

Service in Bad Arolsen), but with regard to supplementary material, it was very much down to the individual official as to how much effort was made. A prejudiced view of Roma claimants might well have led to fewer investigations, and the travelling lifestyle (even if only during part of the year), both before and after the war, made the collection of documents more cumbersome for the authority, especially if the claimant did not help to simplify this matter. The report of the Institute for Applied Sociology supports this view of the Roma's cases being potentially more involved, by establishing that files of Jewish victims and those with advanced education and professional developments contained more official documents than anybody else's.¹⁰⁴ For instance, only 13.3 percent of the files of claimants without any formal school education (less than primary school) contain more than nine official documents. In contrast, 29.8 percent of files from university-educated claimants contain over nine such documents.¹⁰⁵ The report further establishes a correlation between the documents supplied by the claimant and a positive outcome, with the latter being the more likely the more documents were supplied.¹⁰⁶ The following two chapters elaborate the above-mentioned problems – regarding both the nature of the law and the proceedings – by a detailed analysis of the individual compensation files, thereby discussing further deficits of the system such as the lack of compensation for forced sterilisation and psychological long-term damage.

Chapter 5: How to Measure Disability

The Lack of Compensation for Forced Sterilisation

Under the National Socialist Hereditary Health Law¹ about 400,000 people were sterilised in Germany.² While most of the sterilisation victims were sterilised during the first six years of the regime, the sterilisation of Roma peaked during the war. According to Hansjörg Riechert, around ten percent of German Roma were forcibly sterilised during the Third Reich.³ However, for a long time the Hereditary Health Law was not classified as a 'typical National Socialist injustice', which led to the exclusion of victims of this law from the compensation process. By contrast, in the Soviet Occupied Zone, the Hereditary Health Law was described as a crime against humanity and accordingly abolished on 8 January 1946. The West German government justified its decision not to repeal this law during a parliamentary session on 7 February 1957 as follows:

The Law for the Prevention of Offspring with Hereditary Diseases from 14 July 1933 is not a typical National Socialist law because similar laws are in force in democratic countries, for instance Sweden, Denmark, Finland and in some states in the USA. But the Federal Compensation Law extends compensatory payments only to people persecuted by the National Socialist regime, and only in rare exceptions to people who suffered damages as a result of extremely grave violations to the principles of the rule of law.^{4,5}

This assessment of the Sterilisation Law was not a uniquely German one. The American military tribunal declared in July 1947 that in general nothing

¹ Gesetz zur Verhütung erbkranken Nachwuchses (Erbgesundheitsgesetz), passed on 14 July 1933 and promulgated on 1 January 1934, in *Reichsgesetzblatt* 1933 I, pp. 529–531.

² Bock, *Zwangssterilisation im Nationalsozialismus*, p. 8.

³ Riechert, *Im Schatten von Auschwitz*, p. 135.

⁴ S. Kramer, 'Ein ehrenhafter Verzicht auf Nachkommenschaft'. *Theoretische Grundlagen und Praxis der Zwangssterilisation im Dritten Reich am Beispiel der Rechtsprechung des Erbgesundheitsobergerichts Celle* (Nomos, Baden-Baden, 1999), p. 210: 'Das Gesetz zur Verhütung erbkranken Nachwuchses vom 14. Juli 1933 ist kein typisch nationalsozialistisches Gesetz, denn auch in demokratisch regierten Ländern – z.B. Schweden, Dänemark, Finnland und in einigen Staaten der USA – bestehen ähnliche Gesetze. Das Bundesentschädigungsgesetz gewährt aber grundsätzlich Entschädigungsleistungen nur an Verfolgte des NS-Regimes und in wenigen Ausnahmefällen an Geschädigte, die durch besonders schwere Verstöße gegen rechtsstaatliche Grundsätze Schaden erlitten haben.'

⁵ Plenarprotokoll 2/191, p. 10876 (A), see V. Hennig, *Zur Wiedergutmachung von Zwangssterilisation im Nationalsozialismus. Eine Dokumentation* (Frieling, Berlin, 1999), p. 36.

¹⁰⁴ Mayntz, Scheuch, *Leistungsverwaltung und Verwaltungsleistung*, p. 279.

¹⁰⁵ Mayntz, Scheuch, *Leistungsverwaltung und Verwaltungsleistung*, pp. 1284–1284a.

¹⁰⁶ Mayntz, Scheuch, *Leistungsverwaltung und Verwaltungsleistung*, p. 294.