

ARTICLE

Active Voices of the Past: The Role of Political Prisoners' Organisations in the Development of Memory Laws in the Czech Republic and Germany after 1989

Klára Pinerová^{1,2} 

¹TUD Dresden University of Technology, Dresden, Germany and ²Hannah Arendt Institute for Totalitarianism Studies e. V. at the TU Dresden, Dresden, Germany
Email: klara.pinerova@tu-dresden.de; pinerova@usd.cas.cz

The article analyses the role of victim organisations in shaping memory laws in the Czech Republic and Germany after 1989. The study focuses on four key actors: the Confederation of Political Prisoners (*Konfederace politických vězňů*; KPV) in the Czech Republic and, in Germany, the Association of Victims of Stalinism (*Vereinigung der Opfer des Stalinismus*; VOS), the Association of Victims of Stalinist Persecution (*Bund der Stalinistisch Verfolgten*; BSV) and the Union of Victims' Associations of Communist Tyranny (*Union der Opferverbände Kommunistischer Gewaltherrschaft*; UOKG). The present study examines the interests, strategies and interactions of the subjects with political elites and among themselves. This article employs the conceptual frameworks of transitional justice and the politics of victimhood. The analysis is structured around case studies of selected memory laws that illustrate key moments of interaction between political leaders and victim organisations. These include the judicial rehabilitation laws adopted in the early 1990s in both countries; the 2007 German law introducing the so-called *Opferrente* (pension supplement for victims of the SED dictatorship); and the 2011 Czech Act on Participants in the Resistance and Opposition against Communism. The findings demonstrate that the unified and influential KPV in the Czech Republic achieved considerable legislative success, while in Germany, fragmentation and rivalry among victim organisations served to limit their impact. The comparative perspective underscores that success is contingent on not only the suffering endured but also the capacity to construct a shared narrative, mobilise resources and capitalise on propitious political contexts.

Introduction

A democratic transition presupposes a comprehensive reassessment of the past, including the acknowledgement of victims' suffering and the clear attribution of responsibility to perpetrators.¹ The rehabilitation of victims of communist dictatorships, compensation laws and symbolic acts of remembrance are not mere formalities, and instead form part of a broader process that lends legitimacy to the new democratic order and establishes a continuity of justice. The core objective of these processes is not only to punish the perpetrators but also to publicly acknowledge the victims and enable society to integrate different experiences of the past more effectively. These steps aim to reintegrate victims into society, strengthen their dignity and restore confidence in the justice system by offering material, symbolic and cultural forms of redress, including collective memory, solidarity and overcoming social exclusion.

¹Lavinia Stan and Nadya Nedelsky, *Post-Communist Transitional Justice: Lessons from Twenty-Five Years of Experience* (Cambridge: Cambridge University Press, 2015), 2.

Addressing the communist past remains an ongoing, frequently unresolved process even thirty-seven years after 1989. Issues such as rehabilitation, reparation and the moral recognition of victims continue to be subjected to intense and often heated debates, both within political circles and in broader social discourse. These issues continue to resurface in the public arena, whether as the subject of expert conferences, the object of partisan clashes or as part of a broader struggle over the shaping of memory.² Existing scholarship has primarily examined the legal aspects of transitional justice, focusing on the development and enforcement of new legislation, as well as the associated debates among political figures.³ The role of victims and their organisations remains important, yet under-researched. David Clarke's work on Germany, for example, shows that victims' organisations pursued different strategies from the outset to influence memory laws and the culture of memory itself.⁴

This article analyses the participation of victims' organisations in shaping memory legislation after 1989 in the Czech Republic and Germany, two countries that were formerly communist dictatorships. It focuses on the interests pursued by these organisations, the means and strategies that they used to advance their demands and the forms of cooperation or competition that emerged in relation to political elites and among the organisations themselves. The analysis draws upon the conceptual framework of transitional justice and engages with the concepts of victimhood and the politics of victimhood. It emphasises that victimhood is not a fixed category, but the result of constant negotiation between the victims themselves, the state, society and other actors. Victimhood is understood not as a set of objective facts resulting from past suffering, but as a social construct that is shaped by cultural norms, legal frameworks and political opportunities.⁵ The politics of victimhood refers to how victimhood is defined, negotiated and contested, at both the social and political levels.⁶

The analysis is based on case studies of four key actors. In the Czech context, the Confederation of Political Prisoners (*Konfederace politických vězňů*; KPV), established in January 1990, emerged as the primary representative of victims of the communist dictatorship. It collaborated with centre-right parties to advocate for de-communisation policies and began publishing the magazine *The Faithful Have Remained* (*Věrní zůstali*) in 1991. In Germany, many organisations were founded before and after 1989 with the declared aim of promoting the interests of victims of the Socialist Unity Party of Germany (*Sozialistische Einheitspartei Deutschlands*; SED) dictatorship. In this article, I have chosen to analyse the activities of three of the most significant associations. The first is the Association of Victims of Stalinism (*Vereinigung der Opfer des Stalinismus*; VOS), which was founded in 1950.

²Alexandra Barahona de Brito, Carmen González-Enríquez and Paloma Aguilar, eds., *The Politics of Memory: Transitional Justice in Democratizing Societies* (Oxford: Oxford University Press, 2001), 25.

³For example, the following books are devoted to these topics: Germany: Christian Widmaier, *Häftlingshilfegesetz, DDR-Rehabilitierungsgesetz, SED-Unrechtsbereinigungsgesetze: Rehabilitation und Wiedergutmachung von SBZ/DDR-Unrecht?* (Frankfurt a. M.: Peter Lang GmbH, 1999); Günther Heydemann and Clemens Vollnhals, eds., *Nach den Diktaturen: Der Umgang mit den Opfern in Europa* (Göttingen: Vandenhoeck & Ruprecht, 2015); Jörg Siegmund, *Opfer ohne Lobby? Ziele, Strukturen und Arbeitsweise der Verbände der Opfer des DDR-Unrechts* (Berlin: Berliner Wissenschafts-Verlag, 2003); Wilhelm Tappert, *Die Wiedergutmachung von Staatsunrecht der SBZ/DDR durch die Bundesrepublik Deutschland nach der Wiedervereinigung* (Berlin: Berlin Verlag Arno Spitz, 1995); Ulrike Guckes, *Opferentschädigung nach zweierlei Maß? Eine vergleichende Untersuchung der gesetzlichen Grundlagen der Entschädigung für das Unrecht der NS-Diktatur und der SED-Diktatur* (Berlin: Berliner Wissenschafts-Verlag, 2008); David Clarke, *Constructions of Victimhood: Remembering the Victims of State Socialism in Germany* (Cham: Palgrave Macmillan, 2019). Czech Republic: Françoise Mayer, *Češi a jejich komunismus: Paměť a politická identita* (Praha: Argo, 2009); Roman David, *Communists and Their Victims: The Quest for Justice in the Czech Republic* (Philadelphia: University of Pennsylvania Press, 2018); Tomáš Bursík and Jaroslav Pažout, eds., *Revize politických procesů a rehabilitace jejich obětí v komunistickém Československu* (Praha: Ústav pro studium totalitních režimů, 2021).

⁴Clarke, *Constructions*; David Clarke, 'Compensating the Victims of Human Rights Abuses in the German Democratic Republic: The Struggle for Recognition', *German Politics* 21, no. 1 (2012): 17–33.

⁵Roddy Brett and Vincent Druliolle, eds., *The Politics of Victimhood in Post-Conflict Societies* (Cham: Palgrave Macmillan, 2018); 4; Tami Amanda Jacoby, 'A Theory of Victimhood: Politics, Conflict and the Construction of Victim-Based Identity', *Millennium: Journal of International Studies* 43, no. 2 (2015): 514–15.

⁶Brett and Druliolle, *Politics*, 12; Laura Jeffery and Matei Candea, 'The Politics of Victimhood', *History and Anthropology* 17, no. 4 (2006): 287–96.

The VOS became the most important and officially recognised organisation for former political prisoners who left East Germany. It played a pivotal role in the development of the 1955 Law on Assistance to Political Prisoners (*Häftlingshilfegesetz*; HHG) and it publishes the magazine *The Liberty Bell* (*Freiheitsglocke*). Another organisation under investigation is the Association of Victims of Stalinist Persecution (*Bund der Stalinistisch Verfolgten*; BSV), which was founded in Leipzig in 1990. This association primarily represented individuals who remained in East Germany and published the magazine *Barbed Wire* (*Der Stacheldraht*), which subsequently became the official periodical of the Union of Victims' Associations of Communist Tyranny (*Union der Opferverbände Kommunistischer Gewaltherrschaft*; UOKG). The UOKG was an umbrella organisation founded in 1991 that coordinated the activities of dozens of victims' associations and actively participated in negotiations with government institutions. Alongside the VOS and the BSV, it was one of the most influential organisations attempting to influence memory policy and the development of legislative norms in the German environment through negotiations with political leaders and other activities. As will be demonstrated in this article, these organisations acted as memory activists who sought to actively intervene in official memory politics from the bottom up by promoting their own narratives, demanding recognition for victims and seeking institutional and legislative anchoring of their experiences in state memory policies.⁷

This article draws upon parliamentary debates, draft legislation and adopted laws, as well as archival materials produced by the organisations themselves and their magazines. The latter served as not only channels for information dissemination but also platforms for sharing personal stories, expressing opinions, reflecting on the past, articulating demands and constructing victimhood. The time frame covers the period from 1989 to approximately 2011 and includes key moments in the development of rehabilitation, compensation and symbolic recognition.

Although the Czech Republic and Germany both experienced communist dictatorship and its repressive apparatus, the paths they have followed since 1989 have evolved differently due to specific historical, institutional and political conditions. Czechoslovakia underwent a non-violent revolution during which the political elite transformed, but many of its administrative structures were preserved. Conversely, Germany witnessed the unification of the former East German territory within the pre-existing democratic Western republic, a process that entailed the implementation of the West German legal and institutional framework. This integration gave rise to tension between 'old' and 'new' citizens, as well as between disparate memory cultures.

Instead of assuming structural similarities between the Czech Republic and Germany, this article brings together two cases that were shaped by different trajectories of post-communist transformation and memory regimes. The aim of this comparison is not only to trace two specific national development trends but also to analyse how different political, institutional and mnemonic contexts shaped the opportunities and limitations faced by organisations representing victims of communism. By comparing the relatively unified and politically anchored organisation of victims in the Czech Republic with the fragmented situation of victims' organisations in Germany, the article seeks to identify the conditions under which victimhood can be transformed into legislative recognition and political influence. The comparison thus serves as an analytical tool for refining broader theoretical insights into politics of victimhood and transitional justice.

The Politics of Victimhood and the Role of Victims as Active Participants

In traditional transitional justice literature, victims have long been viewed as passive recipients of reparation.⁸ Their status was often presented as apolitical because it was based on a moral appeal

⁷Yifat Gutman and Jenny Wüstenberg, 'Challenging the Meaning of the Past from Below: A Typology for Comparative Research on Memory Activists', *Memory Studies* 15, no. 5 (2021): 1070–86.

⁸Brett and Druliolle, *Politics*, 6.

to innocence and suffering, which was supposed to ‘precede’ political action.⁹ From a legal perspective, the victim’s identity was considered an innate and unchangeable category that was not further problematised. However, this view has been significantly challenged in recent years by scholarship in sociology, psychology and critical memory studies.¹⁰ This scholarship emphasises that victimhood is the result of a dynamic, socially and politically conditioned process involving constant negotiation between one’s own experience and its public recognition. Adopting these approaches, this article regards victimhood as not a stable or natural identity but rather the result of an active process referred to as ‘victimhood work’. This involves the purposeful actions of individuals and organisations seeking to articulate, institutionalise and legitimise their experience of oppression.¹¹

The organisations that I studied were not merely passive carriers of memory. On the contrary, they actively sought to transform their suffering into political power, for example by demanding legislative recognition. Grounding their narrative in suffering and moral authority, they legitimised it in the public sphere as the only authentic interpretation of the past.¹² They became actors who actively shaped collective memory, intervening in discourses of guilt, justice and historical continuity while claiming the role of moral guardians of a particular version of history.

In his 2015 study, Vincent Druliolle highlights that the construction of victim identity is influenced by three key factors: the self-definition of victims themselves, legal and institutional definitions and the broader socio-cultural context.¹³ Discrepancies between how victims understand themselves and how they are defined or accepted by society can lead to feelings of marginalisation, disempowerment and frustration.¹⁴ In this article, I will explore how these tensions influenced the strategies of the aforementioned organisations and shaped the collective identities claimed by victims in public spaces. Crucially, the article explores the extent to which these constructions of victimhood resonated with dominant political narratives in both countries. Although victims and their organisations often employed sophisticated strategies, their success was not guaranteed.

An important contribution to this analysis is the conceptual framework offered by Jessie Barton-Hronešová in her study of victim organisations in Serbia, which identifies three key factors conditioning the success of these actors in advancing their goals: moral authority, mobilising resources and international salience. While the influence of international institutions was minimal in the cases of the Czech Republic and Germany, the first two factors represent important analytical tools for understanding the strategies of the organisations under consideration. Moral authority is understood as an intangible yet powerful resource stemming from injustice, personal experience of repression and demonstrable resistance to the dictatorship. In practice, moral authority has served as a means of legitimising demands, gaining the trust of politicians and influencing public opinion. Equally important were the resources available to the organisations for mobilisation. These included organisational structure and cohesion, membership size, ability to communicate with political elites, media access, expertise and material resources.¹⁵

⁹Jeffery and Candeia, ‘Politics’, 287; cf. Ruti G. Teitel, *Transitional Justice* (Oxford: Oxford University Press, 2000); Jon Elster, *Closing the Books: Transitional Justice in Historical Perspective* (Cambridge: Cambridge University Press, 2004).

¹⁰Jeffrey Alexander et al., *Cultural Trauma and Collective Identity* (Berkeley: University of California Press, 2004); Didier Fassin and Richard Rechtman, *The Empire of Trauma: An Inquiry into the Condition of Victimhood* (Princeton: Princeton University Press, 2009).

¹¹Jeffery and Candeia, ‘Politics’, 291.

¹²Iosif Kovras, *Truth Recovery and Transitional Justice: Deferring Human Rights Issues* (Abingdon: Routledge, 2014); Jana S. Subotić, *Hijacked Justice: Dealing with the Past in the Balkans* (Ithaca: Cornell University Press, 2009); for Czech Republic and Germany, see Clarke, *Constructions*; Barbara Vann, ‘Jáchymovské Peklo: Komu patří?’, in *Jáchymov: Jevišťe bouřlivého století*, ed. Klára Pinerová (Praha: Ústav pro studium totalitních režimů, 2018), 327–39.

¹³Vincent Druliolle, ‘Recovering Historical Memory, a Struggle against Silence and Forgetting? The Politics of Victimhood in Spain’, *International Journal of Transitional Justice* 9, no. 2 (2015): 316–35; Brett and Druliolle, *Politics*, 13.

¹⁴Brett and Druliolle, *Politics*, 5.

¹⁵Jessie Barton-Hronešová, *The Struggle for Redress: Victim Capital in Bosnia and Herzegovina* (Cham: Palgrave Macmillan, 2020), 48–61.

In this context, I will examine the specific mobilisation tools available to the KPV, VOS, BVS and UOKG, how these were used and the strategies employed to enforce demands related to memory legislation. These strategies will be analysed through case studies of selected memory laws that represent key points of interaction between political leaders and victims' organisations. These include the judicial rehabilitation laws adopted in both countries in the early 1990s; the 2007 law in Germany that fulfilled the requirement to grant a pension supplement to victims of the SED dictatorship, known as the '*Opferrente*'; and the 2011 Act on Participants in the Resistance and Opposition against Communism in the Czech Republic. Analysing these case studies will improve our understanding of how different forms of victimhood have been negotiated, shaped and enforced within the legislative framework of post-communist societies.

The Role of the KPV in the Formation of the Judicial Rehabilitation Act

In both countries, hundreds of thousands of people were systematically persecuted for their political beliefs, origins or religious faith under the communist dictatorships. In 1989, it was evident that the rehabilitation of these individuals would be a key priority. Shortly after the fall of the communist dictatorship in both countries, laws were drafted to nullify politically motivated judicial decisions while simultaneously symbolically and materially recognising those who had suffered imprisonment, internment and other violations of their freedom, property, health and life.

In Czechoslovakia, the Judicial Rehabilitation Act was drafted a few months after the Velvet Revolution. At that time, a social and political consensus emerged that demonstrated awareness of the fact that victims of communist repression were elderly and that redressing the wrongs committed was urgent.¹⁶ As early as March 1990, a draft of the Judicial Rehabilitation Act was submitted to the Federal Assembly (*Federální shromáždění*).¹⁷ The previous experience with the Judicial Rehabilitation Act (*Zákon o soudní rehabilitaci*) from 1968 significantly influenced this proposal.¹⁸ This Act introduced a system of individual case review, but in the end its practical implementation was severely limited by the change in political circumstances following the invasion of Warsaw Pact troops in August 1968. Only a fraction of the identified victims were rehabilitated and the law's overall impact was limited.¹⁹ Experience of the law has shown that individual reviews are very lengthy and burdensome for the judicial system and also insensitive to the victims, who are obliged to provide evidence of their innocence themselves.²⁰

In 1990, there was an exceptional political consensus in society. The resulting Judicial Rehabilitation Act (*Zákon o soudní rehabilitaci*), which was adopted in April of that year, brought about a fundamental change by enabling the *ex lege* reversal of politically motivated convictions based on a clearly defined list of Criminal Code sections, thereby eliminating the need for individual proof.²¹ The fundamental difference between the original draft law of March 1990 and the final version that was approved the following month lay primarily in the issue of compensation. While the former version lacked detailed information about the amount of compensation, the latter introduced a detailed compensation system. Notably, it also allowed for a pension supplement, unlike Germany. These provisions were included in the law as a result of the KPV's activities; its representatives and legal advisers held intensive talks with ministry and Federal Assembly representatives during this period. As early

¹⁶Mayer, Češí, 179–81.

¹⁷Digitální knihovna PSP, Návrh zákona o soudní rehabilitaci, tisk 303, předložený Federálnímu shromáždění v březnu 1990, accessed May 2025, https://www.psp.cz/eknih/1986fs/tisky/t0303_00.htm.

¹⁸Zákon č. 82/1968 Sb., o soudní rehabilitaci; Jiří Hoppe, *Opozice'68. Sociální demokracie, KAN a K 231 v období pražského jara* (Praha: Prostor, 2005), 265–85.

¹⁹Karel Kaplan, *Druhý proces: Milada Horáková a spol. – rehabilitační řízení, 1968–1990* (Praha: Karolinum, 2008), 160–70.

²⁰Klára Pinerová, *Do konce života: Politická vězňi padesátých let – trauma, adaptace, identita* (Praha: Ústav pro studium totalitních režimů, 2017), 288–90.

²¹Zákon č. 119/1990 Sb., o soudní rehabilitaci.

as February 1990, the KPV submitted a memorandum demanding, among other things, the introduction of pension supplements for former political prisoners, inspired by the supplements paid to those who had participated in the resistance during the First and Second World Wars.²² On 2 March 1990, an official meeting was held between the KPV leadership and representatives of the Federal Assembly and the Ministry of the Interior. At this meeting, KPV representatives advanced further specific proposals, including expanding the list of politically motivated sentences that are automatically rehabilitated.²³ These proposals were subsequently incorporated into the final version of the law.²⁴

The KPV's efforts did not end with the passage of the Judicial Rehabilitation Act in 1990; in fact, they intensified after its passage. Its leaders began negotiating with political leaders to expedite the rehabilitation process and related compensation. For instance, they arranged for the president of the Rehabilitation Court in Prague to regularly provide them with the current addresses of their members.²⁵ They also negotiated with the Minister of Justice and with representatives of the Ministry of Labour and Social Affairs regarding the coordination of rehabilitation and compensation procedures.²⁶ KPV also provided assistance in the rehabilitation process and in applying for compensation to its members. Information was distributed to members through the organisation's internal structures and the magazine *The Faithful Have Remained*.

During the early 1990s, the KPV established several specialised committees to deal with different areas and to coordinate with politicians and state institutions. These included legal, social-health, defence-security, organisational and coordination, agricultural, documentation and political commissions.²⁷ The Social-Health Commission played a key role in supporting members in their rehabilitation and was headed from 1991 by Naděžda Kavalírová, who would later become the KPV's long-term chair. The commission negotiated with the Ministries of Health and Labour and Social Affairs regarding compensation, medical care and financial contributions for former political prisoners. At the same time, it provided social and financial assistance to members experiencing financial difficulties.²⁸ In addition to this role, Kavalírová worked for many years at the Ministry of Justice, where she was able to influence individual cases personally.²⁹

Despite the adoption of the Judicial Rehabilitation Act, which the KPV hailed as a significant, groundbreaking step, its representatives were not entirely satisfied with its initial form, especially its practical implementation. One of the most pressing problems repeatedly raised by the KPV was the persistence of so-called residual sentences. The law did not allow for the complete reversal of a conviction, particularly when the acts for which political prisoners were convicted were deemed to be criminal. The KPV argued that such residual sentences should be unconditionally abolished. They based their argument on their own narrative, in which they presented themselves as the first

²²Memorandum, 1 Feb. 1990, Národní archiv v Praze (hereafter NA), fond (hereafter f.) Konfederace politických vězňů (hereafter KPV), karton (hereafter kart.) 6.

²³Zpravodaj KPV č. 1, 20 Mar. 1990, NA, f. KPV, kart. 50.

²⁴Digitální knihovna PSP, Společná zpráva výborů ústavně právních, zahraničních, branných a bezpečnostních, pro průmysl, dopravu a obchod, pro kulturu a výchovu, pro zemědělství a výživu, pro plán a rozpočet, pro sociální politiku a výborů pro životní prostředí Sněmovny lidu a Sněmovny národů, accessed May 2025, https://www.psp.cz/eknih/1986fs/tisky/t0361_00.htm.

²⁵Informace o provádění zákona č. 119/1990 Sb. o soudní rehabilitaci – zpracoval Dr. Macháček, undated, probably June 1990, NA, f. KPV, kart. 136.

²⁶Záznam z jednání, které se konalo dne 20. června na MS u paní ministryně spravedlnosti JUDr. Burešové, 22 June 1990, NA, f. KPV, kart. 136; Zápis z porady k řešení některých otázek spojených s aplikací zákona č. 119/1990 Sb. o soudní rehabilitaci, která se konala dne 21. června 1990, 21 June 1990, NA, f. KPV, kart. 136.

²⁷Stanovy Konfederace politických vězňů Československa, 1990, NA, f. KPV, kart. 6; Stanovy Konfederace politických vězňů Československa, Sept. 1991, NA, f. KPV, kart. 128.

²⁸Zpráva Zdravotní a sociální komise KPV Č za rok 1993 až 1995, undated, probably 1995, NA, f. KPV, kart. 128.

²⁹Bartoš, Adam B. O tajemné Kavalírové jsme nic nevěděly, vzpomíná politická vězenkyně, accessed Feb. 2025, https://www.idnes.cz/zpravy/domaci/o-tajemne-kavalirove-jsme-nic-nevedely-vzpomina-politicka-vezenkyne.A080410_174915_domaci_adb.

fighters against communism. They stressed that their activities had to be understood in the context of the anti-communist resistance and emphasised that punishment for resistance activities, which were often non-confrontational by definition, was morally untenable.³⁰

Pressure from the KPV and ongoing debate on these controversial issues led to the Judicial Rehabilitation Act being amended several times over the next two years.³¹ These amendments aimed to expand possibilities for rehabilitation, refine conditions, and remove criticised residual punishments or mitigate their effects. The success of KPV stemmed from the moral authority of victims of communist persecution, which was widely accepted in society since 1989. Another important factor in its success was the organisation's mobilisation of resources. It built an extensive and relatively well-structured membership base with regional branches, which ensured its ability to exert coordinated political and social pressure. Furthermore, the KPV acted as a unified entity in its dealings with state authorities and political representatives, thereby increasing its persuasiveness and negotiating capacity. Equally important was the social atmosphere of the time, which, after 1989, favoured moral and material compensation for victims of the communist dictatorship. This combination of favourable conditions meant that the law on judicial rehabilitation was quickly adopted and the rehabilitation and compensation process took place within a relatively short period of time. By the end of 1992, more than 258,000 people had been rehabilitated, and a further 4,819 had received rehabilitation decrees from military courts. This represented the vast majority of all those who had been politically persecuted.³²

The Complex Path to the Rehabilitation of Victims of the SED Dictatorship

Unlike Czechia, where the rehabilitation law was enacted in April 1990, the process of enforcing and finalising rehabilitation legislation in Germany was considerably longer and more complex. This development was influenced by not only the historical experiences of post-war rehabilitation for victims of the Nazi dictatorship but also discussions in West Germany as early as the 1950s regarding possible compensation for victims of the communist dictatorship, as well as the laws that were subsequently adopted. The reunification of Germany in 1990 also played a significant role in this process. Together, these factors led to the adoption of rehabilitation law, which was the result of long and intricate negotiations.

This time delay in no way implied an absence of political will to adopt such legislation. In fact, the question of rehabilitating victims of the SED dictatorship was discussed intensively in East Germany as early as autumn 1989, amidst the turmoil surrounding the fall of the Berlin Wall. By November of that year, the Ministry of Justice had prepared an initial draft of a law, which the Ministerial Council approved in January 1990.³³ This draft subsequently formed the basis of a concrete rehabilitation law, which was approved by the East German People's Chamber (*Volkskammer*) on 6 September 1990.³⁴ Although this law was a significant symbolic step, it never fully came into effect. The main reason for this was the ongoing negotiations surrounding German reunification. While the East German government sought to rehabilitate and compensate victims quickly, the West German federal government approached the issue more cautiously, emphasising the need for a thorough assessment of the financial aspects of the process as a whole. Rehabilitation would impose a substantial financial burden on the future unified budget. Due to these conflicting priorities, it was agreed in the Unification Treaty

³⁰ Zpráva Zdravotní a sociální komise KPV Č za rok 1993 až 1995, undated, probable 1995, NA, f. KPV, kart. 128.

³¹ Zákon č. 47/1991 Sb., novela zákona č. 119/1990 Sb., o soudní rehabilitaci; Zákon č. 451/1992 Sb., o některých dalších předpokladech pro výkon některých funkcí; Hynek Baňouch, 'Právníké listopadové hříchy', *Jiné právo* (26 Nov. 2009), accessed May 2025, <https://jinepravo.blogspot.com/2009/11/hynek-banouch-pravnicke-listopadove.html>.

³² Pažout and Bursík, *Revize*, 20.

³³ Widmaier, *Häftlingshilfegesetz*, 96–100; cf. Tappert, *Die Wiedergutmachung*, 66.

³⁴ Gesetz über die strafrechtliche Rehabilitierung und Entschädigung von Opfern rechtsstaatswidriger Strafverfolgungsmaßnahmen im Beitrittsgebiet (Strafrechtliches Rehabilitierungsgesetz – StrRehaG) vom 6. Sept. 1990, in: Gesetzblatt der DDR, Teil I, Nr. 60, 18 Sept. 1990, 1459–63.

that the details of rehabilitation and compensation would be finalised after unification by the newly elected German Bundestag (*Deutscher Bundestag*).³⁵

After German reunification, the process of drafting rehabilitation legislation returned to its origins, influenced by older West German legal norms and their underlying principles. A key precursor was the 1955 Prisoner Assistance Act (*Häftlingshilfegesetz*; HHG) legislation, which was initially aimed at victims of the Nazi dictatorship. However, it also included provisions that allowed compensation for some political prisoners from the Soviet occupation zone and East Germany, as well as those deported from the areas between the Oder and the Neisse rivers.³⁶ This law illustrated West Germany's different approach to victims of the Nazi and communist dictatorships. While the legislation for Nazi victims was motivated by a moral recognition of injustice, the legislation for victims of the SED dictatorship was primarily aimed at preventing social decline and ensuring access to the benefits of the welfare state, rather than granting moral or symbolic compensation.³⁷ This asymmetry in legal treatment reflected deeper hierarchies of remembrance that structured public debates about victimhood and state responsibility in post-war West Germany.

Victims' organisations functioned at the intersection of legal practice and moral discourse, within a memory culture that significantly shaped both symbolic recognition and material redress. The Holocaust served as the central reference point for defining the state's moral responsibility, resulting in the marginalisation and limited institutional development of memories of communist repression. Concurrently, the state avoided symbolic gestures that might be perceived as diminishing the gravity of Nazi crimes. This memory framework influenced not only commemorative practices but also conceptions of moral responsibility, guilt and redress.

This memory framework did not disappear with German reunification and instead continued to shape political priorities and legislative decisions after 1990. Even in the initial formulations of the law, which came into force in 1992 as the First Law Addressing Wrongs Committed by the SED (1. *SED-Unrechtsbereinigungsgesetz*/1. *SED-UnBerG*), it was clear that the Kohl government's primary goal was not to grant compensation to the victims but rather to provide them with access to the federal welfare system.³⁸ In practice, this meant that victims were granted rehabilitation and a one-off payment for their time in prison, but demands for pension supplements similar to those approved in Czechoslovakia in 1990 were ignored. These demands later became a key issue for German victims' organisations, as will be shown below.

The preparation of the 1. *SED-UnBerG* was accompanied by a wide-ranging debate, both in the German Bundestag and among associations of former victims. In contrast to Czechoslovakia, where a dominant KPV organisation emerged with a unified voice, structure and clearly articulated narrative, the situation in Germany was highly fragmented. Even before 1989, several organisations were active in West Germany, each promoting different goals. After reunification, this fragmentation increased, as some West German associations expanded their activities into the territory of the former East Germany. At the same time, new local associations emerged, often bringing together victims of specific prisons, special camps or forms of repression.³⁹

As early as 1990, the BSV and the VOS criticised a bill prepared by the East German People's Chamber. They demanded that it be expanded to include recognition of victims of Soviet military tribunals.⁴⁰ However, the VOS did not significantly mobilise its membership during this period. The situation changed with the preparation of the 1. *SED-UnBerG* by the united German Bundestag.

³⁵ Heydemann and Vollnhals, *Nach den Diktaturen*, 132; Widmaier, *Häftlingshilfegesetz*, 159–70.

³⁶ Guckes, *Opferentschädigung*, 57.

³⁷ Clarke, 'Compensating', 21; cf. Guckes, *Opferentschädigung*, 11.

³⁸ Erstes Gesetz zur Bereinigung von SED-Unrecht (1. *SED-Unrechtsbereinigungsgesetz*), 23 Oct. 1992, *Bundesgesetzblatt*, Teil I, s. 1814; Clarke, 'Compensating', 19.

³⁹ Siegmund, *Opfer*, 69–79.

⁴⁰ Heydemann and Vollnhals, *Nach den Diktaturen*, 132; Widmaier, *Häftlingshilfegesetz*, 137.

Various organisations widely criticised this bill, and their strategies, as well as the lines of argumentation of individual victims and entire organisations, gradually evolved. However, their activities were often uncoordinated, with individual associations competing against each other. This made it very difficult for politicians to meet all the different demands, which in turn led to considerable frustration among victims.

Strategies of the victim organisations varied. Some of them opted for legal arguments, using the opinions of various experts, as for example VOS, which prepared its own draft law, presented to members in the pages of *The Liberty Bell* magazine.⁴¹ Another strategy of some victims was to resort to political threats, pointing out that adopting the law in this form would have negative consequences for political parties in terms of their voter share. Other victim associations most often used emotional appeals stemming from not only frustration but also deep, often unprocessed, trauma. One of the examples is the public hearing of the Legal Committee of the German Bundestag in Halle on 19 March 1992. The umbrella organisation UOKG had been involved in preparing this law for some time and considered the government's proposal unacceptable.⁴² For a fortnight prior to the public hearing, there had been discussions about how to approach it.⁴³ The hearing in Halle was eventually held within a powerful emotional atmosphere. Immediately after the hearing opened, representatives of almost all the participating organisations presented a document entitled *The Halle Protest* and then left the room demonstratively. In this protest, they primarily complained that the law had been drafted without sufficient discussion with the victims, in contrast to their earlier experience with the drafting of the HHG law and its amendments. They compared their situation with that of victims of the Nazi dictatorship who, in their view, had received significantly higher financial compensation, including a pension supplement that had not been granted to victims of the SED dictatorship at the time. They also criticised the fact that the law did not explicitly recognise political prisoners as fighters for freedom and democracy, considering it the 'worst law' ever passed by the Bundestag as a result. Eighteen associations signed the protest, including prominent ones such as the UOKG, VOS and BSV.⁴⁴

Unlike in the Czech environment, victims of the communist dictatorship in Germany were in a significantly weaker position from the outset. They lacked sufficient mobilisation resources and their moral authority was further undermined by competition with the authority of victims of the Nazi dictatorship, who held a dominant position in German discourse after 1945. The fragmentation of victims' associations, coupled with the complicated relationships between individual organisations, also proved to be a serious problem. As early as the 1990s, there was tension between the VOS and the UOKG. The VOS considered itself to be the largest and most influential association of victims, and it approached the idea of creating a new umbrella organisation with distrust, viewing it as unnecessary and counterproductive.⁴⁵

Another weakness was that the victims' organisations were unable to present their goals in a unified and effective manner. For example, there was initially no consensus on the amount of compensation required. At the beginning of 1990, representatives of the VOS primarily defended the relevance of the already existing HHG law and sometimes reacted dramatically to the demand for higher compensation by some victims' groups, especially those who had remained in East Germany until 1989 and who had associated themselves with the BSV.⁴⁶ Later, as the preparation of the 1.

⁴¹Entwurf für ein Gesetz zur Rehabilitierung und Entschädigung ehemaliger politischer Häftlinge, *Freiheitsglocke* 41, no. 473 (1991): 7–9.

⁴²Widmaier, *Häftlingshilfegesetz*, 218.

⁴³Protokoll der 3. Vorstandssitzung der Union der Opferverbände Kommunistischer Gewaltherrschaft, 7 Mar. 1992, Robert Havemann Gesellschaft, Archiv der DDR-Opposition (hereinafter RHG), Bestand (hereinafter B.) Union der Opferverbände Kommunistischer Gewaltherrschaft (hereinafter UOKG), Bandnummer (hereinafter Bn.) UOKG 003.

⁴⁴Widmaier, *Häftlingshilfegesetz*, 218–19; Eberhard Reese, 'Wende beim Entschädigungs-Gesetz?', *Freiheitsglocke* 42, no. 485 (1992): 2–3.

⁴⁵See e.g. Richard Knöchel, 'Dachverband der Dachverbände', *Freiheitsglocke* 41, no. 481 (1991): 14; Letter from Lothar Brauer to Richard Knöchel, 25 Dec. 1991, RHG, B. UOKG, Bn. UOKG 003.

⁴⁶Clarke, 'Compensating', 26.

SED-UnBerG progressed, the VOS changed its approach and became more actively involved in the discussion and organised resistance against certain aspects of the law in the form of demonstrations.⁴⁷ The VOS often framed its demands by comparing the status of victims of the Nazi and SED dictatorships.

In contrast, the BSV supported its arguments by recognising the victims of the SED dictatorship as active participants in the resistance against communism. The demand for recognition of the victims' historical role as fighters for freedom and democracy was eventually partly reflected in the Bundestag's Declaration of Honour (*Ehrenbekundung*). Through this symbolic gesture, the Bundestag sought to honour victims of communism and recognise the contribution of those who had made long-term personal sacrifices in support of reunification.⁴⁸ This symbolic gesture distinguished the acknowledgement of the victims' historic role from tangible legal measures. This approach differs significantly from efforts to confront the legacy of the Nazi dictatorship because, in that context, symbolic recognition was directly associated with legal rehabilitation and compensation for victims.

In Germany, victims of the SED dictatorship were unable to fully implement all their ideas in the 1. SED-UnBerG, which left many feeling frustrated and distrustful of the new democratic establishment. Their indignation at the resulting law was not only documented in their journals but also expressed in the pamphlet *Revealed (Entlarvt)*, under which the UOKG and VOS were originally listed.⁴⁹ This text not only condemned the law on moral grounds but also published the names of deputies who voted against the compensation increase. Both the BSV and the UOKG quickly distanced themselves from the pamphlet. At the same time, the UOKG dismissed Uwe Hörenz, the man behind its publication, who was later accused of collaborating with the Stasi.⁵⁰

While most of the unlawfully convicted persons in the Czech Republic were rehabilitated within the first two years after the Velvet Revolution, the individual approach adopted in Germany resulted in a lengthy process. By 2007, approximately 184,000 applications for rehabilitation under the laws redressing wrongs committed by the SED had been submitted.⁵¹ It is estimated that between 250,000 and 300,000 people were imprisoned for political reasons in the former East Germany.⁵² The administrative burden of the rehabilitation process primarily fell on the victims themselves, which further complicated the process. To compensate for this burden at least partially, special offices known as the State Commissioner for the Reappraisal of the SED Dictatorship (*Landesbeauftragte zur Aufarbeitung der SED-Diktatur*) were established in the states of East Germany and in Berlin. These institutions have continued to support victims in applying for rehabilitation and various forms of compensation. Unlike in Czechia, rehabilitation remains an unresolved issue in Germany until today, because many victims only apply for rehabilitation at retirement age when they realise that their pensions do not even cover the basic necessities of life as a result of past repression.

⁴⁷ 'Deutschlandtreffen in Erfurt', *Freiheitsglocke* 41, no. 481 (1991): 6–9.

⁴⁸ German Bundestag, Drucksache 12/2820, 4; Clarke, 'Compensating', 21; Widmaier, *Häftlingshilfegesetz*, 232.

⁴⁹ See, for example, Eberhard Reese, 'Schäbig', *Freiheitsglocke* 42, no. 488 (1992): 1; 'Politische Häftlinge empört', *Freiheitsglocke* 42, no. 488 (1992): 3; 'Wir protestieren!', *Freiheitsglocke* 42, no. 489 (1992): 2–3; *Entlarvt*, no date, RHG, B. UOKG, Bn. UOKG 003.

⁵⁰ Letter from UOKG to Minister of the Interior Süßmilch, 18 Sept. 1992, RHG, B. UOKG, Bn. UOKG 004; Letter from VOS to UOKG, 1 Sept. 1992, RHG, B. UOKG, Bn. UOKG 003; Letter from BSV to UOKG, 18 Aug. 1992, RHG, B. UOKG, Bn. UOKG 003.

⁵¹ A total of 225,776 rehabilitation applications were filed by 2021. Bundesstiftung zur Aufarbeitung der SED-Diktatur, *Anträge und Entscheidungen nach den SED-Unrechtsbereinigungsgesetzen* (2021), accessed May 2025, https://www.bundesstiftung-aufarbeitung.de/sites/default/files/uploads/files/2024-04/Antraege_bis2021i_Tabelle_Diagramm.pdf.

⁵² Ansgar Borbe, *Die Zahl der Opfer des SED-Regimes* (Erfurt: Landeszentrale für Politische Bildung Thüringen, 2010), 15–22.

Between Justice and Social Policy: The German Dispute over Pension Supplements for Victims

The rehabilitation laws in Germany and Czechoslovakia provided victims with various forms of compensation and rehabilitation, which significantly impacted the objectives and activities of victims' organisations. The KPV in Czechoslovakia, for example, no longer had to fight for pension supplements or compete with victims and resistance fighters from the Second World War. Although each of these groups was granted a pension supplement under different laws and according to different principles in the 1990s, there was no significant difference in the amounts.⁵³ In Germany, however, this pension supplement was not granted, and victims' organisations expressed considerable disappointment with the adopted legislation and repeatedly declared that they had been marginalised. Although they were invited to participate in preparing the legislative package of 2. SED-UnBerG, their fundamental demands were not adequately reflected in the final legislation that was adopted in July 1994.⁵⁴ They continued to seek negotiations with government representatives regarding the revision of both the first and second SED-UnBerG. Until 1998, however, their demands were only reflected symbolically, not materially or structurally. One of their key demands was pension supplements, as imprisonment and long-term persecution left many former political prisoners living below the poverty line in old age.⁵⁵

The situation began to change after 1998 due to two main factors. First, there was a change in the political landscape. After the elections, the Social Democratic Party of Germany (*Sozialdemokratische Partei Deutschlands*; SPD) and Alliance 90/The Greens (*Bündnis 90/Die Grünen*) formed a red-green coalition, explicitly declaring in their manifesto their intention to improve the position of victims of the communist dictatorship. The second and probably more significant impetus was the Federal Constitutional Court's decision on 28 April 1999. The court determined that the blanket reduction of pensions for former East German SED officials and members of security forces, implemented under the 1991 Pension Transfer Act (*Rentenüberleitungsgesetz*), was inconsistent with the constitutional order.⁵⁶ This decision elicited a strong public response and reinforced the argument that it is unacceptable for perpetrators to receive higher pensions than their victims due to a legal interpretation.

These political and legal developments reshaped the broader debate on how the Federal Republic ought to address the legacy of the SED dictatorship, particularly concerning the material circumstances of its victims. These discussions resulted in concrete legislative measures. On 17 December 1999, the German Bundestag adopted the Second Act to Improve Rehabilitation Law Provisions for Victims of Political Persecution in the Former German Democratic Republic (*Zweites Gesetz zur Verbesserung rehabilitierungsrechtlicher Vorschriften für Opfer der politischen Verfolgung in der ehemaligen DDR*).⁵⁷ The law increased financial compensation for victims of political imprisonment and strengthened the legal framework for rehabilitation by expanding eligibility and improving procedural implementation.⁵⁸

Against this background, the Christian Democratic Union (*Christlich Demokratische Union Deutschlands*; CDU) also played a significant role. Since the 1950s, the CDU had primarily supported victims through access to social benefits rather than through explicit moral or financial compensation. After moving into opposition in 1998, however, the party increasingly criticised the inadequacy

⁵³ Mečislav Borák, 'Soudobé problémy odškodnění obětí druhé světové války v České republice', in *Śląsk Opolski i Opawski w Unii Europejskiej: Problemy pierwszych lat członkostwa w stosunku do przemian społecznych*, ed. Mečislav Borák (Opava: Slezská univerzita v Opavě, Filozoficko-přírodovědecká fakulta, Ústav veřejné správy a regionální politiky, 2007), 39–49.

⁵⁴ Letter from UOKG to Mitglieder UOKG, 6 Jan. 1993, RHG, B. UOKG, Bn. UOKG 005; see also Siegmund, *Opfer*, 126–31; Heydemann and Vollnhals, *Nach den Diktaturen*, 139–44.

⁵⁵ Deutscher Bundestag, Drucksache 20/2220; Deutscher Bundestag, Drucksache 20/7150.

⁵⁶ Clarke, 'Compensating', 21.

⁵⁷ BGBl. 1999, Part I, p. 2662.

⁵⁸ Heydemann and Vollnhals, *Nach den Diktaturen*, 144.

of existing compensation schemes and sought to expand them through legislative means. Between 2001 and 2003, two legislative proposals aimed at improving the situation of former political prisoners were introduced: one by Günter Nooke, a former human rights defender and member of CDU, in 2001, proposing an honorary pension (*Ehrenpension*), and another by Arnold Vaatz, Christian democrat and former leader of the civil movement, in 2003.⁵⁹ Despite heightened public debate, neither proposal secured a majority in the German Bundestag.⁶⁰

The fact that both proposals were made at the turn of the millennium was likely related to not only the German domestic political context but also broader trends in Europe.⁶¹ The first of these trends was the politicisation of memory, evident not only in Central Europe but also in discussions within the European Parliament.⁶² Within this context, there was increased interest in the testimonies of victims as a tool for historical verification and moral authority. This phenomenon, described in the literature as the ‘memory boom’, accelerated after 2000 and had legal consequences.⁶³ A second important factor was the transformation of the party system, within which compensation laws also became a means of symbolic struggle against left-wing parties, particularly the successor party to the SED. Through legislative proposals, the CDU attempted to pressure the SPD into not approaching or forming a coalition with these parties.⁶⁴

The introduction of the pension supplement was explicitly demanded in the CDU’s 2005 election programme and subsequently became part of the coalition agreement with the Social Democrats. Victims of the SED dictatorship had high hopes for this. Negotiations concluded in June 2007 with the approval of the 3. SED-UnBerG.⁶⁵ However, even this package failed to meet victims’ expectations.⁶⁶ Federal legislators continued to apply the principles of the welfare state and a highly selective approach to claims. The third package introduced the possibility of applying for a €250 pension supplement, but this was only available to those who had been imprisoned for more than six months and who were later rehabilitated, with a monthly income below the statutory limit. This led to further disillusionment, as victims of the Nazi dictatorship were entitled to an honorary pension almost three times higher, regardless of their other income. The difference in treatment between these two groups of victims sparked a new round of criticism and a sense of unfairness.⁶⁷ The adoption of the 3. SED-UnBerG shows that, even when politicians and victims’ organisations are in agreement, this does not guarantee that victims will ultimately be satisfied with the resulting compensation amount, which, in their view, should ensure recognition.⁶⁸

Organisations played an active role in the process of adopting the 3. SED-UnBerG. They were involved in the legislative process, attempting to expedite it while also influencing the form and amount of the contributions awarded. In doing so, their strategies and narratives also changed. David Clarke points out that, even in the draft laws of 2001 and 2003, there was a shift in how victims were

⁵⁹Deutscher Bundestag, Drucksache 14/1001; Deutscher Bundestag, Drucksache 15/932.

⁶⁰Heydemann and Vollnhals, *Nach den Diktaturen*, 144–5; Clarke, ‘Compensating’, 22–3.

⁶¹Michal Kopeček, ‘From the Politics of History to Memory as Political Language’, *Cultures of History Forum* (2013), accessed Aug. 2025, <https://www.cultures-of-history.uni-jena.de/debates/from-the-politics-of-history-to-memory-as-political-language#part5>.

⁶²Laure Neumayer, *The Criminalisation of Communism in the European Political Space after the Cold War* (London: Routledge, 2019); Laure Neumayer, ‘Advocating for the Cause of the “Victims of Communism” in the European Political Space: Memory Entrepreneurs in Interstitial Fields’, *Nationalities Papers* 45, no. 6 (2017): 992–1012; Laure Neumayer, ‘Integrating the Central European Past into a Common Narrative: The Mobilizations Around the “Crimes of Communism” in the European Parliament’, *Journal of Contemporary European Studies* 23, no. 3 (2015): 344–63; Máté Zombory, ‘The Mimetic Competition of Victims’, *Studia Sociologica* 63, no. 2 (2017): 101–18.

⁶³Kopeček, ‘From the Politics’.

⁶⁴Clarke, ‘Compensating’, 23.

⁶⁵BGBI. I 2007, p. 2118.

⁶⁶David Clarke, *Constructions*, 175.

⁶⁷Heydemann and Vollnhals, *Nach den Diktatur*, 146–9.

⁶⁸Clarke, ‘Compensating’, 29.

portrayed, with them increasingly being presented as heroes of resistance against the communist dictatorship.⁶⁹ This shift was also reflected in the narrative strategies employed by the victims themselves. This interpretative framework, promoted initially primarily by the BSV association, gradually gained hegemony among victims of the communist dictatorship.

In addition to changing their own narrative, organisations representing former political prisoners in Germany also employed various means to influence legislators and enact the desired legislation. The activation of victims' associations often responded to specific stimuli, particularly court decisions or the introduction of new legislation. A significant impetus was already mentioned the 1999 ruling by the Federal Constitutional Court that abolished across-the-board pension cuts for former East German officials. This verdict caused considerable outrage among victims of the SED dictatorship and their organisations. The magazine *Barbed Wire* (*Der Stacheldraht*) observed that many former political prisoners now regarded West Germany as a state that offers more protection and rights to the perpetrators of the dictatorship than to its victims.⁷⁰ Following the court decision, victims' associations published a series of protest statements and open letters in support of the pension supplement.⁷¹ In April 2000, representatives of several organisations expressed their outrage in *Barbed Wire* at the increase in pensions for former Ministry for State Security employees and demanded the introduction of a 1,400 German marks honorary pension.⁷² This initiative culminated in May 2000 with the adoption of the Schweriner Declaration on the honorary pension, in which the signatory associations appealed to members of the German Bundestag to introduce a pension for victims of SED dictatorship that was equivalent to the benefits paid to victims of Nazi persecution.⁷³

Another wave of mobilisation occurred in connection with the debate on the Entitlement and Expectancy Transfer Act (*Anspruchs- und Anwartschaftsüberführungsgesetz*), which addressed the issue of pensions for East German officials, in the Bundestag in May 2001. At that time, the UOKG called on its members to actively participate in protests, either through demonstrations organised by the BSV association or by writing open letters to political representatives. In the following years, written appeals, petitions and open letters remained one of the primary means of political pressure and efforts to influence decision-making processes in favour of the victims.⁷⁴ However, victims' organisations were unable to establish lasting and close cooperation with any major political party that would accept their agenda as part of its programme and moral commitment. This fundamentally limited the effectiveness of their activities and their long-term ability to push through key demands.

The activities of associations bringing together victims of the SED dictatorship were limited by not only weak political ties and a lack of support from parliamentary parties but also internal conflicts within and between organisations. The most significant disputes took place between the UOKG and the VOS; the latter was repeatedly accused of right-wing extremism, xenophobia and racism. Tensions between the VOS and the UOKG began to surface as early as 2005 when Rainer Wagner, the future UOKG chairman, called on the VOS praesidium to expel Heinz Bucher, a member, for his extremist views that had been published in the magazine *The Liberty Bell*.⁷⁵ The situation escalated further

⁶⁹Ibid., 22.

⁷⁰'Der angepasste Bürger – ein zeitloses Modell Reaktionen der ehemaligen politisch Verfolgten auf das Karlsruher Renten-Urteil', *Der Stacheldraht* 9, no. 3 (1999): 1–2.

⁷¹UOKG, 'Offener Brief', *Der Stacheldraht* 9, no. 7 (1999): 1.

⁷²'Politisches Problem mit Langzeitwirkung', *Der Stacheldraht* 10, no. 4 (2000): 2.

⁷³Bautzener Erklärung (Entwurf), 4 May 2001, RHG, B. UOKG, Bn. UOKG 098; Hallenser Erklärung, 19 May 2001, RHG, B. UOKG, Bn. UOKG 089.

⁷⁴Letter from UOKG to Federal Chancellor Gerhard Schröder (Entwurf), 2002, RHG, B. UOKG, Bn. UOKG 090, 2002. Additional letters are available in RHG, B. UOKG, Bn. UOKG 090, UOKG 091, UOKG 092; Offener Brief an den Deutschen Bundestag von Eberhard Pabst, 21 May 2001, RHG, B. UOKG, Bn. UOKG 089; Offener Brief an Staatsminister Rolf Schwanitz von AIO, 6 June 2001, RHG, B. UOKG, Bn. UOKG 089; Appell an den Bundespräsidenten, Bundeskanzler, Bundestagpräsidenten, Bundesfinanzminister, Bundestag und die deutsche Wirtschaft, June 2001, RHG, B. UOKG, Bn. UOKG 089.

⁷⁵Letter from Wagner to the Board of VOS, 7 Feb. 2005, RHG, B. UOKG, Bn. UOKG 059.

in 2006, when VOS chairman Bernd Stichler was accused of making right-wing extremist, racist and xenophobic statements. The situation between the two associations intensified in the following months, with the BSV siding with the VOS. At the beginning of 2007, the UOKG began proceedings to expel both associations.⁷⁶ This dispute ultimately resulted in both organisations leaving the UOKG the following year. However, the disputes did not end there: Bernd Stichler subsequently accused the UOKG leadership of subsidy fraud.⁷⁷

Although this dispute was important, it did not happen in isolation. These conflicts sowed confusion within the victims' organisations and weakened their ability to advocate for their interests. As a result, politicians and the public struggled to understand these disputes, which led to a decline in the victims' movement's credibility among lawmakers and the media. Rather than forming a unified lobby capable of formulating and promoting everyday demands in the long term, these disputes had problematic consequences because divided victims appeared less credible and were unable to gain support. Additionally, certain politicians perceived accusations of extremism as a threat and obstacles to constructive participation in the legislative process.

The Anti-Communist Resistance as a Moral Narrative: Czech Efforts Towards Symbolic Acknowledgement

While the primary goal of victims in Germany was to fight for the pension supplement, Czech victims turned their attention to a different issue, primarily of a symbolic nature, stemming from the Czechoslovak historical tradition and narrative surrounding the formation of the state. This narrative is based on two key resistance movements. The first resistance dates back to the First World War and is associated with the activities of the government in exile headed by Tomáš Garrigue Masaryk. The development of this movement is largely considered to be the founding act of the Czechoslovak Republic. The second resistance was the struggle to restore state independence against Nazi occupation. Both resistance movements are perceived in the Czech national historiography and collective memory as pillars of state legitimacy.

This resistance-centred understanding of statehood also shaped post-1989 interpretations of the communist past and the moral framework through which victims were recognised. It is worth noting that, despite sharing a common history, Slovakia had a different interpretation of the communist past, which led to a different perception of victimhood. While Czech political discourse emphasised moral discontinuity with the communist dictatorship and evaluated the past in terms of resistance and illegality, Slovak debates were characterised by a greater degree of ambivalence.⁷⁸ Although this article only examines the Czech case, situating it within this broader context clarifies the KPV's success in a political and cultural environment that was especially receptive to strong anti-communist narratives and demands for moral recognition.

Since the early 1990s, the victims of the communist dictatorship have referred to themselves not as victims but as political prisoners, thereby emphasising their conscious and active role in resisting the dictatorship. They adopted this historical concept of resistance and, soon after 1989, began to use the term 'participants of the third resistance'. Inspired by the legislation for the first and second resistance, one of the main goals of the KPV was to secure the legislative recognition of this third anti-communist resistance and grant its participants appropriate moral and social status.

The roots of the narrative of the anti-communist resistance and its uniqueness can be traced back to the imprisonment. This subsequently developed and solidified after their release when they continued to be persecuted and harassed in various ways. They began to see themselves in terms of values

⁷⁶Letter from Rainer Wagner to Dr. Kaminski (Stiftung zur Aufarbeitung der SED-Diktatur), 30 July 2007, RHG, B. UOKG, Bn. UOKG 012.

⁷⁷Ergebnisprotokoll der Vorstandssitzungen vom 11. 07. und 12. 07. 2008, 11 July 2008, RHG, B. UOKG, Bn. UOKG 012.

⁷⁸Gil Eyal, *The Origins of Postcommunist Elites: From Prague Spring to the Breakup of Czechoslovakia* (Minneapolis: University of Minnesota Press, 2003).

such as morality, honour and suffering.⁷⁹ The KPV acknowledged the legacy of the anti-communist resistance in its founding charter of 1 February 1990, placing it on a par with the second resistance against Nazi Germany.⁸⁰ In October of the same year, the KPV published a document focusing on defining the third resistance. This document clearly attempts to equate the anti-communist resistance with the second resistance against Nazism. The text contains phrases describing the Communist party of Czechoslovakia (*Komunistická strana Československa*; KSČ) as ‘an international organisation of communists seeking to conspire against humanity and civilisation, and to carry out a world revolution’. The KSČ is accused of genocide against much of the defenceless population. This discourse thus draws a direct analogy between the crimes of communism and those of the Nazi dictatorship. According to the document, recognition of the resistance had both legal and political consequences, including the banning of the KSČ and the declaration of legal discontinuity after 1948, as well as symbolic significance.⁸¹

Overall, this is a radical document in which the KPV showed the value frameworks through which victims perceived themselves and formulated uncompromising ideas about how to deal with the communist past. These demands were not politically or socially acceptable at the time. The efforts to achieve legislative recognition of the anti-communist resistance began as early as the early 1990s.⁸² In 1991, Bohumil Hubálek, a former political prisoner and active member of the KPV, together with other MPs, prepared a draft law on anti-communist resistance.⁸³ This draft never made it to parliamentary debate and was ultimately not adopted. This was due to the turbulent political events of 1992, which led to the dissolution of Czechoslovakia. At that time, political representatives were primarily focused on laws related to the division of powers, the distribution of property and preparations for the dissolution of the state.⁸⁴

Following the establishment of the independent Czech Republic, the issue of the anti-communist resistance law remained, and the KPV continued to demand its adoption.⁸⁵ However, the political elite realised that the law was unworkable in its original form and so drafted a new proposal based on different principles. In March 1993, the Civic Democratic Party (*Občanská demokratická strana*; ODS) executive council prepared a new version, which was adopted in July of the same year as the Act on the Illegality of the Communist Regime (*Zákon o protiprávnosti komunistického režimu a odporu proti němu*).⁸⁶ While the original anti-communist resistance law was primarily aimed at recognising and compensating individuals, the new law was more symbolic and declarative. It condemned the communist dictatorship as a whole, incurred no financial costs and avoided the problematic question

⁷⁹Mayer, *Češi*, 179; Pinerová, *Do konce*, 302.

⁸⁰Memorandum, 1 Feb. 1990, NA, f. KPV, kart. 6.

⁸¹III. Odboj, 31 Oct. 1990, NA, f. KPV, kart. 5.

⁸²At a meeting of the Federal Assembly on 27 November 1990, Bohumil Hubálek recalled that, in the spring of that year, the committees of the Czech National Council had proposed legal recognition of the existence of the third national resistance, but the proposal had not been passed. Digitální knihovna PSP, Federální shromáždění ČSFR, 1990–1992, Společné schůze SL a SN, Stenoprotokoly, 9. schůze, 27 Nov. 1990, accessed Feb. 2026, <https://www.psp.cz/eknih/1990fs/sln/stenprot/009schuz/s009022.htm>.

⁸³Digitální knihovna PSP, Návrh poslanců Federálního shromáždění Ing. J. Luxe, Ing. Jaroslava Cuhry, Bohuslava Hubálka a Ing. Jana Fričara na vydání zákona o protikomunistickém odboji, accessed Aug. 2025, https://www.psp.cz/eknih/1990fs/tisky/t1113_01.htm.

⁸⁴Subsequently, the Principles of the Act on Anti-Communist Resistance were prepared, but they were also not discussed. See Digitální knihovna PSP, Zásady zákona o protikomunistickém odboji, accessed Aug. 2025, https://www.psp.cz/eknih/1992cnr/tisky/t0270_00.htm; NA, f. KPV, kart. 5, Zásady zákona o protikomunistickém odboji, 22 Dec. 1992.

⁸⁵Miloš Slabák, ‘Důvody pro uzákonění protikomunistického odboje’, *Věrní zůstali* 2, no. 4 (1993): 5; Miloš Slabák and Stanislav Drobný, ‘Všem poslancům a vedoucím politikům: Zásady zákona o protikomunistickém odboji’, *Věrní zůstali* 2, no. 4 (1993): 9.

⁸⁶Předběžný návrh textu: Návrh zákona o odporu a odboji proti komunistické diktatuře a nepromlčitelnosti zločinů proti lidskosti, undated, probable 1993, NA, f. KPV, kart. 5; ‘Zákon o odboji’, *Věrní zůstali* 2, no. 4 (1993): 16; Návrh zákona o odporu a odboji proti komunistické diktatuře a nepromlčitelnosti zločinů proti lidskosti, undated, probably 1993, NA, f. KPV, kart. 6; Zákon č. 198/1993 Sb., o protiprávnosti komunistického režimu a odporu proti němu.

of defining anti-communist resistance, on which there was no consensus among politicians, society or experts. This law was not a direct replacement for the anti-communist resistance law, but rather the first politically feasible step towards institutionalised reconciliation with the communist past. However, victims were not satisfied with this solution. According to them, the law was merely declarative: it failed to meet their demands for moral recognition and prevented the real punishment of perpetrators.⁸⁷

In the 1990s, the KPV employed various forms of pressure to enact the anti-communist resistance law. The KPV did not limit itself to negotiations with political representatives in Parliament and sending its own draft laws, but also sought to mobilise the public more broadly.⁸⁸ For example, it unveiled monuments in various cities, published articles in the regional press and organised meetings with local politicians. At the regional level, especially in 1992–3, some municipal and city governments adopted resolutions recognising the existence of the anti-communist resistance movement.⁸⁹ The year 1993 marked the peak of the KPV's legislative and political efforts. After this period, activities aimed at recognising the anti-communist resistance gradually subsided. There were two reasons for this. Firstly, politicians argued that a separate law was unnecessary as the issue was adequately covered by previously adopted norms. Secondly, the KPV became embroiled in a series of internal disputes that significantly weakened its activities for a long time.⁹⁰

The issue of legislative recognition of the anti-communist resistance disappeared from the parliamentary agenda for a long time. The KPV's chances of achieving its goals increased only with the advent of a new politics of memory, which the ODS began to promote in its rivalry with the left-wing opposition.⁹¹ Between 2001 and 2009, the circle of people eligible for compensation gradually expanded.⁹² This new politics of memory led to the topic of anti-communist resistance becoming better known to the public. The KPV itself played a significant role in this process, having maintained close contact with ODS representatives since the early 1990s and repeatedly attempted to push its legislative proposals through.

In 2002, KPV members drafted a bill on anti-communist resistance. Although it was not officially submitted to the Chamber of Deputies (*Poslanecká sněmovna*), it established the foundation for subsequent attempts to enshrine it in law.⁹³ During the next years, the KPV systematically lobbied for its goals, sought to preserve the memory of the role of political prisoners in bringing down the communist dictatorship and combined political negotiations with media and public pressure. Representatives of the KPV regularly met with politicians at congresses, commemorative events and exhibitions, where they emphasised their moral merits and suffering, and called for the enactment of a law on anti-communist resistance.⁹⁴ In addition to direct political activity, the KPV developed educational initiatives and awareness campaigns with numerous non-profit organisations.⁹⁵ They often

⁸⁷ KPV, 'Slovo k zákonu o protiprávnosti komunistického režimu', *Věrní zůstali*, Special issue (Aug. 1993): 3; Letter from Vlastislav Pejša, 9 July 1993, NA, f. KPV, kart. 6.

⁸⁸ Letter from Jiří Drápela to Stanislav Drobný, 6 July 1993, NA, f. KPV, kart. 5; Letter from Vladimír Koronthály to Stanislav Drobný, 3 July 1993, NA, f. KPV, kart. 5; Letter from St. Drobný to Ivan Kočárník, 2 July 1993, NA, f. KPV, kart. 5.

⁸⁹ 'Protikomunistický odboj uznávají města i obce', *Věrní zůstali* 2, no. 5 (1993): 19; 'Další města uznávají protikomunistický odboj', *Věrní zůstali* 2, no. 6 (1993): 2.

⁹⁰ Klára Pinerová, 'Between Moral Authority and Politics: The Confederation of Political Prisoners after the Fall of Communism in Czechoslovakia (1989–1994)', *Czech Journal of Contemporary History* 3 (2025): 828–60.

⁹¹ Kopeček, 'From the Politics'.

⁹² David, *Communists*, 89.

⁹³ Přípomínky k návrhu zákona o třetím odboji, 6 Mar. 2002, NA, f. KPV, kart. 6.

⁹⁴ *Forum Konfederace politických vězňů v Brně – Ústav pro studium totalitních režimů*, accessed Aug. 2025, <https://www.ustrcr.cz/kalendar/forum-konfederace-politickyh-veznu-v-brne/>; Josef Halla, 'Jáchymovské peklo – místo setkávání a vzpomínek', in *Jáchymov: jeviště bouřlivého století*, ed. Klára Pinerová (Praha: Ústav pro studium totalitních režimů, 2018), 313–26; 'V EP začala výstava o třetím odboji v Československu', accessed Aug. 2025, <https://www.kpv-cr.cz/reakce-na-soucasne-deni/>.

⁹⁵ They cooperated for example with the NGO People in Need (*Člověk v tísni*), which organised discussions at schools where former political prisoners shared their experiences of persecution. The KPV also actively cooperated with historians, publicists and researchers from non-profit organisations such as Post Bellum and Political Prisoners.eu.

gave interviews to media outlets about their experiences in communist prisons. The three annual 'May Day without Communists and Never Otherwise' meetings, held in the years 2006 to 2008, were a great media success. These were symbolically held at the site of the traditional May Day parades and post-revolutionary gatherings of the Communist Party of Bohemia and Moravia (*Komunistická strana Čech a Moravy*; KSČM) during the communist era. According to the organisers, approximately 7,000 people attended the first event.⁹⁶

The combination of targeted pressure from the KPV and the new politics of memory contributed to a transformation in public and professional perceptions of anti-communist resistance. Younger historians, in particular, began to publish on this topic, producing studies and monographs devoted to individual groups of the anti-communist resistance.⁹⁷ The establishment of the Institute for the Study of Totalitarian Regimes (*Ústav pro studium totalitních režimů*; ÚSTR) in 2007 was a significant milestone. Its founder, Pavel Žáček, and other historians were closely linked to representatives of the KPV. The first chair of the ÚSTR Council, who exerted a fundamental influence on the direction of the institution, was Naděžda Kavalírová, the chair of the KPV.⁹⁸ This opened up a new platform through which political prisoners could influence political representatives and the wider public more effectively, as the organisation's activities and publications promoted the existence of the anti-communist resistance.

The issue of the legislative recognition of anti-communist resistance returned to the centre of parliamentary debates in 2007 when a seminar dedicated to this issue was held in the Chamber of Deputies.⁹⁹ This seminar served as a 'litmus test' for subsequent discussions, revealing fundamental disagreements and potential areas of conflict. In the following years, a total of three bills were submitted to Parliament. The two bills submitted in 2008 and 2010 were not successfully debated, mainly due to political and legislative obstacles. In 2010, the Chamber of Deputies was dissolved prematurely, halting the approval process. In addition to time constraints, political disagreements also played a key role. At the end of 2010, a group of MPs led by Petr Tluchoř (ODS) submitted a third bill. This bill sparked widespread and often emotional debate, but ultimately the lawmakers passed the law under the title Act on Participants in Resistance and Opposition to Communism (*Zákon o účastnících odboje a odporu proti komunismu*).¹⁰⁰ It came into force symbolically on 17 November 2011. The KPV thus achieved its long-term goal of the legislative and moral recognition of the resistance. The Act enabled the issuance of a certificate of participation in the resistance and opposition to communism, with the Ministry of Defence handling the administrative agenda in cooperation with the archives.

However, the final form of the law caused confusion among political prisoners. They criticised the selectivity definition of anti-communist resistance and the lengthy administrative procedures. The KPV subsequently tried to influence the process itself with the objective of expanding the circle of those honoured. At the same time, the law contributed to a new symbolic division of former political prisoners into 'fighters' and 'victims', with the former group being perceived more positively by both the public and the community itself. These differences even led to discussions about renaming KPV the 'Third Resistance Club'. However, these efforts remained unfulfilled. In 2015, the organisation became embroiled in a series of legal disputes over its leadership, which significantly weakened its internal cohesion and ability to promote its memory policy.¹⁰¹

⁹⁶ Vilém Faltýnek, 'První máj bez komunistů na Letné přilákal tisíce lidí', <https://cesky.radio.cz/prvni-maj-bez-komunistu-na-letne-prilakal-tisice-lidi-8493418>, accessed Sept. 2025.

⁹⁷ Vítězslav Sommer, 'Cesta ze slepé uličky „třetího odboje“: Koncepty rezistence a studium socialistické diktatury v Československu', *Soudobé dějiny* 19, no. 1 (2012): 9–36.

⁹⁸ Rada ÚSTR, accessed Sept. 2025, <https://www.ustrcr.cz/o-nas/organizacni-struktura/rada-ustavu/>.

⁹⁹ Návrh zákona o třetím – protikomunistickém – odboji, *Paměť a dějiny* 2, no. 1 (2008): 191–7.

¹⁰⁰ Štěpán Konopásek, 'Spor o třetí odboj' (BA diss., Univerzita Karlova, 2013), 33–57; Zákon č. 262/2011 Sb., o účastnících odboje a odporu proti komunismu.

¹⁰¹ Pínerová, *Do konce*, 307–9.

Conclusion

A comparative analysis of Czech and German organisations of victims of communist dictatorship illustrates that transitional justice should be seen not merely as a set of legal mechanisms but also as a dynamic process in which victims actively seek to transform their experiences into politically impactful narratives.¹⁰² The procedural use of the concept of victimhood shows that victim status is not predetermined; instead, it is constructed through targeted actions.¹⁰³ Victim organisations such as KPV, VOS, BSV and UOKG pursued not only material compensation but, more importantly, public and legislative recognition. This recognition aimed to anchor their experiences in collective memory and legitimise their role within the democratic framework.

These organisations employed various methods to advocate for their interests. They engaged in lobbying political parties and negotiating with parliamentary committees and ministries. This included submitting memoranda and draft legislation, participating in public hearings and providing comments on proposed laws. They also mobilised their membership base through demonstrations, commemorative events and protests. Information was distributed through their organisational structures and magazines, which served as both a communication channel and a means to construct their narrative and identity. Additionally, they collaborated with the media and non-profit organisations to promote their views in the public sphere.

Throughout these activities, the victims relied on their moral authority, which was grounded in personal experiences of repression, suffering and resistance. In the German context, moral authority was initially based mainly on suffering, which later evolved into a heroic narrative. Conversely, in the Czech case, moral authority was symbolically framed by slogans such as courage, honour, morality and the struggle against communism. While the heroic narrative did not gain traction in Germany, it became deeply entrenched in the Czech Republic, which has often hindered historical research. In this environment, critical perspectives on the resistance or the victims are frequently met with strong opposition.

Mobilisation resources also played a crucial role, including organisational capacity, membership size, the ability to connect with political elites and access to the media. The structures of the associations differed significantly between the two countries. The Czech KPV had a relatively cohesive structure, a large membership and strategic media engagement, which enhanced its negotiating power. From its inception, it maintained strong relationships with political elites who supported its demands. The organisation's unified voice allowed it to sway public opinion, advocate for the justice of its demands and increase pressure on politicians. In contrast, German associations were fragmented, with numerous smaller organisations presenting varied demands, thereby weakening their lobbying efforts and capacity for action. Internal disputes, along with accusations of right extremism, antisemitism or xenophobia, limited their influence on political leaders.

Nonetheless, moral capital and mobilisation resources were not the only factors that determined the success of these organisations. Political will and the economic context also significantly influenced the adoption of laws. After 2000, as political memory in Central Europe evolved and was transferred to the European Parliament, victims' organisations discovered new opportunities. Conservative parties in both countries leveraged the narratives of suffering and resistance of political prisoners to wage political battles against their left-wing opponents. Although their objectives partially aligned with those of the victims, the final forms of the laws often ended up being compromises that did not fully meet victims' expectations, leading to feelings of frustration and lack of recognition.

These differences demonstrate that the success of victims in transitional justice is not solely determined by the injustices they have suffered but also by their ability to create a shared narrative and strategically utilise moral authority, mobilisation resources and political contexts. The Czech case illustrates how a unified organisation can convert victimhood into legislative recognition and emerge

¹⁰² Stan and Nedelsky, *Post-Communist*, 2.

¹⁰³ Brett and Druliolle, *Politics*, 5.

as a dominant actor in memory politics. Conversely, the German case reveals the limitations of a fragmented movement, where a lack of consensus undermines both political effectiveness and symbolic resonance with the broader society.

Funding. This article was prepared within the framework of the project ‘Political Polarisation and Communist Past: Czech and German Case’ (No. 101109026), carried out at the TUD Dresden University of Technology and funded by the European Union.



**Funded by
the European Union**

Cite this article: Klára Pinerová, “Active Voices of the Past: The Role of Political Prisoners’ Organisations in the Development of Memory Laws in the Czech Republic and Germany after 1989,” *Contemporary European History* (2026): 1–19, <https://doi.org/10.1017/S0960777326101520>.