



## CONCLUSION

**This chapter contains:**

- Moral and political aspects of the forced labor compensation program
- Did the program deliver “a measure of justice”?
- Impact of the compensation program

## INTRODUCTION: ASSESSING THE OUTCOME AND IMPACT OF THE FORCED LABOR COMPENSATION PROGRAM

The EVZ Foundation has been viewed by many as a *modern* answer to the question of Germany's dealing with the past. The key feature of this compensation program was the so-called "foundation model," which differed from previous German attempts to (financially) deal with injustice perpetrated by the Nazi regime. It was not simply legislation that entitled certain victim groups to receive a certain sum of money. For the first time, the victims' side was included in the negotiations that eventually led to the formulation of a law on the compensation program. Moreover, representatives of victims and relevant governments sat on the Board of Trustees of the very foundation that was tasked with administering the compensation payments, thus having continued oversight over the program.

In many ways, this program differed from previous German compensation legislations:

- International negotiations determined most of the provisions, such as eligibility, the allocation of funds, etc.;
- Claims were not received, processed, and decided by a German administration, but by international partner organizations that were chosen by the respective governments or by the German Parliament;
- Claimants were no longer divided into "Jewish" and "non-Jewish," but treated equally when they endured the same suffering, e.g. when held in the same camps.

Such features made the program more thorough and comprehensive than previous compensation legislations.

Still, can it be said that the program's outcome was successful? In June 2007, the Board of Trustees of the EVZ Foundation officially announced that the compensation payments had been "successfully completed." An extensive summary of all the figures was drawn up by the EVZ Foundation and the German Government, allowing the German Parliament and the public to review the accounts.<sup>1</sup> The report indicates that 1.66 million beneficiaries in 89 countries received payments of a total amount of 4.34 billion Euros under the forced labor compensation program.

Yet the success and impact of such a program, which is first and foremost political and symbolic in character, must be scrutinized on broader levels. A range of questions arise in this context:

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1 See "Sechster und abschließender Bericht der Bundesregierung über den Abschluss der Auszahlungen und die Zusammenarbeit der Stiftung 'Erinnerung, Verantwortung und Zukunft' mit den Partnerorganisationen", Nr. 16/9963 available at <http://dipbt.bundestag.de/dip21/btd/16/099/1609963.pdf> (accessed 8 May 2017).

Did the program design adhere to guiding principles of reparations, and did it — by provisions in the law or by implementation — fulfill these principles?<sup>2</sup> Did the program provide a “measure of justice” for the atrocities it sought to redress, as stipulated in the preamble of the Foundation Law? How did its intended beneficiaries, as well as the wider public in the many involved states, receive the compensation program? What were the political implications of the process?

To answer these questions, a number of perspectives must be taken into consideration. The chapters of this book discuss the practice and experiences of establishing and implementing the program from the “implementer’s” point of view. In reality, however, there are many other perspectives that are relevant when evaluating the success and/or impact of the compensation program, including:

- The intended beneficiaries;
- The “donors,” i.e. the German State and German companies;
- The legal representatives of claimants (particularly those who brought the class action lawsuits before US courts, a decisive development in bringing about the negotiations);
- Victims’ representatives and associations, which participated directly or indirectly in the negotiations or liaised with partner organizations;
- The Board of Trustees, which in its set-up was largely a representation of the stakeholders involved in the negotiations;
- The organizations that implemented the program;
- The general public in Germany and abroad; and
- Politicians and governments of all involved states.

Taking these various perspectives into account, this chapter is structured into three parts. It first presents a discussion on how the focus on Germany’s “moral obligation” has led to an increased acknowledgment of the suffering of victims of Nazi persecution; secondly, the question of whether this program really contributed to a “measure of justice” is considered; and third, which effects the program had on the broader political and societal level are examined.

## A “MORAL OBLIGATION”

In some key aspects, the forced labor compensation program is an example of a *moralization of German politics*. The EVZ Foundation was set up to administer both a compensation program

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2 See United Nations, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, General Assembly Resolution 60/147, 21 March 2006, available at [www.un.org/ruleoflaw/files/BASICP-1.PDF](http://www.un.org/ruleoflaw/files/BASICP-1.PDF) (accessed 8 May 2017). However, these principles were published in 2006, after the establishment of the forced labor compensation program, and were therefore not available to the negotiators of the program.

and a permanent funding organization after the conclusion initial payments. As a funder, the EVZ Foundation encourages programs and projects that deal with historical injustice, acknowledge the victims of Nazi persecution, and work towards preventing future injustice. With the establishment of such a foundation, the German State demonstrated its commitment to acknowledge the harm done and keep the memory of the injustice alive, as well as its willingness to adhere to the so-called principle of non-recurrence.

### Focus on responsibility

The political approach of the program did not center on the question of “historical guilt” but on “responsibility for the victims.” This can be seen in the context of the time that passed since the crimes took place, the gradual replacement of old elites and thus a changing political landscape with Germany becoming more and more willing to face its history and to promote a culture of dealing with the past. The preamble of the law establishing the program reads:

Recognizing that the National Socialist State inflicted severe injustice on slave laborers and forced laborers, through deportation, internment, exploitation which in some cases extended to destruction through labor, and through a large number of other human rights violations, that German enterprises which participated in the National Socialist injustice bear a historic responsibility and must accept it,

that the enterprises which have come together in the Foundation Initiative of German Industry have acknowledged this responsibility, that the injustice committed and the human suffering it caused cannot be truly compensated by financial payments,

that the Law comes too late for those who lost their lives as victims of the National Socialist régime or have died in the meantime, the German Bundestag acknowledges political and moral responsibility for the victims of National Socialism. The Bundestag intends to keep alive the memory of the injustice inflicted on the victims for coming generations as well.

From a practical point of view, the shift towards “responsibility” made it easier to fundraise for the program, as half of the funds were to be collected from German companies whose contribution would be entirely voluntary. It allowed companies to be involved in the program without signaling that they are automatically guilty of the crimes. In some instances, this also convinced some companies that did not even exist during the Third Reich to give funds to the program, presumably because they realized a common responsibility of Germans towards the past.

It was also important to emphasize responsibility, as in the decades before many German courts decided that in the case of forced labor, claims against German companies — and therefore their guilt and resulting obligation to compensate — could not be based on German law. Furthermore, a conceptualization of the program that focused on guilt would have possibly implied determining the ‘level of guilt’ of each participating company.

## Acknowledgement

Considering that any amount of compensation would be insufficient to “repair” the initial crime, it is imperative to understand that reparations cannot merely be material, but that they must be accompanied by a display of atonement and remorse.<sup>3</sup> This is particularly so when such programs take place in a politically sensitive context. The messages and public acknowledgement of past wrongs that are announced before and during such programs impact directly on how meaningful these measures become for survivors and the general public. Simply put, the success of reparations programs can depend to a great extent on measures that take place outside of it.

In the case of the forced labor compensation program, the public apology by German President Johannes Rau in the year 2000 was a decisive event. He declared that Nazi forced labor “meant being carried off, stripped of a homeland and rights, and having one’s human dignity brutally violated. It often intentionally served the purpose of working people to death”. He then added: “in the name of the German people, [I] beg forgiveness.”<sup>4</sup> This was particularly significant as until that point Germany had not officially recognized its responsibility for the systematic crime of forced labor.

The compensation program also had a second level of political acknowledgement, as particularly in the former Soviet Union, forced laborers were looked at with suspicion when they were repatriated after the Second World War. Many were thought to have collaborated with the Germans, were stigmatized in society or even sent to “corrective” forced labor camps. Thus, by participating in this compensation program, governments of countries where partner organizations were located also offered a form of acknowledgement the suffering of compensation claimants.

Acknowledgement of past wrongs is not only a matter of political gestures. It should be imbued in every step of the design and implementation process of the reparation program. The

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3 Naomi Roht-Arriaza, “Reparations Decisions and Dilemmas,” *Hastings Int’l & Comp. L. Rev.* 27, 157–220 (2004), 159.

4 Jansen, Michael and Saathoff, Günter, eds., “A Mutual Responsibility and a Moral Obligation”: *The Final Report on Germany’s Compensation Programs for Forced Labor and Other Personal Injuries*. (New York: Palgrave MacMillan, 2009), 173. For a discussion of how public apologies illustrate Germany’s move towards accepting responsibility for the crimes of the Third Reich, see Stefan Engert “Germany-Israel: A prototypical political apology and reconciliation process,” in *Apology and Reconciliation in International Relations: The Importance of Being Sorry*, ed. Christopher Daase et al. (Abingdon: Routledge, 2016).

manner in which a program is announced, how careful it is designed, as well as how respectful and responsive its implementers communicate all impact claimants' feelings of whether their suffering is really acknowledged. Thus, a fair and victim-friendly design of the program contributes greatly to a sense of acknowledgement.

The need for the design of the compensation program to adhere to these principles was reflected in the Statutes of the EVZ Foundation which stipulated that the compensation payments had to be administered in a *quick, fair, and victim-friendly* way. These criteria were a result of the interest of all negotiation parties that the compensation should be paid out in as fast and unbureaucratic a manner as possible since many of the beneficiaries were already very old. Many decisions were taken during the negotiation phase already in order to reach this goal, such as the decision to provide one-time lump sums.

During the implementation process, acknowledgment can be expressed in the communication with claimants and beneficiaries. As described in Chapter 5, the way in which potential beneficiaries were approached and dealt with had a direct effect on their well-being. It was thus important that employees of the EVZ Foundation, but even more so of the partner organizations, treated potential beneficiaries with as much dignity as possible. As the experiences of the Polish partner organization show, many survivors of forced labor welcomed the opportunity of the application process to talk about their stories and the events that had long been neglected in the public realm both in Poland and in Germany.

To ensure that the claims processing was victim-friendly, several decisions were made to avoid burdening the claimants. As detailed in Chapter 6, the claim process required only few documents. As it was difficult for many claimants to produce any documentary evidence, the partner organizations and the EVZ Foundation actively supported searches in archives, and oral testimonies by other former forced laborers were accepted as evidence. The EVZ Foundation also encouraged the practice to evaluate ambiguous evidence as much as possible in favor of the claimants, and to accept statements that were credible in their context.

At the same time, some aspects of the compensation program were not victim-friendly and may have impacted negatively on the intention to express acknowledgement of the past offences. An aspect that was criticized by beneficiaries was the fact that the payments were not distributed at once, but in two installments. For many of the recipients, the two installments were confusing and they did not understand why they had to wait for a second payment, especially since the program itself came so late and they were very old. Also, claimants found it impertinent that they had to sign a legal security waiver, and because of this a few claimants chose not to go further with their claims.

Many of these difficulties could have been avoided if the program fund had been an unlimited open fund, which would have allowed the organizations to pay out the full compensation amounts at once. Chapter 3 explains the reasons why this was, in practice, not possible in the case of the German compensation program. The point illustrates, however, why it is so important

to think about the consequences of different kinds of funding when establishing a reparations program. Where politically possible, an open ended funding (or at least the possibility of a replenishing of funds during implementation) should be considered.

## A “MEASURE OF JUSTICE”?

The preamble of the Foundation Law states that the payments were meant as a “measure of justice” — probably signaling the awareness of the negotiation partners that the payments can only be of symbolic dimension. Yet, such wording does not render the discussion of justice irrelevant. What kind of justice could this compensation program achieve?

### **Appropriateness of the compensation**

In many ways, the forced labor compensation payments were symbolic. In truth, as stated in the preamble to the Law, no amount of money can compensate for unmeasurable suffering that results from dehumanization, torture, and loss of family members or psychological harm. The payments were also symbolic in that the actual suffering was not taken into account but rather broadly categorized. Also, the reach of the program was not complete because it only concerned living former forced laborers and did not compensate descendants or family members of forced laborers who had already passed away.

So far, no international ‘measure’ has been found, neither for the extent (what exactly should be compensated?) nor for the amount of compensation payments for victims of systematic or mass human rights violations. This is even the case in many national regulations. Rather, compensations are always political settlements which a legislator, government, or negotiations partners have agreed upon, in some cases also courts. Against this background, whether a compensation amount is individually “appropriate” or not becomes essentially a political question and is therefore always “symbolic.” At the same time, the result of negotiations could also be amnesty or no compensation at all. However, this was not an acceptable way to deal with the past of the injustice perpetrated by the National Socialist regime.

What would have been the alternative to a ‘symbolic’ payment? This would have entailed a precise assignment of “value” and evaluation of each individual fate, i.e. the length of the forced labor, the circumstances in different camps — thus a process that could have taken so long that it could not have been completed within the lifetime of the remaining survivors. Besides, who would have decided these issues, and how would consistency in the treatment of the different individual cases been ensured? Here, symbolic payments were thus oriented not primarily by the criterion of individual justice, but by the ‘justice of the large number’ and for the victims as a whole.

Yet it is important and necessary to not lose sight of the actual crimes. Thus, one possible dimension to evaluate whether the program was “just” is to consider whether it was *appropriate*, i.e. whether the amount of payment was proportional to both the crime and the situation of the perpetrator side. The UN Basic Principles and Guidelines on reparations state that reparations should be “as appropriate and proportional to the gravity of the violation and the circumstances of each case.”<sup>5</sup>

To assess such appropriateness, it needs to be clear what was actually to be “compensated”? This is certainly not an easy question to answer in the case of the forced labor compensation program. There were several aspects of the crime: One is the actual human right violation, that of forcing innocent civilians to work in inhumane circumstances, and under the threat and/or actual use of violence. The magnitude and scope of the forced labor system during the Nazi era makes it all the more brutal. Second, there is an economic dimension of the crime. The forced laborers were either not paid at all or paid very inadequately for their work, so that they would actually be entitled to the outstanding salary. This point is all the more important because the companies profited from forced labor. Not only did the German war economy depend on forced labor, but also many German companies were able to grow into large, multi-national corporations during and after the war, a growth that was in part also based on their profits from forced labor.

In a report conducted during the time of the negotiations, Thomas Kuczynski calculated that the withheld salaries for forced laborers alone would amount to about 180 billion Deutsche Mark (roughly 90 billion Euros), which he later corrected to 228 billion Deutsche Mark (roughly 114 billion Euros).<sup>6</sup> This does not account for the (presumably illegal) profits made by German companies, let alone any compensation for the suffering and rights violations that the forced laborers endured. This was a radical opinion which was seen as controversial not only by scholars and was not even brought forth by the victims’ representatives during the negotiations. Yet such calculations can help to illustrate the sheer magnitude of the crime and that the Foundation Law could never “compensate” for the damage done. Considering the sum that was eventually distributed to individuals — 4.34 billion Euros — the program was named by some as the “final insult” to survivors of forced labor.<sup>7</sup>

Thus, the payments were not compensation for the actual work that individual forced laborers performed. Rather, the entire suffering was categorized: the forceful deportation to Germany or its occupied territories, the exploitation through labor, and, as a prior criteria, the confinement in egregious circumstances.

5 United Nations, *Basic Principles and Guidelines*, 7.

6 Thomas Kuczynski, *Brosamen vom Herrentisch: Hintergründe der Entschädigungszahlungen an die im Zweiten Weltkrieg nach Deutschland verschleppten Zwangsarbeitskräfte* (Berlin: Verbrecher Verlag, 2004).

7 Gruppe offene Rechnungen, ed, *The Final Insult. Das Diktat gegen die Überlebenden. Deutsche Erinnerungsabwehr und Nichtentschädigung der NS-Sklavenarbeit* (Münster: Unrast, 2003), see also discussion in Kuczynski, *Brosamen vom Herrentisch*, 154.



What did recipients think? Indeed, many beneficiaries found the compensation amount paid to them not appropriate or that it came too late. In a small survey, to which about 7000 beneficiaries responded, the EVZ Foundation sought to find out whether beneficiaries received the compensation payments and what their thoughts were of the process.<sup>8</sup> It is telling that, while the responses revealed a balanced mix of positive and negative opinions, many of the negative perceptions focused on the small compensation amount:

*It is very painful that one chose to give such little value to my hard work in Germany.  
(Ukraine, after first installment)*

*I think that I would have deserved a higher compensation amount, considering the length of my forced labor (five years and three months) and my destroyed spine.  
(IOM beneficiary, after first installment)*

*A small compensation for our destroyed childhood, humiliation, and fear in our youth, and also in later life we had to hide from those who weren't deported.  
(Russia, after first installment)*

*I think that, for so many years of slave labor, hard work, and continuous fear of death, this sum is ridiculously low. So much hassle for me, because I had to drive to the bank, didn't receive the money at home.  
(Poland, after first installment)*

The aforementioned aspects underline that the questions of individual justice and the appropriateness of the amounts are among the most difficult to address in mass claims programs. The awareness of the gravity of the crimes can and should at the very least inform an attitude of utter humbleness on the side of the designers and implementers of such programs. It also highlights the role of expressing acknowledgement in various ways, as discussed earlier.<sup>9</sup>

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8 The unpublished report of the so-called “Ex-post” survey is on file with the EVZ Foundation. It is only available in German; translation of the following excerpts by the authors.

9 It should be noted, though, that not from an individual perception, but from an overall appropriateness point of view, by having a fixed overall budget the compensation program only had a limited leeway in deciding on the amount of the payments. Each increase of an amount in one place would inevitably have led to a decrease elsewhere, or to the exclusion of certain victim groups. It would have been possible, for example, to increase the individual amounts for survivors by excluding legal successors from the program, or by limiting the opening clause. Yet this would have caused criticism from other sides.

### “Right” vs. “eligibility”

Some have criticized that this compensation program was designed in such a way as to serve the interests of the German State and companies. Even though the preamble of the Foundation Law speaks of *violation of rights* of the victims, this statement was not meant to constitute recognition of a legal obligation of Germany to provide financial compensation. Any acceptance of legal responsibility (‘guilt’) was strictly avoided before, during, and after the program. Moreover, by stating that the human suffering involved could not possibly be compensated by financial payments, the character of a symbolic gesture of the payments was underlined. The approach of avoiding any impression of a right to compensation is also maintained in the wording of the Foundation Act: it speaks of a *Leistungsberechtigung* (“eligibility to a payment”) rather than of a clear *Recht* (“right”). Given the unlikely chances of success in pending lawsuits, which also goes back to the question of whether there is an individual right to compensation for victims of armed conflict, the negotiation partners accepted this approach of not endowing former victims with a clear right.<sup>10</sup>

This issue brings up the question of justice not only from a legal viewpoint but also the beneficiary’s perspective. Signing a document in which the future recipients of compensation waived any further claims against German companies perhaps appeared as a legal necessity to the claimants, but it was also a personal imposition. This waiver was only explicable (and in that sense justifiable) by the fact that the companies would not have contributed to the program without this measure of legal security.

While leaving claimants and observers with an uneasy feeling, legal closure is often without an alternative. As described in Chapter 10, legal closure is a typical element of compensation programs, particularly when the ‘perpetrator’ side finances them. From a practical perspective, this underlines once more the importance of expressing public acknowledgement of victims’ suffering and a careful and considerate treatment of the claimants. The least that an implementing organization can do in this situation is to ensure that the necessity of legal closure is explained to potential claimants.

### “Relative” justice

Often, reparation programs only address a specific form of human rights violations, or are designed to redress violations of a particular victim group and take place in a landscape where other reparation programs exist. Thus, whether a particular compensation amount is perceived

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10 See Christoph J. M. Safferling and Peer Zumbansen, “Iura novit curia: Rechtsanspruch auf Entschädigung für Zwangsarbeit im Nationalsozialismus,” in *Zwangsarbeit im Dritten Reich. Erinnerung und Verantwortung = NS Forced Labor: Remembrance and Responsibility. Juristische und zeithistorische Betrachtungen*, ed. Peer Zumbansen (Baden-Baden: Nomos, 2002), 233–246.

as appropriate cannot only be seen in relation to the crime, but also in relation to *other mechanisms for redress*. After all, even when a compensation program is in itself perceived as fair, but not so when compared to other programs, it may become less acceptable or even meaningless.

In the case of the forced labor compensation program, there was no systematic integration with already existing compensation programs — neither with those that sought to redress Nazi injustice nor other forms of compensation for victims of wrongful conduct in Germany. In hindsight, this could have been discussed in more detail during the negotiations.

In this case, particularly from the beneficiary’s point of view, a comparison with other compensation programs could become a very painful exercise. An example is the so-called “ghetto pension” legislation, established by another law in 2002 by Germany. During the Second World War, “ghettos” were cordoned off sections in cities to which the Nazi regime forcibly relocated persons, particularly Jews. Often, the relocation to ghettos was a waystation before the deportation to death camps. The 2002 legislation provided that those who performed voluntary work in the ghettos were eligible for pension under the ordinary German pension system. Also, descendants of these eligible persons could apply for the pensions. Thus, those who were incarcerated in ghettos and worked “voluntarily” eventually received more money than those who received the one-time symbolic compensation for forced labor, even when the latter were forced to work in the same ghetto.

In sum, for a compensation amount to be meaningful and appropriate, not only the actual crimes have to be considered, but as well other mechanisms of monetary redress. The discrepancies show that in order to avoid creating disadvantages for certain victims groups, and to prevent fault lines between victim groups, more thought could go into integrating different systems of compensation. This is particularly grave in this case, as Germany alone has the responsibility for the different victim groups of the Nazi regime. This said, the amounts of the forced labor compensation program were the result of a lengthy negotiation process, in which the victim groups also participated. For this program, there may have been no other solution.

## Completeness

A related aspect is the fact that not all survivors of forced labor received compensation under this program, and the question of whether the program contributed to a measure of “justice” would also have to be considered from the perspective of its completeness. *Completeness* is one of the UN principles of reparations drafted by the UN in 2005, which recommends that reparation programs should be designed to reach all of the victims of the crime in question.

The involved stakeholders attempted to create solutions to make the program as inclusive as possible: by approving many so-called “other places of confinement,” large numbers of claimants who were not held in concentration camps could be included in the program. The opening clause,

an optional compensation category mostly at the discretion of the partner organizations, was an element that made available compensation for people who did not fit the eligibility criteria but were nevertheless victims of forced labor. Finally, the humanitarian programs and programs created from the leftover funds are examples of how to make reparations available for a larger group of beneficiaries, who may not all fit the eligibility criteria but suffered a similar fate.

In a narrow interpretation, the forced labor compensation program was not complete, however. It was never foreseen during the negotiations to compensate for the loss of life, nor for the families/descendants of those former forced laborers who had already died. Among other reasons, this was done to increase the amount available for those still alive. Moreover, the program was only politically possible at a time when most of the former forced laborers had already passed away. Based on existing research, it was estimated that of the up to 12 million deported forced laborers during the Second World War, only about 2.2 million were still alive in mid-2000.<sup>11</sup>

On the other hand, there were people who were subjected to forced labor during the Second World War and were still alive but were not eligible according to the Foundation Law. This concerned prisoners of war who were excluded *a priori* from the program, and survivors of forced labor who were not subjected to racial discrimination or not imprisoned under harsh conditions (this mostly concerned survivors of forced labor from Western European countries). Also, the interpretation of the Foundation Law was not always in favor of all groups of claimants, such as in the case of the so-called IMI's (see Chapter 2).

The reasons why these victim groups were not included in the compensation program were almost all of a political nature, illustrated by the tense negotiations for each aspect of the program. The case highlights once more the responsibility of those who decide about eligibility criteria. Every time a criterion for eligibility is set, those who do not fulfill it are excluded from compensation, which is an unavoidable fact in each program. At the same time, it also emphasizes the important role of independent appeal committees that can, in a credible way, review the rightfulness of denied claims.

## IMPACT OF THE COMPENSATION PROGRAM

It is necessary to start again with a basic question: what can be the overall meaning of a compensation program and its relation to the dimension of an acknowledgement of historical injustice? Historian Lutz Niethammer illustrates the ambivalence of this constellation:

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11 Mark Spoerer and Jochen Fleischhacker, "Forced Laborers in Nazi Germany. Categories, Numbers, and Survivors," in *Journal of Interdisciplinary History* 33, 2 (2002): 202.

Observers of collective human rights abuses in the 20th century have become increasingly aware that in this neoliberal globalized world we have no other language than that of money to symbolically and convincingly express acknowledgement. As it is almost inevitably unjust, this language must be spoken as well as overcome. The outcome of this is not the material settlement of what happened, but the possibility of a cultural exchange over past injustice, which memory can free from its monetarization.<sup>12</sup>

Given its immense scope and the severity of the crimes it sought to redress, the forced labor compensation program signified much more than a mere distribution of payments to victims of Nazi persecution; it had symbolic significance and a notable political impact on national and international levels.

### Acceptance

In her book, “How to accept German reparations,” Susan Slyomovics discusses how such a program can be perceived differently from the victims’ side.<sup>13</sup> Both her grandmother and mother were eligible for German compensation payments and Slyomovics describes their differing opinions as to whether this money was even acceptable. While Slyomovics’ grandmother claimed compensation payments under the 1953 BEG compensation legislation, her mother, incarcerated and forced to work in a concentration camp by the Nazis, initially did not want to accept payments from Germany.

The discussion whether reparations are “acceptable” is important as it highlights the agony that victims of such crimes experience, often for a lifetime. A case in point is the debate after Germany’s first compensation legislation in which victims of Nazi persecution, as they had seen it, were appalled by being offered “blood money” from Germany, asking whether this was a way to buy their silence or relativize their suffering. This discussion was most vivid shortly after the war. However, this changed over the years and in some instances, the same people, who blamed Germany for paying this money, asked for more. Why was that so? One theory is that shortly after the war victims of Nazi persecution were of all ages, and particularly younger people voiced their opposition to the “blood money” — many of them with no families or pensions to worry about. As they grew old, however, their situation changed, and they viewed compensation payments more pragmatically, for example because they needed the money. “Acceptance” of reparation payments thus depends very much on the personal situation of the recipient.

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12 Lutz Niethammer, “Beschädigte Gerechtigkeit,” in *Zwangsarbeit im Dritten Reich. Erinnerung und Verantwortung = NS Forced Labor: Remembrance and Responsibility. Juristische und zeithistorische Betrachtungen*, ed. Peer Zumbansen (Baden-Baden: Nomos, 2002), 258. Translated from German by the authors.

13 See Susan Slyomovics, *How to Accept German Reparations* (Philadelphia: University of Pennsylvania Press, 2014), 48.

What can make a difference — albeit a small one — is the way in which such programs are handled and the messages they spread. Compensation payments have to be understood by all sides as an *acknowledgement* of the suffering experienced by survivors. It should be an expression of the perpetrator's side and/or the public of the knowledge and awareness of the victims' struggles. In this way, the message that Germany sent out shortly after the war was not helpful: basically, the German Government made clear during the first compensation legislation set up in 1953 that this would be a one-time option to claim compensation and there would be no future payments in this matter. In the decades after the war, lawsuits by former forced laborers were repeatedly rejected or compensation denied with often egregious explanations.<sup>14</sup> Rightly so, this made many victim groups doubt the sincerity of the German Government.

It was of great importance for this compensation program that the moral and political acknowledgement of the injustice — as shown in the apology by the German president cited above — but also the long-term engagement of the EVZ Foundation in the field of dealing with the past would emphasize moral credibility more than previous compensation legislation. From the perspective of the survivors these earlier attempts at compensation were often seen as a way to 'get rid' of the past.

Seen in comparison, thus, the overall 'language' of the forced labor compensation program was more careful. One anecdote is illustrative (but not representative): During a public event on the compensation program in the Ukraine, one of the directors of the EVZ Foundation was questioned by a survivor. In quite a rough tone, the survivor asked whether the director thought that the compensation payments were enough, and whether he was satisfied with the program. The director answered that the payments can merely be a gesture that survivors can accept or not, but that he would feel satisfied in case the questioner had accepted the money. In that instance, the director found the right tone; the survivor gave him his autobiography afterwards. Similarly illustrating the importance of individual actions in such contexts, Slyomovics' mother changed her mind about accepting compensation payments in 1999. The reason was a chance encounter with German president Richard von Weizsäcker who apologized to her personally and asked her, "Promise me you will apply."<sup>15</sup>

Still, from the perspective of the authors of this book, more could have been done to show acknowledgement and sympathy. One idea was to include a (translated) copy of the apology speech by President Rau together with the payment notification sent to the recipients. This was discussed within the EVZ Foundation but eventually discarded. It would have been a minimal effort to implement this, and would perhaps have given the notifications a more personalized gesture. Finally, some of the authors of this book would have wished that more stakeholders had internalized the awareness that this was probably the last chance to express acknowledgment for these crimes.

14 See Klaus Körner, "Der Antrag ist abzulehnen," *14 Vorwände gegen die Entschädigung von Zwangsarbeitern: Eine deutsche Skandalgeschichte 1945–2000* (Hamburg: Konkret Literatur Verlag, 2001).

15 Slyomovics, *How to Accept German Reparations*, 13.

The concept of *complexity* can also be helpful in this regard. According to Pablo de Greiff, complexity refers to the diversity of benefits that a reparations program can offer.<sup>16</sup> By being more complex, such as offering not only financial payments, but accompanying them with public apologies, medical services, and commemoration initiatives, a reparation program can respond better to the victims' needs. From this perspective, the forced labor compensation program had a high complexity. It did not only distribute the compensation payments, but included humanitarian programs that focused on needy victims and sometimes also in their communities. As described in more detail in Chapters 9 and 11, these programs entailed medical and psychological services, as well as other practical help.

Particularly, the ongoing efforts of the EVZ Foundation in funding programs under the "Remembrance and Future" Fund (described in Chapter 12) increase the complexity of the initial compensation program. Many of the diverse projects that are funded now by the EVZ Foundation address medical, psychological, and material needs of survivors of forced labor and other victims of the Nazi regime.

### Future-oriented measures

A crosscutting theme that should also be discussed here is whether the German compensation program could contribute to non-repetition. "Satisfaction" and "Guarantees of non-repetition" are distinct forms of reparation mentioned in the UN Principles on reparations that include measures to preserve the memory of the crimes and contribute to preventing the occurrence of similar crimes in the future.

Generally, the establishment of the compensation program provided the ground for dialogue on many levels. First of all, the negotiations brought the crime of forced labor back to the public realm in all affected countries. At the same time, the program led to more dialogue on the community and even the family level. For instance, the Polish partner organization reported that in some families, the descendants or legal successors only learned through the compensation program that their parents had to work as forced laborers during the Second World War.

As discussed earlier, establishing a permanent "Remembrance and Future" Fund together with the compensation program was at the time a modern answer to the question of dealing with the past in Germany. Its broad mandate allows the EVZ Foundation to keep the remembrance of forced labor alive and to provide services to those persecuted by the Nazi regime, but also to have the flexibility to stimulate new projects. Many of these ongoing programs increase greater societal dialogue about the crimes perpetrated during the Second World War and

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16 Pablo de Greiff, "Introduction: Repairing the Past: Compensation for Victims of Human Rights Violations," in *The Handbook of Reparations*, ed. Pablo de Greiff (Oxford: Oxford University Press, 2006), 10.

encourage youth in many countries to learn from the past of the Second World War. They may increase the impact of the compensation program by addressing the dissatisfaction many beneficiaries and claimants expressed in relation to the process.

### **Reconciliation and understanding between peoples**

After the end of the compensation program, a member of the Board of Directors was told by a survivor during a trip to Poland: “Now we finally don’t have to hate you [the Germans] anymore, we hated you for so long.” This shows, on an individual level, that the program — in sometimes unexpected ways — also contributed to a better relationship between Germany and its neighbors. If we look back to the international negotiations, several representatives of the involved states had called on Germany that without taking up responsibility for Nazi-era forced labor a reconciliation process with neighboring states would not be possible. Indeed, many commentators and representatives of victims’ associations agree that one of the program’s main achievements was its contribution towards “national reconciliation.”

The notion of “reconciliation” is a difficult one when it comes to relations between states, and it is outside the scope of this publication to discuss the many dimensions of this concept in depth. Moreover, reparations programs do not automatically lead to “reconciliation,” but may do so within a wider, more holistic framework with a goal of acceptance. Therefore, “reconciliation” is typically not a direct goal of a reparations program. Yet, in the case of the forced labor compensation program, reconciliation between the former enemies was a very cautious hope of some at the beginning of the negotiations. It is also interesting to note that “reconciliation” is included in the names of some partner organizations, which dates back to earlier compensation programs, such as the Polish “Foundation of Polish-German Reconciliation” or the Belarusian, Russian, and Ukrainian foundations that were called “Understanding and Reconciliation” in their national languages.

Given the difficult history between Germany and its neighbors, the compensation program was a significant symbolic gesture by Germany to acknowledge the crimes it perpetrated during the Second World War, particularly to the peoples of Eastern Europe. Here, it was crucial that Germany not only admitted its responsibility for Nazi forced labor, but also took concrete steps to realize this international project. It was equally important that it did so with the partner organizations in an equal partnership, and that representatives from relevant countries as well as victim representatives had a seat on the Board of Trustees and oversaw the work of the EVZ Foundation. Some see in the program a contribution to an improvement of the relationship between Germany and Poland. This has mainly been attributed to the moral and emotional aspects of the program that made it possible for the Polish side to consider reconciliation with its former aggressor Germany.



Also, in their responses to the survey, some beneficiaries of the program linked the work of the EVZ Foundation and partner organizations to the project of national reconciliation:

*I thank the German-Czech Future Fund for the compensation due to my forced labor during the Reich at the time of the occupation of the Czech Republic. I'm happy that I can witness this moral compensation for the slave-like forced labor, which has damaged me for the rest of my life. The Prague branch helped me fill in the claims, and I'm grateful for that. I wish your organization much success in their activity to improve the relationship between our nations.*  
(Czech Republic, after second installment)

*I'm happy that the German society tries to at least partially compensate the material and moral damage done. It's a pity that my parents are not able to witness this gratification. I thank all who have contributed to the reconciliation between our peoples.*  
(Poland, after first installment)

Yet 'national reconciliation' is not measurable and furthermore subject to political frameworks. A once reached consensus of 'belonging together,' or even reconciliation, can easily be put in danger again by emerging conflicts, which can be observed in the European Union today. The same is true for the commitment to responsibly face the crimes of the past.

## CONCLUDING THOUGHTS

At the conclusion of the protracted international negotiation rounds in the year 2000, one of the German negotiators, Otto Graf Lambsdorff, stated that they had ended the negotiations with a feeling of "mild dissatisfaction" on all sides. In 2007, after the compensation payments were concluded, the representative of the Polish Government, Prof. Jerzy Kranz, referred to this comment. In a speech he stated that he hoped the end of the compensation payments leaves all involved stakeholders with a feeling of "mild satisfaction." In the opinion of the authors of this book, this is an appropriate summary of the impact of the compensation program.

The forced labor compensation program was a highly complex and politically sensitive program, the full significance of which will only become visible in the years to come. This book is not meant to provide a final evaluation of the program but to preserve the institutional knowledge of the implementers, ten years after the conclusion of the program. Moreover, this book only represents the perspective of some actors of the program, but lacks that of many others. Because of this, the authors of this book hope that their contributions will be debated, evaluated and reflected, and that through this more information will become available, particularly from perspectives not portrayed here.