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Expropriation of Hitler's Birthplace by Law is not Unconstitutional

The Constitutional Court rejects the application by the former owner of the house. Expropriation is the only means to ensure full power of disposal by the Republic of Austria.

The expropriation of Adolf Hitler's birthplace in Braunau (Upper Austria) by law was in the public interest, commensurate and not without compensation, and therefore not unconstitutional. This conclusion was reached by the Constitutional Court in its decision pronounced on 30 June 2017.

As in earlier decisions, the Constitutional Court underlines that the unconditional rejection of National Socialism is a fundamental principle of the Republic restored in 1945. The international obligations arising under the Austrian State Treaty, the prohibition of the re-engagement in national-socialist activities by constitutional law, and the historical context of Austria demand that all state bodies assume a special responsibility in applying the ban on (neo) national-socialist thinking.

As regards Hitler's birthplace, the expert commissions established by the Federal Minister of the Interior confirm that on account of its "unique selling proposition" the property has the potential to become a "pilgrimage site"

for neo-nazis. It is therefore necessary to ensure that any abuse punishable under criminal law is prevented. Nobody – not even the legal counsel of the applicant – denies the public interest in measures taken to that effect.

However, the measures recommended by the commissions as necessary to prevent the identification of the property and, thus, deprive it of its symbolic power, can only be taken if the Republic of Austria obtains full power of disposal of the property. Only then can a sale of the property to third parties be excluded. The expropriation was commensurate, not least because in the past the Republic of Austria itself had repeatedly but unsuccessfully attempted to buy the house.

Finally, the “Federal Act on the expropriation of the property at Salzburger Vorstadt No 15, Braunau am Inn”, provides for compensation to be granted to the former owner. Determining the amount of compensation is not within the remit of the Constitutional Court.