldiers, and on many of those monuments you can read “fallen for their home country”, denying the historic evidence that the defeat of the army, they had fought in, was a precondition for the liberation of their home country.

On the other hand at that time hardly any monuments for the victims of Nazi atrocities and for sentenced and executed members of the resistance movements were erected outside Vienna and some strongholds of the labor movement. This illustrates the real attitude of the majority of the population towards its Nazi past.

After only three years the government gave way to that public pressure and suspended most of the efforts to denazify the Austrian society.

As I already mentioned, one of the most outstanding issues in de-nazifying the society was the punishment of the Nazi war criminals. The Austrian way to do that were the so called People’s Court Tribunals, in German “Volksgerichte”. These special courts existed between 1945 and 1955. The juridical basis of these courts were two laws, promulgated in the first days of the Second Austrian Republic. The first, the so called Nazi Prohibition Law, was passed by the Austrian Provisional Government, on the 8th of May in 1945 – a few hours before the capitulation of the German Wehrmacht. The second, passed on the 26th of June in 1945, was called War Crimes Law. By these two laws the prosecution of Nazi war crimes got a special legal status. The special laws were created with the aim of addressing the special nature of Nazi crimes. For crimes like the Nazi crimes hadn’t had occurred before, most paragraphs of the two laws were retroactive, as were many other laws in Europe at the time. Like other laws in both Eastern and Western European countries, these laws preceded the London Charter for the Nuremberg Trials, passed on the 8th of August in 1945. Similar laws were also adopted by countries which at that time had no contacts with the Western Allies – as for instance Austria. This shows that the legal principles of the Nuremberg proceedings were accepted by European law experts even before they were formulated by the London Charta.

According to the two extraordinary laws of May and June 1945 the following crimes (among others) were to be brought before a People’s Court:

- War crimes in a restricted sense and crimes against humanity,
- torture and acts of cruelty,
- violation of human dignity,
- expropriation, expulsion and resettlement.

A special paragraph stated that the obligation to obey orders did not protect the perpetrator from punishment. Nevertheless, those giving the orders should have been punished more severely than those executing them.

The People's Courts were presided over by two professional judges and three lay assessors. Austrian post-war courts suffered from severe shortage of judges. Many of the judges were no longer allowed to perform judicial duties, due to their services in the Nazi system.

After the liberation of Austria in May 1945 People's Trials were held only in the Soviet occupied zone. The first such trial took place in August in 1945 – three months before the Nuremberg Trials. The accused were former stormtroopers suspected shooting Hungarian Jews in Engerau, a village near Bratislava, the capital of Slovakia. Claudia is writing her doctoral dissertation about the story of this camp and the six proceedings dealing with it, conducted before the Viennese People's Court between 1945 and 1954.

The Western Allies in their respective occupation zones did not allow to establish People's Courts before March–April 1946. Thereafter four People's Courts existed in Austria – Vienna for the Soviet zone, Graz for the British zone, Linz for the American zone and Innsbruck for the French zone.

The Austrian People's Courts launched preliminary proceedings against almost 137,000 individuals suspected of crimes that fell under the Nazi Prohibition Law or the War Crimes Law, 108,000 out of them by early 1948.

More than 28,000 people were brought to trial, 23,000 got a verdict, 13,607 individuals were sentenced.

30 death sentences were actually executed out of 43, two of the criminals sentenced to die committed suicide before they could be hanged. 27 criminals were sentenced to life imprisonment. Sentences in the upper range (that is maximum penalty or imprisonment of more than ten years) were imposed on 350 defendants.

Only few of the perpetrators convicted by People's Courts were prominent Nazis, and there was hardly anyone among them who had played a decisive role on the top level in the killing machine of the holocaust. The most prominent among them was Siegfried Seidl, the commandant of the Theresienstadt ghetto in Bohemia who was hanged in Vienna on the 4th of February in 1947.

The investigations of the People's Courts concerned almost exclusively crimes that large parts of the Austrian population had witnessed during the last weeks of the war. Very few of the severe crimes committed in the extermination camps in Poland, in the occupied territories of the Soviet Union and on the Balkans, were investigated by an Austrian People's Court, because Austria had to extradite Nazi-perpetrators to those countries, where they had committed their

crimes. The extradition-proceedings, however, were conducted before Austrian Courts. For example the head of the Gestapo in Auschwitz, the Austrian Max Grabner, was arrested by the Austrian Police and extradited to Poland, where he was convicted and hanged. In addition to that we have to consider how difficult it was to summon witnesses from abroad to an Austrian court in the immediate post-war period.

Also the Allied military authorities in Germany and Austria conducted war crimes trials. The best known are the Nuremberg trials and its subsequent proceedings, the latter conducted only by the American Military Government though. In addition to these trials against the major war criminals the four Allies conducted proceedings according to the so called Control Council Law number 10 in their respective zones of occupation in Germany. This law was as retroactive as the Austrian war crimes law. One of its aims was to enable the punishment of crimes against humanity.

I'd like to present the Americans war-crimes trials in Austria to you, because this enables us to compare Austrian and Allied jurisdiction. According to American military law, war crimes committed by enemy nationals, were to be brought before so-called Military Commissions, which were subordinated to the Judge Advocate. From May 1946 to May 1948 15 war-crimes proceedings against 61 defendants were carried out in Salzburg. The military commissions adjudged 8 death sentences (4 of them executed), 5 life sentences, 1 sentence to 30 years imprisonment, 5 sentences to 25 years imprisonment and 24 acquittals. A confrontation of these results with the results of proceedings before Austrian People's Courts in the American zone of occupation shows parallels and differences of Allied and Austrian trials. The percentage of acquittals and the results in the upper range of the penalties are comparable: Austrian courts imposed 3 death sentences (1 of them executed), 3 life sentences, 25 sentences to 10 to 20 years imprisonment and 22 sentences to 5 to 10 years imprisonment. Around 55 percent of the defendants before Austrian courts and around 40 percent of the defendants before American courts were acquitted. The real difference concerns however the global number of the defendants: 61 defendants before American Military Commissions and 4,313 defendants before Austrian People's Courts in the American zone. The reason for this was, that the Austrian People's Courts acted also as a kind of denazification courts, similar to the so called Spruchkammern in Germany. But whereas a former Nazi brought before such a Spruchkammer had to prove that he was not guilty, in a denazification proceeding before the Austrian People's Courts it was up to the prosecution to prove the guilt of the defendant.

Another reason for the low number of cases adjudged by the American Military commissions was, that they only dealt with torture and killing of Allied soldiers, mostly American flyers, who were shot down and captured by the Germans. War crimes committed by Austrian perpetrators on Austrian victims were not brought to trial by the Military Commissions due to their principle “enemy nationals against enemy nationals”. Neither did the Judge Advocate in the cases of atrocities towards Jews, who were killed during death-marches at the end of war. Only in few cases perpetrators were transferred to the Austrian authorities with the consent of the American Military Government and brought before an Austrian People’s Court. This was different to the British Military Courts. British Courts in Austria prosecuted for instance crimes against Hungarian Jews, committed on Austrian territory.

In July 1948 the proceedings before the Military Commissions in Austria were stopped due to the changed political climate, especially the Cold War. At this time discussions concerning the abolition of the People’s Courts started within the Austrian public.

Claudia Kuretsidis-Haider and I had the opportunity during the last weeks to look through American trial records in the National Archives of the United States at College Park, MD. They are full of interventions of Austrian politicians, even ministers, and clergymen up to archbishops, in favor of sentenced Nazi murderers.

Whereas the Allied authorities were confronted with petitions from the side of Austrian politicians, the Austrian authorities were confronted with orders to release the prisoners. Out of the mentioned around 350 perpetrators, who were convicted to penalties in the upper range (life imprisonment or imprisonment of more than ten years) nearly all were set free within no more than seven years, from the beginning of 1949 until the end of 1955. Thus the courts’ work was undermined by political influences. On the one hand the People’s Courts pronounced long sentences, on the other hand the convicted murderers got clemency and parole by the government after a couple of years. If you take into consideration that there are always releases of medical reasons and paroles in specific cases like fathers of several children and so on, one could estimate that out of those 350 convicted war criminals around 300 individuals should have been in jail, when the Peoples courts were abolished in December 1955. But just seven of them were still serving their time in 1955.

One of the reasons for this remarkable clemency was the fact, that the 500.000 former members of the Nazi party represented an attractive voters’ reservoir. In 1945 they had temporarily lost their right to vote. Before the elections of 1949, when they were allowed to vote again, a disgraceful run on the

Nazi votes began. The two big parties, the conservatives and the socialists, were keen on proving that they acted on behalf of the “soldiers generation”. At the same time the settlement of Jewish claims was postponed. A British historian, Robert Knight, who wrote a book about that problem, found an revealing sentence in the minutes of the government. The minister who was responsible for the settlement of Jewish claims stated: Ich bin dafür, die Sache in die Länge zu ziehen – “I suggest to drag out that issue”.

But I want to emphasize, that this development is not an Austrian specificity. The re-integration of the former Nazis into the society before the Denazification had produced a lasting effect took place also in Germany and was supported by the Allies, who needed the majority of the German population as their new allies in the beginning Cold War. Simon Wiesenthal stated once, that there was only one real winner of the Cold War, namely the old Nazis.

After some years of intensive prosecution of Nazi crimes not only the crimes themselves were suppressed in public memory but also what Austrian police departments, magistrates and courts had done to find and to punish the perpetrators. The punishment of thousands of Austrian Nazi-criminals by Austrian courts after the war was a performance this republic could have been proud of it, but the mere fact that there were thousands of Austrian Nazi-perpetrators was not compatible with Austria’s first victim’s ideology. And so both disappeared from public memory – the crimes and their punishment.

As I already told, Austria had remained under Allied control for 10 years, from 1945 thru 1955. In May 1955 the so called State Treaty between Austria and the Allied occupation powers United States, Great Britain, France and Soviet Union was concluded, followed by the complete withdrawal of the Allied troops until October. On the 26th of October 1955 Austria declared its permanent neutrality.

For most of the Austrians this – and not the victory over Hitler and the re-establishment of an independent republic in 1945 – was the real liberation. There was a strong pressure in public opinion to come to an end with everything that reminded to the war and the occupation by the four Allies. For instance, the special courts, established immediately after the war in order to sentence Austrian Nazi war criminals, were abolished only some weeks after the withdrawal of the last Allied soldier from Austrian soil.

Some years later, in 1959 and in 1963, the so-called Freedom Party, which was then the party of the ex-Nazis, became a partner in negotiations for the formation of a new government. The two big parties, the conservatives and the social-democrats, looked for possible new political combinations in order to be

able to finish their so called “great coalition”, in power since 1947, since the communists had left the tripartite government.

For the tiny minority within the public, which had still recollection of that what Austrians had done during the Nazi period, this was a disastrous development. Within the small Jewish community of Vienna in the beginning of the 1960ies anxiety came back, and a feeling of no future. The community transferred its archives to Israel in those years.

There were some artists and intellectuals who refused to accept this development. 1959 a one-man-screen-play, called “Der Herr Karl”, was broadcasted on public television. Mr. Karl was a Mr. Nobody, a typical Austrian, who at every time had made his way by accomodating himself to the political situation. The piece provoked a scandal. Helmut Qualtinger, the actor who had played and partly written himself the screen-play, told in an interview, that he had intended to hit only a certain type, and a whole nation was screaming.

But a sole screen-play couldn't really shake the supression of the Nazi past in public memory. Only a critically thinking minority among the intelligentsia made much of it, some even learned it by heart. And if one scans what Austrian historiography had produced up to the 1970ies, in regard to the Nazi period in Austria, it has to be admitted, that there was no work whith a similar deep comprehension of the Nazi period and the dealing with it afterwards as is was this screen-play of 1959.

When in the beginning of the sixties an Austrian student was interested in studying the years 1938 thru 1945, he/she faced the problem, that there were nearly no books about this period available and that all the archival records were still classified and not accessible for scholars. And there was no institution to collect oral and written witness records, about the war, about persecution and resistance during the Nazi period. In March 1963, at the 25th remembrance day of the “Anschluss” in 1938, a small circle of former resistance fighters, Nazi victims and historians, decided to establish a documentation center of the Austrian resistance. The stress was lain on the resistance and not on the persecution, because the mere existence of anti Nazi resistance in Austria was neglected or even denied. Since then the Austrian Centre of Resistance – in German “Dokumentationsarchiv des österreichischen Widerstandes” – has become a research and documentation center for both resistance and persecution (including Holocaust studies) as well as for scanning right wing extremism and all forms of dealing with the Nazi past in Austria: cultural, educational, political and judicial ones.

In 1965 some social democratic students took notes from antisemitic jokes of a professor at the Viennese university for economics during his lectures. The

notes were published, left wing and Jewish students, anti-fascist organizations and members of some trade unions organized manifestations to protest against the fact that a former Nazi professor was allowed to make Nazi propaganda at an Austrian university. Counter manifestations of right wing students followed, and on the 30th of March in 1965, a former inmate of a concentration camp was slain by a right wing student. The funeral, which was accompanied by a general strike of a quarter of an hour all over Austria, was an impressive manifestation that there were hundreds of thousands who were not willing to accept that 20 years after the defeat of Nazi Germany the shadows of the past arose again. This showed that not only the Nazi ideology, but also Anti-Nazism have strong roots in Austrian society.

By the way: One of those social democratic students became later on minister of finance in the eighties, another one is today president of the Austrian parliament.

But despite what many participants of the manifestations in 1965 had hoped, the horrors of the nazi past and the coming to terms with them, were still not on the agenda of public discussions in Austria. The vast majority still rejected any recognition of responsibility for Nazi crimes. When Nazi murderers had to stand trial in those years, they were likely to find a jury, who's majority would show sympathy with them.

When the special jurisdiction of Nazi crimes by the People's Court tribunals had ended in 1955, more than 4,700 cases were still pending. These cases were handed over to the jury courts.

After the Eichmann trial in Jerusalem, a special department of the police, was established in the Federal Ministry of Interior. This department investigated against around 5,000 people for Nazi crimes. Approximately one thousand of these cases led to legal inquiries by examining magistrates. That meant, that together with the still pending cases, left from the People's Courts, all in all 5,700 cases were pending in the 1960ies. But only 39 cases were brought before a jury. And out of these no more than 18 people were sentenced. And that despite the fact, that the state attorneys, who were aware of what juries they were confronted with, had delivered an indictment only in such cases, where a conviction was likely to come out of the trial.

The composition of the juries reflected a political climate, which was characterized by an obstinate refusal of most Austrians to tackle their own Nazi past. In order to highlight this political climate of the sixties, I'd like to give you only one examples for those cases:

Austrian authorities requested four trials to convince a jury to sentence one of Adolf Eichmann's most infamous staff members, his transportation officer

Franz Novak. As Novak was the main responsible man for transporting hundreds of thousands of Jews in railroad stock cars to Auschwitz, he was called also “stationmaster of death”. Although the evidence was clear and indisputable – Novak was the transportation officer of Adolf Eichmann – he tried to convince the jury that he did not know where his Jewish victims were brought to. And he had the nerve to declare that in his opinion Auschwitz was a “busily frequented railway station”. He was convicted, however, not for murder but for committing “public violence under aggravating circumstances” by transporting human beings without providing sufficient water, food and toilet facilities.

In 1966 the “great coalition” broke in two. The People’s party got an absolute majority in the parliamentary elections. But after four years of an austere conservative government, the former social democratic minister for foreign affairs and then head of the social-democratic party, Bruno Kreisky won the elections of 1970 with the slogan of modernizing Austria. The balance of the 13 years between 1970 and 1983, when Kreisky was federal chancellor, was really impressive:

Austria was modernized, not only with regard to infrastructure and economy, but also concerning education, culture, women’s liberation and juridical system. One of Kreisky’s most courageous fellow combatants in his struggle against obsolete structures in the Austrian society was his minister of justice, Christian Broda, a left wing social democratic lawyer who had been active in a communist influenced resistance network during the war. Broda’s most effective reforms were the new penal code of 1974 and a family law which abolished the male supremacy in the legal system.

In the first years of the Kreisky government also some of the still pending Nazi war crimes cases were brought before a jury. But the juries had not changed their attitude towards the Nazi criminals and continued to adjudge incomprehensible verdicts of not guilty. After a few further scandalous acquittals the prosecution and the ministry gave way to that. The result was a complete breakdown of the hesitating attempts of coming to terms with the Nazi crimes. In the year 1972 the public prosecutor ordered the stay of the proceeding against some top responsables for the killing of 1.8 million Jews in the death camps of East Poland in 1942/1943 during the infamous “Aktion Reinhard”. This happened two days into the trial, after a preliminary proceeding of ten years! It was the very year 1972, when one of the most cruel butchers among the SS-men who had served in Mauthausen and who had killed some dozens of prisoners along the notorious staircase of death there, was acquitted for the first time. Also in 1972 the two Austrian engineers who had constructed the gas chambers of Auschwitz, were acquitted. 1975, after the second acquittal of the

mentioned SS-man from the Mauthausen concentration camp, no more case was brought before a jury.

We suppose that one of the reasons for this putting an end to the prosecution of Nazi war crimes in Austria was Kreisky's turning towards the future of the country, which – at the given circumstances – was incompatible with looking back to the Nazi past. Being aware of the involvement of Austrians into the Nazi crimes, Kreisky and his team tried to prevent any discussion about the Nazi period. The aim was to redefine Austria's role in Europe and the world as a small neutral country between the two blocks. Trials against Austrian Nazi war criminals were disturbing this attitude.

It was Bruno Kreisky, who picked a disgusting quarrel with Simon Wiesenthal, evoking persisting antisemitic prejudices among a majority of Austria's population. Maybe the function of the violent public disagreement with Wiesenthal was either to intimidate or to frustrate him. The latter was the case: Wiesenthal stopped any cooperation with the Austrian juridical system.

That the prosecution of Nazi war criminals ended in the middle of the seventies is a fact. And it is obvious that it was the minister of justice himself, who had given a kind of order, because the state attorneys are subordinated to the ministry. But no trace of an order in that direction was found in the Broda papers, when historians looked through them after his death. But there are other more or less subtle manners to guide the state attorneys. The public prosecutor in the Aktion Reinhard trial for instance was a very young unexperienced state attorney, who – of course – listened to that what his senior colleagues reported about the atmosphere inside the ministry. Of course he learned about the furious reaction of the minister after the apprehension of the main defendant some days before provincial elections in the Bundesland, i. e. the federal state, where this man lived as an honorable man.

Another reason was the precarious majority of the social democratic party in the first year of the Kreisky government. During this period Kreisky ruled with the parliamentary support of the so called Freedom party, which was still a reservoir of former Nazis at that time. We do not know the price for this support, because there were no written arrangements between the two parties. But it wouldn't have been astonishing if they had agreed also upon a stop of prosecuting nazi war criminals.

When in 1986 Kurt Waldheim, the former Secretary General of the United Nations, was nominated a candidate for the presidential election in Austria by the conservative People's Party, vivid discussions arose about Waldheim's service in the German Wehrmacht. The World Jewish Congress accused him for having been involved in war crimes on the Balkans. The social-democratic

Austrian government convoked an independent commission of international well known historians to examine the war time activities of the former Wehrmacht officer Waldheim. The commission found out that Waldheim, as a more or less high ranked information officer, knew about the crimes, but probably wasn't personally involved; and that the statements about his war time activities, that Waldheim had given in official documents after the war, had been – at least – incomplete. Waldheim was elected president, but the discussions went on.

The importance of this affair for the attitude of many Austrians to their past, as well as for Austrian historiography, can hardly be overestimated. After some years of persistent public discussions also the official policy of the government began to change. Up to the beginning of the 90ies the “first victim's” ideology had remained the official doctrine of state. Despite all evidence brought to light by historians in Austria and abroad in the seventies and eighties, the Austrian governments persisted in regarding Austria as the first victim of the Hitlerite aggression and denied all responsibility of the state or its citizens for the crimes of the Nazi era.

It was not before 1993 that the Austrian federal chancellor Franz Vranitzky assumed responsibility for “the harm which Austrian citizens had done to other human beings and peoples”. He also admitted that many Austrians participated in the oppression and persecution of the Nazi period, as he put it, “partly in prominent positions”. Subsequently the parliament established the so called Austrian National Fund in order to help those victims who had been neglected by restitution and compensation measures during the last decades.

Similar declarations were made by president Thomas Klestil, e. g. during his visit in Israel three years ago. The very new of these declaration was not the addressing of the atrocities of the Nazi period, but was the explicit reference to Austrian perpetrators up to leading positions in the Third Reich.

It is to be proved whether or not this new policy includes also the judicial sector. It seems that this will be the case. The minister of Justice, who belongs neither to the conservative nor to the social-democratic party, is personally interested in an open discussion about both achievements and failures in the dealing with Nazi war crimes by the Austrian juridical system.

There was a TV report on CNN on Sunday, October 5th 1997, concerning a Viennese doctor, who haven't been prosecuted for his crimes in fulfilling the Nazi euthanasia program up to now. It was the story of the brain dissections of hundreds of killed children at a Viennese psychiatric institute during the Nazi time and the using (or abusing) of these dissections for scientific research after the war.

The Austrian Centre of Resistance repeatedly had urged an investigation against this Nazi doctor who has been working as an expert witness at the Viennese district court for more than thirty years.

It is now one month that the Austrian minister of Justice responded to an interpellation of some members of the parliament concerning this case. The minister enumerated without extenuation some incomprehensible actions of the public prosecution concerning the accusations against the doctor within the last years. And he promised a new investigation of the case.

If this investigation leads to an indictment against the Nazi doctor, one can be sure that the trial never would come to an end, because the past experience with euthanasia trials in Germany had shown that these doctors know well how to become disabled to be tried.

But, nevertheless, such an indictment would be a sensational turning point in Austrian legal history, for there has been no trial against Nazi criminals since 1975 in our country.

The records of the War Crime Trials are classified by the courts as being of historical value (the records bear the inscription "to be kept forever"). There is hardly any restriction on access to the records; the only real difficulty in using these documents for historical research is the lack of good cataloguing system. This is probably the reason why this important source has scarcely been used by Austrian and foreign historians.

Claudia Kuretsidis-Haider and I have already been working with these records since 1993. Our research project is conducted at the Austrian Centre of Resistance and supported by the Austrian Science Foundation and the ministry of Justice.

One of the goals of our research project is to compile a data basis listing the major crimes committed by Austrian Nazis and investigated by Austrian courts.