"Business and morals"—compensation agreement signed for World War II concentration camp labourers

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On July 17 the compensation agreement for former concentration camp labourers was finally signed. Since 1998 the negotiations had been the subject of highly public disputes. The agreement was signed by Count Otto Lambsdorff and Stuart Eizenstat, chief negotiators for the German and American governments respectively, Manfred Gentz, the representative of German business at the talks, as well as representatives from Israel, Poland, the Ukraine, Chechnya and Belarus.

The basis of the present agreement is the law passed by the Bundestag (German parliament) on July 6, 2000 establishing the foundation *Erinnerung, Verantwortung und Zukunft* ("Memory, responsibility and future"), which will receive 10 billion marks ($5 billion). Moreover, a German-American intergovernmental agreement was sealed, establishing the "persistent, high interests of the United States ... to support all efforts to conclude cases from the Second World War".

With this "statement of interest" by the American government, German enterprises achieved the most extensive protection from future actions that was legally possible. The central point is the recommendation that American courts reject all future plaintiffs. The German fund will retain exclusive rights to deal with compensation demands. German business leaders—who said the agreement had "everything in it that we wanted"—had turned the negotiations into a game of poker right up to the last second. They are still haggling about the amount of money to be paid in to the fund. They are presently trying to reduce their obligatory payment of about 2.5 billion marks, which remains after tax deductions, by seeking to include formerly national companies like the Deutsche Bahn (railways) and the postal services.

According to the Jewish World Congress, the US government's deposit of $10 million (20 million marks) towards the foundation will serve to "encourage" German business to participate in the fund. The cash is part of the $25 million that has been assured by the United States and which was originally planned for an American fund for the victims of Nazi persecution. This American fund received payments from the gold robbed by the Nazis from European state banks and Holocaust victims, and which the US and Britain seized at the end of war.

Now that protection from future legal actions is in place, the 1.8 billion marks still missing from German business will probably trickle in. However, disbursement to the victims is not yet guaranteed. Only if all pending class action cases before the US courts (60 in all, according to US negotiator Stuart Eizenstat) are withdrawn, can victims hope to see the beginning of compensation.

After signing the agreement, Eizenstat spoke enthusiastically about the deal. Never before had a nation undertaken such efforts to carry out its historical responsibility, he said. He euphorically welcomed the participation of all those involved, in particular describing Count Otto Lambsdorff as a "great German patriot", and saying of Gerhard Schroeder: "If this chancellor were not in office, we would not have obtained this agreement."

Otto Lambsdorff underlined the shameless character of the agreement when he said in his speech to the Bundestag July 6: "I would like it to be understood in all clarity that rarely have morals and business been as close together as they were in these negotiations. The foundation directly protects German interests in the USA, i.e., our exports and investments."

These words, addressed to members of the Bundestag—who "for understandable reasons, had one or other objection to the law establishing the foundation"—expose the real motivation for the negotiations. It was not the "acknowledgement of the political and moral responsibility for the victims of National Socialism" (as presented in the preamble to the law) which led to the initiation of the debate over compensation. Rather, it had become troublesome for the German economic elite—represented strongly on the American market—for their business to be impeded by the memory of former crimes.

With the collapse of the Stalinist Eastern European states and the reunification of East and West Germany, legal barriers were removed which had prevented former forced labourers from making valid compensation claims.

According to the London debt negotiations, which the Western allies concluded in 1953, any claims for reparations against the Federal Republic of Germany (West Germany) were made conditional on the conclusion of a peace treaty including East Germany. Consequently, the West German courts generally classed all possible claims for damages by forced labourers as reparations claims and blocked them. The motivation for this classification was purely political.

Claims by forced labourers were thus kept outside the remit of the Federal Indemnification Law, under which certain groups of victims—at home or from countries with which the Federal Republic maintained diplomatic relations—could make a valid application. Within the framework of global agreements, however, the Western countries ensured that some former forced labourers in their countries received certain payments, although far from all of them.

But the slave labourers from Eastern Europe and the Soviet Union went completely without, although the Nazis had kidnapped millions of people from these countries, mostly young women and girls. Between 1942 and 1944 alone, the Nazi army deported more than 2.5 million people—20,000 per week—from the Soviet Union.

With claims from slave labourers excluded from compensation regulations in the post-war period, a key chapter of the Nazis' crimes had been tacitly deleted, removing any responsibility for German business, although without this labour Hitler's wartime economy would have been inconceivable. More than one quarter of all those employed in the German Reich were forced labourers.

According to a new study on the topic, “The Nazis' ‘ *Ausländereinsatz*' (‘deployment of foreigners') between 1939 and 1945 ... represents the largest case of the mass use of forced foreign labour in history since the end of slavery in the nineteenth century. In the late summer of 1944, 7.6 million foreign civilian workers and prisoners of war were officially said to be employed within the territory of the ‘Great German Reich', who had largely been forcefully put to work in the Reich” (Barwig/Saathof/Weyde: *Entschädigung fuer NS-Zwangsarbeiter* (*Compensation for Nazi forced labourers*), Baden-Baden 1998, p.18).

With German reunification in 1990 a new legal situation arose. Chancellor Helmut Kohl had tried to resist the rising tide of claims and legal actions by insisting that the so-called “2 + 4 treaty” (outlining the unification process concluded in 1990 between the two German states and the four World War II allies—Britain, the US, France and the USSR) was expressly not defined as a peace treaty, thus precluding any reparation claims. Model legal actions followed in German courts from former Eastern European slave labourers.

A ground-breaking ruling by the German Supreme Court in 1996 finally decided that, while no legal liability existed on the part of the federal government, private legal actions were possible. These became a serious annoyance when class action suits were filed in the US and appeals for a boycott of German business in America became ever louder. The test of strength between former concentration camp victims and the Swiss banks also precluded ignoring the matter any longer. German business only now discovered its “moral responsibility”, and set about establishing the foundation.

What does the compensation agreement contain—an agreement that German Foreign Minister Joschka Fischer calls a “viable compromise, acceptable to all”? A look at the details is quite informative.

The surviving former forced labourers—between 1.5 million and 2.3 million people, according to different estimates—are to be divided into two main groupings: the so-called “slave workers”, who worked in the concentration camps or the ghettos and are mostly of Jewish descent, and the “work slaves”, predominantly Eastern European forced labourers. From the 10 billion mark fund, 8.25 billion (including an expected 50 million from interest payments) are available for direct compensation payments. “Slave workers” are to be compensated from it with a single maximum payment of up to 15,000 marks ($7,200). All other forced labourers are to receive up to 5,000 marks.

Altogether, approximately 5.5 billion of the 8.25 billion marks will go to claimants from Eastern European states—approximately 1.8 billion for Poland; 1.7 billion for the Ukraine and the Republic of Moldova; 835 million for the Russian Federation and the Republics of Latvia and Lithuania; 695 million for Belarus and Estonia; and 423 million for the Czech Republic. Approximately 1.8 billion marks are intended for Jewish victims outside the Eastern European states, and 800 million for the non-Jewish.

Those groups for which the law foresees no express remuneration include agricultural forced labourers, the victims of human experiments and those who had to live in forced labour children's homes under terrible conditions.

The remaining 1.75 billion marks from the fund are intended for loss of property and assets (1 billion), future projects (700 million) and administrative expenses.

The disbursement and allocation of these amounts is a complex bureaucratic procedure, which offers no lack of opportunities for chicanery, delays and abuse.

The countries taking part in the negotiations must create similar foundations—if they have not already done so—which in close cooperation with the German foundation will deal with the collecting of claims from former forced labourers, checking their entitlement to compensation and the disbursement of the funds. A period of just eight months is intended for the filing of an application, beginning from the enactment of the law. In exceptional cases it is possible to extend this period up to one year. Payments to the former forced labourers, who are mainly over 70 years old, will take place in instalments since it is still not known how many will be entitled to compensation and how the money will be concretely allocated.

An Eastern European forced labourer who did not work in agriculture and did not live under concentration camp or ghetto conditions is entitled to the single maximum amount of 5,000 marks, and would probably receive a first payment of 1,750 marks. After all other pending requests have been dealt with by the various partner organisations this forced labourer can, theoretically, count on the payment of the remaining 3,250 marks. However, according to the law governing the foundation, such a final instalment would only be made if the financial means were still available. If a recipient should pass away during the claims process (or had died after February 15, 1999), any surviving spouse and children are entitled in equal parts.

If a forced labourer originates from Poland, for example, he or she must share the approximately 1.8 billion marks available with some 500,000 other Polish forced labourers. This means a possible total payment of 3,600 marks for each individual. Prospective administrative expenses have not been taken into consideration. The law governing the foundation only permits the compensation of agricultural forced labourers after all other justified claims have been satisfied. However, in accordance with the instructions of Fritz Sauckel, Nazi *Reichskommissar* for applied labour, Polish women, men and youth were used predominantly in agriculture.

During the two years of negotiations over the law governing the foundation, the dispute about the history of German fascism became an undignified wrangle about a few hundred million marks.

Immediately after the end of the Second World War, in view of the atrocities they uncovered, the allies had undertaken an exposure of the Nazis' crimes, at least initially. In the Nuremberg trials of 1945-49 accusations of conspiracy and crimes against peace, war crimes and crimes against humanity were raised. But with the passage of time judgements became progressively milder. With the onset of the Cold War the pursuit of German war criminals was practically stopped. The industrialists who had been sentenced to imprisonment were at large again by the beginning of the 1950s, and they had their fortunes returned. High- and middle-ranking Nazi party members returned to public office and leading positions in the economy.

Western governments rapidly began cooperating with such German industrialists and their political representatives. In the Cold War against the Soviet Union, Western solidarity and common business interests counted far more than democratic principles.

The agreement for the compensation of former Nazi forced labourers has not rectified this failing. Fifty-five years after the worst crimes known to mankind to this time the lessons have not been drawn; the causes have not been worked through and those responsible have not been brought to account. The agreement serves to draw a line under history and makes a mockery of the victims.

“This is not so much, considering the scale of our suffering, the bestial treatment we were subjected to and the wounds that stayed for life,” affirmed Marian Nawrocki, director of the Polish Victims Federation. Markijan Demidow, chairman of the Ukrainian Victims Federation, said Germany and the United States had forced the representatives of the former forced labourers from Eastern Europe to sign the agreement: “In Washington they said if you don't like it we're going to sign anyway. They forced us to accept it. The amounts are a joke, an insult from Germany.”

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