

WRITTEN QUESTION P-1248/09
by Hubert Pirker (PPE-DE)
to the Commission

Subject: AVNOJ (Anti-Fascist Council of National Liberation of Yugoslavia) provisions

In 1991 Slovenia decided to rectify the injustice that was perpetrated in post-war Yugoslavia in the course of applying the AVNOJ provisions. A law was passed on denationalisation which provided for the resumption of the post-war military criminal proceedings. This led to acquittals of the charge of 'collaborating with the Nazis', which was based on convictions by military courts in 1945. The process of returning confiscated assets has subsequently been initiated on a sporadic basis.

In 2004, however, the Supreme Court began rejecting applications for the return of confiscated assets, stating as its justification that those found guilty in the trials (in August 1945) 'in any case no longer possessed any assets whatsoever at the time of their conviction by the military court in 1945, since all their assets had been seized months previously for the benefit of Yugoslavia as a result of the AVNOJ provisions (November 1944 to February 1945)'. Since they were already without means at the time of the convictions, the annulment of the judgment several years ago was, it is claimed, also immaterial, with the result that non-existent assets could not be returned. This judgment has been strongly opposed by well-known legal experts.

This means, in effect, that those acquitted have no further claim to restitution and must repay any compensation already received, with interest.

Do EU citizens whose property/assets were expropriated by a military court or under the AVNOJ provisions on the charge of 'collaborating with the Nazis', and who were posthumously acquitted, have the right to restitution of their assets?

According to what principle of law can an acquitted person have their right to restitution, which has been granted to them in the courts, withdrawn retrospectively by means of a disputed justification?

Does the Commission think that the way the Slovenian Supreme Court has proceeded in this matter raises questions about legal certainty in the country?