

# Federal law regulating the monetary liabilities of the German Reich and equivalent legal entities under restitution law (Federal Restitution Act - BRüG)

BRUG

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"Bundesrückerstattungsgesetz" (Federal Restitution Act) in the amended version published in the Federal Law Gazette Part III, classification number 250-1, last amended by Article 21(1) of the Act of 29 June 2015 (Federal Law Gazette I p. 1042)

**Booth:** Directive as last amended by Article 21(1) G v 29.6.2015 I 1042

## Footnote

(+++ Textual evidence of validity from: 6.9.1969 +++)

The G shall apply in accordance with d. Art. 12 G v. 21.12.1967 63-13; it applies in Saarland in accordance with Art. I in accordance with d. Art. II G v. 12.1.1967 I 133.

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## **Section One**

### **General provisions and definitions**

#### **§ 1**

(1) This law applies to restitution claims against the German Reich including the special assets of the German Reichsbahn and the German Reichspost.

(2) This law also applies to claims for restitution against

1. the former land of Prussia,
2. the Reichsautobahnen company,
3. the former National Socialist German Workers' Party (NSDAP), its subdivisions, its affiliated associations and the other dissolved NS institutions,
4. the Reich Association of Jews in Germany and the Emigration Fund Bohemia and Moravia.

#### **§ 2**

Claims for restitution within the meaning of this Act are claims which are entitled to restitution of ascertainable assets (§ 11 No. 1) or claims which are entitled to restitution or their legal successors under the provisions of this Act and which are directed towards a monetary amount or compensation.

#### **§ 2a**

(1) A legal entity mentioned in § 1 shall be liable to restitution within the meaning of the legal provisions mentioned in § 11 No. 1 letter a with regard to a ascertainable asset if it has acquired or appropriated ownership, ownership position, possession or power of disposal contrary to the principles of the rule of law.

(2) A legal entity referred to in § 1 shall be liable to restitution within the meaning of paragraph 1 in particular if it has ordered the prosecuted person to sell the identifiable asset to a specific purchaser or to a number of specific purchasers.

(3) The restitution obligation of one of the legal entities referred to in § 1 within the meaning of paragraphs 1 and 2 shall not be excluded by the fact that the persecuted person was forced by persecutory measures to participate in the sale of the ascertainable asset.

(4) A legal entity referred to in § 1 is not already liable for restitution within the meaning of paragraphs 1 and 2 if the persecuted person has sold an identifiable asset in order to be able to pay unlawful special levies or to carry out a transfer of assets.

(5) If identifiable assets within the scope of the legal provisions mentioned in § 11 No. 1 letters b and c have been seized by one of the legal entities mentioned in § 1, this legal entity shall be liable for damages if the assets have been lost, damaged or reduced in value; § 848 of the German Civil Code shall apply. The same shall apply if ascertainable assets have been confiscated by one of the legal entities mentioned in § 1 and have demonstrably come within the scope of the legal provisions mentioned in § 11 No. 1 letters b and c.

#### **§ 3**

Claims under restitution law against the legal entities mentioned in § 1 are equated to claims under restitution law which could only be directed against the Federal Government or another public legal entity on the basis of asset or task succession in accordance with the legal entities mentioned in § 1.

#### **§ 4**

If a third party has confiscated identifiable assets which have been transferred to one of the legal entities mentioned in § 1 other than by a legal transaction against payment, a liability for damages in relation to the third party which exists under the legal provisions for the restitution of identifiable assets (§ 11 No. 1) shall only apply to this legal entity. Claims under the legal provisions for the restitution of identifiable assets (§ 11 No. 1) shall remain unaffected.

#### **§ 5**

(1) If ascertainable assets have been confiscated by one of the legal entities mentioned in § 1 outside the scope of this Act and after the confiscation have demonstrably come within the scope of this Act, without the place where the assets have come to be determined, the assets shall be deemed to have come within the scope of the legal provisions for the restitution of ascertainable assets mentioned in § 11 No. 1 letter d. The same applies if the seized assets have demonstrably entered the territory of Berlin within the limits laid down in Section 4 of the Berlin Constitution of 1950.

(2) If ascertainable assets have been confiscated by one of the legal entities mentioned in § 1 outside the scope of the legal provisions mentioned in § 11 No. 1 and the Saarland and after the confiscation have demonstrably entered the Saarland without the place where the assets have arrived being determined, the assets shall be deemed to have entered the scope of the legal provisions mentioned in § 11 No. 1 letter d for the restitution of ascertainable assets.

#### **§ 5a**

Where identifiable property which has been lost has been confiscated by one of the legal entities referred to in § 1 within the limits laid down in Article 4 of the Berlin Constitution of 1950 but outside the territory of the present Western sectors of Berlin, the confiscation shall be deemed to have taken place within the scope of the legislation on the restitution of identifiable property referred to in § 11 No. 1 letter d if the persons from whom the property has been confiscated or their legal successors in title have, at any time between 30 January 1933 and 31 December 1961 had their domicile or permanent residence or their seat within the scope of this Act or in territories with whose Governments the Federal Republic of Germany maintained diplomatic relations on 8 October 1964. § Section 45(2) shall apply accordingly.

#### **§ 6**

If a final decision has been made or an amicable settlement has been reached before the entry into force of this Act with regard to a claim for restitution (§§ 1, 3) in whole or in part, the decision or the amicable settlement shall only have the effect provided for in this Act.

#### **§ 6a**

In proceedings concerning claims for restitution (§§ 1, 3), a claim may be denied in whole or in part by a court decision if the beneficiary has used unfair means or has deliberately or grossly negligently made, arranged or allowed incorrect or misleading statements about the reason or amount of the claim.

#### **§ 7**

On the basis of claims for reimbursement (§§ 1, 3), benefits can only be claimed in accordance with this law.

#### **§ 7a**

(1) In proceedings concerning restitution claims (§§ 1, 3), the submission of a certificate of inheritance should be waived if the entitlement to inherit can be proven even without the submission of a certificate of inheritance.

(2) If a restitution body requires the production of a certificate of inheritance, the probate court shall, at the request of the person entitled, issue a certificate of inheritance for the restitution claim. Insofar as, according to one of the legal provisions for the restitution of ascertainable assets mentioned in § 11 No. 1 letters a, b and d

a presumption of death occurs or another time of death has been determined, this presumption or determination shall be decisive for the issue of such a certificate of inheritance.

(3) The issue of the certificate of inheritance for the claim for restitution including the preceding proceedings is free of charge and expenses. This does not apply to the acceptance of the affidavit pursuant to Section 352 (3) sentence 3 of the Act on Proceedings in Family Matters and in Matters of Voluntary Jurisdiction.

## **§ 8**

Claims for reimbursement (§§ 1, 3) can be assigned, pledged or attached.

## **§ 9**

In proceedings concerning claims under restitution law (§§ 1, 3), the legal entities mentioned in § 1 shall be represented by the Federal Minister of Finance or subordinate authorities of the Federal Revenue Administration to be determined by him.

## **§ 10**

Insofar as, in proceedings concerning claims for restitution (§§ 1, 3), one of the legal entities mentioned in § 1 has been obliged or will be obliged to reimburse the costs of the proceedings to the entitled party, the claim for reimbursement of costs shall be directed against the Federal Government.

## **§ 11**

In this law are designated

1. as legal provisions for the reimbursement of identifiable assets
  - a) Law No 59 of 10 November 1947 (restitution of identifiable assets) of the Military Government of Germany - American Control Area - (Official Gazette of the Military Government of Germany - American Control Area - Issue G of 10 November 1947 p. 1) in the version applicable at the time of entry into force of this Act and its implementing provisions,
  - b) Act No 59 of 12 May 1949 (Restitution of Identifiable Property to Victims of National Socialist Repression) of the Military Government of Germany - British Control Territory - (Official Journal of the Military Government of Germany - British Control Territory - No. 28 p. 1169) in the version in force at the entry into force of this Act and its implementing regulations,
  - c) Decree No 120 of 10 November 1947 (restitution of stolen property) of the Military Government of Germany - French Control Territory - (Official Gazette of the French High Command in Germany No 119 of 14 November 1947 p. 1219) in the version in force at the entry into force of this Act and its implementing provisions,
  - d) Order BK/O (49) 180 of 26 July 1949 (restitution of ascertainable assets to victims of National Socialist repression) of the Allied Command Berlin (Verordnungsblatt für Groß-Berlin Teil I 1949 S. 221) in the version in force at the time this Act enters into force and its implementing provisions;
2. as successor organisations
  - a) which, under Article 13 of Law No 59 of 10 November 1947 of the Military Government of Germany - American Control Area - Jewish Restitution Successor Organization (IRSO), designated by Implementing Decree No. 3 and further designated pursuant to Article 9 of Order BK/O (49) 180 of 26 July 1949 of the Allied Commandantur Berlin by Order of 1 October 1949 of the American Commander of Berlin and Order No. 58 of 8 June 1950 of the French Military Government of Berlin,
  - b) the Jewish Trust Corporation for Germany (ITC) appointed pursuant to Article 8 of Law No 59 of 12 May 1949 of the Military Government of Germany - British Control Territory by the Seventh Order of 1 August 1950, and pursuant to Article 9 of Order BK/O (49) 180 of 26 July 1949 of the Allied Commandantur Berlin by Order No 2, and the Jewish Trust Corporation for Germany (ITC) appointed pursuant to the Eighth Order of 15 November 1950 and the Eleventh Order of 12 March 1951 implementing the aforementioned Law No 59 of the British Control Territory by the Eighth Order of 15 November 1950 and the Eleventh Order of 12 March 1951

Military Government and General Treuhand Organisation (ATO) established pursuant to Decree No 4 of 29 March 1951 implementing Article 9 of Order BK/O (49) 180,

- c) the Community funds set up by the Länder under Articles 9(2) and 14(1) of Order No 120 of 10 November 1947 of the Military Government of Germany - French Control Territory (as amended by Order No 268 of 29 September 1951)  
and  
the French division of the Jewish Trust Corporation for Germany, designated pursuant to Order No 177 in implementation of Article 21a of Regulation No 120 (as amended by Regulation No 268)
3. as Federal Indemnification Act  
the Federal Law on Compensation for Victims of National Socialist Persecution (Bundesentschädigungsgesetz - BEG) as amended by the Law of 29 June 1956 (Federal Law Gazette I p. 559)
4. as the Conversion Act  
the Third Act on the Reorganisation of the Monetary System (Conversion Act) - Act No 63 of the American and British Military Governments (Official Journal of the Military Government of Germany - American Control Area - Edition J p. 21 and Official Journal of the Military Government of Germany - British Control Area - p. 862) and Regulation No 160 of the French High Command (Official Journal of the French High Command in Germany p. 1537);
5. as the Conversion Supplementary Act  
the Act on the Supplementary Provisions of the Conversion Law and on the Equipping of the Berlin Old Banks with Equalisation Claims (Conversion Supplementary Act) of 21 September 1953 (Federal Law Gazette I p. 1439)
6. as an old savings law  
the Act to Mitigate the Hardship of the Currency Reform (Old Savings Bank Act) in the version of 1 April 1959 (Federal Law Gazette I p. 169) in conjunction with the Act on § 4 par. 4 of the Old Savings Bank Act of 10 December 1954 (Federal Law Gazette I p. 438)
7. as Reich Valuation Law  
the Reich Valuation Law of 16 October 1934 (Reich Law Gazette I p. 1035) in the version of the Law on the Valuation of Property for the calendar years 1949 to 1951 (main assessment 1949) of 16 October 1934 (Reich Law Gazette I p. 1035) in the version of the Law on the Valuation of Property for the calendar years 1949 to 1951 (main assessment 1949) of 16 October 1934 (Reich Law Gazette I p. 1035) January 1952 (Federal Law Gazette I p. 22).

## **Section Two**

### **Newly established claims for restitution**

#### **§ 12**

(1) Where, within the scope of Regulation No 120 of Regulation No 11(1)(c), which was applicable at the time of the confiscation, assets which were identifiable at the time of the confiscation are, by virtue of a disposition which is void or voidable within the meaning of Articles 1 to 3 of that Regulation, by one of the legal entities referred to in paragraph 1

this legal entity shall be liable for damages if the objects have been lost, damaged or reduced in value; the same shall apply if such assets were first seized by a third party and then transferred to one of the legal entities mentioned in § 1. The legal entity shall not be liable for damages if the legal entity proves that the loss, damage or reduction in value is not due to its fault.

(2) A sum of money paid to the entities referred to in § 1 in cash or on the basis of an order for payment shall not be considered an identifiable asset within the meaning of paragraph 1.

(3) If, before the entry into force of this Act, a final decision has been taken in a compensation procedure on a claim under paragraph 1, in whole or in part, or an amicable settlement has been reached on that claim, the decision or the amicable settlement shall be equivalent to a decision or an amicable settlement in restitution proceedings.

(4) The legal entities named in § 1 shall not be liable for damages under subsection 1 vis-à-vis successor organisations.

#### **§ 13**

(1) If removal goods have been confiscated by the German Reich in a European place outside the scope of this Act, the German Reich shall be liable for damages under the legal provisions for the restitution of ascertainable assets or under § 12 if the persecuted person has been removed from has emigrated or intended to emigrate within the scope of this Act and has had his or her last residence or permanent abode within the scope of this Act prior to emigrating or sending the removal goods. The confiscation shall be deemed to have taken place at the place where the persecuted person had his or her last residence or permanent abode within the scope of this Act prior to emigration or before the removal goods were dispatched.

(2) The right under paragraph 1 shall not apply if

1. there is a claim according to the legal provisions for the restitution of ascertainable assets (§ 11 No. 1) or according to § 12, or
2. the removal goods had reached their destination at the free disposal of the owner.

(3) The German Reich is not liable for damages under para. 1 above towards successor organisations.

(4) The obligation of the German Reich to pay damages does not apply to the extent that the person entitled has received compensation from another state. Insofar as this compensation was paid in foreign currency, it shall be credited against the amount of compensation at the exchange rate in force on 1 April 1956.

### **Third section**

#### **Treatment of claims for restitution under this Act**

##### **§ 14**

(1) If, before the entry into force of this Act, a legally binding decision has been made in whole or in part on a claim for restitution (§§ 1, 3) or an amicable settlement has been reached in a legally valid manner, the decision or the amicable settlement shall be deemed to have been supplemented or amended in accordance with §§ 15 to 26. The same shall apply if a previous decision has become final after the entry into force of this Act or an amicable settlement previously reached has become legally valid after the entry into force of this Act.

(2) If, at the time of the entry into force of this Act, no decision has yet been taken on a restitution claim (§§ 1, 3), the decision shall be taken in accordance with §§ 15 to 26.

(3) Sections 15 to 26 shall not apply to claims of the successor organisations or their legal successors which are covered by the global agreements concluded between the Federal Republic of Germany and the successor organisations or their legal successors.

##### **§ 15**

(1) Refund claims for payment of a Reichsmark amount shall be deemed to have been converted to Deutsche Mark at a ratio of 10:1 at the time of the currency conversion.

(2) The amount converted in accordance with paragraph 1 shall bear interest. Interest shall be paid at the rate of 25 per cent of the converted amount.

(3) Paragraph 2 shall not apply to claims for restitution of the net proceeds of the use.

##### **§ 16**

(1) Claims for reimbursement of damages are directed to compensation in German marks, even if they are directed according to the provisions of civil law to the creation of the condition that would exist if the circumstance obligating the compensation had not occurred. The replacement value of the seized asset within the scope of this law is to be taken as a basis for the assessment of the amount of damages. The replacement value on 1 April 1956 shall be decisive; if property has been confiscated, its condition at the time of confiscation shall be taken into account.

(2) No compensation is paid for advantages that would have been granted by the use of the seized asset. If other uses or interest or other monetary advantages have been lost, an amount of 25 per cent shall be added to the amount of damages pursuant to paragraph 1; the additional amount of 25 per cent shall be added from One hundred shall be reduced to 10 percent if use or other monetary advantages of withdrawn shares or other participations are lost.

### **§ 17**

(1) If the replacement value of the seized property cannot be determined on 1 April 1956 or if it is lower than the value of the property converted into German marks at a ratio of 10:1 at the time of the seizure, the value of the property converted into German marks at a ratio of 10:1 at the time of the seizure shall be deemed to be the amount of damages.

(2) § Section 16 (2) shall apply accordingly. This shall not apply if the amount of damages under subsection 1 is calculated on the basis of the loss of use or interest or other monetary benefits.

### **§ 18**

If, before the entry into force of this Act, the amount of damages has been determined in German marks by a final decision or amicable settlement, the amount determined shall be deemed to be the amount of damages under section 16 or under section 17, unless compensation is to be paid for seized claims or securities; section 14(1) second sentence shall apply mutatis mutandis. If, before the entry into force of this Act, the amount of damages has been fixed in German marks by a final and absolute decision without taking into account the loss of interest and benefits and other monetary advantages, the amount of damages shall be increased by the amount specified in § 16 para. 2 sentence 2 or in § 17 para. 2.

### **§ 19**

In the case of restitution claims for the payment of a pension, the amounts due up to 31 March 1956 shall be added together with the proviso that the Reichsmark amounts shall be converted into German marks at a ratio of 10:1. The pension payable from 1 April 1956 onwards shall be capitalised. The capital value of the pension shall be calculated in accordance with the provisions of the Reich Valuation Law.

### **§ 20**

(1) In the case of restitution-law claims for damages due to the withdrawal of a Reichsmark claim, which would have been converted as a Reichsmark claim in the meaning of § 13 para. 3 of the Conversion Act without the withdrawal, the Reichsmark claim shall be deemed to have been converted at the time of the withdrawal for the purpose of assessing the amount of damages of the conversion of the currency was converted to Deutsche Mark in the proportion in which the Reichsmark claim would have been converted without the withdrawal; if the withdrawn claim is directed against one of the debtors named in para. 14 of the Conversion Act, the amount of the compensation shall be determined in accordance with the future statutory regulation of the claim against the debtors named in para. 14 of the Conversion Act.

(2) In the case of claims for damages under the law of restitution due to the withdrawal of a credit balance which, without the withdrawal, would have been converted as old money credit within the meaning of § 1 para. 1 no. 1 of the Conversion Act or as original credit within the meaning of § 1 para. 1 of the Conversion Supplementary Act, the credit balance shall be converted into Deutsche Mark in the same proportion as it would have been converted without the withdrawal.

(3) § Section 16 (2) shall apply.

### **§ 21**

(1) When assessing the amount of compensation pursuant to para. 20, the amount of the compensation pursuant to para. 5 of the Old Savers Act shall be added to this amount if the rightful claim for restitution is due to the entitled person due to the withdrawal of a Reichsmark claim (para. 20 (1)) for which the entitled person would be entitled to compensation pursuant to the Old Savers Act. The withdrawn RM claim shall be treated as if the entitled party had been entitled to it from the time of the withdrawal until the time of the conversion to Deutsche Mark.

(2) Subsection 1 shall apply mutatis mutandis, provided that it is proven that compensation would have to be granted under the Old Savings Bank Act for a Reichsmark claim that had been withdrawn, if it had not been

paid before

the confiscation for reasons of persecution as defined by the legal provisions for the restitution of ascertainable assets would have been converted into a Reichsmark claim for which no compensation is granted under the Old Savings Bank Act.

(3) Paragraphs 1 and 2 shall apply mutatis mutandis to the withdrawal of a credit balance (Section 20(2)).

## **§ 22**

If the person entitled has both a claim for restitution damages and a claim for restitution of an amount of Reichsmark against one of the legal entities mentioned in § 1 on the basis of the same act of seizure, or if he has these claims at his discretion, the one claim shall not be affected by the other; however, the person entitled must allow the amount which he acquires on the basis of the one claim to be set off against the amount to which he is entitled on the basis of the other claim.

## **§ 23**

If the restitution claim (§§ 1, 3) is opposed by a counterclaim from the same facts of seizure, the restitution claim shall be reduced by the value of the counterclaim on 1 April 1956; § 20.1 second half-sentence shall apply accordingly.

## **§ 24**

If, at the time of the entry into force of this Act, a claim for restitution (§§ 1, 3) is due to several persons as a whole or jointly after fractions, any dispute by the community in respect of this claim shall be excluded. Any agreement to the contrary is null and void.

## **§ 25**

(1) A reimbursement claim (§§ 1, 3) on which a Land provides benefits is transferred to the Land up to the amount of the benefits. If the benefits were provided before the entry into force of this Act, the entitlement shall be deemed to have been transferred at the time of the benefits.

(2) Paragraph 1 shall apply mutatis mutandis where a country, by virtue of other legal provisions, has effected or is effecting benefits to which the beneficiary is also entitled by virtue of a right to reimbursement.

(3) A claim transferred under subsections 1 or 2 may not be asserted under this Act if a special levy within the meaning of the Federal Indemnification Act has been paid in cash or on the basis of an instruction to pay.

## **§ 26**

If a claim for reimbursement (§§ 1, 3) has been partially transferred to a third party, each of the entitled persons can assert the claim in its entirety. The claim can only be asserted that benefits are to be paid to the beneficiaries in proportion to their participation. The claim shall also be deemed to have been asserted in its entirety if a beneficiary asserts only the part attributable to him.

## **Fourth section**

### **Registration of claims for restitution and further proceedings**

#### **First title Newly established claims**

## **§ 27**

(1) Within the scope of application of the legal provisions referred to in Section 11 No. 1 letters a, b and d, claims under Section 13 shall be filed by the entitled person with the competent Central Registration Office.

(2) The application must have been received by the competent central registration office by 1 April 1959.

(3) The time limit of para. 2 shall be deemed to have been observed if the person entitled has filed the claim at a central registration office which is not competent according to para. 1 by 1 April 1959 or has asserted the claim by means of an action before the Restitution Chamber of an incompetent Regional Court.

(4) The legal provisions on the restitution of ascertainable assets (§ 11 No. 1 Letters a, b and d) shall apply to the procedure at the time of registration and the further procedure.

## **§ 28**

(1) Within the scope of application of the legal provisions mentioned in § 11 No. 1 letter c, claims pursuant to §§ 12, 13 shall be asserted by the beneficiary by means of an action before the Restitution Chamber of the competent Regional Court. If the claims have been asserted in compensation proceedings before the entry into force of this Act

If the claim has been filed, the filing of the action is also deemed to be a request to the compensation body to remit the case to the Chamber of Restitution.

(2) The action must be filed by 1 April 1959.

(3) § Section 27(3) shall apply mutatis mutandis.

(4) The legal provisions on the restitution of ascertainable assets (§ 11 No. 1 Letter c) shall apply to the proceedings. There is no obligation to hire a lawyer.

(5) There is no need to bring an action pursuant to para 1 if, within the time limit set out in para 2, an amicable settlement between the person entitled and the authority competent pursuant to Section 9 is submitted to the Chairman of the Chamber of Restitution for confirmation in accordance with the legal provisions mentioned in Section 11 No. 1 letter c.

## **Second title**

### **Reopening of the registration deadlines**

## **§ 29**

(1) Within the scope of application of the legal provisions mentioned in § 11 No. 1 letters a, b and d, a claim for restitution (§§ 1, 3) may be re-registered by the entitled person at the competent Central Registration Office if and to the extent that before the entry into force of this Act

1. the claim has been rejected by a final decision, or
2. the person entitled withdraws the application submitted with the application, or
3. the beneficiary has waived the claim.

(2) Paragraph 1 shall apply mutatis mutandis if the person entitled has not lodged the claim within the time limit laid down in the legislation governing the restitution of identifiable property.

(3) If the person entitled registers the claim under paragraph 1 or 2, such claim shall be deemed not to have been transferred to a successor organisation.

(4) In the case of subsection (1) No. 1, the legal force of a court decision shall not prevent the filed claim.

(5) § Section 27 subsections 2 to 4 shall apply.

## **§ 29a**

(1) The time limits of § 27.2, § 28.2 and § 29.5 shall be deemed to have been observed if the person entitled to restitution (§§ 1, 3) has erroneously registered the claim for restitution (§§ 1, 3) with an incompetent authority of the Federal Republic of Germany by 1 April 1959 or has asserted the claim by filing an action with an incompetent court of the Federal Republic of Germany and the ascertainable assets for which compensation is demanded are recognizable from the registration.

(2) The application pursuant to paragraph 1 shall become invalid if the claim is not asserted in the restitution proceedings by 8 October 1965. § Sections 27 subs. 4 and 28 subs. 4 shall apply mutatis mutandis.

## § 29b

(1) If a claim for restitution (§§ 1, 3) due to the confiscation of household effects in the formerly occupied western territories or due to the confiscation of jewellery and precious metal objects in the formerly occupied or incorporated territories has been rejected or withdrawn with legal effect because it could not be proven that the confiscated property had come into the area of jurisdiction pursuant to § 5, the claim may be asserted again in the restitution proceedings if such property has come wholly or predominantly into the area of jurisdiction pursuant to § 5 as a result of general measures from the area of confiscation.

(2) The general measures referred to in paragraph 1, and the areas and periods of withdrawal for which they are taken, shall be designated by an ordinance of the Federal Government requiring the approval of the Bundesrat.

(3) The claim must be made within one year of the entry into force of the legal regulation referred to in paragraph 2. § Sections 27(4) and 28(4) shall apply accordingly.

(4) By statutory order of the Federal Government, which requires the consent of the Bundesrat, it may be determined that subsections 1 to 3 shall apply *mutatis mutandis* to matters other than those referred to in subsection 1 if, by virtue of general measures, such matters have entered wholly or predominantly into the relevant area under section 5.

(5) Regulations under paragraphs 2 and 4 may be issued only until 31 December 1965.

## Third title

### Common rules

## § 30

(1) If, within the scope of the legal provisions mentioned in § 11 No. 1 letters a, b and d, a claim for restitution (§§ 1, 3) which, by its legal nature, was erroneously filed under §§ 189, 231 of the Federal Indemnification Act up to 1 April 1958, such filing shall be deemed timely notification in accordance with §§ 27, 29, if *the identifiable assets for which compensation is demanded are identifiable from the notification*; the same applies also if the notification is received after expiry of the period of

§ Section 189 of the Federal Indemnification Act by 1 April 1959. The application shall also be deemed to comply with the period for filing an action under section 28(2).

(2) If, within the scope of the legal provisions mentioned in § 11 no. 1 letter c, a claim for restitution (§§ 1, 3) of the legal nature of which it is legally entitled (§§ 1, 3) was erroneously filed in accordance with §§ 189, 231 of the Federal Indemnification Act by 1 April 1958, the deadline for filing an action shall be deemed to have been observed,

*if the application shows the ascertainable assets for which compensation is demanded*; the same shall also apply if the application was filed after the expiry of the deadline of § 189 of the Federal Indemnification Act until 1 April 1959. The notification shall also be deemed to be a notification in due time pursuant to sections 27 and 29.

(3) It is presumed that the application was made in error within the meaning of paras. 1 and 2 if it contains a description of the lost property which satisfies the restitution-lawful application requirements or if the reported loss occurred within the territory of the Reich after the status of 31 December 1937. The same presumption applies if the application was filed before 23 July 1957 or, if it was not within the scope of the law, before 23 October 1957. In the absence of these conditions, an erroneous application within the meaning of paragraphs 1 and 2 above only if the applicant proves that the person who made the application knew, at the time of the application, the facts which would have been necessary for a proper application under the provisions of restitution law; if the application was made by a representative, section 166 of the Civil Code shall apply *mutatis mutandis*.

(4) If compensation proceedings are pending, the compensation body must, upon request, refer the case to the competent compensation authority via the competent Central Claims Office. The application can only be made up to 5 September 1970.

(5) If the claim in the compensation proceedings has been fully or partially decided in a non-appealable or final manner or an amicable settlement has been reached in a legally valid manner, an application in accordance with paragraphs 1 and 2 shall become invalid if the claim is not asserted in the restitution proceedings within one year after the decision has become non-appealable or final or the amicable settlement has become legally valid. However, this period shall not end before 8 October 1965, and sections 27(4) and 28(4) shall apply mutatis mutandis.

(6) Is a claim for restitution (§§ 1, 3) in the Saarland, which is by its legal nature a restitution claim (§§ 1, 3), erroneously declared in accordance with §§ 189, 231 of the Federal Indemnification Act in the version of Act No. 658 introducing the Federal Indemnification Act of 6 February 1959 (Official Gazette of the Saarland p. 759) until 31 December 1959? If a claim has been filed by 31 December 1959, the period for filing an action under section 28 subs. 2 shall be deemed to have been complied with if the claim identifies the ascertainable assets for which compensation is demanded; the claim shall also be deemed to have been filed in due time under sections 27 and 29. In this case, the period under subs. 4 second sentence shall not end before March 31, 1968.

#### **Footnote**

§ Section 30 para. 1 sentence 1 and para. 2 sentence 1: IdF of the Art. I No. 9 G of 2 October 1964 I 809, 930 pursuant to the BVerfGE of 24 July 1968 I 967 annulled in so far as it contains the restriction 'if the application shows the identifiable objects for which replacement is sought' - 1 BvR 537/65 -

#### **§ 30a**

(1) If proceedings concerning claims for restitution (§§ 1, 3) are pending before a competent restitution authority, the matter shall, upon application by the person entitled, be referred via the competent Central Registration Office to the competent restitution authority or, if no such authority exists, to the competent restitution court of first instance.

(2) If such proceedings are pending before a reparation court which has no jurisdiction, the case must be referred, at the request of the person entitled, via the competent Central Registration Office to the competent reparation authority or to the competent first instance reparation court.

#### **§ 30b**

If a claim for restitution (§§ 1, 3) has been validly registered in accordance with the legal provisions mentioned in § 11 No. 1 letters a, b and d or in accordance with §§ 27, 29 and 30 without the individual identifiable assets for which replacement is demanded being identifiable, the registration shall become invalid unless the description of the individual assets for which replacement is demanded has been provided by 5 September 1970.

### **Fifth section**

## **Payment obligation of the Federal Republic of Germany**

### **First title**

## **Load carrying and ranking of claims**

### **§ 31**

(1) The Federal Republic of Germany is obliged to fulfil the claims for restitution (§§ 1, 3) in accordance with the following regulations.

(2) The Federal Government shall bear the costs arising from the obligation under paragraph 1.

### **§ 32**

(1) The claims for restitution (§§ 1, 3) are summarized for the individual beneficiary in a notice (§ 38) and satisfied in accordance with the following provisions.

(2) The following shall be satisfied from the total amount determined for the individual beneficiary in the notice (§ 38)

1. Claims up to the amount of 40,000 German marks and in the amount of 75 percent of the amount exceeding 40,000 German marks;
2. claims for the remaining 25 percent of the amount exceeding 40,000 German marks
  - a) from 1 January 1965, if the entitlement is due to a natural person who has reached the age of 65
  - b) from 1 January 1966, if the entitlement is due to a legal person which, according to its statutes or other constitution and according to its actual management, serves exclusively and directly ecclesiastical, charitable or non-profit-making purposes,
  - c) from 1 January 1967 if the entitlement is granted to persons other than those referred to in points (a) and (b).

### **§ 33**

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### **§ 34**

(1) The total amount determined for the individual beneficiary in the decision (§ 38) shall, in so far as it has not yet been paid on 31 December 1967, bear interest from 1 January 1968. The interest shall amount to 1 per cent for each quarter or part thereof.

(2) The assertion of further damage caused by delay is excluded.

### **§ 35**

The provisions of §§ 32, 34 shall not apply to the satisfaction of the claims for restitution (§§ 1, 3) of the successor organisations or their legal successors as specified in § 14 para. 3.

### **§ 36**

Advance payments shall be set off against the payments to be made by the Federal Republic of Germany pursuant to §§ 32, 34. The same shall apply to loans which have been granted with the proviso of a set-off in accordance with the regulation of the monetary liabilities of the German Reich under the restitution law. The set-off shall become effective on 1 April 1956; if the beneficiary has received advance payments or loans after 1 April 1956, the set-off shall become effective on the date of payment.

### **§ 37**

If a claim for restitution (§§ 1, 3) has been partially transferred to a Land pursuant to § 25, the payments to be made pursuant to §§ 32, 34 shall be made to the Land until the transferred claim has been satisfied.

## **Second title Procedure**

### **§ 38**

(1) The Federal Office for Central Services and Unsettled Property Issues shall issue the entitled person with the following information on the property in accordance with

In accordance with § 31, the Federal Republic of Germany must submit a decision on the claims for restitution (§§ 1, 3). In the case of section 14(1), the notice shall state whether and to what extent the decision or amicable settlement is deemed to be supplemented or amended in accordance with sections 15 to 26.

(2) (dropped out)

### **§ 39**

(1) The notification shall contain

1. the name of the issuing authority,
2. the personal data of the beneficiary,

3. the personal data of the person pursued, insofar as he/she is not the same person as the person entitled,
4. a description of the decisions or amicable settlements on which the decision is based,
5. the indication of the amount of the claims for restitution taking into account § 23,
6. an indication of the total amount of money owed,
7. the distribution of the amount of money in accordance with § 32,
8. the crediting of advance payments or loans (§ 36),
9. the indication of the beneficiaries in the case of § 37,
10. a reference to the interest payable under section 34,
11. the reasons for the division of the amount of money,
12. the information on the right of appeal,
13. the date and the signature.

(2) In the case of Section 38 para. 1 sentence 2, the notification shall also contain the reasons for the amendment or addition pursuant to Section 14 para. 1.

#### **§ 40**

(1) The Federal Office for Central Services and Unsettled Property Issues shall, ex officio, investigate all facts relevant to the decision under section 39(1) Nos 5 and 7; all authorities and courts shall provide administrative and legal assistance to it free of charge.

(2) The Federal Office for Central Services and Unsettled Property Issues may, in particular, request a mission abroad of the Federal Republic of Germany in whose district an entitled person, witness or expert has his or her domicile or permanent residence, to hear the entitled person, witness or expert. The facts which are to be the subject of the hearing shall be stated.

(3) The Federal Office for Central Services and Unsettled Property Issues is authorised to accept affidavits in lieu of oath.

(4) The person entitled and his authorised representative may inspect the files of the Federal Office for Central Services and Unsettled Property Issues, including the files brought by the latter. They may produce extracts and copies themselves or have them issued against reimbursement of the costs.

(5) For special reasons, the applicant and his agent, if he is not a lawyer, may be refused access to the file or parts of the file, and the production or issue of extracts and copies.

(6) Only lawyers have a right to receive the files.

#### **§ 41**

The notice shall be served on the person entitled to it. Notifications are made in accordance with the provisions of the Administrative Service of Documents Act.

#### **§ 42**

(1) Within a period of three months after service of the notice, the person entitled may apply for a court decision; the application may be based in particular on the fact that the notice incorrectly divided the amount of money in accordance with section 32 or, if a court decision has become final or an amicable settlement has become legally binding before the entry into force of this Act (section 14(1)(b) of the Act), on the fact that the amount of money has been distributed in accordance with section 32 or, if a court decision has become final or an amicable settlement has become legally binding before the entry into force of this Act (section 14(1)(c) of the Act).

1), the amount of the sum due is incorrectly determined in the decision. If the beneficiary resides abroad, the three-month period shall be replaced by a six-month period.

(2) The time limits pursuant to subsection (1) above are emergency time limits and shall commence with the service of the notice, provided that the notice contains the information on the right of appeal pursuant to section 39(1) No 13.

(3) Within the scope of the legal provisions referred to in § 11 No. 1 letters a, b and d, the application shall be submitted to the Reparation Chamber of the competent Regional Court. Within the scope of the legal

provisions mentioned in § 11

1(c), the claim shall be filed with the Restitution Chamber of the competent Regional Court.

(4) The competent court is the regional court which was or would have been competent in the previous restitution proceedings. If this Regional Court is no longer competent for restitution proceedings, the Regional Court to which its competence has been transferred shall take its place.

(5) The legal provisions on the restitution of ascertainable assets (§ 11 No. 1) shall apply to the proceedings. There is no obligation to hire a lawyer.

### **§ 43**

Payment shall be made without delay after notification of the decision, in the amount of the amounts due under the decision.

#### **§ 43a**

(1) If a claim for restitution (§§ 1, 3) has been established by a legally binding decision or a legally valid amicable settlement and if it subsequently turns out that the entitled person used unfair means or intentionally or grossly negligently provided, initiated or allowed incorrect or misleading information about the reason or amount of the claim, the Federal Office for Central Services and Unsettled Property Issues may apply to have the claim for restitution rejected in whole or in part by revoking the decision or the amicable settlement.

(2) If a decision has already been issued, the application referred to in paragraph 1 may be accompanied by an application to amend the decision and order the person entitled to the benefits already paid to repay the benefits.

(3) The application referred to in paragraphs 1 and 2 may be submitted only within a period of 6 months. The period shall commence on the day on which the Federal Office for Central Services and Unsettled Property Issues becomes aware of the facts justifying the application pursuant to subsections 1 or 2. After the expiry of 5 years, the application shall be inadmissible; this period shall commence on the day on which the decision has become final or the amicable settlement has become legally binding, but not before 8 October 1964.

(4) § Section 42 paras 3 to 5 shall apply.

## **Sixth section Hardness compensation**

### **§ 44**

(1) Natural persons from whom property identifiable within the scope of this Act has been seized by one of the legal entities mentioned in § 1 may, upon application, be granted hardship compensation to alleviate an emergency situation resulting from the seizure.

(2) The same shall apply to legal entities and their legal successors, provided that they are non-profit-making within the meaning of the Ordinance on Public Benefits and the compensation for hardship is necessary for the fulfilment of their tasks within the scope of this Act.

(3) The hardship benefits under paragraphs 1 and 2 may not exceed a total amount of 10 million German marks.

(4) Applications under para. 1 shall be submitted to the Federal Office for Central Services and Unsettled Property Issues by 1 April 1959, applications under para. 2 by 8 October 1965.

#### **§ 44a**

(1) If a claim for restitution (§§ 1, 3) has not been registered within the period of time specified in §§ 29, 27 because of the confiscation of household effects in the formerly occupied western territories or because of the confiscation of jewellery and precious metal objects in the formerly occupied or incorporated territories on application, hardship compensation may be granted if such assets have been transferred wholly or predominantly from the area of seizure to the area of jurisdiction under § 5 on the basis of general measures. The general measures referred to in the first sentence and the areas and periods of expropriation for which they have been taken shall be regulated by a statutory instrument of the Federal Government, which must be approved by the Federal Government.

of the Federal Council. By statutory order of the Federal Government, which requires the consent of the Bundesrat, it may be determined that hardship compensation may also be granted on account of the deprivation of objects other than those mentioned in the first sentence if such objects have, on the basis of general measures, been taken out of the area of deprivation and have, wholly or predominantly, entered the area of application pursuant to § 5; sentence 2 shall apply accordingly. Statutory orders under sentences 2 and 3 may only be issued until 31 December 1965.

(2) Hardship compensation is only granted to natural persons who were owners of the seized property at the time of the seizure. If the owner is deceased, hardship compensation is granted to the surviving spouse and the children of the owner.

(3) Compensation for hardship shall not be granted if the persons entitled to receive under subsection 2 had their residence or permanent abode on 8 October 1964 in areas with whose governments the Federal Republic of Germany had no diplomatic relations at that time. § 45.2 shall apply mutatis mutandis.

(4) The application for hardship compensation may be filed by the persons entitled to receive under subsection (2) above; if several persons are entitled to receive, the application of one person entitled to receive shall apply in favour of all persons entitled to receive, who are known to the competent authority under subsection (5) above at the time of the decision on the hardship compensation. If an application has been filed by several persons entitled to receive pursuant to subsection (2) or if one application is in favour of several persons entitled to receive, the hardship compensation shall be granted to them jointly. In the cases of subsection (2), second sentence, they shall be entitled in proportion to the shares corresponding to their shares in the estate of the owner (subsection (2), first sentence).

(5) The Federal Government shall determine by statutory order, which requires the consent of the Bundesrat, the authority responsible for receiving the application and for deciding on the hardship compensation. The application must be received by the authority competent under the first sentence within one year of the entry into force of the statutory instrument.

(6) The authority competent under paragraph 5 shall investigate of its own motion all facts relevant to the granting of compensation for hardship; all authorities and courts shall provide it with administrative and legal assistance free of charge. The authority competent under paragraph 5 shall be authorised to take affidavits in lieu of oath.

(7) The hardship compensation amounts to 8,000 German marks for the deprivation of household effects in the formerly occupied western territories, and 2,000 German marks for the deprivation of jewellery and precious metal objects in the formerly occupied or incorporated territories. However, the compensation for hardship shall amount to a maximum of two thirds of the replacement value (§ 16) of the confiscated items.

(8) Insofar as the statutory instrument provided for in subsection 1 sentence 3 also permits hardship compensation for objects other than those referred to in subsection 1 sentence 1, it may also determine which advance payments on the hardship compensation are to be paid; subsection 7 sentence 2 shall apply mutatis mutandis.

(9) If assets have been seized from several members of a family community, the hardship compensation is only granted once. In this case, the payments pursuant to subsection 7 shall be increased by 20 from A hundred for the spouse and 10 of a hundred for each child. The hardship compensation shall, however, amount to a maximum of two thirds of the replacement value (§ 16) of the assets seized from the family community as a whole. Spouses and their unmarried legitimate children who had not yet reached the age of 21 are deemed to be family communities; the age and marital status at the time of the deprivation are decisive.

(10) In the case of paragraph 9, hardship compensation is granted jointly to the members of the family community. They shall participate in the hardship compensation in proportion to the replacement value of the objects taken from them. If a member of the family community has died, paragraph 2 sentence 2 shall apply accordingly.

(11) The provisions of paragraphs 1 to 10 shall be implemented within the limits of the appropriations entered in the relevant budget.

## **Section Seventh Final provisions**

#### **§ 45**

(1) Claims under this Act shall not be satisfied as long as the person entitled has his residence or permanent abode in areas with whose governments the Federal Republic of Germany does not maintain diplomatic relations.

(2) The Federal Government may determine which states with whose governments the Federal Republic of Germany does not maintain diplomatic relations shall be treated as if diplomatic relations were maintained with them.

#### **§ 46**

(1) This Act shall also apply in the State of Berlin in accordance with § 13 para. 1 of the Third Transition Act of 4 January 1952 (Federal Law Gazette I p. 1).

(2) Insofar as reference is made in §§ 11, 20 and 21 to the provisions on the reorganisation of the monetary system, these provisions shall be replaced by the corresponding provisions in force in Berlin.

#### **§ 47**

*This law does not apply in Saarland.*

#### **§ 48**

This Act shall enter into force on the day of its promulgation.