

## **THE LONG STRUGGLE FOR REHABILITATION OF GAY NAZI VICTIMS IN AUSTRIA**

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Before focussing on the topic of this presentation – „Kampen för upprättelse för fångarna med den rosa triangeln i Österrike“ – let me also give a short overview and a few figures regarding the persecution of people on grounds of sexual orientation by the Nazis, as one still can find some wrong information and some myths out there.

Today we know that the idea of a “Homocaust” with 100,000s of gay men killed by the Nazis is wrong. Recent research has revealed that there were about 10,000-15,000 gay men killed in concentration camps on the grounds of their homosexuality.

Another myth is the assumption that lesbian women and gay men were treated in the same way by the Nazis and had to face the same fate. That again is not true. In the first place women who may have been lesbians were deported because they were considered “asocial”, because they did not fit into the role assigned, by the Nazis, to German women. The persecution of lesbians in no way was as systematic as the persecution of gay men. That does not mean, however, that lesbians had a better life, but for them it was easier to hide. Of course, this hiding meant a back-lash in their way of life, they were forced into traditional gender roles again, and deprived in most cases of an, also economically, independent life as

individuals – and in this way, lesbians suffered both at the individual and the collective levels. Their networks, their infrastructure were destroyed in the same way as the gay scene and the gay community that had existed, at least in the major cities, between the two World Wars. Lesbians were forced back into the closet, too. But it would be absolutely wrong to say that lesbians were systematically persecuted and sent to camps.

In Germany, actually, they did not face criminal prosecution because female homosexuality was not illegal. Clearly, lesbians – as women – were not taken as seriously as men. Female sexuality was not considered to have such a decisive impact as was attributed to male sexuality. Therefore, female homosexuality was not considered as threatening as male homosexuality to the demographic development of the Aryan race. While male homosexuality was always linked to seduction of young men into permanent homosexuality and thus considered a threat to society, not only Nazi scientists were convinced that female homosexuality was not so widespread, and much easier to change. And most importantly for the Nazis, lesbians could still become pregnant and bear children for the Führer. They thought lesbians would easily change into heterosexuals once they got married.

The criminalisation of female homosexuality, by the way, was one of the differences between Germany and Austria. And funny enough, the legislation had never been unified in this field. There were attempts to unify the criminal codes in this respect, but obviously the seven years of Nazi rule in Austria were not long enough to do so. Therefore, in Austria, female homosexuality remained a criminal offence during all the seven years of the *Anschluss* to the Third Reich, from 1938-45. On the territory of the “Ostmark”, as Austria was called during these years, the police and criminal

courts continued to prosecute women for homosexual acts according to the Austrian law. However, we do not know of any case of a lesbian woman from Austria being deported to a concentration camp after being sentenced in court for committing homosexual acts. Convicted lesbians were sent to regular prisons to serve their sentences.

I will give you a few more numbers to draw a clearer picture of the magnitude of the persecution. In the Third Reich, between 1933 and 1945, around 100,000 gay men have been arrested for homosexuality. Police and court investigations led to around 50,000 convictions. And as I mentioned before, 10,000-15,000 men were sent to concentration camps, not all of them were convicted in court because the regular police and the Gestapo had the power to directly sent homosexuals to a concentration camp, especially in cases of recidivism. It was also quite usual that people first served their court sentence in a prison and after that, instead of being released, were immediately sent off to a camp for “protective custody”.

In the camps, homosexual prisoners were rather at the lower end of the hierarchy among the prisoners, together with Jewish prisoners, far below political or criminal prisoners. That is also an explanation why the survival rate among gay men also was among the lowest in the camps. Scientists suggest that 60 % of those 10,-15,000 gay men sent to the camps perished there, i. e. 6,000-9,000 persons. These figures are for the “Old Reich” only, they do not include the figures for Austria, but since Austria’s population was about a tenth of the German population, we may add around 600-900 Austrian gay men sent to the camps.

I would like to highlight another difference between Austria and Germany:

In Austria, the total ban on male and female homosexuality remained unchanged for more than a century. The relevant Article 129 I b in the Austrian criminal code was the same from 1852 up till 1971 when it was finally repealed. Austria has always been a very Catholic country in which the Roman-Catholic Church has had and still has a very strong political influence. Needless to say that homosexuality had also been prohibited throughout the middle ages and also by all the penal codes before 1852. Indeed, between 1803 and 1852, the punishment provided for homosexual behaviour was “only” a prison term of up to one year, while after 1852, and up till 1971, the law provided for a minimum sentence of one year in jail, and a maximum penalty of five years imprisonment.

In Austria, it was also quite clear that all forms of sexual activity were covered by the total ban, also mutual masturbation. Also the invitation or the attempt to engage in homosexual activity was punishable.

In Germany, however, the relevant article in the criminal code, Paragraph 175, only prohibited sexual acts similar to intercourse, i.e., oral, anal and intercourse between the legs. Mutual masturbation or joint masturbation was not punishable.

When the Nazis came to power in Germany in 1933, they were unsatisfied with that legal situation. Therefore, they amended Paragraph 175 in 1935 to broaden its applicability. From now on, all sexual contacts were illegal, including any behaviour deemed to have a sexual intent, and this included “simple looking” or “simple touching”. On top of that, Article 20a of the German Penal Code was also used to pronounce severer punishment for “Gewohnheitsverbrecher”, i.e. “habitual criminals”, recidivists. This provision was also later used in Austria, after the *Anschluss*.

After the 1935 reform of Paragraph 175 in Germany, this provision was now closer to Austria's Paragraph 129, but more comprehensive. Therefore, the elements of the offence continued not to be identical. And indeed, there was some controversy regarding the jurisprudence of the Austrian courts after annexation so that even the Reich Ministry of Justice had to deal with the issue, urging Austrian courts to be stricter in their application of the Austrian law.

In any case both in Germany and in Austria the number of charges, police and court investigations, court cases, and convictions flashed up – in Germany after the tightening up of the law in 1935, in Austria after the Anschluss in 1938:

Let's first look at the figures for the German Reich, excluding Austria, "Ostmark". The number of convictions increased tenfold from 853 in 1933 to 8,562 five years later. Unfortunately we do not have data for Austria for the years 1937 to 1945 as Austria ceased to exist in 1938. However, we can see the increase in the numbers of convictions looking at the figures for Vienna which do exist – Vienna with its more than 2 million inhabitants at that time can be counted for approximately a third of all convictions in Austria: Compared to the years before the annexation, the numbers increased by 40-100 % in 1939 to 1943. And you have to bear in mind that the majority of the male population actually was in the war, so considering this fact, the increase is even more dramatic.

Some conclusion about the figures in the Ostmark may be drawn from the German figures of 1939. The number in brackets (8,274) includes the convictions in the Ostmark and other occupied Eastern territories. Since the

ban on homosexuality was not really enforced in Czechoslovakia or in Poland, the difference of 660 cases in these figures can probably be mostly attributed to the Ostmark. So that does not really show a dramatic increase for the whole of Austria compared to some years before the Anschluss, but if you compare, for example, the 433 cases in 1935 with 660 cases in 1939, the difference, indeed, constitutes a considerable increase.

In general, we have to note that the figures for the years before 1933 clearly show that the legal prosecution of homosexuals was much more intense in Austria than in Germany. As I mentioned before, Germany had and has ten times more inhabitants than Austria, but in many years Germany did not even have more than twice as many convictions as Austria – as you see here for the years 1924 to 1934.

The more severe prosecution during the Nazi era in Austria is also reflected in the duration of prison terms to which perpetrators were sentenced: A research team that had analysed more than 2,000 court proceedings revealed the following: The average length of sentences pronounced by the courts before 1938 was 3.97 months, during the Nazi period (1938-1944) this average length increased to 7.29 months, to only fall back to 4.29 months after the war.

Before turning to the main topic of my presentation, the struggle for rehabilitation after the fall of the Nazi regime, I would like to just flag up a few other features of the persecution of gay men:

The increased intensity of persecution and pressure on homosexuals impacted also on the social life of gay men. It was dangerous to make

contacts with unknown persons, because these strangers could be “agents provocateurs”, police informers, and any invitation could be a trap. It was also dangerous to be known to other gays because if somebody got caught by the police or the Gestapo, they usually would blackmail and torture people to track down names of sex partners and other gay friends. Police and Gestapo, would also confiscate and search the mail of persons suspected to be homosexual; under the new legislation people could be arrested and sent to a concentration camp only for writing or receiving a love letter. It was dangerous to frequent traditional meeting or cruising places such as parks, saunas or bars, because the police knew these places, too and carried out raids there. Many people were also victims of denunciation by neighbours, colleagues and even relatives. Social control was intense, and thus many gay men and lesbians actually married in order not to be a too obvious target.

Once arrested or sentenced, a way of avoiding concentration camp was to consent to “voluntary” castration. Many victims have characterised this surgery as “psychic execution” which also resulted in subsequent illness, suicide and premature death due to these typical diseases. Another way of having one’s prison term suspended was to enlist with the army and to serve “voluntarily” at the war front which, however, many did not survive either.

I would also like to mention that gay men were also subject to medical experiments. Danish SS doctor Carl Værnet pretended that he could turn homosexuals into heterosexuals by implanting them an artificial gland that continuously would give off the male hormone testosterone to the person’s body. He was allowed to carry out these experiments on prisoners in Buchenwald concentration camp.

## **THE LONG STRUGGLE FOR REHABILITATION**

Immediately after the end of the Nazi era, it was simply impossible for homosexual victims to demand and get compensation for their suffering.

There are a lot of reasons for that, most of them were quite general and also effected other victim groups.

There was chaos in the country; Austria was occupied by the four allied forces; for ten years the country and Vienna had been divided into four zones and sectors, the American, the British, the French and the Soviet zones. Immediately after the end of the war, three million displaced persons were living on the territory of the country, which used to have a population of 7 million. They came from many places in Europe, especially from Eastern Europe and the Balkans; mostly native Germans thrown out from the lost territories in East Prussia, Czechoslovakia or Silesia, but also people fleeing from the Communist regimes. Austria was in ruins, there was not much to compensate people with.

I am talking here about compensation and rehabilitation, and not restitution for looted fortune for which, however, the same applied: Many factories and estates were destroyed, and much of the remaining fortune moved to the Soviet Union as part of war reparations. The whole question of restitution of looted fortune was only up on the agenda as of the 1980s, because before there was not much to distribute. And Austria's unofficial government policy right from the beginning in the 1950s and 1960s was, as we know today from secret minutes of cabinet meetings, "to drag out the issue as long as possible", discouraging people from submitting claims. Jewish people were



openly warned that claiming restitution from the new and poor republic under re-construction would only cause new anti-Semitic feelings in the population.

On top of that Austria was very interested in keeping up the myth of having been Hitler's first victim. This official myth was only challenged after the Waldheim affair in the mid-1980s when Austria finally admitted that it was not only victim but also a responsible perpetrator. Only since then, attitudes have slowly started to change. And only recently restitution of the fortune looted by the Nazis from Jews deported to the camps or forced to emigration has started, as did compensation for forced and slave labour work. But now it makes sense to claim restitution because today, Austria is the 7<sup>th</sup> richest country in the World.

But for gay victims, restitution is not really the issue as their property usually would not have been confiscated or looted, and in case of death, their legal heirs would have inherited any property. So I am speaking about recognition, compensation and rehabilitation.

On the personal level, for most of the gay victims there were impediments to claiming compensation. First of all there was the shame, the victims simply were ashamed of having been deported to the camps because of their homosexuality. With only few exceptions, they did not dare and they did not want to talk with anybody about the reason for the deportation. Even with their families. And actually, nobody wanted to hear their stories. The general attitude was: Leave us alone, please; thanks God, it's over now, we don't want to deal with it.

Maybe you have seen the US documentary “Paragraph 175”: all the gay men interviewed told the same story: For most of them, it was the first time in their life that they talked about their experience, in the film, in their 80s and 90s. It is difficult for us living today to understand that but it really is a pattern that is similar to other victim groups, too, not only gay men.

There were only a few exceptions, and now I am going back to the end of the war. One was a Viennese guy called **Josef Kohout** who had been imprisoned in various concentration camps for six years. Here is a photo of him and his pink triangle with his number from Flossenbürg concentration camp, 1,896. It is, to my knowledge, the only original pink triangle still existing today; it was given to the United States Holocaust Memorial Museum in Washington. Josef Kohout’s fate became known through the account of Heinz Heger, “The men with the Pink Triangle”, the first biographical book of a gay concentration camp prisoner. Heinz Heger was a pseudonym, the person who wrote the book based on Kohout’s accounts was Hans Neumann, also from Vienna, who died in 1979. By the way, Neumann had looked for a publishing house for several years, but no one was interested in the story. It was only in 1972, that the book was published in Germany. Since it has become *the* standard work translated into many languages. But back in the 1960s and early 1970s, nobody was interested which tells us a lot about the climate at that time.

The protagonist, Josef Kohout, is very much linked to the struggle for recognition as a gay Nazi victim, and for compensation. I only met him once, when we were discussing further applications. And I perfectly remember his account of how he was treated when he returned from the camp. It illustrates the attitude prevailing at that time and the decades to come. Already in 1945, the City of Vienna had established an office to

support people returning from the camps. When he showed up there they frankly told him that as a homosexual prisoner he would not get any support. But as political parties started to recruit people, he was offered to be turned into a red triangle if he joined the Socialist or the Communist party. He refused, he wanted to be recognised as a pink triangle prisoner. In the end he got a voucher for a gas-stove – a voucher that entitled him to purchase a stove. But that was it!

Two years later, in 1947, Austria enacted legislation to provide for some form of compensation to Nazi victims, this piece of legislation is called the Opferfürsorgegesetz, which could be translated as the Nazi Victims Compensation Act. It basically provided for the victims to receive official “victim status” and a “victim identity card”. As I said, the country could not really distribute much, and so people got what would be 50 euros today in compensation for each month they were imprisoned in a camp. Even for that period this was a ridiculous amount of money. The “victim card” entitled the bearers to a range of discounts and privileges in social life, for example when buying a ticket for the opera or a theatre they could use the “fast lane” so to say, and did not need to queue up. But financially, this victim status was not extremely attractive.

What was more important, financially, was the provision in the social insurance legislation which provided for that the periods victims spent in concentration camps were included as pension contribution time. Unlike the Swedish system, in Austria, when you work you pay a retirement pension contribution into the system on a monthly basis. And in the end, your monthly retirement pension will be calculated based on the amount of time, of months you have contributed to the system during your working life. So if you had spent a couple of years in a camp, it would make a huge

difference to your monthly pension amount if these months would not be counted. So this part of the compensation provision has always been more important than the “victim status” as such.

When the legislation was enacted in 1947, it only covered those persons persecuted for racial, religious or political reasons. All the other victim groups were excluded: homosexuals, people with disabilities, so-called “asocial” people, and even gypsies. With regard to homosexuals, there was a clear argument made which we in the gay movement also were frankly told by politicians and authorities when we started, in the 1980s, to fight for the recognition of the homosexual victims: The persecution and prosecution of homosexuality was not “typically National-Socialist ideology” because homosexuality was also banned before and after the Nazi period even in democratic societies.

The fact or the argument that, in a democratic society, people were not sent to camps without a court conviction or after having served their prison terms was dismissed with the counter-argument that still the prosecution was based on a law that also existed in democratic societies.

**“Continuity”** is the key word here. Homosexuality was illegal before and after the Nazi period. Therefore, society and politics did not even consider to include gay victims in any rehabilitation or compensation scheme, or consider repealing the law for that matter. On the contrary, the anti-homosexual brainwash society was exposed during the Nazi era was probably a decisive factor why it took so long in Germany and in Austria to repeal the total ban on homosexuality, in West Germany until 1969, in Austria until 1971.

And when we look at the figures of convictions after the liberation, we can see that they hardly came back down to the pre-war levels. **On the contrary, in the 1950s** we see a peak unheard of. The figures flashed up to more than 700, and even more than 800 in 1955, figures that were neither reached before or during the Nazi period. We can only speculate about the reasons why that happened. But it probably is due to the general political climate that had really become very conservative; and that was a European phenomenon; various countries tightened up their legislation against homosexuals, no total ban was re-introduced where it had not existed before, but higher ages of consent or bans on prostitution or seduction were introduced; in the US there was the dark era of McCarthyism, on a world level, there was the Cold War. And in the post-war re-construction period in Europe, it was obviously important to force people into conservative social models. A considerable part of the male population was killed in the war, many still were prisoners of war in the Soviet Union, so there was no room for non-conformist life-styles or men and women not procreating. There was again a strong pressure by society to found families and have a lot of children. This population policy was almost National-Socialist.

In any case, homosexuality continued to be considered as an ordinary crime. Many gay men had to experience this after the war and liberation. As an example I can mention **Erwin Widschwenter** who is still alive, he turned 100 years old last April. In January 1944 he was arrested in a public bath in Vienna where police carried out a raid that day. In May 1944 he was sentenced to a prison term of five years and sent to a regular prison near Vienna. When in April 1945, the Red Army was approaching, the SS invaded the prison to liquidate all inmates.. Hundreds of inmates were killed, but Erwin and a few others survived the massacre. They were

evacuated to prisons in Germany, and so he ended up in a prison in Bavaria. When the US army liberated that part of Germany, most of the prisoners were released, but only the Communists and the homosexuals were not, Erwin still points out today reproachfully when he tells his story. Finally, the Americans released him in May 1946, a year after liberation. Back home in Austria, he also was treated as an ordinary criminal. With his criminal record he could not take up his former job as a civil servant in the tax collection office. People convicted for homosexuality had to face the same consequences as ordinary criminals. They were not allowed to work in the public services, they lost their civic rights, were not allowed to vote in elections, their academic degrees were taken away from them, lawyers lost their licence to work as a lawyer, in some cases people even were taken away their driving licence if they used their car to go to the places where they committed their crimes, i.e. where they had homosexual contacts. It is really hard to believe today but this happened up until 1971.

Some gay men also experienced a very special form of continuity. After the war, they were arrested by the same policemen and sentenced by the same judges as they had been arrested and sentenced during the Nazi period because these people, although often convinced Nazis, continued to work in their positions.

So, the post-war climate definitely was not favourable to repeal the total ban or to recognise homosexual Nazi victims. De-nazification certainly did not include the homophobic attitudes of the Nazis. We even felt the aftermath of the Nazi brainwash in the early 1980s when the gay and lesbian movement started and had its first public appearances. I remember reactions from people when we had put up our first info stands in Vienna at that time. Although homosexuality was not illegal any longer, some

passers-by were very angry and shouted at us: People like you would have been gassed by Hitler, he was right to do so, you have no right to stand here. Today, this has changed of course, but two to three generations of Austrians lived with the Nazi brainwash that already could build upon a very good basis of Catholic dogma. This has been a very strong blend, I tell you.

For my organisation, Homosexuelle Initiative (HOSI) Wien, it was quite clear from the very beginning that fighting for the recognition and compensation of gay Nazi victims was one of our aims and priorities on top of our agenda. Only two years after having founded the organisation we approached the competent Ministry of Social Affairs. At that time, Austria was governed by a Socialist government. The official reaction was as already mentioned: The prosecution of homosexuality was not typical for the Nazi period, and therefore, there is no intention by the government to change the law.

The Austrian gay and lesbian movement, very early, also started to do memorial and commemorative work. In December 1984, we could mount **the first plaque world-wide** in commemoration of homosexual Nazi victims. It was mounted at the wall of former concentration camp Mauthausen in Upper Austria, which is memorial site today. In 1985, we also started to participate in the annual liberation ceremony in Mauthausen held on the second Sunday in May which gather thousands of people every year. We always had a banner demanding rehabilitation for the gay victims, and when we appeared with it the first time in 1985, it really caused a scandal among the officials, also the associations of the survivors and resistance fighters in charge of the memorial and the ceremony. But there were also very touching positive reactions by ordinary participants. We

were applauded when marching in with our banner, and people came up to us saying that they are glad we were there.

This liberation ceremony has since been an annual event for us to be part of. And the organisers finally got used to us and later would even mention us when reading out the list of delegations present.

In 1986, the Green Party was elected into the Federal Parliament for the first time. And they took up the issue. They both questioned the minister and also introduced their own bill to amend the Nazi Victims Compensation Act to include homosexuals and other victim groups left out. In 1988, the social affairs minister announced that he had asked the three relevant associations of survivors and resistance fighters to give their opinion about amending the law. These associations were organised along party lines, there was one association of Communists, of Socialists and Christian Democrats. And they had formed a loose federation. When we heard about the official inquiry to them, HOSI Wien wrote to all three associations. Their joint reply was clear: They could not support our demand, as their task was to care for those victims who were pro-actively fighting for a free and independent Austria. No way that homosexuals were included. HOSI even proposed to enact separate legislation for the other victim groups so that the political victims could keep the existing legislation for themselves.

It was only in 1995 that the Socialist Party changed their minds, but they did not have a majority in Parliament at that point, and the conservative party continued to block any reform. However, what happened was that legislation was adopted in Parliament to establish a National fund for victims of National Socialism, aimed at those victims “forgotten” so far. And here, “sexual orientation” was finally included in the grounds of persecution. However, this law only provided for payments on a charitable



basis to needy victims. It did not provide for a legal entitlement to compensation. In the end, the fund was very generous, and there were three homosexuals who received money from it without checking whether these people were needy or not, and one of them was Erwin Widschwenter who was in a regular prison like thousand others after the war. So it was kind of arbitrary that he received money from that fund although he never was in a concentration camp. But anyway...

On the same day, when Parliament adopted that piece of legislation in June 1995, a bill to amend the Nazi Victims Compensation Act to include sexual orientation was again defeated. So, Parliament refused again to guarantee homosexual victims a legal entitlement to compensation. It was only in July 2005, that such an amendment was adopted. Sixty years after liberation – and clearly, we have to say that the cynical calculation behind this delay had materialised: There are no survivors still alive that could actually claim compensation now. We have to face that. This amendment has only symbolic value.

One of the arguments of the Ministry had always been that there are no survivors, and we were asked to come forward with survivors, and then the Ministry would look into the cases on an individual basis and find a solution. This was difficult, and there were few people who wanted to do this in view of the political climate I have described before – and also many people did not want to dig in their past and deal with it again, and certainly not for that little compensation they would be entitled to.

One of the exceptions was Josef Kohout, the man behind Heinz Heger. In 1985, he had contacted HOSI Wien, and we offered all our support. He wanted to claim his time in the camps as contribution time to his retirement

pension. At that time he had already been in retirement for almost ten years. What made him so furious was the fact that according to Austrian legislation, SS guards of concentration camps had their duty time in the camps added as contribution time to their retirement pension unless they were guilty of crimes against humanity. It is really hard to believe that concentration camp prisoners had to face a loss in their monthly retirement pension while their SS guards had not – but this is the case. It took seven years for Kohout to get a positive decision from the National Pension Insurance Institute, in 1992, and it is unclear how they made it because there clearly was no legal basis for this. But Kohout was a fighter, and he had written both to the national Ombudsperson and the Federal Chancellor, and also HOSI Wien had been lobbying at the political level. But Kohout was the only one whose time in the camps was included for the calculation of his retirement pension. After this success, I met him in March 1993 to persuade him to also apply for the official victim status which he was not so much interested in the first place. He did so but his application was turned down by the first instance in December 1993. At that time, Kohout was very ill and he had suffered from four strokes and was in a care home. I happened to phone with his long-term partner Willi in February 1994, and it happened to be the last day to submit an appeal. So we got together, formulated an appeal, giving our arguments, I faked Kohout's signature, and off we faxed the appeal just before midnight. Kohout died on 15 March 1994, in the age of 79, before the Ministry decided about the appeal. He died without receiving official victim status, without being compensated by the Republic of Austria for the six years of his life he had to spend in a concentration camp.

This chapter of Austrian post-war history is a very dark one. We have to conclude that homosexual victims were treated as ordinary criminals, and

politicians and officials have tried everything to avoid that his victim group get compensated and rehabilitated. In Austria, there was no official apology by the Parliament as was the case in Germany in the year 2000.

To summarise, we can say there was one single case where the time of being imprisoned in a camp was recognised for the purpose of calculating retirement pension, and there were three cases of people receiving money from the National Fund for forgotten and needy victims. And 60 years after liberation, the Federal Nazi Victims Compensation Act was finally amended to cater for the homosexual Nazi victims – but without anybody left to profit from this.

Not really an overwhelming balance after 25 years of struggling – but this clearly shows the reluctance of the official Austria to deal with compensation and restitution in general and with the rehabilitation and compensation of homosexual Nazi victims in particular.