



Federal Ministry
of Finance

Federal Ministry



Compensation for National Socialist Injustice Indemnification Provisions



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Contents

I.	Legislation concerning compensation and the consequences of war, and international agreements	Page 5
1.1	Beginnings of compensation under occupation law	Page 5
1.2	Restitution	Page 5
1.3	Compensation regulations in the occupation zones	Page 6
1.4	Settlement Convention and Luxembourg Agreement	Page 6
1.5	Additional Federal Compensation Act (1953) and Federal Compensation Act (1956)	Page 7
1.6	Implementing Regulations to the Federal Compensation Act	Page 7
1.7	Final Federal Compensation Act (1965)	Page 7
1.8	General Act Regulating Compensation for War-induced Losses	Page 8
1.9	Payments in the former GDR and new Länder	Page 8
1.10	First comprehensive agreements with European states	Page 9
1.11	US Comprehensive Agreement	Page 9
1.12	Arrangements with Eastern European states	Page 9
1.13	Central and Eastern European Fund (JCC)	Page 10
1.14	Compensation for forced labourers and other victims: The Foundation for Remembrance, Responsibility and the Future	Page 11
1.15	Washington Conference on Holocaust-Era Assets	Page 13
II.	Extra-legal provisions based on the Federal Compensation Act	Page 15
2.1	Compensation settlement for Jewish victims	Page 15
2.2	Fund for those not of the Jewish faith who were persecuted as Jews under the National Socialist regime	Page 18
2.3	Compensation settlement for non-Jewish victims	Page 20
2.4	Compensation settlements for victims of pseudo-medical experiments	Page 21

III.	Legislation for the new Länder	Page 23
3.1	Compensation Pension Act	Page 23
3.2	Extra-legal regulations based on the Compensation Pension Act	Page 24
3.3	Property law regulations in the territory of the former GDR	Page 25
IV.	Regulations on the basis of the General Act Regulating Compensation for War-induced Losses	Page 27
4.1	General Act Regulating Compensation for War-induced Losses of 5 November 1957	Page 27
4.2	Directives on hardship compensation under the General Act Regulating Compensation for War-induced Losses	Page 28
4.3	Payments to victims of the National Socialist military judiciary	Page 33
4.4	Further information	Page 33
V.	Payment in recognition of work other than forced labour performed in a ghetto	Page 34
	Annexes 1 – 8 (statistics and supplementary information)	Page 36

I. Legislation concerning compensation and the consequences of war, and international agreements

1.1 Beginnings of compensation under occupation law

It was clear even directly after the end of the Second World War that legislation governing compensation for the wrongs committed by the National Socialist regime was required. Particularly affected were those who had suffered National Socialist oppressive measures due to their political opposition to National Socialism or on the grounds of race, religion or ideology. Legislation for these persons was therefore drawn up at an early stage by the occupying powers, the municipalities and since their establishment the Länder (federal states).

1.2 Restitution

In 1947 and 1949, the three Western powers passed restitution acts for their occupation zones and West Berlin governing restitution of and compensation for property unjustly confiscated between 1933 and 1945 for reasons of racial, religious or political persecution. Following the establishment of the Federal Republic of Germany, restitution claims against the German Reich and other German entities involved in such confiscation were governed by the Federal Act for the Settlement of the Monetary Restitution Liabilities of the German Reich and Legal Entities of Equal Legal Status (Federal Restitution Act) of 19 July 1957 (Federal Law Gazette I p. 734). The restitution process was concluded a long time ago. The application deadlines have passed and the administrative procedures have ceased to operate.

Following German unification, the provisions from the restitution acts were adopted for the new federal states in the Act on the Settlement of Open Property Matters (which entered into force together with the Unification Treaty) and the Federal Act for the Compensation of the Victims of National Socialist Persecution (Article 3 of the Compensation and Corrective Payments Act).

1.3 Compensation regulations in the occupation zones

As far as compensation law governing personal injury cases and damage to property not covered by restitution is concerned, Land laws were adopted in the American occupation zone as early as 1946. They provided for provisional payments for healthcare, vocational training, economic assistance or remedies for distress situations and pensions for victims and their dependants. On 26 April 1949, the Act on the Treatment of Victims of National Socialist Persecution in the Area of Social Security was adopted by the Southern German Länder Council for all zones. This was promulgated by Land laws in Bavaria, Bremen, Baden-Württemberg and Hesse in August 1949. In line with Article 125 of the Basic Law, these Land laws became federal law after the establishment of the Federal Republic of Germany and entry into force of the Basic Law. In the Länder of the British and French occupation zones and West Berlin, corresponding laws were enacted which, with the exception of Länder in the British occupation zone, governed the same types of damage as the Act on the Treatment of Victims of National Socialist Persecution in the Area of Social Security.

1.4 Settlement Convention and Luxembourg Agreement

Just as the Länder and municipalities had done prior to its establishment, the Federal Republic of Germany continued to treat the moral and financial compensation for the wrongs committed by the National Socialist regime as a priority task. It committed to this in the Settlement Convention concluded in 1952 with the three Western occupying powers (Federal Law Gazette II 1954 p. 57, 181, 194) and in the Luxembourg Agreement (with the State of Israel) and in the First Protocol to the Luxembourg Agreement (with the Jewish Claims Conference – JCC) of 1952 (Federal Law Gazette II 1953 p. 35). Accordingly, Germany was endeavouring together with all parties concerned, above all the victims' organizations, to draw up compensation regulations which were as comprehensive as the financial framework allowed and administratively workable within a suitable period of time. This confronted the legislature, administration and judiciary with entirely new tasks, for which they had no models or experience to draw on. Despite these difficulties, legislation was drawn up embracing almost all damages or injuries caused by National Socialist injustice. The victims of National Socialism could thus be helped at least in material terms. All the legislation offers comparable levels of compensation depending on the reason for and scale of injury.

1.5 Additional Federal Compensation Act (1953) and Federal Compensation Act (1956)

The first compensation act covering the entire Federation was the Additional Federal Compensation Act which was adopted on 18 September 1953 (Federal Law Gazette I p. 1387) and entered into force on 1 October 1953. Although this was much more than an addition to the Act on the Treatment of the Victims of National Socialist Persecution in the Area of Social Security and in particular created legal equality and security on federal territory, its provisions also proved inadequate. Following very detailed and careful preparation, the Federal Compensation Act (Federal Law Gazette I p. 562) was adopted on 29 June 1956 and entered into force with retroactive effect from 1 October 1953. This Act fundamentally changed compensation for the victims of National Socialism and introduced a number of amendments improving their situation. At the outset, the Federal Compensation Act only provided for applications to be submitted until 1 April 1958.

1.6 Implementing Regulations to the Federal Compensation Act

Six Implementing Regulations to the Federal Compensation Act have been issued of which the first three have been regularly amended to adapt the ongoing payments (pensions) to increasing living costs.

The Fourth Implementing Regulation governs the reimbursement of costs for the involvement of insurance companies in resolving claims for compensation for insurance losses.

The Fifth Implementing Regulation determines which pension schemes were dissolved by National Socialist oppressive measures.

In the Sixth Implementing Regulation (concentration camp directory), the German Government established which prison camps were to be considered concentration camps as part of the provision in Section 31 (2) of the Federal Compensation Act governing the assumed loss of earning power.

1.7 Final Federal Compensation Act (1965)

In applying the Federal Compensation Act, further need for amendment became clear. There was an awareness that the new piece of legislation would not be able to take account of all the demands of those eligible for compensation and that, given the high number of settled cases, these could not be re-opened. The amendment was thus to constitute the final piece of legislation in this field. After four years of intense negotiations in the competent committees of the German Bundestag and Bundesrat, the Final Federal Compensation Act was adopted on 14 September 1965 (Federal Law Gazette I p. 1315), its very name emphasizing that it was to be the last.

The Final Federal Compensation Act considerably extended the deadline (originally 1 April 1958, cf. I.5) as follows:

> Annulling the deadline in cases of claims for immediate assistance and for mitigation of hardship (Section 189 (1) of the Federal Compensation Act)

> Restoring to the original legal position in the case of failure to submit applications prior to the deadline through no fault of the applicant (Section 189 (3) of the Federal Compensation Act)

> Deadline for subsequent registration of claims extended to 31 December 1965 (Section 189a (1) of the Federal Compensation Act)

> Subsequent registration of facts that had come to light after 31 December 1964 within one year (Section 189a (2) of the Federal Compensation Act)

Nevertheless, Article VIII (1) of the Final Federal Compensation Act provides that even in cases of the original legal position being restored no claims can be made after the period of time after which a right can no longer be exercised, that is after 31 December 1969, meaning claims for compensation payments pursuant to the Federal Compensation Act can no longer be submitted.

However, payments for damage to health can be adapted as part of the procedure governing cases of a further worsening of the disablement.

Furthermore, initial decisions can be revised through secondary procedures if they have been proven wrong according to the current interpretation of the law.

The compensation and restitution acts were complemented by laws on compensation for members of the public service and in the sphere of insurance and pension law.

1.8 General Act Regulating Compensation for War-induced Losses

The legislator reserved the payments provided for in the compensation laws for those who had been the victim of typical National Socialist injustice meaning those persecuted for reasons of race, religion or politics. For other injustice leading to loss of life, damage to limb or health and deprivation of liberty, compensation is granted pursuant to the General Act Regulating Compensation for War-induced Losses of 5 November 1957 (Federal Law Gazette I p.1747). Pursuant to Section 5 of this Act in conjunction with the general legal provisions, pensions and one-time compensation payments could and can be paid in exceptional cases even today.

1.9 Payments in the former GDR and new Länder

In the former Soviet occupation zone and subsequent German Democratic Republic (GDR), there were payments for victims of fascism but these were mainly paid to those viewed favourably by the system. General regulations on compensation for National Socialist injustice applying to the entire area of the new Länder could only be agreed following reunification (see III.1 below). The Act on the Settlement of Open Property Matters entered into force with the Unification Treaty. It provides, where possible, for the restitution of assets confiscated between 1933 and 1945 due to National Socialist persecution and from 1949 by the GDR.

If restitution is not possible, those who suffered injustice up to 1945 receive compensation pursuant to the Federal Act for the Compensation of the Victims of National Socialist Persecution of 27 September 1994. US citizens alternatively had the possibility of partaking in the property law procedures in Germany to receive compensation based on the Agreement Concerning the Settlement of Certain Property Claims of 13 May 1992 with the United States (see 3.3).

1.10 First comprehensive agreements with European states

From 1959 to 1964, comprehensive agreements were concluded with Austria, Belgium, Britain, Denmark, France, Greece, Italy, Luxembourg, the Netherlands, Norway, Sweden and Switzerland for the benefit of nationals of these countries who had suffered National Socialist persecution. On the basis of these agreements, the Federal Republic of Germany made available a total of EUR 496.46 million (DM 971 million). It fell to the governments of the countries concerned to distribute this financing amongst the victims. The comprehensive agreements have now been closed (see Annex 7 for data on the individual agreements).

1.11 US Comprehensive Agreement

In 1995, a German-American Comprehensive Agreement on Compensation for Victims of National Socialism was concluded. It provides for compensation payments of EUR 1.5 million (DM 3 million) for US citizens who suffered particular hardship as a result of National Socialist persecution who until then had been excluded from compensation and support payments on technical grounds. In the final Supplementary Agreement of 25 January 1999 to the Comprehensive Agreement on Compensation with the United States of America, an additional lump sum payment of EUR 17.6 million (DM 34.5 million) was agreed upon by the Government of the Federal Republic of Germany and the Government of the United States of America. The German Government sees this as a sign of goodwill and humanity. The US Government committed to make payments to all the American victims of National Socialism in question from the agreed comprehensive sum.

1.12 Arrangements with Eastern European states

Following the process of German unification and the ending of the East-West conflict, the German Government concluded arrangements on compensation for National Socialist injustice with Poland and three successor states of the Soviet Union (the Republic of Belarus, the Russian Federation and Ukraine).

The Federal Republic of Germany and the **Republic of Poland** agreed in 1991 to establish the Foundation for German-Polish Reconciliation in Poland which was subject to Polish law and financed with a one-time contribution of EUR 255.64 million (DM 500 million). These funds were for persons who had suffered serious damage to health during the Second World War due to National Socialist injustice and were subsequently in a difficult financial situation.

Foundations for Understanding and Reconciliation were established in **Moscow, Minsk and Kiev** in 1993 for the same purpose. Germany donated a total of EUR 0.51 billion (DM 1 billion) for these foundations. They in turn gave the assurance of making payments to National Socialist victims in other states of the former Soviet Union.

More than 15,000 persons eligible for compensation in the Baltic states (Estonia, Latvia and Lithuania) received payments on the accepted scale from the funds of the foundations in Moscow and Minsk. Because some of those eligible from the Baltic states refused to apply to the foundations in Moscow and Minsk, additional infrastructure assistance of EUR 1.02 million (DM 2 million) was granted to the government of each Baltic state. Social institutions especially for the victims have been supported using these funds.

Compensation payments were also made to the other Eastern and South-Eastern European states of the former Eastern bloc:

For **Czech victims of National Socialism**, compensation was granted by the German-Czech Future Fund in accordance with the German-Czech declaration of 21 January 1997. Germany made EUR 71.58 million (DM 140 million) available for this Fund.

In order to carry out similar measures in the other **Central and Eastern European countries** (Albania, Bosnia, Bulgaria, Yugoslavia, Croatia, Macedonia, Romania, Slovakia, Slovenia and Hungary), the 1998 German budget earmarked EUR 40.90 million (DM 80 million) to be made available from 1998 to 2000. Various national institutions, usually the national Red Cross, assumed responsibility for carrying out such measures in the remaining Central and Eastern European states.

1.13 Central and Eastern European Fund (JCC)

Given the particular suffering of Jewish victims in Central and Eastern European states, the Jewish Claims Conference established a Fund to finance additional measures for Jewish victims who had suffered particular hardship. The fund makes monthly payments of EUR 260 to victims of National Socialism who are residents of Eastern European countries. The conditions set out in the Article 2 Agreement apply. The German Government paid contributions of around EUR 356.8 million to the Fund for the years 1999 to 2010 and will contribute further to enable Fund payments to continue.

Applications for payments from the Central and Eastern European Fund are to be submitted to:

Claims Conference CEEF
P.O. Box 29733
Tel Aviv 612 97
Israel

1.14 Compensation for forced labourers and other victims of National Socialism: The Foundation for Remembrance, Responsibility and the Future

The Foundation for Remembrance, Responsibility and the Future was established by the Act on the Creation of a Foundation for Remembrance, Responsibility and the Future of 2 August 2000 (Federal Law Gazette I p. 1263) and equipped with EUR 5.16 billion (DM 10.1 billion) to provide compensation in particular to former forced labourers. These monies were made available by the Federal Republic of Germany and German companies.

The main purpose of the Foundation was to make financial compensation available to affected persons through partner organizations. The individual partner organizations were responsible for accepting and examining claims.

An application deadline – of 31 December 2001 – had to be introduced to ensure that payments to those eligible are made without delay; an extension – until 31 December 2002 – was granted where claimants failed to meet this deadline through no fault of their own.

The Foundation's resources for payments to forced labourers and other victims of National Socialism have now been fully disbursed. More than 1.7 million people, 1.66 million of whom were former forced labourers, received payment.

This brought an end to the individual payments as of 31 December 2006, as provided for in the Act itself. **New applications may no longer be filed.**

Of the Foundation's capital, EUR 4.37 billion was disbursed for payments to former forced labourers. Under the Act, the following were entitled to apply:

> Persons who were detained in a concentration camp as defined in Section 42 (2) of the Federal Compensation Act or detained under comparable conditions in some other prison camp outside the present-day territory of the Republic of Austria or in a ghetto and who were subjected to forced labour (Section 11 (1) (1)).

> Persons who were deported from their native country to the territory of the German Reich within its borders of 1937 or to a region occupied by the German Reich and were subjected to forced labour in an industrial or commercial enterprise or in the public sector and were detained under conditions other than those named above or were subjected to prison-like conditions or comparable exceptionally hard living conditions. This does not apply to persons who are able to receive payments from the Austrian reconciliation fund for forced labour performed mainly in the present-day territory of the Republic of Austria (Section 11 (1) (2)).

In addition, the Act contained a catch-all clause which allowed the partner organizations charged with implementation to provide assistance to other victims of National Socialist injustice, in particular to forced labourers in agriculture.

Forced labour as a prisoner of war was not a cause of entitlement. The only exception to this was for prisoners of war who were detained in a concentration camp.

The Act also provided for payments to compensate for other **personal injury** suffered in connection with National Socialist injustice, first and foremost in the course of medical experiments or in the case of death or serious injury to the health of a child kept in a home for forced labourers' children (Section 11 (1), fifth sentence).

The Act also allowed for payments to persons who in the course of racial persecution suffered **property damage**, as defined in the restitution laws, significantly and directly caused by German companies and who, because they did not meet the residence requirements under the Federal Compensation Act, were unable to receive any payment (Section 11 (1) (3)). The Act further envisaged a separate procedure for compensating **other damage to property** in connection with National Socialist injustice. The International Organization for Migration (IOM) was responsible for compensating property damage, while **insurance claims** arising from racial persecution fell under the jurisdiction of the International Commission on Holocaust Era Insurance Claims (ICHEIC). The ceiling for damage to property was EUR 0.53 billion (DM 1.05 billion).

Following the end of the payments, the Foundation for Remembrance, Responsibility and the Future now works solely as a benevolent foundation, as provided in the Act on the Creation of a Foundation for Remembrance, Responsibility and the Future. The Foundation's partner organisations have completed and concluded their duties in providing compensation to forced labourers. In individual cases, the Foundation is able to answer questions about its former partner organisations.

The foundation's address is:

Stiftung „Erinnerung, Verantwortung und Zukunft“ (Foundation for Remembrance, Responsibility and the Future)
Lindenstrasse 20 – 25
10969 Berlin
Germany

Tel.: +49 (0) 30 259297 0

Fax: +49 (0) 30 259297 11

Email: info@stiftung-evz.de

More information is available on the internet at www.bundesfinanzministerium.de (in German) or at www.stiftung-evz.de/eng.

1.15 Washington Conference on Holocaust-Era Assets

Despite the aforementioned material compensation that had already been granted, the Federal Republic of Germany again declared its readiness, on the basis of the principles adopted at the Washington Conference on Holocaust-Era Assets on 3 December 1998, to continue its efforts to clarify the provenance of works of art confiscated under National Socialism in so far as the legal and factual possibilities allow. Moreover, it pledged to take the steps necessary to reach an equitable and fair solution when such works of art are identified. To implement the Washington principles, the German Government, the Länder and the national associations of local authorities made a joint statement in December 1999 on the tracing and return of art confiscated during National Socialism, especially from Jewish property. In the joint statement, the Federation, the Länder and the national associations of local authorities committed in the spirit of the Washington Declaration to bring their influence to bear in the responsible bodies of the relevant statutory institutions, so that works of art that have been identified as property confiscated under National Socialism and can be attributed to specific claimants are returned, after careful examination of the individual case, to the legitimate former owners or their heirs. This examination includes a match with material compensation already provided. Such a procedure allows for the identification of the legitimate owners and the avoidance of duplicate compensation.

The manual on the implementation of the joint statement, published in February 2001 and revised in November 2007, offers the institutions keeping cultural assets (museums etc.) practical guidance for the tracing and identification of works of art confiscated by the National Socialists and for the preparation of decisions on their possible return.

The results of the research carried out by the institutions in question are forwarded to the:

Koordinierungsstelle für
Kulturgutverluste (KK)
(Coordination Office of the Länder for
the Return of Cultural Treasures)
Turmschanzenstraße 32
39114 Magdeburg
Germany

The Coordination Office website can be found at: www.LostArt.de

It aims to make the research results accessible to the public and give potential owners further information.

One of the most important sources of findings for provenance research on works of art confiscated by the National Socialists are the files compiled for the implementation of the Federal Restitution Act which are held by the Federal Office of Central Services and Unresolved Property Issues (BADV). Inquiries can thus be sent to:

Bundesamt für zentrale Dienste und
offene Vermögensfragen (BADV)
(Federal Office for Central Services and
Unresolved Property Issues)
Referat B 1
DGZ-Ring 12
13086 Berlin
Germany

Research on individual objects can also be conducted at this Office as it has collated all the pieces of art contained in the restitution archive in a database.

Pieces of art that came into the possession of the German Reich during National Socialism and were transferred to the assets of the Federal Ministry of Finance (after the Second World War) are listed on the above website (www.LostArt.de) under the rubric “Restbestand CCP”.

A further resource for searching online is <http://www.dhm.de/datenbank/linzdb>, a database of artworks collected for a planned “Führermuseum” in Linz.

The BADV is responsible for the works of art inventoried at the CCP (central collecting point) and the investigation of their provenance. The latest findings of these investigations are available to the public at:

www.badv.bund.de/003_menu_links/e0_ov/d0_provenienz/b0_dokumentationen/

As a result of the implementation of the Washington principles and the joint declaration by the Federation, Länder and national associations of local authorities and the research carried out, a number of paintings by well-known artists have been returned from public ownership to their legitimate owners or their heirs over the last twelve years.

II. Extra-legal provisions based on the Federal Compensation Act

2.1 Compensation settlement for Jewish victims

The Federal Government Directives on Payments to Persecuted Jews to Compensate for Individual Hardships of 3 October 1980 (Federal Gazette No. 192 of 14 October 1980) contain provisions for Jewish victims of National Socialism who suffered severe damage to their health, which are implemented by the Jewish Claims Conference. Under these directives, one-time payments of up to EUR 2,556.46 may be granted. The directives, which tie in with the relevant Federal Compensation Act provisions, define those eligible for assistance. They state that all those subjected to National Socialist oppressive measures due to their political opposition to National Socialism or on the grounds of race, religion or ideology (Sections 1 and 2 of the Federal Compensation Act) are entitled to compensation. This clear definition of the term “victim of persecution”, on which there have been numerous rulings by compensation courts, provides the Jewish Claims Conference with clear criteria when examining who should be classified as a victim. Assistance is contingent upon considerable damage to health caused by National Socialist oppressive measures as defined in Sections 1 and 2 of the Federal Compensation Act.

The directives mentioned above, insofar as they deal with the prerequisites for and the amount of payments, have been part of the Article 2 Agreement since 1992. The Article 2 Agreement derives from Article 2 of the Agreement of 18 September 1990 on the Unification Treaty between the Federal Republic of Germany and the former GDR. The Federal Government concluded this Agreement with the Jewish Claims Conference in October 1992. It goes beyond the above-mentioned directives and provides for ongoing payments to victims of the National Socialist regime.

The resources made available to the Jewish Claims Conference by the Federal Ministry of Finance can, in principle, be used for the following purposes:

a) One-time assistance (“Hardship Fund”)

In keeping with the directives of 1980 outlined above, the Jewish Claims Conference may grant one-time assistance of up to EUR 2,556.46.

Payments from the Hardship Fund are limited to Jewish victims of the Nazis who meet the following eligibility criteria:

The applicant suffered considerable **damage to health** (50% reduction in earning capacity due to persecution or 80% reduction in earning capacity in general).

In the case of victims of persecution aged 60 and over (for women) or 65 and over (for men), considerable damage to health is assumed to exist. These individuals are not required to substantiate the damage to their health.

To receive one-time assistance from the Hardship Fund, the person concerned must have undergone one of the following:

- > **Deprivation of liberty** for less than one year
- > **Flight from** the Nazi regime
- > **“Limitation of liberty”** as defined in the Federal Compensation Act
- > Time spent in Leningrad at any point between September 1941 and January 1944, or flight from Leningrad during that period

Victims of National Socialism who were citizens of the same western European country at the time of their persecution and when the comprehensive agreement between the Federal Republic of Germany and that country was signed (western persecutees) cannot receive one-time assistance from the fund. Applicants who were citizens of the following countries at the time of their persecution and in the year listed in each case are classed as western persecutees: Austria (only nationality prior to 13 March 1938 is of relevance here), Belgium (1960), Denmark (1959), France (1960), Greece (1960), Italy (1961), Luxembourg (1959), Netherlands (1960), Norway (1959), Sweden (1964), Switzerland (1961), United Kingdom (1964).

Within the scope of the Hardship Fund, applications can also be taken into consideration from individuals who were not yet born at the time of the persecution, but suffered in the womb from their pregnant mother’s persecution.

Preclusion

Persons who have already received compensation, currently receive a monthly pension under the Federal Compensation Act, the Article 2 Fund or the Central and Eastern European Fund (CEEf), or a pension from the Israeli Ministry of Finance under the Israeli Nazi Persecution Disabled Persons Law 5717-1957 cannot receive one-time assistance from the Hardship Fund. In addition, persons who received a payment under the Federal Compensation Act or from a comprehensive agreement are also precluded from receiving a payment from the Hardship Fund.

Victims of Nazi persecution who currently reside in former communist bloc countries of Eastern Europe are not eligible for the Hardship Fund.

b) Ongoing assistance (“Article 2 Fund”)

Ongoing monthly assistance amounting to EUR 300 may be granted to victims who:

- > Were imprisoned for at **least six months in a concentration camp**¹ as defined by the Federal Compensation Act

[The version of this brochure available online includes the list of prison camps recognised under the scope of the Article 2 Agreement with the Jewish Claims Conference (JCC).]

or

- > Suffered **18 months** imprisonment **in a ghetto** or
- > **Lived in hiding** in degrading conditions for at least **18 months** or
- > Lived under a **false identity** for at least **18 months**

¹ The term concentration camp within the meaning of the Article 2 Agreement refers to all concentration camps and places of detention similar to concentration camps.

The one-time and ongoing assistance is intended to compensate for hardships for which there is no legal redress.

In addition to the above-mentioned criteria relating to the duration of persecution, the eligibility criteria of the Article 2 Fund include the following geographical and financial limitations:

> The applicant does not currently reside in any of the former communist-bloc countries of Eastern Europe and the former Soviet Union. Current residents of those countries should apply to the Central and Eastern European Fund (CEEFF); and

> The annual net **income** of the person entitled may not exceed the local currency equivalent of US\$ 16,000, after taxes. (The income limit is slightly different for applicants residing permanently in the Federal Republic of Germany.) Information about the relevant income limits for residents of Germany and other European countries is available from the Claims Conference office in Germany. The relevant income limit for residents of Israel can be found on the Claims Conference Hebrew website.

Since 1 October 2007, the following criteria have been applied in assessing whether the **income limit** has been met:

Only the income of the applicant (**not** his or her spouse) is taken into account. When determining whether the income limit has been met, the **following types of pensions are not considered to be income** (i.e. they do not count towards the US\$ 16,000 limit).

> Old age pensions (including government pensions, social security payments, occupational pensions or private retirement plans), and/or

> Pensions paid on account of reduced earning capacity, an occupational accident, occupational illness, or death, or comparable benefits.

In addition to the above-mentioned criteria, the eligibility criteria for the Article 2 Fund also include the following limitations for victims of National Socialism from Western European countries (**western persecutees**):

Previously, persons who were citizens of certain Western European countries at the time of their persecution and at the time of the conclusion of the comprehensive agreement between Germany and the relevant country were excluded from receiving payments from the Article 2 Fund.

As a result of negotiations conducted in February 2003, June 2008, March 2010 and April 2011, persons who were previously excluded from receiving a payment from the Article 2 Fund on the grounds that they were citizens of certain Western European countries at the time of their persecution and at the time of the conclusion of the comprehensive agreement between the relevant country and the Federal Republic of Germany (for exact dates see above), may now be able to receive a payment from the Article 2 Fund.

Applications for compensation can be submitted to the following offices:

> For persons domiciled or having their permanent place of residence in **Europe**:

Claims Conference Hardship Fund/
Art. 2 Fund
Sophienstrasse 44
60487 Frankfurt am Main
Germany

> For persons domiciled or having their permanent place of residence in **Israel:**

Claims Conference Hardship Fund/
Art. 2 Fund
Ha'arbaa Street 8, 1st Floor
64739 Tel Aviv
Israel

> For persons domiciled or having their permanent place of residence **outside Europe and Israel:**

Claims Conference Hardship Fund/
Art. 2 Fund
1359 Broadway
Room 2000
New York, NY 100 18
USA

c)Support for institutions

There is a great need for home nursing and medical care for the elderly survivors of the Holocaust, which has increased considerably over the past years. The Jewish Claims Conference is therefore provided with resources under the Agreement for use in supporting institutions that help Jewish victims of National Socialism who require such care.

2.2 Fund for those not of the Jewish faith who were persecuted as Jews under the National Socialist regime

a) General remarks

The National Socialists persecuted Jews on racial rather than religious grounds and therefore also persecuted those persons who did not belong to the Jewish community but were regarded as Jews under the National Socialist race theory. At the Hague negotiations with Israel and the Jewish Claims Conference in 1952, the German Government originally intended to make a fund of EUR 255.64 million (DM 500 million) available to this organization to support needy Jews outside Israel. As the Jewish Claims Conference only felt responsible for representing and caring for practising Jews, it received EUR 230 million (DM 450 million) under the Second Protocol to the Agreement between the Federal Republic of Germany and the State of Israel of 10 September 1952 (Federal Law Gazette 1953 II p. 94 ff). A Cabinet decision of 15 July 1952 provided that the remaining initial sum of EUR 25.56 million (DM 50 million) was to be earmarked for a fund for persons not of the Jewish faith who were persecuted as Jews. The fund was to be administered by the German Government.

This Fund for those not of the Jewish faith who were persecuted on racial grounds was initially administered on behalf of the Government by Land North Rhine-Westphalia (Cologne Regional Commissioner), but in the autumn of 1964 responsibility was transferred to the Federal Ministry of Finance, which issued the

current Directives on the disbursement of resources for individual welfare measures from the Fund for those not of the Jewish faith who were persecuted on racial grounds, as well as the Directives on the disbursement of resources for global welfare measures from the same Fund, as amended on 15 September 1966 (Federal Gazette No. 178 of 22 September 1966).

Payments from the Fund for those not of the Jewish faith who were persecuted on racial grounds may be granted to individuals who were persecuted because of their Jewish origins as defined by the Nuremberg Laws or were adversely affected by the persecution as a near relative. Furthermore, they must not have belonged, or still belong, to the Jewish community, either at the time of the persecution or of the decision on their claim for compensation. This is a necessary delimitation from the responsibility of the Jewish Claims Conference for practising Jews. Moreover, potential beneficiaries of the Fund for those not of the Jewish faith who were persecuted on racial grounds include the spouses of Jewish victims who themselves did not fall under the Nuremberg Laws but were persecuted due to the Jewish origins of their spouses or were adversely affected by this persecution.

b) Payments

Payments from the Fund for those not of the Jewish faith who were persecuted on racial grounds may be granted either in the form of one-time or ongoing assistance. Not only the gravity and impact of the persecution but also the financial and personal circumstances of the applicant, as well as of any relatives legally obliged to provide support, must be taken into consideration. The level of the ongoing assistance is determined by guideline fig-

ures which are regularly adjusted in line with general economic developments. One-time assistance is generally granted to cover the cost of living or specifically to cover costs incurred by illness which are not covered by other means or for the acquisition of household articles or clothing.

c) Integration assistance

The directives of the Fund for those not of the Jewish faith who were persecuted on racial grounds also provide for one-time assistance or loans to consolidate the financial situation, to purchase a dwelling as well as to undergo vocational training. However, under the current circumstances and given the advanced age of those eligible for payments, these provisions are no longer relevant.

d) Legal nature of the Fund

Payments from the Fund for those not of the Jewish faith who were persecuted on racial grounds are granted without being actionable at law on the basis of a decision taken after a due assessment of the circumstances. They are highly personalized and therefore not heritable or distrainable. Incidentally, this also applies to all other extra-legal provisions. Applications for assistance may still be submitted irrespective of the legal deadline (31 December 1969 under Article VIII of the Final Federal Compensation Act).

As the Fund for those not of the Jewish faith who were persecuted on racial grounds is a special-purpose fund as defined by Section 171 of the Federal Compensation Act, those persecuted as Jews can neither receive compensation under Section 171 of the Federal Compensation Act nor under any other provisions but,

rather, exclusively under the directives of the Fund for those not of the Jewish faith who were persecuted on racial grounds. In order to ensure equal treatment of those not of the Jewish faith who were persecuted as Jews and victims who fall under the compensation arrangement under Section 171 of the Federal Compensation Act, the prerequisites for approval contained in the Fund directives were harmonized as far as possible with the uniform Länder compensation directives relating to Section 171 of the Federal Compensation Act.

e) Grants to institutions

Under the directives of the Fund for those not of the Jewish faith who were persecuted on racial grounds, grants can be provided from this fund to organizations responsible for old people's or other homes if they make a long-term commitment to provide a certain requisite number of places in the homes to those eligible for payments.

Compensation applications for individuals may be submitted to:

Bundesministerium der Finanzen
(Federal Ministry of Finance)
Bonn office
Postfach 13 08
53003 Bonn
Germany

For statistics cf. Annex 1.

2.3 Compensation settlement for non-Jewish victims

The German Government made relevant provisions for non-Jewish victims in its Directives on Payments to Persecuted Non-Jews to Compensate for Individual Hardships within the Context of Restitution of 26 August 1981 (Federal Gazette No. 160 of 29 August 1981).

Under these directives, non-Jewish victims who suffered damage to their health as a result of National Socialist injustice but could not receive any legal compensation payments on technical grounds can be granted one-time assistance of up to EUR 2,556.46.

This settlement, too, is based on the concept that only those applicants subjected to National Socialist oppressive measures due to their political opposition to National Socialism or on the grounds of race, religion or ideology (Sections 1 and 2 of the Federal Compensation Act) are entitled to assistance.

Furthermore, via Section 8 of the directives of 26 August 1981 the German Government provided for the granting of ongoing assistance on top of the aforementioned one-time assistance in special cases (so-called Compensation Reserve Fund). This option was extended in 1988 by an amendment to Section 8 (notification in the Federal Gazette No. 55 of 19 March 1988).

The following constitute a special case:

> Imprisonment in a concentration camp as defined by the Federal Compensation Act for at least nine months

> Deprivation of freedom in certain prison camps or life in camp-like conditions for at least 18 months

> Life in hiding in degrading or particularly difficult conditions for 30 months if this led to permanent damage to health and a disability of 50%

In addition, assistance can also be granted if justified by exceptional circumstances in individual cases. In particular, the form and severity of the persecution, as well as the intensity and duration of its impact, are taken into consideration.

In contrast to the above-mentioned one-time assistance, assistance from the Compensation Reserve Fund can only be granted to those with German nationality or to those who gained it before 1 January 1999 or, if he or she is not a German citizen, to those of German origin as defined by the Federal Expellees Act.

Decisions on claims are made in accordance with these guidelines by:

Bundesministerium der Finanzen
(Federal Ministry of Finance)
Bonn office:
Postfach 13 08
53003 Bonn
Germany

For statistics cf. Annexes 2 and 3.

In the case of all hardship settlements mentioned above, proof of economic hardship is no longer required for one-time assistance.

2.4 Compensation settlements for victims of pseudo-medical experiments

Persons who suffered damage to their health due to the pseudo-medical experiments carried out in several National Socialist concentration camps were entitled to compensation for the damage caused to body or health. Initially, they were eligible under Land legislation and subsequently under the Additional Federal Compensation Act of 1953, superseded by the Federal Compensation Act of 1956, as well as to funds from the special fund under Article V of the Final Federal Compensation Act of 1965.

Victims of human experiments who were not harmed on one of the persecution grounds named in Section 1 of the Federal Compensation Act (political opposition, race, religion, ideology) or who do not fulfil the legal requirements as regards their domicile or the qualifying date, or who did not observe the deadline for the submission of applications, are not eligible for compensation.

The Cabinet decision of 26 July 1951, which stipulated that victims of pseudo-medical experiments can be granted a one-time payment of EUR 12,782.29 (DM 25,000) in cases of particular hardship, applies to these persons.

Due to its strictly subsidiary character, as confirmed by rulings by the highest court, this decision does not apply to anyone who has already received compensation from another source, regardless of for what damage or what amount, or who has received compensation under a comprehensive agreement between the Federal Republic of Germany and a number of European states.

Such comprehensive agreements were concluded with the countries listed in I. (no. 10 onwards).

Due to the particular cruelty of the pseudo-medical experiments, the Cabinet decision of 1951, whose area of application was originally limited to certain territories, was extended by a subsequent decision of 22 June 1960 to include assistance for those victims of human experiments who live in states with which the Federal Republic of Germany did not have diplomatic relations at that time (Poland, Czechoslovakia, Yugoslavia, Hungary and Romania). Applications by nationals of these states were examined individually on behalf of the German Government by a neutral commission of the International Committee of the Red Cross (ICRC) in Geneva, established for this purpose, and compensation was granted from the funds made available by the German Government.

In an effort to provide compensation for the victims of experiments as quickly as possible, the German Government, in agreement with the ICRC, concluded comprehensive agreements with Yugoslavia, Czechoslovakia, Hungary and Poland which benefited those who had not yet received compensation but could expect a decision in their favour. The German side has met its obligations in full.

For statistics cf. Annex 4.

Despite the above-mentioned provisions, an allocation of EUR 25.56 million (DM 50 million) for other personal injuries was established during the international negotiations on the Foundation for Remembrance, Responsibility and the Future (cf. I. no. 14). The funds are intended in particular for victims of pseudo-medical experiments. Earlier payments are not deducted.

III. Legislation for the new Länder

3.1 Compensation Pension Act

The Act on Compensation for Victims of National Socialism in the Regions Acceding to the Federal Republic of 22 April 1992 (Federal Law Gazette I p. 906) was enacted in order to regulate compensation for eligible persons in the new Länder. It entered into force on 1 May 1992.

Article 1 of this Act contains the Compensation Pension Act which newly regulates the payment of honorary and dependants' pensions for victims of National Socialism from the former GDR from the date of its entry into force.

This legislation was necessary because the legal basis for honorary pensions paid out in the former GDR to fighters against fascism and for the victims of fascism, as well as their dependants, largely ceased to exist on 31 December 1991. The Unification Treaty provided that the legislation valid in the former GDR for fighters against fascism and for the victims of fascism, as well as their dependants, of 20 September 1976 would only remain in force until 31 December 1991. However, it was stipulated that the honorary pensions at that time and the resulting payments for dependants were to continue.

As well as establishing that payment of the honorary pensions in existence on 30 April 1992 be continued in the form of compensation pensions of a different amount, the Compensation Pension Act also grants those victims of National Socialism who were refused an honorary pension by the then competent GDR agency on unconstitutional grounds or – following an initial approval – whose pension was subsequently withdrawn a right to submit a new application. Responsibility for implementing this Act lies with the:

Bundesversicherungsamt
(Federal Insurance Office)
Geschäftsstelle der Kommission
zum Versorgungsruhens- und
Entschädigungsrentengesetz
Referat I 6
Friedrich-Ebert-Allee 38
53113 Bonn
Germany

3.2 Extra-legal regulations based on the Compensation Pension Act

Likewise as of 1 May 1992, supplementary German Government directives based on Section 8 of the Compensation Pension Act (Federal Gazette No. 95 of 21 May 1992, p. 4185) entered into force for persons who are victims as defined by Section 1 of the Federal Compensation Act but are not entitled to a compensation pension under this Act and were, or are, unable to receive payments under other compensation regulations due to their having their place of residence in the former GDR. Those who left the former GDR after 30 June 1969 and were resident in federal territory on 2 October 1990 are also entitled to submit an application.

Under Section 8 of the Compensation Pension Act, the prerequisite for a pension under these supplementary directives, which are implemented by the Federal Ministry of Finance, is, among other things, that the victim:

- > Was imprisoned for at least six years in a concentration camp as defined by the Federal Compensation Act or
- > Spent at least 12 months in certain other National Socialist prisons or
- > Suffered at least 12 months of another form of deprivation of freedom of a certain degree of severity

In exceptional cases, other forms of harm, comparable in terms of gravity and impact to the aforementioned circumstances, can be taken into consideration.

In addition, female applicants must have reached the age of 55 and male applicants the age of 60, or the applicant must be an invalid as defined by Article 2 (7) (3) of the Pension Law Conversion Act of 25 July 1991 (Federal Law Gazette I p. 1606) before a pension can be granted.

Should victims of persecution who fulfil the directive prerequisites be deceased, their widow or widower will, if they are incapable of working, receive a pension in accordance with Section 2 (6) of the Compensation Pension Act. This provision reads as follows:

“A compensation pension is granted to widows and widowers if the marriage was contracted before 1 January 1951. This also applies if marriage was not possible before 1 January 1951 due to the absence of official documents or on other important grounds or if a quasi-marital relationship existed and the marriage took place after this date. In the case of return from emigration or release from internment, imprisonment or captivity after 31 December 1945, the deadline shall be five years after the return or release rather than 1 January 1951.”

The pension amounts to EUR 715.80 (DM 1,400) per month for victims and EUR 410 (DM 800) per month for their widows and widowers.

Any payments which the eligible person has received, or is still receiving, under German Government provisions not connected with the Federal Compensation Act are deducted from the pension.

As with compensation pensions under the Compensation Pension Act, payments under the directives should be refused or revoked, either in part or in full, if the eligible person or the person from whom the eligibility is derived have violated the principles of humanity or the rule of law or have seriously abused their position to their own gain or to the disadvantage of others.

Applications for a compensation pension may be submitted to the:

Bundesministerium der Finanzen
(Federal Ministry of Finance)
Bonn office:
Postfach 13 08
53003 Bonn
Germany

3.3 Property law regulations in the territory of the former GDR

Initially, the Act Regulating Open Property Issues entered into force together with the Unification Treaty on 29 September 1990. According to Section 1 (6), it should be applied to claims by citizens and associations that were persecuted between 30 January 1933 and 8 May 1945 on racial, political, religious or ideological grounds and lost their property as a result. The Act thus ties in with regulations concerning the return of property. The claims had to be submitted by the end of 1992 (in the case of real estate) or by the end of June 1993 (in the case of movable property). The Act stipulates that the Jewish Claims Conference (JCC) is the legal successor to any heirless or unclaimed lost

Jewish assets. The value of property returned to the victims of National Socialism under this Act can only be partially quantified. According to the JCC, more than EUR 724 million had been generated from the sale of restored property by the end of 2001.

If it is not possible to return property or if the persons concerned have exercised their right to choose compensation, they receive compensation under the Federal Act for the Compensation of the Victims of National Socialist Persecution. The payments come from the Compensation Fund, a special federal fund. The level of compensation is determined by the regulations governing restitution. However, it has been doubled in the light of the time which has passed. A total of EUR 1.83 billion in compensation payments had been made by the end of 2010.

To speed up the process of getting compensation to the victims, comprehensive settlements were reached, starting in 2002, between the Compensation Fund and the JCC in cases of a similar nature in which the JCC is the eligible party. The settlements reached were in respect of damage to synagogues and their contents (2002), damage to movable property and household effects (2004), damage to the property of self-employed professionals (2006), as well as losses suffered with respect to security rights over land and bank account balances (2007), assets of organisations (2009) and in the clothing industry (2011).

Until 1976, US citizens could submit claims for loss of assets in the former GDR to a commission set up by the US Administration. The subsequent talks conducted with the GDR on compensation did not produce any results. After reunification, the negotiations were continued with the German Government and concluded with

the Agreement of 13 May 1992 between the Federal Republic of Germany and the Government of the United States of America Concerning the Settlement of Certain Property Claims. This Agreement made it possible for US citizens either to accept compensation in the United States under this Agreement or to take part in the above-mentioned German property law proceedings in Germany. The German Government transferred a total of approximately US\$ 102 million for compensation in the United States. It is not known what proportion has been paid out to victims of National Socialism. Persons eligible for compensation also include about 1,000 Jewish claimants who gained US citizenship after their property had been damaged but before the close of 1951.

IV. Regulations on the basis of the General Act Regulating Compensation for War-induced Losses

4.1 General Act Regulating Compensation for War-induced Losses of 5 November 1957

Section 5 of the General Act Regulating Compensation for War-Induced Losses of 5 November 1957 (Federal Law Gazette I p. 1747) governs the claims of those who suffered damage during the National Socialist regime and did not qualify as victims as defined by Sections 1 and 2 of the Federal Compensation Act. While the compensation laws regulate all property and non-property claims, the Act only provides for compensation for damage to life, limb, or health, as well as deprivation of freedom. Section 5 of the Act grants a right to compensation for unlawful violations of these objects of legal protection in accordance with the general legal provisions, in particular in accordance with the provisions on state liability and in accordance with the civil law regulations on unlawful acts (Section 823 ff of the Civil Code).

Claims under Section 5 of the Act are only recognized if on 31 December 1952 the persons who suffered damage had their domicile or were permanently resident in

the then area of application of the Act or in a state which had recognized the Government of the Federal Republic of Germany by 1 April 1956 (Section 6 (1) of the Act) or fulfilled one of the other residence or deadline requirements referred to in Section 6. Exceptions for expellees (immigrants of ethnic German origin), returnees or persons who did not settle in federal territory until after 31 December 1952 by way of family reunification are of virtually no importance today.

The above-mentioned claims had, in principle, to be submitted within one year after the Act entered into force, i.e. by 31 December 1958 (Section 28 of the Act). If the submission deadline had passed an extension could be granted for one more year, i.e. until 31 December 1959.

Claims under Section 5 are now, in practice, only being wound up. New submissions are only possible in exceptional cases, namely where claims arose after the Act entered into force. In such cases, the one-year submission deadline begins with the emergence of the claim. This can, for example, apply to damage to health which arose or became much worse at a later point in time. The same applies to damage suffered in relation to state old-age pensions due to an inability to pay contributions as a result of unlawful deprivation of freedom, which does not become apparent until the person concerned retires.

The following office is responsible for processing claims under Section 5 of the Act:

Bundesfinanzdirektion West
Arbeitsbereich RF 42
Wörthstrasse 1–3
50668 Köln
Germany
Tel. + 49 (0) 221/37993-0

Street address:
Neusser Strasse 159
50733 Köln

4.2 Government directives on hardship compensation to victims of National Socialist injustice under the General Act Regulating Compensation for War-induced Losses

a) Scope of the directives

According to the German Government directives on hardship compensation to victims of National Socialist injustice under the General Act Regulating Compensation for War-induced Losses, which were issued on 7 March 1988 and recast on 28 March 2011 (Federal Gazette of 1 April 2011, p. 1229), compensation is to be made to persons who are not victims of persecution within the meaning of Section 1 of the Federal Compensation Act, but who, due to their physical or mental constitution or to their personal or social behaviour, were either indi-

vidually or collectively targeted by the National Socialist regime, and as a result suffered injustice. These payments are intended to mitigate hardship for which the General Act Regulating Compensation for War-induced Losses does not provide any compensation due to individuals having missed the respective deadlines or for other reasons.

Pursuant to the German Government directives on hardship compensation to victims of National Socialist injustice under the General Act Regulating Compensation for War-induced Losses, one-time assistance of up to EUR 2,556.46 may be granted. The directives on hardship compensation also allow ongoing compensation payments to be made. In exceptional cases where more assistance is required due to special circumstances, they further provide for additional ongoing payments.

The directives on hardship compensation do not aim to provide any financial compensation for war damage, damage to property or possessions, as well as pre-war or war-induced hardship of any kind.

b) Persons entitled to apply

According to the above-mentioned directives, anyone who suffered damage or harm as a result of National Socialist injustice and who is not a victim of persecution within the meaning of the Federal Compensation Act may submit an application for compensation.

Various groups of individuals who suffered damage or harm resulting from acts that are contrary to the rule of law and that were performed by persons acting in the name of the German Reich are entitled to submit applications. These groups would predominantly be the victims of forced sterilization and euthanasia.

Also authorized to submit an application are individuals who were identified by the National Socialist state or party as “work-shy”, “refusing to work”, “asocial”, “homosexual”, “inciting disobedience”, “conscientious objector”, “criminal” and “vagrant” and who for this reason were subjected to National Socialist oppressive measures, for example, being detained in concentration camps or at similar establishments. Victims of psychiatric persecution may also apply. Depending on the individual circumstances of a specific case, the directives on hardship compensation may also permit compensation payments to be made to individuals who were part of the ‘youth resistance’ movement. The following provides more specific information on some of these groups and the damage that was suffered:

Victims of forced sterilization

Victims of forced sterilization who do not fulfil the requirements for compensation payments under the Federal Compensation Act receive, upon application, one-time assistance amounting to EUR 2,556.46 on the basis of directives on hardship compensation, as well as ongoing monthly payments of EUR 291 (as of 1 January 2011, previously EUR 120). In exceptional cases, additional ongoing payments may also be granted.

Victims of euthanasia

The so-called euthanasia establishments are considered to be prison camps within the meaning of the directives on hardship compensation because in these establishments patients’ physical and psychological well-being was constantly threatened and their human dignity was invariably violated. This includes the establishments at Grafeneck in Württemberg, Hartheim near Linz, Sonnenschein near Pirna, Bernburg on the Saale, Hadamar near Limburg, and Brandenburg on the Havel. Upon applica-

tion, the victims directly subjected to these euthanasia establishments receive one-time assistance of EUR 2,556.46 and, since 1 January 2011, ongoing monthly payments of EUR 291. In exceptional cases, additional ongoing payments may also be granted.

There are also exceptional rules providing that under certain conditions – in particular if they did not receive support payments – the surviving dependents (spouses and children) of those victims of National Socialist injustice who died in so-called euthanasia establishments may also be entitled to receive one-time assistance.

Homosexuals

On the basis of the circular instructions issued by the Reich Main Security Office on 12 July 1940, numerous homosexuals were sent to concentration camps either without having been convicted of any offence or after having served a sentence. Compensation can be made for harm that was suffered as a result of such actions, in particular if the respective individual was sent to a concentration camp.

Criminals

Pursuant to the circular instructions of the Reich and Prussian Minister of the Interior of 14 December 1937, the criminal police were authorized, in certain instances, to take so-called professional and habitual criminals into preventive custody (cf. Buchheim, *Die Aktion “Arbeitsscheu Reich”, Gutachten des Instituts für Zeitgeschichte*, Vol. II, Stuttgart [1966], p. 189 ff). Insofar as alleged criminals were taken into custody and no criminal proceedings were initiated, or insofar as convicted criminals were incarcerated for a longer period of time than that to which they were sentenced in criminal proceedings, such individuals may also qualify for payments.

Individuals who were identified as “work-shy”, “refusing to work”, “vagrants” or “asocial”

The National Socialist regime also took so-called preventive measures against this group of individuals. This was done to ensure that these individuals entered regular employment, and to ease the tense situation on the labour market. The legal basis consisted of, among other things, the previously mentioned circular instructions of the Reich and Prussian Minister of the Interior of 14 December 1937, as well as instructions of the Reich Minister of the Interior of 18 September 1939 (Buchheim, loc. cit., Vol. II, p. 189 ff). Individuals who were affected by such measures are also eligible to apply for compensation.

Victims of National Socialist jurisdiction

The directives on hardship compensation to victims of National Socialist injustice under the General Act Regulating Compensation for War-induced Losses also provide for compensation in cases where a court-imposed sentence was served, if an examination of the individual case reveals that either the judgment or its execution was contrary to the rule of law. For example, a judgment may be deemed contrary to the rule of law if the punishment is considered to be unusually hard and cruel in comparison to the alleged criminal act. Decisions on such matters are based on the respective range of punishment as set out in the Reich Penal Code that was in force prior to 30 January 1933. For military offences, decisions are based on the respective range of punishment as set out in the Military Penal Code of 15 June 1926. As a rule, the authoritative judgment shall be either the one that was

pronounced in the last instance or the subsequent decision of a court to pardon the respective individual.

If a judgment was reversed or could have been reversed pursuant to Bavarian Act No. 21 on the Compensation of Victims of National Socialist Jurisdiction of 28 May 1945 (Bavarian Official Gazette No. 11/1946, p. 180), pursuant to another relevant Land law, or pursuant to the Act to Reverse Unjust National Socialist Judicial Rulings of 25 May 1990 (Federal Law Gazette I p. 966), the prerequisites for an act of National Socialist injustice are fulfilled – provided it was not a criminal offence that was committed before 30 January 1933. The same applies to the Act to Reverse Unjust National Socialist Judicial Rulings in Criminal Cases.

In instances where death sentences were pronounced between 30 January 1933 and 8 May 1945 for military offences, and if these sentences were not reversed prior to 8 May 1945, there is *prima facie* evidence to suspect that an unjust punishment was pronounced (cf. Federal Social Court, *Neue Juristische Wochenschrift* 1992, p. 934). In instances where individuals were sentenced to prison terms for violating the ban on listening to enemy broadcasts, or for consorting with prisoners of war and other foreigners, the prerequisites are generally fulfilled for receiving compensation pursuant to the directives on hardship compensation under the General Act Regulating Compensation for War-induced Losses.

Accordingly, payments are also made to persons who were imprisoned between 1933 and 1945 provided that the imprisonment is based on a penal decision that was reversed pursuant to the Act to Reverse Unjust National Socialist Judicial Rulings of 25 August 1998 (Federal Law Gazette I 1998 p. 2501), amended by the Act of 23 July 2002 (Federal Law Gazette I 2002 p. 2714).

As a rule, no compensation can be made if, after 8 May 1945, either a German or an Allied court ruled that a sentence served as

a result of a judgment passed from 30 January 1933 to 8 May 1945 was legitimate.

National Socialist injustice may also have occurred as a result of the way in which a sentence was served. An example of this is detention at concentration camps.

Individuals who were convicted as members of the Wehrmacht may qualify for payments pursuant to the Federal War Victims' Relief Act; as a rule, such claims are to be examined by the respective Länder pension authorities.

c) Further requirements for eligibility

In order to receive one-time assistance pursuant to the directives on hardship compensation under the General Act Regulating Compensation for War-induced Losses, the respective individual must submit an application. Payments may only be made to individuals who are German citizens; if they do not hold German citizenship or only acquired German citizenship after 8 May 1945, they must be of German ethnic origin under the definition of Sections 1 and 6 of the Federal Expellees Act. An individual must either be domiciled, or have his or her permanent place of residence, in the Federal Republic of Germany at the time he or she submits an application for compensation.

Assistance is granted on an individual basis and is therefore non-transferable. Heirs of victims are not eligible to claim compensation. In exceptional cases, one-time assistance may also be granted to surviving spouses, if they were significantly affected by the injustice or its consequences. Children whose parents were both killed due to a National Socialist oppressive measure may receive a one-time assistance payment of EUR 2,556.46 provided that at the time of the parent's death they had not yet reached the age of twenty-one or were entitled to maintenance because they were still undergoing education and had not reached the age of twenty-seven.

All assistance that is granted pursuant to the directives on hardship compensation is provided as compensation to affected individuals for the injustice they suffered. It is therefore intended not to reduce in any way benefits that affected individuals are legally authorized to receive.

d) Compensation payments

A distinction must be drawn between one-time assistance payments (up to EUR 2,556.46), ongoing monthly payments (EUR 291) and additional ongoing payments in the event of particular hardship (in individual cases).

Persons who suffered damage to their body or health, victims of forced sterilization and victims of euthanasia receive one-time assistance of EUR 2,556.46. Persons who suffered deprivation of liberty receive a one-time payment of EUR 76.69 for each month of imprisonment commenced; the maximum total amount being EUR 2,556.46.

Victims of forced sterilization and those directly affected by euthanasia measures receive ongoing monthly payments of EUR 291 in addition to the one-time assistance.

In certain exceptional cases, in which special circumstances require that further assistance be provided and in which the victims are currently in financial need, additional ongoing assistance may be granted. In this context, the type and severity of the injustice that was suffered, as well as the severity and duration of the injustice's effects, are to be taken into special consideration.

Exceptional circumstances are assumed in particular in the following instances:

- > Nine months or more of detention in a concentration camp as defined in Section 42 (2) of the Federal Compensation Act
- > Eighteen months or more of deprivation of freedom in another type of prison or in a euthanasia establishment
- > Thirty months or more of living in hiding in degrading or particularly severe conditions; or
- > In the case of persons who underwent forced sterilization under the National Socialist regime

Notwithstanding the above conditions, compensation payments may be granted in exceptional cases where more assistance is required due to exceptional circumstances.

Prior to the amendment of the directives on hardship compensation in autumn 2002, it was generally required that anyone submitting an application must currently be in a state of need. The details defining a state of need were set out in accordance with the Implementing Regulations to the Federal Compensation Act. Since the amendment, one-time assistance payments may also be granted if the family's income exceeds the level stipulated for a state of need. The same applies to the ongoing payments of EUR 291 to victims of forced sterilization and those affected directly by euthanasia measures. Only in cases of need may any additional ongoing payments be made that exceed the standard limit.

Applications that were rejected for not meeting the state of need requirement were automatically re-examined, and compensation was granted to all applicants who qualified.

The directives on hardship compensation under the General Act Regulating Compensation for War-induced Losses are implemented centrally by the Bundesfinanzdirektion West. There is no deadline for applications. The address is as follows:

Bundesfinanzdirektion West
Arbeitsbereich RF 42
Wörthstrasse 1-3
50668 Köln
Germany
Tel. +49 (0) 221/37993-0

Street address:
Neusser Strasse 159
50733 Köln

For statistics cf. Annex 6.

4.3 Payments to victims of the National Socialist military judiciary

Pursuant to the Instructions for the Final Settlement of the Rehabilitation and Compensation of Individuals Convicted During the Second World War for “Inciting Disobedience”, “Conscientious Objection” or “Desertion” of 17 December 1997 (Federal Gazette No. 2 of 6 January 1998), individuals who were convicted of the above-mentioned offences during the Second World War are eligible to receive an additional one-time payment of EUR 3,834.68, which cannot be deducted from payments received or due pursuant to the directives on hardship compensation to victims of National Socialist injustice under the General Act Regulating Compensation for War-induced Losses. This entitlement is based on a decision of the German Bundestag of 15 May 1997 in which it was determined that, in the above-mentioned cases, these judgments passed by the Wehrmacht judiciary during the Second World War were unjust if rule-of-law principles are applied. The Bundestag therefore called upon the German Government to make an additional one-time payment of EUR 3,834.68 to the victims of the Wehrmacht judiciary or to their relatives. Compensation has been granted in more than 500 of the above-mentioned cases.

The deadline for submitting an application passed on 31 December 1999.

4.4 Further information

Bundesfinanzdirektion West can provide information on all questions relating to compensation for National Socialist injustice.

The address is as follows:

Bundesfinanzdirektion West
Arbeitsbereich RF 42
Zentrale Auskunftsstelle zur Wiedergutmachung nationalsozialistischen Unrechts
Wörthstrasse 1 - 3
50668 Köln
Germany
Tel. +49 (0) 221/37993-413

Street address:
Neusser Strasse 159
50733 Köln

V. Payment in recognition of work other than forced labour performed in a ghetto

The Federal Government Directive of 1 October 2007 concerning the payment of amounts to victims of persecution in recognition of work in a ghetto which did not constitute forced labour and which has not been recognised to date under social insurance law has been amended, with retroactive effect as of 6 October 2007, and redrafted.

The new version of the Directive concerning the payment of amounts to victims of persecution in recognition of work in a ghetto which did not constitute forced labour (ghetto work recognition directive), dated 20 July 2011 and announced in Federal Gazette no. 110 of 26 July 2011, p. 2624, removed the link between the payment in recognition of work in a ghetto and the receipt of a pension under the Act regarding the conditions making pensions payable on the basis of employment in a ghetto. As a consequence, the fact that work in a ghetto has been taken into account under social security law now no longer precludes a one-off payment being made in recognition of ghetto work.

The Federal Office for Central Services and Unresolved Property Issues (BADV), which is responsible for implementing the Directive, will review the applications already processed. Final decisions will now be made on applications that were suspended because of a pension being paid. There is thus no need to submit fresh applications.

The amended Directive sets a **deadline of 31 December 2011** for applications. This is a final cut-off date. After this date, applications for the payment in recognition of ghetto work will have no effect.

The following can apply for and receive the one-off payment of EUR 2,000 in recognition of work in a ghetto:

- > Victims of National Socialist persecution within the meaning of the Federal Compensation Act,
- > who have been forced to live in a ghetto which was under National Socialist influence and
- > have been employed in the ghetto without coercion during this time.

The following shall not qualify for payment:

- > Those whose work in the ghetto has already been compensated for as forced labour from funds from the Foundation for Remembrance, Responsibility and the Future
- > Those who do not apply for the payment until after 31 December 2011 (expiry of the final deadline)

There is no legal entitlement to the payment. Only the person entitled to the payment can apply, to the following address:

Bundesamt für zentrale Dienste und
offene Vermögensfragen (BADV)
(Federal Office for Central Services and
Unresolved Property Issues)
53221 Bonn
Germany

Applications must be made in writing by
31 December 2011.

The application form can be requested at the above address. It is also available online to print out and complete, at the following web addresses:

German version of the application form:
<http://www.badv.bund.de/antrag/Antragsformular.pdf>

English version of the application form:
http://www.badv.bund.de/antrag/Antragsformular_en.pdf

Russian version of the application form:
http://www.badv.bund.de/antrag/Antragsformular_ru.pdf

Enquiries may also be addressed to the BADV by e-mail, using either the address ghettoarbeit@badv.bund.de or the address poststelle.afg@badv.bund.de.

A telephone **hotline** has also been set up to help with enquiries. The number is **+49 (0)22899 7030 1324** and lines are open from Monday to Thursday between 10am and 3pm German time.

For statistics cf. Annex 8.

Annexes

Annex 1	The Fund for those not of the Jewish faith who were persecuted on racial grounds, operating pursuant to the Directives on the Disbursement of Resources for Individual Welfare Measures
Annex 2	One-time assistance granted pursuant to Section 4 of the Directives on Payments to Persecuted Non-Jews to Compensate for Individual Hardships within the Context of Restitution
Annex 3	Assistance granted pursuant to Section 8 of the Directives on Payments to Persecuted Non-Jews to Compensate for Individual Hardships
Annex 4	Compensation settlements for victims of pseudo-medical experiments
Annex 5	Public sector compensation payments
Annex 6	Hardship compensation to victims of National Socialist injustice under the General Act Regulating Compensation for War-induced Losses
Annex 7	Comprehensive agreements on compensation
Annex 8	Federal Government Directive concerning the payment of amounts to victims of persecution in recognition of work in a ghetto which did not constitute forced labour and which has not yet been recognised under social insurance law (Ghetto Work Recognition Directive)

Annex 1

The Fund for those not of the Jewish faith who were persecuted on racial grounds, operating pursuant to the Directives on the Disbursement of Resources for Individual Welfare Measures as 26 August 1981 as amended on 15 September 1966 (Federal Gazette No. 178 of 22 September 1966)

Last updated on 31 December 2010

By the end of 2010, victims who meet the requirements of the above-mentioned directives had received payments

totalling approximately EUR 40 million.

This total amount is comprised of ongoing and one-time assistance.

Annual payments currently amount to approximately EUR 0.23 million.

No statistical records are kept of any other information.

Annex 2

**One-time assistance granted pursuant to Section 4 of the Directives on
Payments to Persecuted Non-Jews to Compensate for Individual Hardships
within the Context of Restitution of 26 August 1981
(Federal Gazette No. 160 of 29 August 1981)**

Last updated on 31 December 2010

Total number of applications registered		32,558
Approved	13,196	
Denied	17,092	
Total number of formal application decisions		30,288
Number of applications otherwise processed		2,268
Total number of processed applications		32,556
Total number of unprocessed applications		2
Overall total of payments made by 31 December 2010		EUR 34,607,415

Annex 3

**Assistance granted pursuant to Section 8 of the Directives on Payments to
Persecuted Non-Jews to Compensate for Individual Hardships within the
Context of Restitution of 26 August 1981 as amended on 7 March 1988
Compensation reserve fund**

(Federal Gazette No. 160 of 29 August 1981 and No. 55 of 19 March 1988)

Last updated on 31 December 2010

				Applicants of Sinti and Roma ethnic origin		
Total number of applications	2,804			2,649		
(360 of which are second applications)						
1. Compensation approved		1,445		1,372		
a) ongoing assistance			719			665
b) one-time assistance			726			707
2. Denied		1,239		1,176		
a) does not meet nationality / ethnic origin / residence requirements			185			176
b) not victim of persecution			608			592
c) received earlier payments			149			137
d) no state of need			49			39
e) other reasons			248			232
3. Otherwise processed		116		97		
4. Not yet processed		4		4		
I. Total no. of court actions	146			137		
a) court decision reached		34			34	
b) action withdrawn / discontinued		112			103	
c) Administrative Court proceedings pending		0			0	
d) Higher Administrative Court proceedings pending		0			0	
II. Payments made by 31 December 2010:						
approx. EUR 16,418,705						
a) ongoing assistance	approx. EUR 14,575,365					
b) one-time assistance	approx. EUR 1,843,340					

Annex 4

Compensation settlements for victims of pseudo-medical experiments pursuant to the Cabinet decision of 26 July 1951

Last updated in April 2010

Pursuant to the above-mentioned Cabinet decision, the compensation paid to victims of pseudo-medical experiments amounts to:

a total of approx. DM 186 million

Of this amount, approx. DM 64 million were disbursed in individual payments, i.e. one-time assistance payments amounting up to DM 25,000 each.

The remaining amount of approx. DM 122 million was disbursed within the framework of the following special agreements:

Yugoslavia	DM	8.00 million
Czechoslovakia	DM	7.50 million
Hungary	DM	6.25 million
Poland	DM	100 million

No statistical records were kept of any other data.

Annex 5 (1)**Public sector compensation payments**

Last updated on 31 December 2010

	Amounts (€ bn)		
	by 2009	in 2010	by 2010
<u>Payments made so far</u>			
1. Federal Compensation Act	46.087	0.330	46.417
2. Federal Restitution Act	2.023	0.000	2.023
3. Compensation Pension Act	0.790	0.012	0.802
4. Federal Act for the Compensation of the Victims of National Socialist Persecution (NS-VEntschG)	1.714	0.111	1.825
5. Luxembourg Agreement	1.764	0.000	1.764
6. Comprehensive agreements (and similar agreements)	1.460	0.000	1.460
7. Other payments (civil service, Wapniarka, Hardship Fund for Non-Jewish Victims of National Socialism, victims of pseudo-medical experiments, Art. VI Final Federal Compensation Act, etc.)	5.191	0.160	5.351
8. Payments made by the Länder outside of the Federal Compensation Act	1.682	0.039	1.721
9. Hardship compensation (not including the Länder)	3.851	0.309	4.160
10. Act on the Creation of a Foundation for Remembrance, Responsibility and the Future	2.556	0.000	2.556
Total:	67.118	0.961	68.079

Other payments made as compensation for National Socialist injustice

The German Government has expressed its intention to make lifelong ongoing payments to victims of National Socialism whose claims have been approved.

Based on this policy, the Federal Ministry of Finance has drawn up cautious estimates, according to which such payments will amount to a double-digit billion euro figure.

Annex 5 (2)

Approximately 17% of payments made pursuant to the Federal Compensation Act and the Federal Restitution Act are disbursed to individuals who live in Germany, and approximately 40% to individuals who live in Israel; the remaining proportion is disbursed to individuals who live elsewhere. Approximately 15% of ongoing payments made pursuant to the Federal Compensation Act are disbursed to individuals who live in Germany; approximately 85% of ongoing payments are disbursed to individuals who live abroad.

During the period from 1 October 1953 to 31 December 1987, 4,384,138 applications for compensation were submitted pursuant to the Additional Federal Compensation Act of 18 September 1953 (Federal Law Gazette I p. 1387), the Federal Compensation Act of 29 June 1956 (Federal Law Gazette I p. 559) and the Final Federal Compensation Act of 14 September 1965 (Federal Law Gazette I p. 1315). These applications were processed as follows:

Approved	2,014,142
Denied	1,246,571
Otherwise processed (e.g. application withdrawn)	1,123,425

No statistical record is kept of the total number of applicants. This number is, however, not identical to the number of applications that are submitted. Pursuant to information provided by the Länder – who are responsible for implementing the Federal Compensation Act – on average, every applicant submitted more than one application. The exact number of claims that were submitted by each individual claimant cannot be determined. The number of applications, and of applications processed, from 1 January 1988 to date is comparatively small; the Länder are therefore no longer keeping a statistical record of this figure.

Compensation pursuant to the Federal Restitution Act has been completed.

The above table does not include other payments – the individual amounts of which cannot be exactly determined – totalling several billion euros that were made pursuant to other directives, e.g. the Act on Social Insurance Pensions for Victims of National Socialism, the Federal Act on Compensation for National Socialist Injustice through War Disablement and Survivors' Pensions and the General Act Regulating Compensation for War-induced Losses.

The Foundation for Remembrance, Responsibility and the Future has not made any ongoing compensation payments; it has only made one-off payments. The Foundation received funding totalling EUR 5.1 billion. Of this, the Federal Government provided the EUR 2.556 billion recorded in the table above. The remainder came from German companies that participated in the German Economy Foundation Initiative. By the time the last payments were made in 2007, the Foundation, which was set up to help forced labourers and other victims of National Socialism, had disbursed a total of more than EUR 4.7 billion to around 1.7 million victims of National Socialism, in particular forced labourers, who were entitled to support.

Annex 5 (3)**Compensation paid by the Länder outside of the Federal Compensation Act
1950 to 2010**

(figures provided by the Länder)

<u>Länder</u>	<u>in 2010</u> - in thousands of euros -	<u>up to the end of 2010</u> - in millions of euros -
Baden-Württemberg	5	37
Bavaria	9,853	153
Berlin	17,053	703
Bremen	76	12
Hamburg	213	75
Hesse	2,449	62
Lower Saxony	2,041	95
North Rhine-Westphalia	2,004	503
Rhineland-Palatinate	5,701	55
Saarland	40	1
Schleswig-Holstein	60	25
TOTAL:	39,495	1,721

Note: all figures have been rounded.

Annex 5 (4)
Payments made pursuant to the Federal Compensation Act
between 1 October 1953 and 31 December 2010
(in millions of euros)

figures provided by the Länder

Type of damage or harm suffered Type of compensation made	One-time payments			Ongoing payments			Total payments		Ongoing payments on 1. December 2010	
	Total	Of column 1		Total	Of column 3		Total columns 1 + 3	To individuals residing abroad columns 2 + 4	Number of	Monthly total in thousands of euros
		1	2		To individuals residing abroad	To individuals residing abroad				
1. Loss of life	339		270	3,763	2,736		4,102	3,006	1,368	1,157
2. Damage to limb or health	2,119		1,630	26,024	23,059		28,143	24,689	39,924	23,167
3. Deprivation of liberty	1,442		1,320	0	0	0	1,442	1,320	0	0
4. Damage to property	216		95	0	0	0	216	95	0	0
5. Damage to assets	275		219	0	0	0	275	219	0	0
6. Charges, fines, etc.	155		136	0	0	0	155	136	0	0
7. Damage to professional careers	1,656		1,352	8,425	6,861		10,081	8,213	1,737	799
8. Damage to business	42		35	49	24		91	59	30	0
9. Granting of immediate assistance	90		6	0	0	0	90	6	0	0
10. Provision of health care	390		45	0	0		390	45	0	0
11. Mitigation of hardship	37		23	397	327		434	350	485	120
Total:	6,761		5,131	38,658	33,007		45,419	38,138	43,544	25,243

(Note: any divergence of total amounts results from rounding to the nearest million)

Total amount disbursed in compensation payments:

before 30 September 1953
pursuant to Article V of the Final Federal Compensation Act
pursuant to the Federal Compensation Act (cf. column 5 above)

EUR 377 million
EUR 614 million
EUR 45,419 million
EUR 46,410 million

Average ongoing monthly payment:

- for loss of life, damage to limb or health: approx. EUR 846
- of all ongoing compensation payments: approx. EUR 580

Annex 6 (1)**Hardship compensation to victims of National Socialist injustice under the
General Act Regulating Compensation for War-induced Losses**

Last updated on 31 December 2010

One-time payments

Total no. of applications 7,954 ¹		Compensation approved	Compensation denied, or case referred
		<u>in total</u> 6,257 ²	<u>in total</u> 2,467 ²
divided into the following groups:			
forced sterilization	4,668	5,011 ³	291
euthanasia	495	330	220
forced labour	140	3	158
individuals claiming they were targeted for / as:			
“inciting disobedience”	304	87	148
a “criminal”	46	26	23
“asocial”	288	174	140
homosexual	20	8	10
a conscientious objector	59	8	32
a “psychiatric patient”	39	17	13
a member of a youth organization	9	1	9
“refusing to work”	29	17	9
“work-shy”	33	30	13
a “vagrant”	4	1	2
not part of, or cannot be clearly assigned to, one of the above groups	1,820	544	1,399

¹ In addition to this figure, some 9,470 applications for compensation by victims of forced sterilization were received between 1980 and 1988.

² This figure also includes cases in which compensation was approved for applications that were received before 1988.

³ Before 1988, payments were also made in 8,805 cases to victims of forced sterilization.

Annex 6 (2)**Hardship compensation to victims of National Socialist injustice under the
General Act Regulating Compensation for War-induced Losses**

Last updated on 31 December 2010

Ongoing payments

Total no. of applications 3,851		Compensation approved	Compensation denied, or case referred
		<u>in total</u> 2,140	<u>in total</u> 1,128
divided into the following groups:			
forced sterilization	3,138	1,927	781
forced labour	21	0	8
euthanasia	58	21	25
individuals claiming they were targeted for / as:			
“inciting disobedience”	28	5	12
a conscientious objector	2	0	2
a “criminal”	1	1	0
homosexual	5	2	3
a member of a youth organization	1	0	1
“asocial”	3	0	2
a “psychiatric patient”	0	0	1
“refusing to work”	0	0	1
not part of, or cannot be clearly assigned to, one of the above groups	594	184	292

Annex 6 (3)**Hardship compensation to victims of National Socialist injustice under the General Act Regulating Compensation for War-induced Losses**

Last updated on 31 December 2010

Ongoing EUR 120 assistance payments pursuant to Section 5 of the directives on hardship compensation under the General Act Regulating Compensation for War-induced Losses

Total number of applications	11,194
Number of applications processed	9,846
Of these, approved	9,604
Of these, denied	242

Payments made so far

Pursuant to the directives on hardship compensation under the General Act Regulating Compensation for War-induced Losses and the previous Federal Ministry of Finance instructions on the granting of a one-time payment to victims of forced sterilization, the following amount was disbursed between 1980 and 2010:

EUR 125,031,609.95

This amount is comprised of the following:

One-time payments	EUR 14,412,359.77
Ongoing payments under section 5	EUR 54,465,860.72
Additional ongoing assistance pursuant to Section 6 (4) of the directives under the General Act Regulating Compensation for War-induced Losses	EUR 56,153,389.46

Annex 7**Comprehensive agreements on compensation**

Country	Date agreement was concluded	Published in Federal Law Gazette II	Compensation in millions of DM
Luxembourg	11 July 1959	1960, p. 2077	18
Norway	7 August 1959	1960, p. 1336	60
Denmark	24 August 1959	1960, p. 1333	16
Greece	18 March 1960	1961, p. 1596	115
Netherlands	8 April 1960	1963, p. 629	125
French Republic	15 July 1960	1961, p. 1029	400
Belgium	28 September 1960	1961, p. 1037	80
Italy	2 June 1961	1963, p. 791	40
Switzerland	29 June 1961	1963, p. 155	10
Austria	27 November 1961	1962, p. 1041	95
United Kingdom	9 June 1964	1964, p. 1032	11
Sweden	3 August 1964	1964, p. 1402	1
			971

Annex 8

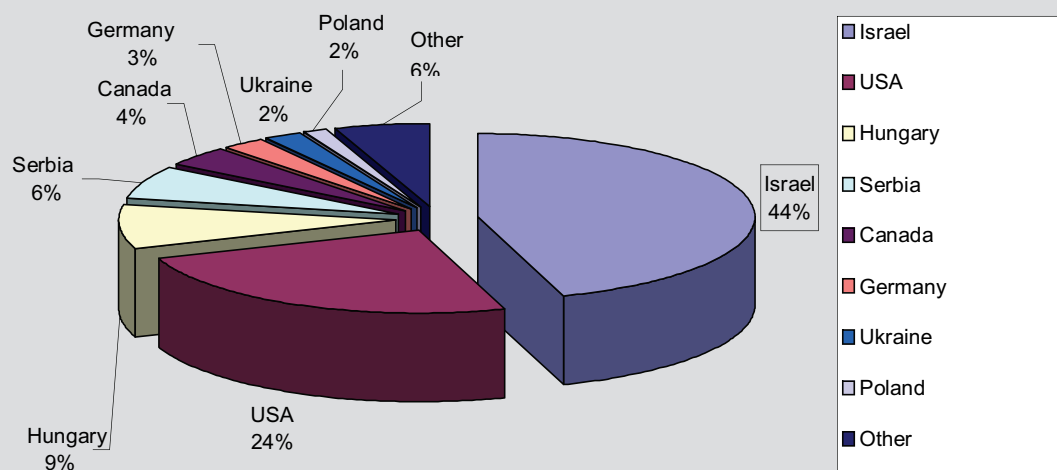
Federal Government Directive concerning the payment of amounts to victims of persecution in recognition of work in a ghetto which did not constitute forced labour and which has not yet been recognised under social insurance law (Ghetto Work Recognition Directive)

Statistics on applications received and processed
Last updated on 20 December 2010

Applications received	55,231
Approved	29,483
Denied	8,985

Applications received under the ghetto work recognition directive, by country

As of 20 December 2010





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