

UTA GERLANT



CHAPTER 11: ENDING THE PROGRAM

This chapter contains:

- Practical implications of a temporary program
- Use of leftover funds for humanitarian projects
- Archiving records of the compensation program
- Continuing tasks
- Transferring program-related knowledge

INTRODUCTION: KEEPING THE END IN MIND FROM THE BEGINNING

The completion of a compensation program should be kept in mind from its inception. The final phase of such a program usually involves many processes that can already be anticipated during the implementation phase, such as:

- Which cut-off dates and deadlines are necessary for the program?
- How should employment contracts be formulated?
- What should be done with leftover funds?
- How should documents be maintained: is there a need for contractual agreements regarding their storage and how should they be kept for future use?
- Which tasks need to be taken care of during the completion phase and what kind of employees and other resources will be needed for this?
- Are there any continuing tasks after the formal termination of the program?
- Will organizations involved in the process still exist after the program is completed?
- After the completion, to whom can concerned parties turn with their questions?
- How will the knowledge that was generated be preserved and/or made available to the public?

In the case of the forced labor compensation program, what needed to be done towards the end of the program only became gradually clear during the implementation phase. For instance, this is why only during the course of the program was a passage added to the Foundation Law determining an endpoint for the program rather than keeping it open-ended for an indefinite period of time (Section 14 (4) of the Foundation Law). Unlike in other compensation programs, some staff remained employed by the EVZ Foundation even after all the payments had been completed, as the organization continued with the administration of the “Remembrance and Future” Fund (Chapter 12). Therefore the infrastructure of the EVZ Foundation was maintained and funds needed to complete the final tasks were also available.

This chapter describes a number of practical issues that are related to “ending” the compensation program, such as the setting cut-off dates, downsizing organizational structures, the role of archives, and continuing tasks. The chapter further illustrates with some examples how leftover funds were used in a meaningful way.

PRACTICAL IMPLICATIONS OF A TEMPORARY PROGRAM

The forced labor compensation program was temporary in nature. The program paid out fixed amounts and did not provide for periodic benefits (e.g. pensions). Given the substantial administrative costs for which there were no long-term funds available, it was crucial to observe a tight time perspective. All partner agreements concluded between the EVZ Foundation and the seven partner organizations foresaw as the final stage the completion of the payments.

On 11 June 2007, the Board of Directors submitted its final report to the Board of Trustees, which then declared the completion of the compensation program. On 12 June 2007, a ceremonial act hosted by the German Federal President and attended by the German Chancellor officially concluded the compensation program.



Figure 8: Festive act of the EVZ Foundation in 2007. German President, Horst Köhler, and Chancellor Angela Merkel hold the final report of the compensation program. Source: Bundesregierung/Sandra Steins

Cut-off dates and deadlines

As described in Chapter 3, there were mainly two reasons for designing the compensation program as a temporary program. First, the financial resources were a fixed amount to be distributed as fast as possible. Second, and consequently, it would have been practically impossible to keep the program running for an indefinite period of time. This required the imposition of a number of deadlines. Some of these dates were determined right from the start, such as those for submitting claims and appeals (some of these were extended during the running period of the program, for instance for the submission of claims). Others were introduced only in the course of the program (e.g. deadlines for legal successors, the end of the claims processing period, and the period until which compensation awarded could be received).

Putting a time limitation on the temporary compensation program was closely related to the historical circumstances of the program. The crimes took place a long time ago and survivors were very old, so they needed to be reached fast. As there was a significant number of staff needed in both the EVZ Foundation and the partner organizations, time limitation also had a practical advantage. Financing for a limited and foreseeable period of time kept the administrative expense to disbursed funds ratio at a manageable level.

Even when the program drew to a close, there were still a number of open claims due to a combination of different deadlines and ongoing processes. In order to avoid lengthy processing time and to keep costs under control, the German Parliament, with consideration of all partner organizations, issued a general completion date of 30 September 2006 (and 31 December 2006 for certain exceptional cases). Even after these dates, the validity periods of some checks were still running for a limited time.

Implications for the organizational structure

From the outset of the compensation program, the employees of the EVZ Foundation and the partner organizations knew that their positions were only temporary. Employees received fixed-term contracts that were renewed until the program was concluded. While it was not known at the beginning how long the process would take, plans needed to be developed based on assumptions and targets had to be set and resources allocated, including deadlines and budgets. What did this entail in practice?

When the workload started to decrease towards the end of the program, staff had to be reduced, as was to be expected. This mostly affected employees of the partner organizations who received claims, advised claimants and dealt with the processing of claims and appeals. Supporting departments such as administration, accounting, IT, and legal advice also underwent job cuts. At the EVZ Foundation, the jobs of most employees ended upon the completion of the compensation program; this mostly concerned the control teams and the department in

charge of databases. The departments that were still needed after the completion of the compensation program, such as the finance department, IT, and legal advice, were downsized. A few staff members of the control teams remained with the EVZ Foundation to administer and monitor leftover funds that were used for humanitarian programs.

After the completion of the compensation program, the situation of the various organizations involved differed considerably. The EVZ Foundation remained in place because besides the temporary responsibility of carrying out the program, it was also entrusted with the permanent task to administer the “Remembrance and Future” Fund, which was sponsored by the revenues of its own assets and was used to promote respective projects.

Four of the partner organizations continued in existence after the compensation program. The German-Czech Future Fund and the JCC continued to operate, mainly as they had taken on the implementation of the forced labor compensation program as an additional task on top of their already existing work. The IOM, of course, already existed before taking part in the compensation program and continued to perform its many other projects after the completion of the claims process. In terms of its financial volume, the forced labor compensation program was its largest project to date; yet it was only one of several hundred programs administered by IOM, which has thousands of employees. As introduced previously, the Polish partner organization FPNP was founded in 1992 to oversee the distribution of an earlier compensation program to victims of Nazi persecution, and it therefore had several times implemented collective, humanitarian programs dealing with Nazi victims. It expanded its scope of activities, which now includes projects in the field of history education.

The three other partner organizations ceased to exist. The foundations “Understanding and Reconciliation” in Belarus and Ukraine were transformed from state-run to “civil” foundations (International Public Organization “Understanding” in Belarus, and the International Foundation “Mutual Understanding and Tolerance” in Ukraine). Thus, in both countries there are still contact points for the concerns of Nazi victims, despite the fact that they are not located within the same institutions as before. In Russia, the government closed the Foundation “Understanding and Reconciliation” in 2011 without providing a substitute body.

Today, the organizations are no longer official partner organizations of the EVZ Foundation, as they are no longer operating under the partnership agreements of the forced labor compensation program. They are, however, still partners in the sense that they can, just as any other institution, apply for project funding under the “Remembrance and Future” Fund or share common activities.

USE OF LEFTOVER FUNDS FOR HUMANITARIAN PROJECTS

Whenever a compensation program is designed in such a way that it operates with a predetermined fixed amount, it will eventually reach the point when leftover funds can no longer be spent effectively (comparing the administrative effort and the actual payment amounts). Since the compensation program provided a fixed fund for each partner organization, leftover funds were generated in all seven partner organizations from the program funds as well as the “other damages” program line. In addition, the EVZ Foundation accumulated leftover funds from saving on its administrative budget, accrued interest, and additional donations. In total, these funds — after the completion of the individual payments — amounted to more than 46 million euros.

In such a situation, there are different possibilities: for example, to return the leftover funds to the donors, or to spend them in other ways for the benefit of the intended beneficiaries. Regarding the forced labor compensation program, the Board of Trustees chose the second option and allowed the leftover funds to be used for humanitarian projects for vulnerable survivors, as well as for the safeguarding of acquired knowledge, research and education.

The EVZ Foundation’s Board of Directors authorized humanitarian projects on the basis of proposals by the partner organizations.¹ Target groups were those especially needy or ill survivors and those with particularly difficult histories of persecution. When necessary, assistance was prioritized based on social situation, health needs, and history of persecution. The assistance included orthopedic and eye surgeries, home care, health treatments, the establishment of social meeting points, and provided supplies of medical drugs, medical devices and medical aids, as well as food, material support, and legal advice. All these projects required that the partner organizations continue employing staff beyond the completion of the compensation program. In total, more than 108,000 survivors of Nazi persecution benefited from these humanitarian projects.

ARCHIVING RECORDS OF THE COMPENSATION PROGRAM

During the course of a compensation program, a considerable amount of claim forms and other documents are produced and databases are created. From the beginning, it should be regulated who will keep these documents after the completion of the program and how they will be stored. Moreover, it needs to be considered according to what kind of archive

1 To clarify, this description concerns only humanitarian projects financed by leftover funds from the forced labor compensation funds. According to the Foundation Law, certain humanitarian programs were planned from the beginning of the program (153 million Euros for humanitarian and social programs and 179 million Euros out of the ICHEIC humanitarian fund, see Chapter 9). In addition, some of the EVZ Foundation’s permanent project funds from the “Remembrance and Future” Fund were also dedicated to humanitarian projects for forced labor survivors (see Chapter 12).

regulations the records should be stored (e.g. according to national archiving regulations) to ensure their safekeeping in terms of data protection and preservation for further use. It should also be determined who has access to these archives and how the storage will be financed.

In the case of the EVZ Foundation, all its own files as well as the database on all the compensation payments remained in-house. The legal closure waivers, which were transferred to the EVZ offices in Berlin from each partner organization, were temporarily handed over to the German Federal Archives. Claim forms and documents, as well as other records and databases of the partner organizations remained mostly in the latter's possession.

After the completion of the program the partner organizations had to decide which long-term archiving solution would be appropriate for these records, taking into consideration, where necessary, national legal provisions. For instance, the JCC kept its files and the database, not least because they had previously implemented compensation programs for the same clientele and continued to do so. An electronic version of all files and the database compiled by the IOM was transferred to the German Federal Archives. In Russia, Ukraine and Belarus, state archives kept files and records. In Ukraine and Belarus, databases were given to the respective non-governmental organizations that were founded after the completion of the program as successors of the partner organizations. In Poland and the Czech Republic, documents and databases remained within the partner organizations, which continued their work beyond the compensation program.

For access to and use of the documents that are now stored in state archives, the respective national archival rules and regulations apply. In this context, it should be kept in mind that it is possible that not all documents were taken on and stored as a whole. Another important question is how long files should be stored and whether/when they will be accessible to the public, and under which conditions they will be accessible sooner to individuals who have a legitimate interest to gain access (e.g. family members or researchers).

CONTINUING TASKS

From the outset consideration needs to be given to the number of tasks that need to be carried out after the completion of the program. When an organization ceases its work entirely, it needs to consider which entity can take on continuing tasks. This applies to three specific fields:

- Lawsuits concerning the program, which require legal expertise;
- Queries from affected persons, which require knowledge of the completed program and which possibly need to be answered with a certain amount of historical expertise; and
- Storage and retrieval of respective documents in those cases where reparations programs need to prove legal closure (i.e. the waivers).

Lawsuits after the completion of the program

A number of lawsuits were filed after the completion of the program in several countries. In case these concerned the work of the EVZ Foundation, the judicial department had to submit statements. Claimants raised objections regarding decisions by partner organizations that dismissed the claims due to lack of eligibility (under the Foundation Law) or due to failures to meet the submission deadline. The respective courts rejected all lawsuits because, as laid down in the Foundation Law and described in Chapter 10, there was no direct legal relationship between claimants and the EVZ Foundation that would have justified an entitlement to compensation payments. Simply put, the Foundation Law did not give claimants a legal right to compensation (see discussion in the concluding chapter). In isolated cases, partner organizations were also sued after the end of the program. As far as is known, courts either dismissed these lawsuits as inadmissible or they rejected them on the merits, given that plaintiffs had no legal entitlement to compensation payments.

Queries

Despite the various deadlines and a fixed completion date of the program, queries still arose after its completion. Claimants and their relatives who still wanted to send in applications or who had questions regarding past procedures continued to submit queries. The remaining staff at the EVZ Foundation, while engaged in ongoing tasks, dealt with these queries in their respective languages. These employees needed to be well informed regarding the completed compensation program, have good historical expertise, and, ideally, possess intercultural competences. Reusable response template texts were drawn up to address typical and recurring questions, while other requests needed to be dealt with on an individual level. In some individual cases, where former partner organizations and their successor organizations were still in place, the EVZ Foundation was able to consult with them in order to produce more informed responses.

Legal closure waivers

For purposes of legal closure, it was important that the waivers which the claimants had signed together with their claims, as well as the acknowledgements of having received payments (through which the waivers came into force), could easily be traced and assigned to a particular claim. While Chapter 10 describes in detail the enforcement of legal security, it needs to be pointed out here that there are also practical aspects to be taken into account. Such documents have to be kept permanently and stored in a way that they can be made available upon request. This was ensured by the partner organizations handing over all waivers to the EVZ Foundation, which passed them on to the Federal Archives.

Again, depending on the size of the program, transporting and storing such documentation requires considerable organization and cost planning. The IOM had to organize several trucks to physically transport the waivers to the EVZ Foundation offices in Berlin. Several dozens of running meters of documents were made available in the German Federal Archive. In 2016, the documents were transferred to a private firm for storage because the Federal Archive could only temporarily provide the necessary space. Also, such storage arrangements incur considerable costs. Ultimately, it was crucial that the paper documents were linked to an electronic database in such a way that the waivers were easily and quickly traceable. Given that in the case of the forced labor compensation program this encompassed 1.66 million claimants (at times involving several legal successors), this presented quite a challenge. It was important to design the database, which is kept in the premises of the EVZ Foundation, as self-explanatory as possible, and that employees knowledgeable about the use of the database are kept on staff.

TRANSFERRING PROGRAM-RELATED KNOWLEDGE

Transferring the knowledge gained during the implementation of a compensation program, both with respect to the historical context as well as the process itself, makes reparations more complete and serves to guarantee non-repetition, even though it may not be pivotal to the specific compensation program. Prerequisites for knowledge transfer are political will, financial resources, and committed employees. In the case of the forced labor compensation program, the undertaking was for the most part financed by funds that the EVZ Foundation had saved from its administrative budget.

Securing and disseminating program materials

During the course of the program, substantial knowledge and experience was gathered, secured, and made available to the public. For example, a list of Jewish citizens residing in Germany between 1933 and 1945 was drawn up, as part of an agreement to compensate insurance policies that were never disbursed to Jewish policyholders due to their persecution (the so-called ICHEIC Agreement, see Chapter 9). The Federal Archives compiled the list and the EVZ Foundation handed it over to the German Government, which then shared it with the memorial site Yad Vashem in Jerusalem and the United States Holocaust Memorial Museum in Washington, D.C..

The EVZ Foundation also drew up a register comprising of around 3,800 camps and detention sites identified and determined as particularly severe places of confinement and which formed the basis for payments in a higher claims category.²

2 The register can be found online on the website of the Federal Archives, www.bundesarchiv.de/zwangsarbeit/haftstaetten/index.php (accessed 29 April 2017).

Education and remembrance projects

After the completion of the program, a number of other projects were implemented that made use of the topic of Nazi-era forced labor for remembrance and education purposes. The EVZ Foundation financed a large international travelling exhibition called “*Zwangsarbeit. Die Deutschen, die Zwangsarbeiter und der Krieg*” (“Forced Labor. Germans, Forced Laborers and the War”) with the aim to create and maintain public awareness of Nazi-era forced labor and commemorate its victims. The exhibition opened in Berlin in September 2010 and travelled to Moscow, Dortmund, Warsaw, Prague, Hamburg, and Steyr. The exhibition was designed by the Foundation “Gedenkstätten Buchenwald und Mittelbau-Dora.”³

The Internet portal “*Mit Stempel und Unterschrift*” (“with stamp and signatures”) emerged from the direct work with evidence that was attached to the claims. On this portal, pupils and students can inform themselves on the topic of Nazi-era forced labor on the basis of 30 selected documents and can practice their interpretation of original sources. Each document comes with commentaries and teaching material in order to stimulate explorative learning. The documents provided are of different origins and all of them were submitted in the context of compensation claims.⁴

Also, the EVZ Foundation published the life stories of thirty-five people whom it had come to know during the compensation program to give a voice to the survivors.⁵

Research activities

During the program implementation, it became apparent that despite the vast amount of research on the Nazi history, there were still blatant research gaps. For this reason, the EVZ Foundation commissioned a research program to finance research projects, particularly on forced labor of non-deported individuals who remained in areas occupied by Germany, on forced labor of minors and on the terrible fate of forced laborers who were repatriated to the Soviet Union. The results were published in 2013 under the title “*Zwangsarbeit in Hitlers Europa: Besatzung, Arbeit, Folgen*” (“Forced Labor in Hitler’s Europe: Occupation, Labor and its Consequences”).⁶

3 See www.ausstellung-zwangsarbeit.org (accessed 22 May 2017).

4 See www.mit-stempel-und-unterschrift.de (accessed 29 April 2017). Another important online portal was established with funds from the “Remembrance and Future” Fund to portray around 600 biographical interviews which had been transcribed, indexed and equipped with didactic tools: www.zwangsarbeit-archiv.de (see Chapter 12).

5 Stiftung “Erinnerung, Verantwortung und Zukunft,” ed., *Geraubte Leben. Zwangsarbeiter berichten*, compiled by Kathrin Janka (Cologne, Weimar, Vienna: Böhlau, 2008).

6 Dieter Pohl and Tanja Sebta, eds., *Zwangsarbeit in Hitlers Europa: Besatzung, Arbeit, Folgen* (Berlin: Metropol, 2013).

After the completion of the compensation program, the EVZ Foundation authorized a group of independent historians to examine the respective work of the EVZ Foundation and its partner organizations. All organizations granted the historians access to their archives and allowed them to interview their staff. The result of this research is a publication consisting of four volumes with the title “*Die Entschädigung von NS-Zwangsarbeit am Anfang des 21. Jahrhunderts*” (“Compensation of NS Forced Labor at the Beginning of the 21st century”).⁷

SUMMARY

The EVZ Foundation did not have the program’s end in sight from the outset. Of course, the organization knew that at some point the program would be concluded, but it did not fully anticipate what the termination would look like, what it would entail legally and practically, and when exactly the conclusion would come about. The EVZ Foundation could not orientate its worldwide program on other examples, but rather had to run it “on sight,” sometimes on a trial and error basis, and, if needed, make adjustments accordingly. Only in hindsight it became apparent:

- Which tasks were needed to be done in order to conclude the program formally and with legal certainty;
- That there would be leftover funds that could be allocated to special purposes (e.g. social projects, education and research);
- Which documents and databases had to be archived; and
- Which tasks needed to be done even after the program was completed (appeals, queries by claimants, ensuring access to legal security waivers).

Finally, the chapter described how the legacy of this program could be secured and made available to the public.

CHALLENGES AND LESSONS LEARNED

- During the course of the forced labor compensation program it became evident that a temporary program not only needed deadlines for submitting claims and appeals, but also for the submission of claims by legal successors.

7 Constantin Goschler et al., eds., *Die Entschädigung von NS-Zwangsarbeit am Anfang des 21. Jahrhunderts: Die Stiftung „Erinnerung, Verantwortung und Zukunft“ und ihre Partnerorganisationen* (Göttingen: Wallstein-Verlag, 2012).

- The actual end of the claims processing for each of the partner organizations and the setting of an overall completion date for all pending or unresolved claims could only be determined once the program was already running. Thus, the end date of the program could neither be determined theoretically nor in advance, and required a separate legal assessment.
- It proved very useful that some former partner organizations continued to exist beyond the completion of the program, and that the knowledge gained was passed on to other organizations dealing with queries from claimants, researchers, and other people committed to the topic. Former partner organizations are also important in terms of pooling the interests of affected persons and in implementing projects for their benefit nowadays and in future.
- When a total compensation amount is fixed at the start of a program, but it can only be estimated how many claimants will be entitled to receive compensation, it can be expected that some leftover funds will remain. Such leftover funds can be used to fund humanitarian projects for the benefit of affected people or to finance projects in the fields of education and research that are in the interest of survivors to whom raising public awareness can be of major concern, thereby complementing the compensation program.
- It is important from the outset of such a program that agreements be made to ensure a long-term storage of documents, particularly with regard to legal closure.
- Competent staff may be needed even after the completion of a program to respond to queries coming from affected persons or their relatives.
- Additional resources may be required to defend lawsuits submitted after the completion of a compensation program — either by keeping a legal department or by contracting external lawyers.
- One option to preserve and transfer knowledge and experience gathered throughout a compensation program can be to materials available to the public.