

Widow of Nazi victim wins partial victory in court

Elizabeth Zimmermann**2 October 2012**

A lawsuit lodged before the Dusseldorf district court by the widow of a concentration camp victim ended in a settlement on August 7. Instead of the €900 monthly widow's pension to which Eva B. is actually entitled, the Dusseldorf district administration will grant her an allowance of €600 per month. The legal dispute over such a modest level of social support glaringly exposes the discrimination levelled against victims of the Holocaust and the Nazi dictatorship, who are actually treated worse in the German Federal Republic than the Nazi perpetrators and their families.

Eva B. was married to Anton B., a Sinti gypsy, who died in February 2009. Anton B. was 18 years old in March 1943 when he was arrested along with his family in Recklinghausen (North Rhine-Westphalia, NRW) by the Gestapo and deported to the Auschwitz concentration and extermination camp. His 10 brothers and sisters, together with his father, were murdered there. He and his mother were the only members of the family to survive.

Anton B. was classified by SS doctors as "fit for work". A prisoner number and Z for "Zigeuner" (gypsy) were tattooed on his forearm. He was transferred from Auschwitz to Buchenwald, where he was put to work mining tunnels. Later he was used in the production of Hitler's "wonder weapon", the V-2 rocket, in the Mittelbau-Dora concentration camp.

Anton B. managed to survive the Nazi regime. However, the brutal conditions of his confinement and forced labour left him with serious health problems, accepted by the Compensation Board of the Federal Republic of Germany in 1957 as a "consequence of persecution". The diagnosis was "hyperexcitability of the autonomic nervous system" and "disorders of the cardiac cycle, with substantial impairments to heart muscle functioning".

On this basis, the former concentration camp prisoner was entitled to draw a victim's pension for the rest of his life. Anton B. died in February 2009, two weeks after a heart pacemaker operation. Subsequently, his wife had to fight for her right to a survivor's pension under the Federal Indemnification Act (BEG).

The relevant district authority in Dusseldorf rejected her claim for a widow's pension on the grounds that the dead man's heart disease had not been caused by his more than two-

year-long imprisonment. Having reviewed the medical records and ECG findings from the 1950s and 1960s, the authority came to the conclusion that Anton B. had indeed suffered from "severe autonomic and psychological complaints" due to his time in the prison camps. However, the designation of the heart disease as "consequent of persecution" was claimed to be an "erroneous classification".

Since no objection to that decision was possible, Eva B. filed a separate lawsuit at the Dusseldorf district court. Had the suit been defeated, the widow would have faced serious consequences. According to a report by West German Radio (WDR), the Dusseldorf district administration notified her in writing that, if she lost the case, she would lose her claim not only to the widow's pension of approximately €900, but "probably" to the "widow's allowance" (about €600) as well.

That Eva B. did not end up completely penniless is due to the angry protests and public awareness that preceded the court hearing.

Erich Schneeberger, chairman of the Bavarian Association of the Central Council for Sinti and Roma, who represented Eva B. in the court proceedings, described it as "unique, that a person's officially recognised suffering due to persecution has been posthumously revoked".

Romani Rose, national chairman of the Central Council of German Sinti and Roma, had already in 2011 repeatedly complained of the matter to the North Rhine-Westphalian interior ministry, which acts as supervisory authority over the Dusseldorf district administration—but without success. The ministry is led by Ralf Jäger, a Social Democratic Party (SPD) politician.

In July this year, Rose and Schneeberger then addressed an open letter to the NRW prime minister, Hannelore Kraft (SPD). They asked Kraft to "desist from countenancing her authorities' scandalous treatment of Sinti and Roma Holocaust victims in the state of North Rhine-Westphalia".

They describe the behaviour of the interior ministry and local government some 67 years after the Holocaust as "incredible and unacceptable". They also denounce the prevailing law, which for decades has condoned the "scandalously unequal treatment" of the survivors of Roma and Sinti victims of persecution.

Survivors of victims of Nazi persecution in Germany, like Eva B., receive only “compensation” under the Federal Indemnification Act. This requires, first, that the deceased Nazi victim was officially recognised as having suffered “due to persecution” and, second, that this suffering led to the victim’s death. On the other hand, widows of soldiers or former SS members have the right to “support” under the Federal Support Act (BVG), which cannot be rescinded.

“That means the widow of a member of the SS serving in a concentration camp would have, in similar circumstances, an indisputable right to a survivor’s pension”, write Rose and Schneeberger. They add, “This constitutes scandalously unequal treatment and cynical contempt for the victims in contrast to the perpetrators”.

For Eva B—who herself had lost an uncle in the concentration camps—the outcome of the legal suit in Dusseldorf was a matter of her own financial survival. “Since my husband’s death three years ago, I have used up my life insurance”, she said. For a long time, she has been unable to continue working because she is suffering from cancer. “If I don’t get a widow’s pension, I’ll be left with only the very basic Hartz IV social support”, she said.

But Eva B. stressed that she is not primarily concerned about the money: “Above all, I want justice for my husband and myself”.

On August 7, Dusseldorf District President Anna Lütkes (Green Party) finally appeared in person before the Dusseldorf district court and presented a compromise proposal, passed by the NRW state government. It recommends that Eva B. be granted a monthly allowance of €600 and this be issued retroactively from March 2009. The Dusseldorf district administration will also consider whether the costs of her health insurance can be covered. The parties involved in the case arrived at a settlement on the basis of this proposal.

Romani Rose counted the outcome as a success. However, he emphasised, “Now there is need to ensure that, in future, such a disgraceful handling of Holocaust survivors on the part of compensation authorities will never again occur”. Survivors of Nazi victims should not be left worse off than widows of former soldiers of Hitler’s army and the SS, he said.

In fact, the settlement reached is an extremely modest success. An allowance of €600 a month is barely enough to live on, considering the cost of living in Germany. Even the monthly widow’s pension of €900 would not constitute a significant step forward.

And Eva B.’s is not an isolated case. On the day after the Dusseldorf district court’s settlement verdict, WDR published on its online web site an interview with Michael Teupen of Cologne’s Agency for the Improvement of Counselling and Information for Victims of Nazi Persecution.

It dealt with the only victims’ counselling centre in Germany that offers support to all victimised groups—i.e., apart from Jews, Sinti and Roma gypsies who were also vilified by

Nazis as “asocial”, and members of the Jehovah’s Witnesses who refused on religious grounds to perform military service in the Third Reich and were therefore persecuted.

According to Teupen, roughly 100,000 surviving victims of the Nazi regime are still living in Germany, about 25,000 of them in North Rhine-Westphalia. There are no official figures because the authorities refuse to supply relevant information due to data protection regulation.

Teupen claims that numerous Holocaust survivors in Germany have to subsist on small pensions or basic social security benefits. This also applies to surviving spouses: “Although most victims of the Nazis tried to build a new life after World War II, many of them were not capable of taking on a normal full-time job. Therefore, their pensions and their widows’ pensions are correspondingly low”.

According to a report in the *Jewish General* periodical, their average monthly pension under the Federal Compensation Act is €500.

Another problem is that benefits are reduced when Nazi victims obtain compensation allowances. “It has to be continually explained to social services staffs that these allowances are not to be reduced by the amount to which a person is already entitled in the form of basic benefits or income support”, says Michael Teupen. Many sufferers are unwilling to insist on their rightful allowances because they dread confrontation with German authorities owing to their past traumatic experiences.

The survivors bitterly complain again and again at counselling centres: “The government offices are playing for time until we’re all dead”.

However, the German state performs its duties much more generously when dealing with former culprits of the Nazi regime and their dependents. Even the widows of Nazi criminals like Reinhard Heydrich, who organised the Holocaust, and Roland Freisler, the president of the Third Reich’s People’s Court, receive a survivor’s pension.

It was only in 1998 that changes in legislation excluded war criminals and their families from drawing special benefits. But this had little effect. Only about a hundred Nazi perpetrators or their survivors per year were denied pensions. When the widow of a Waffen SS soldier, who had been responsible for the mass shootings of Jews during the Russian campaign, sued to receive widow’s support from the state, the Federal Social Court accorded her the right in 2009. The court based its decision on the “protection of a legitimate expectation”.



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