**Annex**

**Minor interpellation tabled by the Members of the German Bundestag Ulla Jelpke et al. and the Left Party parliamentary group concerning support for the Simon Wiesenthal Center in the implementation of Operation Last Chance II, Bundestag Printed Paper 17/8398**

Question 1:

What action is the German Federal Government taking to support Operation Last Chance II, and what concrete efforts has it already initiated or does it intend to initiate?

Answer:

The Federal Government has not hitherto been aware of the Operation Last Chance II project being implemented by the Simon Wiesenthal Center (SWC). In consequence, the Federal Government has not made and does not have any plans to support the project.

With regard to collaboration with the SWC, reference is made to the Federal Government’s answer of 22 June 2011 to the minor interpellation tabled by the Left Party parliamentary group concerning the withdrawal of benefits under the Federal War Victims Relief Act from war criminals (Bundestag Printed Paper 17/6270).

Question 2:

To what extent is it in contact with the *Länder* in connection with this matter, and does it intend to agree arrangements with the *Länder* for the provision of joint support to Operation Last Chance II?

Answer:

The Federal Government has not hitherto concluded any agreements with the *Länder* concerning support for the project in question, and does not intend to do so at present.

Question 3:

Is the figure of about 4,000 individuals who served in the guard details at extermination camps and the *Einsatzgruppen* (‘task forces’ that murdered Jewish populations, and other ethnic and political groups in Eastern Europe) plausible as far as the Federal Government is aware?

Answer:

According to the information provided by the *Länder*, who are responsible for the implementation of the Federal War Victims Relief Act (BVG), it is not known whether the figure of about 4,000 that has been cited is plausible. In consequence, it is not possible to either deny or confirm the figure given. In implementing Section 1a of the BVG, the authorities of the *Länder* that provide relief to war victims check on each individual case after they have received data from the SWC by cross-checking them with the data held by the Central Office of the Judicial Authorities for the Investigation of National Socialist Crimes (Central Office) and the Federal Archive (using documents from the former Berlin Document Center) to ascertain whether the fact that an individual has the same name as a person implicated in war crimes means the files give grounds for suspicion against that individual. According to Section 1a of the BVG, benefits are to be refused, or wholly or partially withdrawn if the beneficiary or the individual from whom the entitlement derives contravened the principles of humanity or the rule of law during National Socialist rule. Figures concerning the size of the guard details at extermination camps and the *Einsatzgruppen* have not come to light in the course of the investigations carried out under Section 1a of the BVG.

Question 4:

Do the welfare files established under the BVG contain evidence about membership of guard details or *Einsatzgruppen*, and if so how much time does the Federal Government believe it would take to filter out all individuals who were members of these murder squads from the files that are held?

Answer:

The *Länder*, who are responsible for these files, regularly obtain information from the Federal Archive, the Medical Records Repository based at the State Office of Health and Social Affairs in Berlin (the central German depository for medical records from the two World Wars and the welfare records of all the German national welfare agencies of the period) and the German Service Centre for the Notification of Next-of-Kin of Members of the Former German Wehrmacht who were Killed in Action (WASt) when applicants’ circumstances are clarified in order to check their entitlement to relief under the BVG. Evidence can be drawn from these sources as to which military units an applicant belonged to, whether they were treated in special (SS) military hospitals, what rank they held, etc. In addition to the data provided by the applicant themselves, it is initially possible to check whether the applicant has done any military or paramilitary service at all within the meaning of the BVG on the basis of such evidence.

Whether the evidence permits inferences to be drawn concerning membership of concentration camp guard details, SS Death’s Head units or *Einsatzgruppe* formations that were involved in the murder of the Jewish population has to be scrutinised and checked in concrete terms in each individual case using the welfare files. There are no special lists or rolls of ‘murder squads’ or similar formations in existence. It is also necessary to take into consideration that in the course of the Second World War (in particular towards the end of the War) it was common for troops to be redeployed, individuals detailed to other units or given punishment postings, and structures reorganised, so the fact that a disabled veteran has notified the authorities of their (home) unit is not ultimately sufficient to justify the suspicion that they committed war crimes. In relevant cases, it is furthermore necessary to assume that, when making their applications, these disabled persons will not have provided any incriminating information about their personal history or even comprehensive information about the kind of ‘military’ operations on which they were deployed. On account of the scarce personnel resources of the *Länder* and in the absence of appropriate IT systems, it is not realistic for all the files to be scrutinised merely because it is supposed that, contrary to the conclusions reached in individual cases, there may after all be grounds for suspicion. In addition to this, there is the fact that individual cases could only be subjected to such scrutiny in a meaningful fashion by individuals who possessed sufficient qualifications and well founded historical knowledge of the period in question.

In the historic cases in which the cross-checking of data under Section 1a of the BVG has found indications or grounds for suspicion that a beneficiary or an individual from whom an entitlement derives contravened the principles of humanity or the rule of law during the National Socialist period, the necessary investigations have been initiated by the *Länder* in order to establish the facts and, where the preconditions set out in Section 1a(1) or (2) of the BVG have been satisfied, the withdrawal or refusal of benefits has been ordered. Newly received applications are also examined thoroughly to ascertain any possible circumstance that would require benefits to be withheld from an applicant or beneficiary pursuant to Section 1a of the BVG. Furthermore, regular cross-checks with the data supplied by the SWC have been and are conducted in the *Länder*.

As a rule, the contraventions of the principles of humanity and the rule of law of which individuals have been accused in individual cases have already been the subject of criminal proceedings, so that the *Länder* have had recourse to the public prosecution office/court files. Witnesses have also been identified and questioned in pending court or criminal proceedings. In certain cases – not specified in greater detail by the *Länder* –, it is also known that individuals were members of the guard details at extermination camps or *Einsatzgruppen*. However, many of these individuals are already deceased.

Question 5:

From which file holdings is it possible to draw evidence of service in *Einsatzgruppen* and guard details at extermination camps, both on the part of individuals with German citizenship and also on the part of foreign ‘volunteers’?

Answer:

Evidence of service in *Einsatzgruppen* and guard details at extermination camps may – as discussed above – be found in the Federal Archive, at the Central Office of the Judicial Authorities for the Investigation of National Socialist Crimes or in the data provided by the SWC. It is conceivable that the International Tracing Service in Bad Arolsen and the Federal Commissioner for the Files of the State Security Service of the former German Democratic Republic could serve as further sources. By contrast, no records on the personnel of guard details or the recruitment of foreign ‘volunteers’ can be found in the Political Archive of the Federal Foreign Office.

As discussed above, individual court files consulted by the *Länder* in the course of investigations under Section 1a of the BVG include references to individuals who belonged to guard details or were recruited into the squads that cordoned off execution sites or actually carried out the executions (see the answer to Question 4).

Question 6:

Is the Federal Government prepared to have the relevant files reviewed to ascertain which individuals served in *Einsatzgruppen* and extermination camps, and to supply any documents (lists of names, agencies, etc.) to the competent public prosecution offices for further investigation, and if not why not?

Answer:

Where the public prosecution offices of the *Länder* responsible for criminal prosecutions require records held by the Federal Government for their investigations, it is possible for them to be issued in accordance with the relevant legal provisions.

Since 1958, numerous preliminary investigations have been conducted by the Central Office of the Judicial Authorities for the Investigation of National Socialist Crimes in Ludwigsburg into violent crimes committed during the National Socialist period, in particular crimes committed at concentration and extermination camps, and crimes committed by the members of police *Einsatzgruppen*. In the course of these investigations, it has essentially been possible to identify members of guard details and *Einsatzgruppe* squads who are implicated in such crimes. However, the proceedings against a large number of suspects have had to be abandoned after being handed over to the relevant public prosecution offices because it has only rarely been possible to furnish proof of involvement in at least one concrete murder.

The grounds for Munich Regional Court’s ruling against John Demjanjuk, which categorised the mere fact that a suspect was a member of the guard detail at an extermination camp as sufficient evidence of involvement in acts of murder supplies one point of departure, in particular for the critical re-examination of earlier decisions to abandon proceedings. The Central Office set about this task immediately after it became aware of the Court’s ruling. Apart from its file holdings, the authority’s staff also used the information gathered in the Central Office’s personal and military unit card indexes. In view of the great age of the potential suspects, the success rate is extremely low. Precise details of the results of the re-examination of these cases can be provided by the Central Office.

Records held by the Central Office that are no longer required for the purposes of conducting criminal prosecutions have been donated to the Federal Archive, which has set up a branch office at the seat of the Central Office to manage these holdings. These records can be made available to the Central Office again at any time and at very short notice for the purposes of conducting criminal prosecutions. To this extent, the Federal Archive is now providing the best possible support for research into the holdings of the Central Office pursuant to the provisions of the administrative agreement concluded in 2000 on the establishment of the branch office. The criminal prosecution of National Socialist crimes is the original function of the Central Office, a common institution of the *Länder*, which second public prosecutors and judges to Ludwigsburg for this purpose.

With regard to the examination of the welfare files established under the BVG from which information could be drawn about whether individuals may have served in *Einsatzgruppen* or extermination camps, reference is made to the answer to Question 4.

The referral of welfare files to the public prosecution offices by the *Länder* could only come into consideration in cases in which direct evidence of service in *Einsatzgruppen* and guard details at extermination camps, both on the part of individuals with German citizenship and on the part of foreign ‘volunteers’, that is contained in the files has not already resulted in the withdrawal of benefits under Section 1a of the BVG. Where cases of this kind were to be referred to the public prosecution office, it would have to be checked in advance whether the preconditions for such a referral laid down by data protection law had been satisfied. For the reasons discussed above, it is not possible for the *Länder* to review all files on former combatants who are still alive.

a) Has the Federal Government signalled to the *Länder* that it would regard such a review to be worthwhile because Nazi criminals should not be able to evade their punishment, and how have the *Länder* responded to this?

For the reasons set out in the answer to Question 6, the Federal Government does not believe any attempt to persuade the *Länder* to conduct such a review would have much chance of success.

b) If the Federal Government does not wish to conduct such a review itself, is it prepared to finance such a review, and if not why not?

The Federal Government is prepared to give support to a review of the kind proposed within the bounds of the legal possibilities that are open to it. A review that ranges further than the examinations carried out under Section 1a of the BVG could only be undertaken or commissioned by the *Länder*, which are responsible for this field of policy.

c) Would the Federal Government be prepared to enable the Ludwigsburg-based Central Office of the Judicial Authorities for the Investigation of National Socialist Crimes to carry out such a review by increasing its funding and staffing levels, or to collaborate with the *Länder* in seeking ways of making this possible, and if not why not?

Answer: The Central Office was established by an administrative agreement of the justice ministers and senators of the *Länder*. It is therefore an institution of the *Länder* and is financed by them proportionally in accordance with the Königstein formula (which determines the contributions made by the individual *Länder* to the funding of their common activities). Any financial arrangements to increase the Central Office’s funding would therefore be dependent on the consent of all the Land justice administrations. For reasons connected with the constitutional rules that govern the public finances, the German Federation is not allowed to provide financial support at present. The responsibilities discharged by the Ludwigsburg-based Central Office of the Judicial Authorities for the Investigation of National Socialist Crimes fall within the administrative competence of the *Länder* (criminal prosecution). According to Article 104a(1) of the German Basic Law, the Federation and the *Länder* separately finance the expenditure incurred in the discharge of their respective responsibilities, except where other arrangements are provided for in the Basic Law. In this respect, it is the general consensus that the discharge of responsibilities is to be understood as their discharge by administrative means: The party that is responsible for the discharge of a responsibility also has to bear the associated costs. Article 104a(1) of the Basic Law therefore prohibits any third-party or mixed funding that would involve the Federation (co)financing *Land* responsibilities or calling upon the *Länder* to finance Federal responsibilities.

d) What action has already been initiated, where applicable, to address the issues raised by the subquestions above.

Answer:

In the light of the answer to Question 6 c), there has been no occasion to initiate such measures to date.

Question 7:

Has the Federal Government approached the Simon Wiesenthal Center in order to ascertain from it what kind of support it requires in connection with Operation Last Chance II or make concrete offers of support, and if not why not? Has the Simon Wiesenthal Center, for its part, approached the Federal Government with a request for support, and if so what requirements have been brought to the Federal Government’s attention, and to what extent does the Federal Government intend to provide such support?

Answer:

To date, the SWC has not contacted the Federal Government in connection with this matter. Further to this, reference is made to the answer to Question 1.