

German Law Journal Co-Editor, Dr. Peer Zumbansen, Leads Trans-Atlantic Seminar on Nazi Slave Labor Compensation at University of Frankfurt.

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[1] From December 13-17, 2000, Libby Adler, Assistant Professor at Northeastern University School of Law, Boston, and Peer Zumbansen, Academic Assistant and Lecturer at Johann Wolfgang Goethe-Universität, Faculty of Law, Frankfurt, and co-editor of German Law Journal, conducted a seminar on the compensation of NS-Forced and Slave Laborers. The seminar was held entirely in the English Language and met at a conference center near Frankfurt.

[2] The participants, all Frankfurt University students, both from the regular legal studies and the LL.M. Program, presented, in a first round of discussions, papers covering the historical, legal and political reality of the use of forced laborers since the end of the nineteenth century through the Third Reich. These explorations were exemplified by case studies on Volkswagen, Daimler Benz and IG Farben as well as on forced labor in private households, municipalities and agricultural. In a second round, the seminar focused on the post-war treaties under International Public Law and the German Compensation legislation and jurisprudence. There was also discussion of individual efforts at compensation from individual firms, mostly negotiated by the Conference on Jewish Material Claims Against Germany (Jewish Claims Conference - JCC). The seminar also treated the status of legal claims against the German State and German corporations in light of the post-war treaties and legislation, especially with regard to the new law creating a compensation foundation called "Remembrance, Responsibility and the Future." This law is designed to provide the basis for the compensation of the approximately 1 million surviving former forced and slave laborers. The law is the result of a 2 year diplomatic and legal struggle between Berlin and Washington, as well plaintiffs' attorneys and corporate defense counsel. The law voids all other claims for compensation except those claims brought as part of the foundation's scheme. German industry urged the passage of the law as protection against a number of class action suits in United States' courts and as protection against damage to their public image.

[3] Before turning to the legal intricacies of the Law, the seminar devoted its attention to of the Holocaust law suits, both those that were recently decided as well as those pending before American Courts. After a careful analysis of the September, 1999 "Deguassa/Siemens" decisions from the Federal District Court of New Jersey, the seminar explored further the rules and regulations governing class action suits and class settlements and compared these devices with the legal regime in Germany. There is no comparable legal instrument in Germany. This part of the seminar analyzed the different possible avenues for the Holocaust victims to pursue their claims and asked whether the litigation, negotiated settlements, diplomacy or the new Foundation Law were adequate to produce a material as well as moral compensation for the forced and slave labor atrocities. A final section of the seminar dealt with the socio-political and legal climate in post-war Germany and the stridency with which a few devoted lawyers went after compensation for their socially neglected clients. The seminar ended with a close look at the structure and the mechanics of the new Foundation Law.

[4] The seminar profited from generous funding by several Frankfurt corporations as well as a book donation by the Alumni Association of Frankfurt University Law School. Particularly enriching were visits from a number of guests. Dr. Karl Brozik, the Director of the German Office of the Jewish Claims Conference, provided autobiographical insight into the circumstances of slave labor and into some 30 years of work with the Conference in Germany. Between him and the seminar's participants, there developed an earnest debate about the advantages and disadvantages of the solution now reached for the victims as well as about the prospects of Germany in light of growing tendencies of xenophobia and right-wing radicalization. Lothar Evers from the NGO *Information & Beratung für NS-Verfolgte* based in Köln (a non-governmental organization assisting and representing the interests of Holocaust victims), gave an intriguing perspective on the difficult work in the field. Mr. Evers, who had managed to participate at a number of the negotiations sessions between representatives of the German and American governments, the German business community and plaintiffs' lawyers, pointed to the exclusiveness in which the meetings had taken place and the difficulties encountered on the way to reaching the compromise that produced the Foundation Law. Dr. Roland Bank, from the newly created Foundation, described his work developing contracts that will govern the relationship between the Foundation and the Partner Organizations, which will be responsible for the world-wide management of the settlement (including evaluation of incoming claims for compensation and distribution of the compensation sums, between 5,000 and 15,000 DM). Dr. Michael Jansen, formerly with Degussa-Hüls in Frankfurt and now the Foundation's Director, along with Law Professor Dr. Burkhard Heß (University of Tübingen), who had provided expert testimony on behalf of Siemens during the New Jersey District Court proceedings, also joined the seminar.

[5] The seminar worked-up to a troubling conclusion regarding the intricacies and the difficulties of finding an adequate solution to the compensation issue that would satisfy the needs and interests of all involved, but, above all, the former victims (especially in light of the fact that they are now very old and appear to be dying at a rate of 10%

per year). The seminar revealed a great deal of historical, social, political and legal indifference towards the fate of these Holocaust victims after the end of WW II. It also revealed the difficulties of addressing the issue in the law. Whether recognition of these crimes is better handled by a court or whether a settlement and the Foundation regime are adequate, may be a question of second order when it appears that German industry still has not recognized a legal responsibility to compensate the victims. The Foundation Law does not suppose to enforce a legal but instead a \"moral\" obligation. It was bewildering for the participants of the seminar to see how fiercely German industry has continued to deny its legal responsibility to compensate the victims of slave and forced labor. The question whether or not the sums provided by the Foundation (between 5,000 and 15,000 DM) is a real help to the survivors or their heirs skirts the question whether the political solution reached in fact provides for a public acknowledgment of the crimes committed. It was the general consensus at the conclusion of the seminar that under the Foundation Law the victims will receive payments for reasons of historical/moral responsibility but not because German industry is being held legally responsible to make compensation for the crimes.