

Act on compensation to victims of violent crime (Crime Victims Compensation Act - OEG)

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Section 1 Right to compensation

(1) Any person who, within the territory of validity of this Act or on board a German vessel or aircraft, has sustained a personal injury as a result of wilful, unlawful physical assault against himself or any other person or as a result of the lawful defense against such an assault, shall be entitled, upon application, to compensation on account of the resulting health damage and economic damage, as provided for by the Federal War Victims Compensation Act, which shall be applied, *mutatis mutandis*. The application of this provision shall not be excluded on the grounds that the assailant has acted in the mistaken belief that his or her action was justified.

(2) The following shall be equated with physical assault within the meaning of paragraph 1

1. intentional administration of poison,
2. the at least negligent creation of a danger to the life and limb of another person by commission of a crime by means causing a common danger.

(1) Injuries caused by an accident under the conditions set out in Section 1 (2) (e) or (f) of the Federal War Victims Compensation Act shall be equated to injuries within the meaning of paragraph 1 of this Article; Section 1 (2) (e) of the Federal War Victims Compensation Act shall also apply to accidents sustained by an injured person while filing criminal charges without delay.

(4) Foreign nationals have the same entitlements as German nationals.

(5) Surviving dependants of an injured person shall be granted, on application, compensation as provided for by the Federal War Victims Compensation Act, which shall be applied *mutatis mutandis*. Cohabiting partners shall be entitled to compensation in application *mutatis mutandis* of Sections 40, 40a and 41 of the Federal War Victims Compensation Act, if a partner died as a consequence of the injury and the other partner, foregoing paid employment, is taking care of their child; this entitlement shall be limited to the child's first three years of life.

(6) Injuries sustained by an applicant or beneficiary within the meaning of paragraph 1 or 5 together with Section 10 (4) or (5) of the Federal War Victims Compensation Act, or injuries as a result of an accident within the meaning of Section 8a of the Federal War Victims Compensation Act, sustained by a caregiver or an accompanying person while providing necessary attendance to the injured person, shall be equated to injuries in accordance with paragraph 1.

(7) Damage to a body-worn aid, glasses, contact lenses or dentures shall be equated to a personal injury within the meaning of paragraph 1.

(8) This Act shall not apply to damage caused by an assault with a motor vehicle or a trailer.

(9) Section 1 (3), Sections 64 to 64d, 64f and 89 of the Federal War Victims Compensation Act shall be applied with the proviso that in cases where a federal state (Land) is the funding provider, the consent of the Federal Ministry of Labour and Social Affairs shall be replaced by the consent of the highest Land authority responsible for compensation to Federal War Victims (Section 4). The provisions applicable to German nationals shall also be applied to foreign nationals covered by this Act.

(10) Section 20 of the Federal War Victims Compensation Act shall be applied with the proviso that the figure used for comparison with the previous year as provided for in the third sentence of paragraph 1, shall be replaced by the number of crime victims and surviving dependants who are eligible for a pension in accordance with this Act; that in the fourth sentence of paragraph 1 the reference to health fund expenditure per member and pensioner including family members shall be replaced by a reference to the national health fund expenditure per health fund member; that the first sentence of paragraph 2 shall be applied to the highest Land authority responsible for compensation to war victims or the body designated by that authority; that the figure referred to in the first sentence of paragraph 3 shall be replaced by the figure 1.3 and that sentences 2 to 4 shall not be applicable.

(11) Medico-pedagogical treatment, physiotherapy and physical-exercise therapy shall be granted as part of curative treatment, if necessary.

Section 2

Grounds for refusal of compensation

- (1) Compensation shall be refused if the injured person was the cause of his or her own injury or if an award of compensation would be contrary to a sense of justice for other reasons, in particular reasons attributable to the behaviour of the applicant. Compensation shall also be refused if the injured person or applicant
3. is or was actively involved in political conflicts in his or her home state and his or her involvement is the cause of the injury; or
 4. is or was actively involved in armed conflicts in his or her home state and if there is evidence that the injury is linked to this involvement, unless he or she can furnish proof to the contrary; or
 5. is or was involved in organised crime or is or was a member of an organisation which engages in crimes of violence, unless he or she can furnish proof that a link to the injury does not exist.
- (2) Compensation may be refused if the injured person has failed to contribute to the best of his or her abilities to the clarification of the facts and the prosecution of the perpetrator, in particular by reporting the crime without delay to an authority responsible for criminal prosecution.

Section 3

Accumulation of entitlements

- (1) In the event of cumulation of entitlement to compensation under this Act and entitlement under Section 1 of the Federal War Victims Compensation Act or other Acts stipulating the application mutatis mutandis of the Federal War Victims Compensation Act, a single pension shall be calculated taking into account the degree of damage resulting from the totality of damage caused by the injury.
- (2) Entitlement to compensation under this Act shall not arise in the case where the injury entitles the crime victim to compensation under the Federal War Victims Compensation Act or any other Act stipulating that the Federal War Victims Compensation Act shall be applied mutatis mutandis.
- (3) In the event of accumulation of entitlement to compensation under this Act and entitlement to compensation on the grounds of negligent breach of official duty, claims under Section 839 (1) of the Civil Code shall not be excluded on the grounds that the applicant fulfils the conditions set out in Section 1.
- (4) In the case of damage pursuant to this Act, Section 4 (1), No. 2 of the Social Code, Book Seven shall not be applicable.

Section 3a

Compensation in the case of crimes of violence abroad

- (1) German nationals or foreign nationals pursuant to Section 1(4) or (5) No.1 who have sustained a personal injury within the meaning of Section 1(1) as a result of a violent crime pursuant to Section 1(1) or (2) that was committed abroad shall be entitled, upon application, to compensation on account of the resulting health and economic damage as provided for in paragraph 2, if
1. they have their ordinary and legal residence in the territory of validity of this Act, and
 2. at the time of the crime, had been temporarily resident for a period of not more than six months outside the territory of validity of this Act.
- (2) Injured persons shall be entitled to curative treatment and medical rehabilitation including psychotherapeutic measures necessary on account of the injuries suffered. In addition, injured persons shall be entitled to a single payment of 800 Euro in the case of a degree of damage between 10 to 20;
a single payment of 1,600 Euro in the case of a degree of damage between 30 and 40;
a single payment of 5,800 Euro in the case of a degree of damage between 50 and 60;
a single payment of 10,200 Euro in the case of a degree of damage between 70 and 90;
a single payment of 16,500 Euro in the case of a degree of damage of 100.
In the case of loss of several limbs, in the case of loss of limbs in combination with damage to sense organs or in combination with cerebral damage, or in the case of severe burns, the single payment shall amount to 28,500 Euro. If a still existing limb has lost its function, this loss of function shall be regarded as a complete loss of the limb only in cases where the degree of damage solely resulting from the loss of function is at least as high as the degree of damage that would result from the complete loss of that limb.
- (3) If a person fulfilling the conditions set out in paragraph 1 died as a result of an injury sustained, surviving dependents pursuant to Section 38 of the Federal War Victims Compensation Act with the exception of ascending relatives and persons entitled to child care alimony shall be eligible for a single payment. It shall amount to 2,600

Euro in the case of orphans, 1,400 Euro in the case of half-orphans and 5,000 Euro in all other cases. In addition, surviving dependents, including parents whose minor child died as a consequence of a violent crime committed abroad, shall be entitled to necessary psychotherapeutic treatment. An allowance of up to 1,700 Euro for repatriation and funeral expenses shall be payable, unless the costs are borne by third parties.

(4) Benefit entitlements under other public or private social protection or pension schemes shall be set off against the benefits payable in accordance with paragraphs 2 and 3. The set-off may also include benefit entitlements under social protection or pension schemes of the state in which the violent crime was committed. If the benefit to be set off consists of recurrent pension payments, the set-off shall be calculated on the basis of the amount of lump-sum settlement to which the applicant is entitled at the time when the application is filed in accordance with Section 1.

(5) Injured persons who, through gross negligence, failed to arrange for adequate insurance cover adapted to their individual circumstances, shall be excluded from compensation pursuant to paragraph 2. Claims pursuant to paragraph 2 shall also be excluded if any of the grounds for refusal set out in Section 2(1) sentence 1 or paragraph 2 is applicable in the case of the injured person.

(6) Surviving dependents shall be excluded from claims pursuant to paragraph 3 if a reason for exclusion according to paragraph 5 is applicable to themselves or the deceased person.

Section 4 **Cost assumption**

(1) The Land where the entitled person was domiciled, or, if this is not the case, the Land where the entitled person was ordinarily resident, shall be obliged to assume the cost of compensation insofar as paragraphs 2 to 8 in conjunction with Section 6 (1) do not provide otherwise.

(2) The Land where the injury was sustained shall be responsible for the decision on an application for compensation under Section 1 submitted by 19 December 2019 that was not finally adjudicated the Land shall be obliged to assume the cost of compensation until 30 June 2020. From 1 July 2020 the Land where the entitled person was domiciled, or, if this is not the case, the Land where the entitled person was ordinarily resident, shall be responsible for the decision and obliged to assume the cost of compensation.

(3) Regarding an entitled person who already received benefits under Section 1 on 19 December 2019 and in the cases of paragraph 2, sentence 1, where benefits are awarded under Section 1, the Land in which the injury was sustained, shall be obliged to assume the cost of compensation until 31 December 2020; this shall also apply if applications for additional benefits are filed. From 1 January 2021 the Land where the entitled person was domiciled within the meaning of sentence 1, or, if this is not the case, where the entitled person was ordinarily resident, shall be responsible to assume the cost of compensation.

(4) If in the case of paragraph 2, sentence 1 and paragraph 3, sentence 1 it was not possible to determine the place where the injury was sustained, the Land in which the injured person was domiciled or ordinarily resident shall assume the cost of compensation.

(5) If entitled persons are domiciled or ordinarily resident outside the territory of validity of this Act, the Land where the injury was sustained shall be obliged to assume the cost of compensation. Notwithstanding sentence 1, the Land determined in accordance with paragraphs 1 to 4 shall continue to be obliged to assume the cost of compensation if the domicile or, in the absence of a domicile, the ordinary residence was transferred abroad after the injury was sustained.

(6) If the injured person was not domiciled or ordinarily resident in the territory of validity of this Act and it is not possible to determine in which Land the injury occurred, the cost of compensation shall be assumed by the Federation. The same shall apply if the injury occurred on a German vessel, a German aircraft or at a place abroad.

(7) The Federation shall bear forty per cent of the expenditure incurred by a Land on account of the payment of cash benefits under this Act. Cash benefits shall not include amounts paid as lump-sum settlement for or in lieu of benefits in kind. For simplification of accounting, expenditure incurred by the Länder pursuant to paragraphs 1 shall be refunded by the Federation at a flat-rate of 22 per cent. The conditions for application of the rate specified in the third sentence shall be reviewed by the Federation at five-year intervals, starting in 2014.

(8) In the cases referred to in Section 3 (1) the costs caused by the additional injury shall be assumed by the benefit provider responsible for compensation on account of that injury.

Section 5

Transfer of statutory entitlements to compensation

Where the costs are borne by a Land (Section 4), Section 81a of the Federal War Victims Compensation Act shall be applied with the proviso that the existing claim to compensation against third parties shall be transferred to the Land which is obliged to provide benefits in accordance with this Act.

Section 6

Responsibilities and Procedures

(1) The authorities responsible for the implementation of the Federal War Victims Compensation Act shall also be responsible for the provision of compensation under this Act. If the Federation is the funding provider, the following authorities are responsible

1. if the injured person is domiciled or ordinarily resident in a Land, the authorities of that Land; the transitional provisions under Section 4, paragraphs 2 and 3, limited to the responsibility of the authorities, shall apply *mutatis mutandis*, with the exception of compensation for injuries sustained abroad,
2. if the injured person is domiciled or ordinarily resident outside the territory of validity of this Act, the authorities of the Land which administer compensation to war victims in the respective country of domicile or residence.

In derogation from sentence 2 number 2, if the injury was sustained on board a German vessel or aircraft, responsibility shall lie with the authorities of the Land where the vessel is registered or where the owner of the aircraft is based or domiciled notwithstanding the provision of the second sentence.

(2) The geographical responsibility of the authorities shall be determined by the Land government through ordinance having the force of law.

(3) The Act on Administrative Procedures for War Victims' Compensation, with the exception of Sections 3 to 5, and the Social Court Act provisions on preliminary proceedings shall apply.

(4) Paragraph 3 shall not apply insofar as the compensation to be provided corresponds to welfare benefits for war victims according to Sections 25 to 27h of the Federal War Victims Compensation Act.

Footnote

Section 6, paragraph 3 in italics: Section 5 repealed by Art. II Section 16 No. 1 Act of 18 August 1980 I 1469 with additional references as of 1 January 1981

Section 6a

Responsibilities of the Federal Ministry of Labour and Social Affairs

(1) The Federal Ministry of Labour and Social Affairs shall act as the central authority within the meaning of the second sentence of Article 12 of the European Convention of 24 November 1983 on the Compensation of Victims of Violent Crimes (Federal Law Gazette 1996 II, p. 1120).

(2) The Federal Ministry of Labour and Social Affairs shall also act as assisting authority within the meaning of Article 3 (1) and as central contact point within the meaning of Article 16 of Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims (Official Journal of the European Union, L 261, p.15).

Section 7

Legal remedies

(1) In public law disputes over matters relating to this Act, with the exception of cases covered by paragraph 2, recourse to the social courts shall be open to the aggrieved party. Insofar as the Social Court Act contains special provisions for war victims compensation, these shall also apply to disputes within the meaning of the first sentence.

(2) Insofar as the compensation to be provided corresponds to welfare benefits for war victims according to Sections 25 to 27h of the Federal War Victims Compensation Act, recourse to the administrative courts is open to the aggrieved party.

Section 8

(Amendments of the Reich Insurance Code)

Section 9
(Amendments of the Act on Compulsory Coverage)

Section 10
Transitional provisions

This Act shall apply to entitlements arising from acts committed after its entry into force. Beyond this, Sections 1 to 7, with the exception of section 3a, shall apply to entitlements arising from acts committed in the period from 23 May 1949 to 15 May 1976 subject to the provisions of sections 10a and 10c. In the territory specified in Article 3 of the Treaty on German Unity, this Act shall apply to entitlements arising from acts committed after 2 October 1990. Beyond this, Sections 1 to 7 with the exception of Section 3a shall apply to entitlements arising from acts committed in the territory specified in the fourth sentence in the period from 7 October 1949 to 2 October 1990 subject to the provisions of Sections 10a and 10c. In the cases covered by Section 3a, this Act shall only apply to entitlements arising from acts committed after 30 June 2009.

Section 10a
Hardship provisions

(1) Persons who sustained an injury in the period from 23 May 1949 to 15 May 1976 shall be entitled to compensation upon application if they

1. are severely disabled solely as a result of the injury sustained, and
2. are in need, and
3. are domiciled or ordinarily resident in the territory of this Act.

Article 3 of the Treaty on German Unity or who had their domicile or ordinary residence in that territory at the time when the injury was sustained shall also be entitled to compensation in accordance with the provisions of the first sentence if the injury was sustained in that territory in the period from 7 October 1949 to 2 October 1990. The first clause of the second sentence of Section 31 (4) of the Federal War Victims Compensation Act shall apply.

(2) An applicant is deemed to be in need when his or her income within the meaning of Section 33 of the Federal War Victims Compensation Act is not higher than the amount which caps benefits in accordance with the Capping Ordinance (Section 33 (6) of the Federal War Victims Compensation Act) plus the amounts of his or her basic pension, allowance for very severe disability and long-term care allowance.

(3) If the income exceeds the amount which disqualifies applicants from income-related compensation benefits, the compensation benefits paid shall be reduced by the exceeding amount in the following order: basic pension, allowance for very severe disability and long-term care allowance. When determining the exceeding amount, currently earned income shall be taken into account before any other income. Sections 33 (4), 33a (2) and 33b (6) of the Federal War Victims Compensation Act shall not apply.

(4) The surviving dependants of an injured person shall, upon application, receive compensation in analogous application of Sections 38 to 52 of the Federal War Victims Compensation Act provided they are in need and are domiciled or ordinarily resident within the territory of validity of this Act. Paragraphs 2 and 3 shall apply accordingly. Irrespective of the time of death of the injured person, the eligibility criteria for a widow's allowance shall be those specified in the first, fifth and sixth sentence of Section 48 (1) of the Federal War Victims Compensation Act as applicable at the date when the application is filed.

(5) Compensation shall comprise all benefits provided for in the Federal War Victims Compensation Act with the exception of compensation for loss of career and compensation for damage.

Section 10b
(repealed)

Section 10c
Transitional arrangement

New claims arising from an amendment of this Act shall be determined upon application only. If the application is filed within one year after promulgation of the amending legislation, payments shall start from the date of its entry into force, but not earlier than from the month in which the eligibility criteria are met.

Section 10d
Transitional provision

(1) In the case of expenditure for benefits paid prior to 1 January 1998 that was not refunded by 1 January 1998, the refunds shall be governed by the reimbursement rules applicable before that date.

(2) The lump-sum amount for the year 1998 shall be determined as follows: An annual average is calculated from the sum total of the Land's reimbursements to the health insurance funds according to this Act in the years 1995 to 1997 minus the reimbursements for long-term care benefits under Sections 11 (4) and 12 (5) of the Federal War Victims Compensation Act in the version applicable until 31 March 1995 and minus the reimbursements made under section 19 (4) of the Federal War Victims Compensation Act in the version applicable up until 31 December 1993.

Section 11
(Entry into force)