

WRITTEN QUESTION P-0721/04
by Daniela Raschhofer (NI)
to the Commission

Subject: Benes Decree No 33/1945: the case of Hugo Salm

Prior to the adoption of the decision on the Czech Republic's accession to the European Union, there was widespread public discussion on the legal validity of the 'Benes Decrees', which are incompatible with the body of EU law due to their discriminatory nature.

In a resolution adopted in April 2002 on the Benes Decrees, the Czech National Council stated that no new legal relations could now be established on their basis. Not least for this reason, the Commission also declared that the Benes Decrees would not stand in the way of the Czech Republic's accession to the European Union.

The case in question concerns the heirs of Prince Hugo Salm. In November 2003, the Supreme Administrative Court of the Czech Republic upheld a decision which Stanislav Gross, the Czech Home Affairs Minister, had taken in the previous year on the basis of Benes Decree No 33/1945. Under Decree No 33 of 2 August 1945, all Czechoslovak citizens of German or Hungarian nationality were deprived of their citizenship, with the exception of those who could prove that they had remained loyal to the Czechoslovak Republic. The judgment of the Supreme Administrative Court confirms that the Decrees continue to serve as a basis for new legal relations.

Can the Commission therefore answer the following questions:

1. How does the Commission view the fact that a decision has been taken on the basis of Benes Decree No 33, although this Decree was explicitly repealed?
2. In the light of the Czech Republic's accession to the EU, does the Commission believe that this decision by the Czech Home Affairs Minister is compatible with the *acquis communautaire*, given that the Czech National Council had declared that no new legal relations would be established on the basis of the Benes Decrees, and that the Commission made reference to this in its decision?
3. What action does the Commission plan to take?