



Twenty-fifth session

PLIGHT OF SURVIVORS OF NAZI CONCENTRATION CAMPS
Fifth progress report by the Secretary-General

The Secretary-General has the honour to submit for the information of the Economic and Social Council a progress report on the steps which have been taken, since the publication of the last progress report (E/2378, 10 March 1953), to implement Council resolution 386 (XIII) on the plight of survivors of so-called scientific experiments in Nazi concentration camps.

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I. Background information

1. In resolution 305 (XI) of 14 July 1950, the Economic and Social Council took note of the report of the fourth session of the Commission on the Status of Women, referring to the fate of survivors of concentration camps who, under the Nazi regime, had been the victims of so-called scientific experiments, and requested the Secretary-General to consider means for alleviating the plight of such victims and to inform the Council of the action taken.
2. In accordance with resolution 305 (XI) the Secretary-General submitted a first progress report (E/1915) which contained inter alia an account of the number, whereabouts and condition of the victims and of their position under German legislation. After considering this report, the Council adopted resolution 353 (XII) of 19 March 1951 in which it appealed to the competent German authorities to make the fullest possible reparation to the victims.
3. In his second progress report (E/2037) the Secretary-General gave an account of the law on indemnification in force in the Federal Republic of Germany and informed the Council that the Federal Government had decided, on 26 July 1951, to grant practical assistance, under certain conditions, to such survivors of so-called scientific experiments as were ineligible for reparation under the compensation laws in force in the Länder of the Federal Republic. This decision read as follows:

"In consideration of the moral duty incumbent upon it, the Federal Government is prepared, in special cases of need, to afford practical assistance also to such surviving victims of experiments on human beings now living abroad and persecuted on grounds of race, religion, opinions or political convictions, as are ineligible for reparation under the compensation laws in force in the Länder of the Federal Republic, whether because they lack residential qualifications or because the time-limit for submission of applications has expired.

Victims of experiments on human beings who are ineligible for reparation on other grounds shall not be denied assistance if their health has been permanently impaired through gross disregard of human rights."

4. In resolution 386 (XIII) of 15 September 1951, the Council welcomed the decision taken by the Federal Government of Germany, and requested the Secretary-General: (a) to make available to the Federal Government information concerning

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the persons who claimed to have been the victims of so-called scientific experiments in Nazi concentration camps; (b) to inform the Federal Government that, in the view of the Council, the investigation and certification of individual claims against that Government was a matter of primary responsibility for that Government; and (c) to invite the Federal Government to inform him of the action taken with regard to the various aspects of the problem.

5. The third (E/2259) and fourth (E/2378) progress reports of the Secretary-General contained, inter alia, information on the number of claims transmitted to the Federal Government by the Secretary-General and on the action taken by the Federal Government. As of 31 January 1953, the Secretary-General had transmitted 468 claims to the Federal Government. As of 1 September 1952, the Federal Government, acting in accordance with its decision of 26 July 1951, had examined 156 cases; it had granted assistance to 108 applicants, while 48 claims had been rejected.

II. Information transmitted by the Secretary-General to the Government of the Federal Republic of Germany

6. As requested in operative paragraph 8(a) of Council resolution 386 (XIII) the Secretary-General continued to collect material on individual cases and, since 31 January 1953 has transmitted to the Federal Government information concerning 69 applicants. Altogether, as of 1 February 1958, the Secretary-General has transmitted 537 claims to the Federal Government. In addition, the Secretary-General has furnished the Federal Government with supplementary data concerning a number of claims previously transmitted to that government.

7. It should be noted that claimants have also submitted their requests directly to the Federal Government of Germany.

III. Action taken by the Government of the Federal Republic of Germany

8. In accordance with operative paragraph 8(c) of Council resolution 386 (XIII) the Secretary-General requested the Government of the Federal Republic of Germany to inform him of the action taken to alleviate the plight of survivors of so-called scientific experiments in Nazi concentration camps.

9. On 14 October 1953, the Permanent Observer of the Federal Republic of Germany to the United Nations transmitted to the Secretary-General the text of the

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Federal Supplementary Act on the Indemnification of Victims of National Socialist Persecutions, of 18 September 1953 (Bundesgesetzblatt, Part I, No. 62 of 21 September 1953), which contains certain provisions under which victims of so-called scientific experiments may claim compensation. This law has since been amended.

10. On 23 January 1958, the Acting Permanent Observer of the Federal Republic of Germany to the United Nations transmitted to the Secretary-General the following note and progress report:

"As has been reported previously the legal basis on which the Government of the Federal Republic of Germany furnishes assistance to survivors of scientific experiments in Nazi concentration camps consists of two main instruments, namely the Law for the Indemnification of Victims of National Socialist Persecution and the Decision of the Federal Government of 26 July 1951.

The Law forms the general legal framework for indemnification and assistance to victims of National Socialist Persecution. While not expressly mentioning survivors of scientific experiments, the law also includes those persons whose body or health was affected by scientific experiments provided they fulfilled the legal prerequisites laid down in the Law and its amendments.

The Cabinet Decision of 26 July 1951 must be regarded as a measure complementary to the general legislation on indemnification. It is operative when, owing to the qualifications of the Law, victims of scientific experiments do not have a legal claim based on that Law. In such cases the Decision of 26 July 1951 makes it possible to grant, in fulfilment of a moral obligation and without recognition of a legal claim, assistance to victims of medical experiments.

Since the operation of the Law for Indemnification does not distinguish between the various forms of injuries inflicted upon body or health and, thus, does not provide for special listing of victims of scientific experiments, it is technically impossible to report, even approximately, on the amount of assistance and indemnification furnished to those persons under the general legislation.

The Federal Ministry of Finance which is in charge of the execution of the Cabinet Decision of 26 July 1951 has prepared - as of 15 November 1957 - a progress report on the question of assistance to victims of so-called scientific experiments in Nazi concentration camps furnished by virtue of the Decision. I have the honour to transmit enclosed herewith two copies of that report."

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"Progress Report"

In considering the action taken in accordance with the Cabinet decision of 26 July 1951, it should be remembered that in that decision the Federal Government, while not recognizing any legal obligation, declared its readiness, on the basis of a moral duty, to grant assistance in special cases of need to surviving victims of experiments on human beings who were ineligible for compensation under the general indemnification legislation of the Federal Republic or the Länder. It follows that damage to health not attributable to medical experiments cannot be considered under the Cabinet decision. The Federal Government's decision was intended to provide assistance to meet an immediate need and not as the satisfaction of a legal claim.

Decisions concerning applications for assistance to surviving victims of experiments on human beings are made after hearings by an Inter-Ministerial Committee consisting of Senior officials of the Ministries of Foreign Affairs, the Interior, Justice, Labour and Finance. The fact that medical practitioners holding responsible positions in the Ministries of Labour and the Interior are members of the Committee guarantees the expert evaluation of any medical questions which may arise.

In considering applications for assistance, the Inter-Ministerial Committee is principally guided by the facts characterized as 'inadmissible mass experiments' in the criminal proceedings against the physician Karl Brand and others who inflicted experiments, and in the German literature on the subject (Wissenschaft ohne Menschlichkeit and Das Diktat der Menschenverachtung by Mitscherlich-Mielke, and Eugen Kogon's Der SS-Staat). In individual cases experiments not mentioned in the judgement of the court or in the literature have also been recognized as eligible for assistance, as it is possible that 'private' experiments were also carried out by individual physicians.

Implementation of the Cabinet decision began in the spring of 1952 and has not yet been completed because applications are still being received. The first meeting of the Inter-Ministerial Committee took place in May 1952 and was followed by thirty-nine further meetings up to 9 October 1957. At each meeting an average of twenty-one cases was dealt with.

Up to 15 November 1957, 1,537 applications had been received and 830 had been disposed of; grants of assistance were made in 427 cases and 403 applications were rejected. Approximately 2.5 million DM was paid out, an average of 5,860 DM per case. In fixing the amount of the grants, the Committee took into account the living conditions in the applicants' countries of residence, the social circumstances of the applicant, the type and gravity of the experiment, the degree of reduction in earning capacity and the possibility of effecting a cure or an improvement in the applicant's condition by medical or other means. The individual grants were for sums ranging from 2,000 to 25,000 DM.

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The grants were paid with the reservation that they could be applied against any indemnification for damage to person and health under the Indemnification Act (BEG).

The grounds on which applications had to be rejected were of various kinds. In most cases it could not be established that an experiment, within the meaning of the Cabinet decision, had taken place; other applicants were not in need or had not suffered any damage to health because of the experiments; in numerous cases the applicants were entitled to file claims under the Indemnification Act (BEG) or refrained from pressing their applications for other reasons.

Difficulties in the implementation of the Cabinet decision have arisen in connexion with the 470 applications from Yugoslavia and 69 applications from Poland still outstanding. In the case of Yugoslavia, it is still necessary to negotiate arrangements which will make it possible to carry out the expert medical examinations, while in the case of the applications from Poland, it is impossible to verify the statement of the applicants, to carry out the necessary expert medical examinations or to transfer any grants of assistance which may be made."
