



Restitution of German Property Seized under the National-Socialist Regime

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RESTITUTION OF GERMAN PROPERTY SEIZED UNDER THE NATIONAL-SOCIALIST REGIME

Property Located in Former West Germany

In West Germany, restitution or compensation for property confiscated under the National-Socialist regime was carried out following World War II on the basis of various occupation laws of the Allied Powers.¹ In 1957, a Federal Restitution Law was enacted. It provided a deadline for the filing of new claims of April 1, 1959.² Several amendments to this Law extended some filing deadlines to 1966.³ The latest of these amending laws was enacted in 1969, and it extended the filing deadline for some claims to September 5, 1970.⁴ On the basis of this legislation, it appears unlikely that any restitution claims for property located in former West Germany could still be made today, unless they had been filed by 1970.

Property Located in Former East Germany

In East Germany, restitution for property confiscated by the National-Socialist regime was granted only in exceptional cases. Instead, the Communist regime transferred such property to the East German state.⁵

Restitution or compensation for property located in former East Germany that was confiscated by the National-Socialist regime was made possible through the German Unification Treaty that became effective on October 3, 1990.⁶ The Treaty contains a Law on the Settlement of Open Property Questions that was amended and repromulgated in April 1991.⁷ This Law deals primarily with restitution and compensation for property confiscated since 1949 by the East German government. However, the Law is also applicable to claims of victims of National-Socialist persecution who lost property through confiscation, forced sales, or in other discriminatory ways during the period January 30, 1933, through May 8, 1945.⁸

¹ W. Schwarz, *Rückerstattung nach den Gesetzen der Alliierten Mächte* (München, 1974).

² Bundesrückerstattungsgesetz, July 19, 1957, *Bundesgesetzblatt* (BGBl., official law gazette of the Federal Republic of Germany) I, p. 141.

³ F. Pick, "Fristentabelle für das BrueG," 16 *Rechtsprechung zum Wiedergutmachungsrecht* 397 (1965).

⁴ Viertes Gesetz zur Änderung des Bundesrückerstattungsgesetzes, September 3, 1969, BGBl. I, p. 1561.

⁵ *Supra* note 1, Schwarz, at 327.

⁶ Einigungsvertrag, August 31, 1990, BGBl. II, p. 885. art. 41.

⁷ Gesetz zur Regelung offener Vermögensfragen (VermG), repromulgated April 18, 1991, BGBl. I, p. 957.

⁸ VermG, § 1, para. 6.

For claims of victims of National-Socialist persecution, a filing deadline of March 31, 1991, has been set in a regulation.⁹ Although claims can still be filed after this deadline, they will be satisfied through monetary compensation instead of restitution, if the current owner had recently disposed of the property in reliance on the absence of any claims.¹⁰ Compensation instead of restitution is also granted under various other circumstances which render restitution difficult or impossible.¹¹

German nationals should file their claims with the local administrative authorities where they reside or where the property is located. Claimants residing abroad should submit their claims to the Federal Minister of Justice at the following address:¹²

Bundesminister der Justiz
Heinemannstrasse 6
5300 Bonn 2
GERMANY

The claims will be processed by agencies that are being established in the new *Länder* (states) of former East Germany.¹³ To ensure uniformity in the implementation of the Law, a Federal Office for the Settlement of Open Property Questions (*Bundesamt zur Regelung offener Vermögensfragen*) was created.¹⁴

It is expected that claims of victims of National-Socialist persecution will be numerous and that they will pose many evidentiary problems.¹⁵ Claimants should submit proof of the discriminatory acts. If the property was lost through a forced sale and less than the market value had been obtained, the sales contract and any other documents pertaining to the sale should be submitted. If the property was confiscated, the administrative decision pronouncing the confiscation should be submitted. If the property was confiscated through a court decision, then the court decision should be submitted. For all real property, the records of the real property register should be obtained. In addition, if the rights to claim restitution or compensation have passed to the victim's heirs, then a certificate of inheritance (*Erbschein*) or a notarized testament should be furnished.¹⁶

⁹ Verordnung über die Anmeldung vermögensrechtlicher Ansprüche, repromulgated October 11, 1990, BGBl. I, p. 2162.

¹⁰ VermG, § 3, para. 4.

¹¹ VermG, § 5.

¹² *Supra* note 9, § 2.

¹³ VermG, § 23.

¹⁴ VermG, § 29.

¹⁵ H. Koerner, *Offene Vermögensfragen in den neuen Bundesländern* 82 (München, 1991).

¹⁶ *Id.* at 77.

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