

*Reconstructing Life after the Holocaust: The Lastenausgleichsgesetz and the Jewish Struggle for Compensation*¹

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The year 1952 was decisive for the compensation claims of two seemingly opposing groups: Jewish Holocaust survivors and ethnic German expellees. On 21 March, the negotiations on German compensation (*Wiedergutmachung*) for Jewish persecutees of National Socialism began in the Dutch town of Wassenaar.² Direct talks between Germans and Jews were far from obvious; only seven years had passed since the liberation of Auschwitz. At the negotiating table sat representatives of the Federal Republic of Germany (FRG), which acknowledged responsibility for the crimes committed by the Third Reich; the State of Israel, which had absorbed half a million Jewish victims of National Socialism; and the Conference on Jewish Material Claims

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² Particularly over the last two decades, the history and impact of *Wiedergutmachung* has turned into a well-explored field, see for example Norbert Frei, *et al.* (eds.), *Die Praxis der Wiedergutmachung. Geschichte, Erfahrung und Wirkung in Deutschland und Israel*, Göttingen 2009; Hans Günter Hockerts, *et al.* (eds.), *Grenzen der Wiedergutmachung. Die Entschädigung für NS-Verfolgte in West- und Osteuropa 1945–2000*, Göttingen 2006; Constantin Gosciler, *Schuld und Schulden. Die Politik der Wiedergutmachung für NS-Verfolgte seit 1945*, Göttingen 2005; *idem*, *Wiedergutmachung. Westdeutschland und die Verfolgten des Nationalsozialismus (1945–1954)*, Munich 1992; *idem* and Ludolf Herbst (eds.), *Wiedergutmachung in der Bundesrepublik Deutschland*, Munich 1989. For a comprehensive and critical analysis of recent publications on *Wiedergutmachung*, see Benno Nietzel, 'Neuere Literatur zur Wiedergutmachung von NS-Unrecht in Deutschland', in *Neue Politische Literatur* 56 (2011), pp. 207–234.

Against Germany (JCC), the organization which represented Jewish compensation interests.³

In August, while the negotiations were still under way, the *Bundestag* promulgated the *Lastenausgleichsgesetz* (Equalization of Burdens Law, or LAG), in order to regulate compensation to the German war-damaged peoples, including those who were bombed out and predominantly expellees.⁴ Indeed, from the year 1944 onwards, approximately twelve million ethnic Germans fled or were collectively expelled from central and eastern Europe to Germany, primarily because many of them had cooperated with the National Socialists before and during the war. Among the expellees were individuals who had opposed the Third Reich and had been persecuted by the Nazis.⁵ The Federal Expellee Law of 1953 that established the legal status of expellees, while omitting the above-mentioned reason for their expulsion, defined expellees as German citizens or as German *Volkszugehörige* who had lost their homes in the east “in connection with the events of the Second World War”.⁶

As a result of the far-reaching decisions taken at Wassenaar, some Jewish Holocaust survivors could claim compensation payments for material damage

³For the history of the Conference on Jewish Claims Against Germany (JCC) and its performance at Wassenaar, see Marilyn Henry, *Confronting the Perpetrators: A History of the Claims Conference*, London–Portland, OR 2007; Ronald Zweig, *German Reparations and the Jewish World: A History of the Claims Conference*, Boulder–London 1987 (2001); Nana Sagi, *German Reparations: A History of the Negotiations*, Jerusalem 1980.

⁴Besides providing compensation for war-related property loss, the LAG offered additional payments such as absorption loans, war-damage pensions and housing help. For the last version of the LAG from the year 2011 [in German], see <http://bundesrecht.juris.de/bundesrecht/lag/gesamt.pdf>. During the last two decades a growing number of studies on the emergence, development and impact of the LAG have been published, see for example Rüdiger Wenzel, *Die große Verschiebung? Das Ringen um den Lastenausgleich im Nachkriegsdeutschland von den ersten Vorarbeiten bis zur Verabschiedung des Gesetzes 1952*, Stuttgart 2008; Paul Erker (ed.), *Rechnung für Hitlers Krieg. Aspekte und Probleme des Lastenausgleichs*, Heidelberg 2004; Michael L. Hughes, *Shouldering the Burdens of Defeat: West Germany and the Reconstruction of Social Justice*, Chapel Hill–London 1999; Lutz Wiegand, *Der Lastenausgleich in der Bundesrepublik Deutschland 1949 bis 1985*, Frankfurt am Main 1992; see also Reinhold Schillinger, *Der Entscheidungsprozess beim Lastenausgleich 1945–1952*, St. Katharinen 1985. An important conclusion of these studies is that LAG payments have been a powerful tool, helping expellees to integrate into West German society and allowing them to participate in the successes of the post-war German economy.

⁵For the opposition of individual ethnic Germans to the Holocaust (for example Oskar Schindler), see Doris L. Bergen, ‘Tenuousness and Tenacity: The Volksdeutschen of Eastern Europe, World War II, and the Holocaust’, in Krista O’Donnell, et al. (eds.), *The ‘Heimat’ Abroad: The Boundaries of Germanness*, Ann Arbor 2005, pp. 267–286, here pp. 274ff; *idem*, ‘The “Volksdeutschen” of Eastern Europe, World War II, and the Holocaust: Constructed Ethnicity, Real Genocide’, in *Yearbook of European Studies* 13 (1999), pp. 70–93, here pp. 79ff.

⁶“Vertriebener ist, wer als deutscher Staatsangehöriger oder deutscher Volkszugehöriger seinen Wohnsitz in den zur Zeit unter fremder Verwaltung stehenden deutschen Ostgebieten oder in den Gebieten außerhalb der Grenzen des Deutschen Reiches nach dem Gebietsstande vom 31. Dezember 1937 hatte und diesen im Zusammenhang mit den Ereignissen des zweiten Weltkrieges infolge Vertreibung, insbesondere durch Ausweisung oder Flucht, verloren hat.” [Unless the quotation is taken from a published English text, all translations from German are my own.] For the last version of the Federal Expellee Law (*Bundesvertriebenengesetz – Gesetz über die Angelegenheiten der Vertriebenen und Flüchtlinge*) [in German], see <http://www.gesetze-im-internet.de/bvfg/BJNR002010953BJNG000103310>.

under the LAG, notwithstanding the law's prior intention to compensate expelled German *Volkszugehörige*. Based primarily on the analysis of JCC records and the compensation files of Israeli claimants, this article tries to answer the following questions: Under which circumstances was the LAG option for Jewish Holocaust survivors conceived? How did German federal authorities react to these Jewish LAG claimants? What role did the JCC play in this process? The purpose of this article is not to counter the JCC's line of argumentation for compensation, but to reveal the reasons why the JCC agreed to the LAG option in the first place and why it subsequently failed to negotiate better terms for Jewish LAG claimants. The period for LAG applications of expellees ended on 31 December 1970. Thus, this article will cover the Jewish struggle to receive LAG compensation in the period of almost two decades that ranged from 1952 to 1970.

DEFINING GERMAN *VOLKSZUGEHÖRIGE*

German *Volkszugehöriger* (or *Volksdeutscher*,⁷ which means member of the German people or German nationality) is a German concept that can only vaguely be translated. As shown by Doris L. Bergen, it “carried overtones of blood and race”, and its usual English translation “ethnic German” is thus imprecise.⁸ The term, already common after the end of the First World War,⁹ developed into a key concept of National-Socialist ideology. It was used in order to classify people,

⁷ During the Third Reich the difference between German *Volkszugehöriger* and *Volksdeutscher* depended on one's citizenship. German *Volkszugehörige* were ethnic Germans holding either German or foreign citizenship, whereas *Volksdeutsche* were ethnic Germans with foreign citizenship only, see *Reichsministerialblatt der inneren Verwaltung* (RMBliV) 1939 No. 14, p. 785ff. The Central Archives for the History of the Jewish People (hereafter CAHJP) UROffm/55a. After 1945, the concepts German *Volkszugehöriger* and *Volksdeutscher* were used interchangeably. Still, in contrast to the term German *Volkszugehöriger*, the term *Volksdeutscher* was rarely used in German legislation. In the post-war period, German *Volkszugehöriger* was re-defined as an ethnic German from the so-called areas of expulsion who possessed foreign (yet not Austrian or Swiss) or German citizenship. If the latter was the case then the German *Volkszugehörigkeit* was *de facto* of minor relevance for the recognition of one's expellee status. Eckart Klein, 'Status des deutschen Volkszugehörigen und Minderheiten im Ausland', in Josef Isense and Paul Kirchhof (eds.), *Handbuch des Staatsrechts*, vol. 10: *Deutschland in der Staatengemeinschaft*, Heidelberg 2012, pp. 225–264, here pp. 228ff and p. 232.

⁸ Bergen, 'The Nazi Concept of 'Volksdeutsche' and the Exacerbation of Anti-Semitism in Eastern Europe, 1939–45', in *Journal of Contemporary History*, vol. 29, no. 4 (October 1994), pp. 569–582, here p. 569; *idem*, 'Volksdeutschen', p. 71; *idem*, 'Tenuousness', p. 267.

⁹ As a result of the post-First World War shift of borders, especially in eastern Europe, a large number of former German citizens found themselves outside the frontiers of the Weimar Republic. This resulted in new ways of imagining the German community: instead of defining it according to state legal criteria, it was increasingly based upon ethnic-cultural norms. This led in turn to the rise of the concept “*deutscher Volkszugehöriger*” [member of the German people or German nationality]. For a comprehensive analysis of this shift of thought, see Dieter Gosewinkel, *Einbürgern und Ausschließen. Die Nationalisierung der Staatsangehörigkeit vom Deutschen Bund bis zur Bundesrepublik Deutschland*, Göttingen 2001, pp. 341–345; cf. Rogers Brubaker, 'Accidental Diasporas and External “Homelands” in Central and Eastern Europe: Past and Present', in *Political Science Series* 71 (October 2000), pp. 1–19, here pp. 9–12. <http://www.ihs.ac.at/vienna/publication.php?toolE.action=downloadFile&id=332>. The term *Volksdeutscher* appeared for the first time in the year 1930. See entry 'volksdeutsch, Volksdeutscher' in Cornelia Schmitz-Berning, *Vokabular des Nationalsozialismus*, Berlin–New York 1998, pp. 650–652, here p. 651.

especially in central and eastern Europe, according to racial criteria. As written in a circular decree published by the *Reichsministerium des Innern* [Reich Ministry for the Interior] on 29 March 1939:

German *Volkszugehöriger* is someone who declares himself as member of the German people, provided that this declaration is confirmed by specific facts, such as language, upbringing, culture etc. Persons of alien blood, in particular Jews, are never German *Volkszugehörige*, even if they have hitherto described themselves as such.¹⁰

Jews who nevertheless tried to gain official recognition as *Volksdeutsche* by Nazi authorities were disregarded.¹¹ Inclusion in or exclusion from the group of *Volksdeutsche* was literally a question of life and death:

It may not always have been clear who was to count as an ethnic German, but one aspect of the definition remained constant: members of that group were the official beneficiaries of genocide. [...] Any doubts about who was an ethnic German disappeared once the non-Volksdeutschen in a community had been expropriated and expelled to the benefit of those classified as volksdeutsch.¹²

Less than a decade after the end of the Holocaust, the notorious term German *Volkszugehöriger* reappeared in West German legislation.¹³ Yet, instead of blood and Jews, the new definition of the term referred to “ancestry” (*Abstammung*).¹⁴ In this way, German *Volkszugehöriger* was redefined in the aforementioned Federal Expellee Law from 1953 as a person “who in his homeland declared adherence to the German *Volkstum*, provided that this declaration is confirmed by specific features such as ancestry, language, upbringing, culture”.¹⁵ A person’s recognition as expelled *Volksdeutscher* came along with substantial financial benefits. Under the framework of the LAG, such person could claim generous compensation payments for expulsion-related injuries, especially for the loss of property, that had occurred

¹⁰ “Deutscher Volkszugehöriger ist, wer sich selbst als Angehöriger des deutschen Volkes bekennt, sofern dieses Bekenntnis durch bestimmte Tatsachen, wie Sprache, Erziehung, Kultur usw., bestätigt wird. Personen artfremden Blutes, insbesondere Juden, sind niemals deutsche Volkszugehörige, auch wenn sie sich bisher als solche bezeichnet haben.” *Reichsministerialblatt der inneren Verwaltung* (RMBliV) 1939, No. 14, p. 785. According to Dieter Gosewinkel, the radicalism of this new legal definition of the term *deutscher Volkszugehöriger* consisted in its combination of subjective (the declaration) and objective (i.e. culture, language) criteria with the “absolute” category “race”. Gosewinkel, p. 403.

¹¹ Cf. Correspondence Oswald Eger (1939), USHMM RG-48.005M Reel 2 (Czech State Archive/Judenvorschriften). I would like to thank Krista Hegburg, USHMM, for drawing my attention to this correspondence.

¹² Bergen, “Tenuousness”, pp. 271 ff.; cf. *idem*, “Volksdeutschen”; *idem*, “Nazi Concept”.

¹³ Georg Hansen, *Die Ethnisierung des deutschen Staatsbürgerrechts und seine Tauglichkeit in der EU*, p. 15 ff, <http://www.fernuni-hagen.de/KSW/forschung/pdf/fk2.ksw.hansen.pdf>; Gosewinkel, p. 422.

¹⁴ Ancestry was one of the criteria already used by the Nazis to differentiate German *Volkszugehörige* from non-Germans, *ibid.*, pp. 408 ff.

¹⁵ “Deutscher Volkszugehöriger im Sinne dieses Gesetzes ist, wer sich in seiner Heimat zum deutschen Volkstum bekannt hat, sofern dieses Bekenntnis durch bestimmte Merkmale wie Abstammung, Sprache, Erziehung, Kultur bestätigt wird.” <http://www.gesetze-im-internet.de/bvfg/BjNR0020l0953.html#BJNR0020l0953BJNG000l03310>.

outside the boundaries of the Federal Republic of Germany – that is, in central and eastern European regions where ethnic Germans had lived.¹⁶

Thus, it seems that the compensation legislation adopted by the federal authorities from 1952 on, regulated the claims of two different – not to mention antagonistic – collectives: Jews, who had survived the extermination, and expelled *Volksdeutsche* who, in many cases, had participated in and profited from the brutal persecution and plundering of their Jewish neighbours. Remarkably, some Jewish Holocaust survivors filed compensation claims for the loss of their property explicitly under the LAG and not under the BEG, the Federal Law for the Compensation of Victims of National-Socialist Persecution, whose first version was enacted in the year 1953.¹⁷

The BEG was inner-German law. Under its framework only Germans or persons who had a territorial connection to Germany could claim, until the year 1969, compensation for damages resulting from Nazi persecution.¹⁸ As a rule, persecuted foreigners who were citizens of other states were excluded from this law.¹⁹ Because of a constellation of complex legalities Jewish victims of Nazism from central and eastern Europe who came to live in the west and in Israel after the war and who had no territorial connection to West Germany were eligible to claim compensation under the BEG – on condition that they showed so-called expellee features (*Vertriebenen-Eigenschaften*). Indeed, Jewish Holocaust survivors who

¹⁶ See note 4.

¹⁷ The 1953 *Bundesergänzungsgesetz zur Entschädigung für Opfer der nationalsozialistischen Verfolgung* [Supplementary Federal Law for the Compensation of Victims of National-Socialist Persecution] was the first federal compensation law for individual Nazi persecutees; three years later it was replaced by the *Bundesgesetz zur Entschädigung für Opfer der nationalsozialistischen Verfolgung* [Federal Law for the Compensation of Victims of National-Socialist Persecution, BEG]. The BEG was amended and supplemented again in 1965. It is published [in German] at: <http://www.gesetze-im-internet.de/beg/index.html>. For an overview in English of the history and implementation of the German compensation laws for Nazi victims, see Hans Günter Hockerts, 'Wiedergutmachung in Germany: Balancing Historical Accounts 1945–2000', in Dan Diner and Gotthart Wunberg (eds.), *Restitution and Memory: Material Restoration in Europe*, New York–Oxford 2007, pp. 323–381.

¹⁸ It goes without saying that the vast majority of Jewish and non-Jewish Nazi victims were non-Germans who never had any territorial link to the FRG (or the German Reich in its borders of 1937), either before or after 1945. Thus, persecuted ethnic German expellees could claim compensation, while (Jewish) victims of persecution who had no connection whatsoever to Germany (or Germanness) were not eligible under the BEG. In short: the territorial principle was the major legal reason why non-Germans were generally excluded from the BEG. For detailed explanations on the territorial principle and its consequences for Jewish and non-Jewish persecutees, see Goshler, *Wiedergutmachung*, pp. 155ff; Ulrich Herbert, 'Nicht entschädigungsfähig? Die Wiedergutmachungsansprüche der Ausländer' in Goshler/Herbst (eds.), pp. 273–302; Hans Günter Hockerts, 'Die Entschädigung für NS-Verfolgte in West- und Osteuropa. Eine einführende Skizze', in *idem, et al.* (eds.), pp. 7–58; Hermann-Josef Brodesser, *et al.*, *Wiedergutmachung und Kriegsfolgenliquidation. Geschichte – Regelungen – Zahlungen*, Munich 2000, pp. 104–108, pp. 200–208; Raul Teitelbaum, *Die biologische Lösung. Wie die Schoah "wiedergutmacht" wurde*, Springe 2008, pp. 153–160; Henry, pp. 30ff.

¹⁹ Non-German Nazi victims who lived in the west after the war and possessed citizenship of a Western state at the time of the persecution had to claim compensation from the state they belonged to. For this reason, the FRG signed bilateral global compensation agreements with West European states in the post-war period. Due to Cold War *realpolitik*, Nazi victims who lived behind the Iron Curtain were mostly left out of compensation payments.

possessed the same German linguistic and cultural features as ethnic German expellees could claim BEG payments for Holocaust-related damage to body and health, as well as to life, liberty and career.²⁰ However, their damage to property was compensated only to a limited extent, if at all, under the BEG.²¹ As we will come to see, this gap was to be filled by the LAG.

NEGOTIATING THE LAG IN WASSENAAR

At Wassenaar, the FRG agreed to pay for the absorption costs of 500,000 Holocaust survivors in Israel and used the federal expenditures of ethnic German expellees as the basis for estimating the Israeli costs.²² Thus, from the beginning, a connection was established between the compensation of surviving Jewish Holocaust victims and expelled *Volksdeutsche*. Israel received payments in the form of the delivery of goods that were desperately needed by the young state. In return, the Jewish state renounced the right of Israeli Holocaust survivors to claim personal compensation for damage to health from the FRG. This arrangement turned out to be unfavourable for many victims of National Socialism living in Israel: only in the year 1957 did Israel enact the Law for Invalids of Nazi Persecution. The payments distributed under this law were significantly less than the West German compensation payments for Holocaust-related health damage.²³

The negotiations in Wassenaar between the representatives of the FRG and JCC were harsh. Essentially, the representatives of the victims struggled to maximize the number of eligible claimants,²⁴ while the German side tried to limit, as much as possible, the number of compensation recipients. The German negotiators insisted that they were short of money: apart from the Jewish demands, they also had to deal with the German expellees, among others.²⁵ As noted by Moses A. Leavitt,

²⁰ For an analysis of how these “expellee features” of Jewish Holocaust survivors were examined in Israel, see José Brunner and Iris Nachum, “Vor dem Gesetz steht ein Türhüter”. Wie und warum israelische Antragsteller ihre Zugehörigkeit zum deutschen Sprach- und Kulturkreis beweisen mußten, in Frei, *et al.* (eds.), pp. 387–424.

²¹ Heinz Klee, ‘Die besonderen Gruppen von Verfolgten’, in *idem, et al.* (eds.), *Das Bundesentschädigungsgesetz* II/5, Munich 1983, pp. 393–451, here p. 447; Brodesser, *et al.*, p. 106.

²² Report of the German delegation in the Hague on the [status] of the negotiations with the JCC, 1 April 1952, Bundesarchiv Koblenz (hereafter BA) NL Blankenhorst 351/17, 257 [German]. I would like to thank Ivoonne Meybohm, Berlin, for her research assistance at the BA. For the calculation of the Israeli absorption costs, see Rudolf Huhn, ‘Die Wiedergutmachungsverhandlungen in Wassenaar’, in Goshler/Herbst (eds.), pp. 139–160, here pp. 146ff; Edward Kossoy, *Deutsche Wiedergutmachung aus israelischer Sicht. Geschichte, Auswirkung, Gesetzgebung und Rechtsprechung*, Cologne 1970, pp. 100–104.

²³ The minimum monthly pension of a Holocaust invalid in Israel was about 40 DM, while under the BEG it was 165 DM, *ibid.*, p. 108. For the reasons why Germany suggested and Israel agreed to renounce the right of Israeli citizens to claim compensation for damage to health from the FRG, see *ibid.*, pp. 98–109; Henry, p. 32; Amit Erdinast-Ron, ‘Nachempfundenes Recht. Rhetorik und Praxis des israelischen Gesetzes für die Invaliden der NS-Verfolgung’, in Frei, *et al.* (eds.), pp. 660–689.

²⁴ See for example ‘Justification of the conference demand for compensation of losses inflicted upon Jews by the Third Reich outside the boundaries of the Federal Republic (including Austria)’, 1 July 1952, CAHJP/CC8037.

²⁵ See for example Minutes of plenary session, 30 June 1952, CAHJP/CC7040.

head of the JCC delegation: "The Germans were afraid of the pressure they would be under if they would do for Jews what they could not do for these [...] expellees."²⁶ Still, unwilling to put the German-Israeli compensation agreement at risk, he reflected on being left with few bargaining chips: "The trumps were all in the hands of the Germans," concluded Leavitt, "All we had was justice and morality on our side, and in this world justice and morality do not count for very much."²⁷

A crucial claim that was repeatedly discussed in Wassenaar concerned compensation payments for Jews from eastern Europe – where Nazi persecution had been particularly brutal – who had come to reside in the West after the war. The JCC sought to avoid that these Jews obtained less than German expellees – their former neighbours – were expected to get under the LAG.²⁸ In fact, the question of compensation for material losses suffered by Jews from the east developed into a major point of contention between West German authorities and the JCC.

Right from the start, German negotiators rejected the FRG's liability for damage that was inflicted upon Jews in Nazi-occupied countries, for example in the Baltic states, Ukraine, specific areas in Poland as well as in Czechoslovakia, the Sudetenland included.²⁹ They feared, with good reason, the compensation claims of large numbers of non-Jewish persecutees of National Socialism from the east who lived in the west after the war.³⁰ Nevertheless, the German representatives accepted "two-thirds liability for territory east of the Oder-Neisse line",³¹ including Silesia and Pomerania, as well as regions such as the Memel Territory, Poznań/Posen and Gdańsk/Danzig that had belonged, until 1919, to the German Reich and were later annexed by the Third Reich. The remaining third was to be paid by the German Democratic Republic. "This is unacceptable", wrote Moses A. Leavitt to the JCC Presidium, "there can be no agreement between us [the JCC and the FRG] unless the Germans do accept liability for all of the areas."³² To put it another way: Leavitt was demanding the creation of a territorial equivalence to the LAG, which covered material damage that had occurred practically all over central and eastern Europe. Subsequently, Otto Küster, head of the German delegation, admitted two-thirds liability for the Sudetenland and offered additional concessions.³³ "We all felt that we made considerable headway", Leavitt summarized this round of negotiations.³⁴

²⁶ Report, Leavitt to JCC's Policy Committee, 24 September 1952, CAHJP/CC16703.

²⁷ *Ibid.*

²⁸ Henry, p. 37.

²⁹ Protocol, meeting of the sub-committee, 28 March 1952, CAHJP/CC7034 [German]; Report No. 6, Leavitt to JCC-Presidium, 8 April 1952, Archives of the Institute for Jewish Research (hereafter YIVO Archives) RG347/AJC Records, GEN-10/Box 290; Report No. 8, Leavitt to JCC-Presidium, 26 July 1952, CAHJP/CC8125.

³⁰ *Ibid.*; Report, Leavitt to JCC, 24 September 1952.

³¹ Report No. 6; Report No. 2, Leavitt to JCC-Presidium, 27 March 1952, YIVO Archives RG347/AJC Records, GEN-10/Box 290.

³² Report No. 6.

³³ *Ibid.*

³⁴ *Ibid.*

Still Leavitt had not reckoned with one factor: after a few weeks, the German delegation announced – to the astonishment of the JCC – that the federal government insisted on the territorial principle.³⁵ As indicated above, according to this principle, only Germans or persons who had a territorial connection to Germany were eligible to claim full compensation under the federal compensation laws. Thus, based on this principle, the federal government refused liability for a number of damages that were inflicted upon non-German persecutees outside of Germany, such as damage to property and possessions, damage imposed by discriminatory taxes, as well as damage to vocational and economic pursuits, that is, to one's career.

The negotiations in Wassenaar had reached deadlock. At that point, Ingeborg Becker, a member of the German delegation, expressed “her personal opinion which she had not yet cleared” with the federal authorities. She proposed that “some type of compensation” for property damage suffered by the Jews from the east “could be made under the [LAG]”.³⁶ The JCC reacted positively to her proposal.³⁷ After all, this was better than nothing: thousands of Holocaust survivors urgently needed compensation payments in order to reconstruct their lives.³⁸ Subsequently, two LAG experts arrived in Wassenaar to explain to the Jewish negotiators how some of their claims could be addressed by this law in the future:

Persecutees from expulsion areas would obtain indemnification for their material losses on the same basis as if they were German expellees in all such cases where it could be assumed that these persecutees would be subjected to expulsion, i.e. [sic.] when they spoke German or belonged to the German cultural group.³⁹

A new legal category was born: fictional expellees (*Fiktivvertriebene*). These are persons of Jewish origin who lived in central and eastern Europe before the war, previously identified with Germanness and were forced to leave their homeland because of Nazi persecution. According to the proposed legal rationale, after 1944/1945, these persons would have been expelled because of their German features, if they had not already been forcibly removed from their homes during the Third Reich. Therefore, even though these individuals had not actually been expelled in the course of the general expulsion of ethnic Germans, they were recognized as quasi-expellees by the federal authorities.⁴⁰ In short: German identifying Jewish Holocaust survivors became fictional expellees. In their cases the territorial principle was both bypassed (persecutees without a territorial connection to

³⁵ Report No. 8; Minutes, plenary session, 30 June 1952, CAHJP/CC7040; cf. Goschler, *Wiedergutmachung*, pp. 277ff.

³⁶ Minutes, meeting, 9 July 1952, CAHJP/CC7042.

³⁷ *Ibid.*

³⁸ Goschler, *Wiedergutmachung*, p. 312.

³⁹ Minutes, meeting of the experts' sub-committee, 25 July 1952, CAHJP/CC7045.

⁴⁰ Cf. Henry, p. 37.

Germany were entitled to compensation)⁴¹ and preserved (the claimants had to possess German features).⁴² “We have extended benefits to thousands of people who were not eligible for any benefits heretofore”, declared Leavitt of the JCC’s efforts in Wassenaar.⁴³

On 10 September 1952, the FRG and Israel sealed the negotiation outcomes by signing the so-called Luxembourg Agreement and in parallel the FRG drafted two protocols with the non-governmental JCC. Protocol No. 1 guaranteed compensation to the would-be expellees.⁴⁴ A year later, the first version of the BEG was passed by the *Bundestag* and fictional expellees – including those with Israeli citizenship – could claim compensation for damage to health, as well as to life, liberty and career.⁴⁵ The BEG provided special guidelines for their claims that were regulated by article 150 of the law. At that time, it seems, the German authorities had assumed that only a small number of Jewish Holocaust survivors would be eligible for compensation as fictional expellees.⁴⁶ Yet as it turned out, before the Second World War, the use of German as the dominant language and a broad identification with German culture were far more common among the Jews of central and eastern Europe than had been projected. Thus in the long run, thirteen per cent of all the payments under the BEG – but not under the LAG – was paid to quasi- expellees.⁴⁷

In addition, from 1956 onwards, those who were categorized as fictional expellees could claim compensation under the LAG for damage to property and possessions that had occurred in the so-called areas of expulsion, predominantly in Poland, Czechoslovakia, the Baltic states, Hungary,

⁴¹ For an analysis of compensation payments to fictional expellees for career damage for instance, see Hermann Zorn, ‘Existenz-, Ausbildungs- und Versorgungsschäden’, in *idem, et al.* (eds.), *Das Bundesentschädigungsgesetz* II/5, Munich 1983, pp. 47–320, here pp. 294–298.

⁴² Hockerts, ‘Entschädigung’, p. 24; Brodesser, *et al.*, p. 106.

⁴³ Report No. 8. Constantin Goshler termed the fictional expellee solution a “weird compromise” (“eigenartiger Kompromiß”) between the position of the FRG and the position of the JCC. According to him, the compromise is one among several cases in which supporting measures for war-damaged Germans promoted compensation for the victims of Nazism. Goshler, *Wiedergutmachung*, p. 278; cf. *idem, Schuld*, p. 210. Nicholas Balabkins made a similar argument. According to him, “[Chancellor Konrad] Adenauer’s policy of external *Wiedergutmachung* [the global compensation agreements] would have been politically impossible without large-scale compensation to millions of Germans who had lost property during World War II.” Balabkins, *West German Reparations to Israel*, New Brunswick, 1971, p. 194.

⁴⁴ Israeli Ministry for Foreign Affairs (ed.), *Documents Relating to the Agreement between the Government of Israel and the Government of the Federal Republic of Germany (Signed on 10 September 1952 at Luxembourg)*, April 1953, pp. 152–157. The brochure includes the two Protocols signed by the FRG and the JCC; Teitelbaum, pp. 158ff.

⁴⁵ Legislative Recommendations, 26 July 1952, CAHJP/CC7021. Since 1965, compensation for damage to property that had occurred in the 1937 borders of Germany (including Gdańsk/Danzig) could be claimed either under the LAG or under the BEG. The payments under the LAG were higher than under the BEG. Letter, Ernst Katzenstein to Saul Kagan (JCC), 18 December 1968, Israel State Archives (hereafter ISA) 2698/4.

⁴⁶ Walter Schwarz, ‘Die Wiedergutmachung nationalsozialistischen Unrechts durch die Bundesrepublik Deutschland. Ein Überblick’, in Goshler/Herbst (eds.), pp. 33–54, here p. 47.

⁴⁷ Hockerts, ‘Entschädigung’, p. 24.

Yugoslavia and Romania.⁴⁸ Still, because the JCC had previously agreed to the two-third-clause, LAG payments to quasi-expellees were reduced accordingly.⁴⁹

INVENTING JEWISH *VOLKSDEUTSCHE*

What sounds absurd in theory – putting Jewish Holocaust survivors on an equal footing with ethnic German expellees – became even more bizarre in the actual implementation of Protocol No. 1. In order to be eligible to apply for compensation under the BEG as well as the LAG, Jews from the east had to prove that before the persecution they possessed the same characteristics as the *Volksdeutsche* – that they regarded themselves as belonging to the German *Volkstum*, spoke German at home, read German literature or were members of German cultural institutions.⁵⁰ The fact that these ‘German Jews’ were thus in a privileged position in terms of compensation, even though they had suffered the same fate of persecution as ‘non-German Jews’, was heavily criticized by Jewish activists.⁵¹

In addition, the use of the racial concept German *Volkzugehöriger* in the compensation regulations was believed by many to be an especially outrageous offence.⁵² It was one thing to bring evidence to the West German authorities of one’s knowledge of the German language and affinity with German culture. As complicated and absurd as it was to have to prove this, many Jews of central and eastern European origin were entirely ‘at home’ with the German language and culture. Until the National-Socialist persecution, Jews were often no less than the vanguard of German civilization in these areas.⁵³ In Poznań/Posen, for instance, Jews had “looked upon themselves as the pioneers of German culture”, as the playwright Ernst Toller emphasized in his autobiography.⁵⁴ However, it was

⁴⁸ Katzenstein to Kagan, 18 December 1968. For a comparative analysis of the expulsion and evacuation of ethnic Germans from different areas in central and eastern Europe after 1944/1945, see Steffen Prauser and Arfon Rees (eds.), *The Expulsion of the ‘German’ Communities from Eastern Europe at the End of the Second World War*, Florence 2004.

⁴⁹ Minutes, meeting of the experts’ sub-committee. This clause was dropped in 1970. Cf. Letter, Katzenstein to Waldeck [Federal Ministry of Finance], 6 May 1970, ISA/2698/4.

⁵⁰ Brunner/Nachum, pp. 387–424; H. Klee, pp. 393–451.

⁵¹ Cf. Letter, Nehemiah Robinson (JCC) to Kagan, 23 August 1952, CAHJP/CC16707; letter, Kurt Wehle to George Weis, 27 August 1952 in *ibid.*

⁵² *Ibid.*; Robert Herrmann, ‘Memorandum zum Begriff des Bekenntnisses zur deutschen Volkzugehörigkeit’, 27 November 1968, ISA/2698/4; letter, Katzenstein to Y. Ortat [Israeli Ministry of Finance], 3 March 1971 in *ibid.*

⁵³ This was especially the case in Bohemia, Moravia, Western Hungary and Bukovina. For a comprehensive survey of the contribution of central and eastern European Jews to German literature, see <http://www.yivoencyclopedia.org/article.aspx/GermanLiterature>; cf. Peter Meyer, *The Jews in the Soviet Satellites*, Syracuse 1953, pp. 7–11; Peter Pulzer, ‘Rechtliche Gleichstellung und öffentliches Leben’, in Michael A. Meyer (ed.), *Deutsch-jüdische Geschichte in der Neuzeit*, vol. 3: 1871–1918, Munich 2000, pp. 151–192, esp. pp. 160–172; Marsha L. Rozenblit, ‘Sustaining Austrian “National” Identity in Crisis: The Dilemma of the Jews in Habsburg Austria, 1914–1919’, in *idem* and Pieter M. Judson (ed.), *Constructing Nationalities in East Central Europe*, New York–Oxford 2005, pp. 178–191, esp. p. 179.

⁵⁴ Ernst Toller, *I was a German: An Autobiography*, London 1934, p. 2.

another thing to demand from Jews, especially after the Holocaust, proof that in the past they had declared themselves German *Volkszugehörige* – a concept carrying with it heavy “overtones of blood and race”.⁵⁵ The federal authorities realized that it would be an imposition if they insisted on extensive proof of Jewish claimants’ subjectively belonging to the German *Volkstum* as a condition for eligibility under the BEG. Therefore, under the framework of this law, the federal legislature gradually contented itself with proof of the claimants’ objective German features – that is, their affiliation to the so-called German linguistic and cultural circle (*deutscher Sprach- und Kulturkreis*). Proof of a pre-war declaration of German *Volkstum* was in practice not required.⁵⁶

The crux of the matter was that Jewish compensation activists wrongly assumed that the same *modus operandi* would work under the LAG, which became effective for fictional expellees by the end of 1956. Thus, in 1957, the Institute of Jewish Affairs wrongly asserted that “an explicit declaration of ‘belonging to the German nation’ is not required” under the LAG.⁵⁷ However, it turned out that the Federal Equalization Office, backed by the Federal Ministry of Finance, insisted on the declaration of the Jews of German *Volkstum*.⁵⁸ In the LAG authorities’ view, giving up the declaration-clause would do no more than “shake the foundations of the LAG-building”.⁵⁹ Indeed: why should they change the LAG regulations for the Jews? After all, contrary to the BEG, the LAG was not intended for (Jewish) Holocaust survivors, but rather for war-damaged Germans and ethnic German expellees in particular.⁶⁰ Its intention was to compensate property damage

⁵⁵ See note 8.

⁵⁶ The declaration-clause under the BEG was dropped *de jure* in 1965. H. Klee, p. 421, cf. Brodesser, *et al.*, p. 106.

⁵⁷ Institute of Jewish Affairs (ed.), *Compensation to Victims of Nazi Persecution for Property Losses in Expulsion and Similar Areas (Eleventh Decree to the Equalization of Burdens Law)*, New York 1957, p. 4.

⁵⁸ See for example Transcription, Karl Heinz Schaefer, Vice-President of the *Bundesausschleissamt* [Federal Equalization Office], 8 March 1967, CAHJP/URO/Ffm77b [German]. The *Bundesausschleissamt* is responsible for the implementation of the LAG. As shown by Jannis Panagiotidis, Jews who emigrated from eastern Europe to the FRG had to prove their belonging to the German *Volkstum* as well: “‘The Oberkreisdirektor Decides Who Is a German.’ Jewish Immigration, German Bureaucracy, and the Negotiation of National Belonging, 1953–1990”, in *Geschichte und Gesellschaft*, 38 (2012), pp. 503–533; cf. *idem*, ‘Deutsche und jüdische Zuwanderer in die Bundesrepublik Deutschland. Eine Beziehungsgeschichte’, in Dmitrij Belkin and Raphael Gross (eds.), *Ausgerechnet Deutschland! Jüdisch-russische Einwanderung in die Bundesrepublik*, Berlin 2010, pp. 79–81.

⁵⁹ Removing the clause would “die Fundamente des L[asten]A[usgleichs]-Gebäudes erschüttern”. Letter, Katzenstein to Schaefer, 24 September 1970, ISA/2698/4 [German]. The insistence on the declaration-clause was not supported by all those responsible for LAG policy. The Senator of Labour in Bremen, Karl-Heinz Jantzen (SPD), a former National Socialist Party member, opposed it for instance. See for example letter, Jantzen to Katzenstein, 25 January 1969 (the exact date of this letter is unclear), ISA/2698/4; <http://www.niqel.de/bredel/news/bremen.pdf>.

⁶⁰ This position was strongly defended by Ernst Féaux de la Croix (1906–1995), who was the highest federal compensation official. Cf. letter, Féaux de la Croix to Ortar, 18 February 1971, ISA/2698/4. For information on Féaux de la Croix, who was a member of the National Socialist Party and the SA as well as co-author of a memorandum on ‘Race, Volk, Nation, and Territory in the Formation of Concepts and Words’ (1938), see Ernst Klee, *Das Personenlexikon zum Dritten Reich. Wer war was vor und nach 1945*, Frankfurt am Main 2005, p. 145; Christian Pross, *Paying for the Past. The Struggle over Reparations for Surviving Victims of the Nazi Terror*, Baltimore–London 1988, pp. 15–18. The

suffered by Germans, not by Jews. It appears as though the German authorities feared that the slightest change in favour of the JCC might expand the number of Jewish LAG claimants⁶¹ and subsequently raise protest from the strong lobbies of war-damaged Germans.⁶²

The declaration was verified on the basis of interwar censuses in central and eastern Europe. In short: Jews who had indicated German as their nationality were recognized as German *Volkszugehörige* in post-war-Germany.⁶³ Indeed, in the past, even though this was not the rule, some Jews used to “describe themselves”⁶⁴ as members of the German nationality – a detail that, as we saw, had not gone unnoticed by the National Socialists.⁶⁵ In the Czechoslovakian census of 1930 for instance, more people of the Jewish faith living in Bohemia (and in Prague) declared themselves as being German than as being Jewish by nationality.⁶⁶

Nevertheless, what made it almost impossible for Jews to claim compensation under the LAG was the fact that the federal authorities held the view that a person could only belong to one *Volksstum*.⁶⁷ From this the Federal Equalization Office deduced that Jewish claimants coming from regions in the east where Jews were recognized as a national or religious minority after the First World War, which was the case almost everywhere – in Romania, the Baltic states, Czechoslovakia and Poland for instance – were to be collectively seen as belonging to the Jewish and not the German *Volksstum*. As a result, Jewish claimants from these areas were almost completely excluded from the LAG.⁶⁸ This regulation affected approximately 17,000 Jewish LAG applicants.⁶⁹ To be sure, this is a tiny minority compared to the

memorandum stated that: “People of foreign race cannot belong to the German people, even if they possess Reich citizenship and are exclusively German-speaking.” *Ibid.*, p. 18.

⁶¹ Constantin Goschler, ‘Die Bundesrepublik und die Entschädigung von Ausländern seit 1966’, in Hockerts, *et al.* (eds.), pp. 94–146, here p. 106.

⁶² Letter, J. Haon [Israeli Embassy in FRG] to Ortar, 11 March 1969, ISA/2698/4. For the competition in the 1950s between Jewish Holocaust survivors and German expellees on compensation claims, see Goschler, *Wiedergutmachung*, pp. 211–214; *idem*, *Schuld*, p. 216.

⁶³ Notwithstanding that the eastern European terms for ‘nationality’ were not implicitly synonymous with the German term *Volkszugehörigkeit* and that the interwar censuses were not always perceived by the local population as national declarations. Cf. Herrmann, ‘Memorandum’. Tara Zahra emphasizes for instance that the interwar Czechoslovak census “was not a transparent reflection of national loyalties or language use”. Tara Zahra, ‘The “Minority Problem” and National Classification in the French and Czechoslovak Borderlands’, in *Contemporary European History* 17 (2008), pp. 137–165, here p. 138 (note 4). For the uses of the concept ‘nationality’ in different European languages, see for example Jiří Kořalka, *Tschechen im Habsburgerreich und in Europa 1815–1914. Sozialgeschichtliche Zusammenhänge der neuzeitlichen Nationsbildung und der Nationalitätenfrage in den böhmischen Ländern*, Vienna–Munich 1991, 24ff.

⁶⁴ See note 10.

⁶⁵ *Ibid.*

⁶⁶ Erwin Winkler, *Die Tschechoslowakei im Spiegel der Statistik*, Karlovy Vary 1937, p. 13; cf. Meyer, pp. 53ff.

⁶⁷ Letter, Katzenstein to Ortar, 8 March 1967, ISA/5706/5.

⁶⁸ Katzenstein to Kagan, 18 December 1968. For the interwar recognition of eastern European Jews as a separate nationality (for instance in Estonia, Latvia, Lithuania, Czechoslovakia, the West Ukrainian Republic, and the (Russian) Ukraine) or as a religious minority (for instance in Poland), see for example Kurt Stillschweig, ‘Nationalism and Autonomy Among Eastern European Jewry’, in *Historia Judaica* 6 (1944), pp. 27–68.

⁶⁹ Katzenstein to Ortar, 8 March 1967.

hundreds of thousands of non-Jewish *Volksdeutsche* who enjoyed LAG payments. German-speaking Jews originating from territories east of the Oder-Neisse line and the Sudetenland had the best chance of successfully pursuing their LAG claims.⁷⁰

The strict LAG regulations were something that the JCC had not taken into account at Wassenaar. "In 1952 nobody was aware of, or could foresee, the effects and repercussions of the LAG legislation. Otherwise the Jewish delegation would hardly have set their name under [the relevant paragraph] of the [...] Protocol No. 1," admitted Ernst Katzenstein, a prominent JCC representative in Germany and arduous fighter for Jewish LAG claimants.⁷¹ For years, while more and more Holocaust survivors were dying, Katzenstein tried to change the position of LAG authorities and the Federal Ministry of Finance – in vain. His efforts "collapsed absolutely".⁷²

ISRAELI LAG CLAIMANTS: A CASE STUDY

The situation was especially dramatic for Israeli Holocaust survivors who filed the majority of the Jewish LAG claims.⁷³ Faced with meagre payments for damage to health and with a relatively low standard of living in Israel, they had a special financial incentive to be recognized as fictional expellees and to file claims under the LAG (and the BEG). This was, for example, the case for Kalman, who was born in 1893 with Russian citizenship, in a small Polish town near the German-Polish border.⁷⁴ In the late 1920s he moved with his wife Perl to Gdańsk/Danzig, from where the German population later fled or was expelled. In 1939, with the invasion of Gdańsk by the German army and the beginning of the persecution of the local Jews, Kalman and his ten-year old son Hermann were sent by the Gestapo to Romania and from there they escaped to Palestine. Perl and her three-year old daughter Berta were left behind because, according to the information in Kalman's compensation files, small children were not taken on this journey. Shortly thereafter, Perl and her daughter had to flee from Gdańsk to Poland, where Perl handed over her child to relatives. After a short time, Perl was arrested and shot dead by the Germans. In 1942 Berta was deported with her relatives to Treblinka. All of them perished. At that time, Kalman and his son Hermann were already in Palestine. In 1948 Hermann was killed as a soldier in the Israeli War of Independence.

⁷⁰ Katzenstein to Kagan, 18 December 1968.

⁷¹ *Ibid.*

⁷² His efforts "sind absolut gescheitert". Katzenstein to Ortar, 8 March 1967; cf. Katzenstein to Schaefer, 24 September 1970.

⁷³ Katzenstein to Ortar, 8 March 1967.

⁷⁴ The reconstruction of Kalman's biography is based on information from his compensation files located in three different archives: ISA/5706/6; Lastenausgleichsarchiv Bayreuth ZLA12.230.327; Amt für Wiedergutmachung Saarburg AWSI93518. I would like to thank the archivists for assisting me in my inquiries.

In 1957 Kalman filed, with the help of lawyers, compensation claims as a fictional expellee. In their letters to the German authorities, the lawyers repeatedly emphasized that Kalman was an aged man, that his financial situation was dire and that he desperately needed compensation payments. Because Kalman filed the claims both under the BEG and the LAG, he had not only to prove his pre-war association with the German linguistic and cultural circle but also his German *Volkszugehörigkeit*. Based on Kalman's good knowledge of the German language, his assertion that before the persecution he had read the bible in German, and with regard to the fact that Kalman gave his children German names – Hermann and Berta – his belonging to the German linguistic and cultural circle was acknowledged. Thus, he was eligible to claim compensation under the BEG and received a one-time payment for damage to his career and liberty as well as a monthly parent's pension (*Elternrente*) for his murdered daughter. Apparently, he made no claim for damage to health.⁷⁵ Kalman's case is thus paradigmatic to the inner logic of the BEG system: compensation payments relied upon the level of one's Germanness – and not on one's suffering during the Holocaust.

Kalman died in 1966. Two years later his lawyers received notification from LAG authorities: Kalman's LAG application for damage to property (household goods) was denied with the argument that his German *Volkszugehörigkeit* could not be proven. He had come from a region with an officially recognized Jewish minority and there was no evidence that before the persecution he had expressed "through his whole behaviour [*durch sein gesamtes Verhalten*]" (in censuses for instance) his will to belong "solely [*einzig*]" to the German and not to the Jewish minority.

EXCLUDING JEWS FROM THE LAG

Ernst Katzenstein specifically criticized the fact that Holocaust survivors, such as Kalman, were accepted under the BEG as fictional expellees based on their belonging to the "German linguistic and cultural circle", while under the LAG they had to be recognized in addition as German *Volkszugehörige* in order to be eligible for compensation. According to Katzenstein's understanding, this "splitting of a legal personality" harmed the "basic principles of law".⁷⁶ He expressed his disappointment that German clerks were reluctant to recognize it as a violation of "Rechtsstaatlichkeit" [...] of the German Basic Law.⁷⁷ Katzenstein's disappointment evokes a critical examination of his (and the JCC's) linking between *Rechtsstaat* and the LAG.

⁷⁵ Since 1965 'fictional expellees' from certain regions (Gdańsk/Danzig for instance) could file claims for damage to property under the BEG. Under the framework of this regulation, Kalman's heirs received a one-time payment for property damage.

⁷⁶ Katzenstein to Kagan, 18 December 1968; cf. letter, Katzenstein to Peter-Paul Nahm [Federal Ministry for Expellees, Refugees and war-damaged], 20 July 1967, CAHJP/URO/Ffm77b; Draft, Memorandum for Martin Hirsch [SPD, Member of the *Bundestag*], n.d., n.a., ISA/2698/4 [German].

⁷⁷ Letter, Katzenstein to Kagan, 9 October 1972, USHMM, BBFC/RG/J2.007.02*02 3of 3.

The jurist Katzenstein, who received his professional training in the Weimar Republic,⁷⁸ where *Rechtsstaat* – the state based on the rule of law and justice – was a key legal concept, fought the exclusion of Jewish claimants from the LAG in honour of this principle. Yet Katzenstein overlooked that when the war-damaged Germans began formulating their compensation demands in the mid 1940s, they made their appeal explicitly to the German community and less to the *Rechtsstaat*.⁷⁹ After all, there was no state to appeal to – the German Reich had ceased to exist (and foreign victimizers could not be held liable).⁸⁰ The German community did however continue to exist, and – faced with the bombing of German cities, total defeat and mass expulsions – strengthened the ties among its members.⁸¹ Both the LAG and the Federal Expellee Law provided legal substance to these imagined communal bonds. The latter defined the criteria of belonging to the group of German *Volkszugehörige*; the former was a remarkable act of mutual liability. It was based on the principle that undamaged Germans were to make significant sacrifices, in the form of heavy levies on their property, to finance the compensation for the war-related material damage of fellow Germans.⁸² Jews, the ultimate victims of the German community, were not part of its recent experience. Thus, Holocaust survivors such as Kalman – especially if they were not German-born and lived abroad after 1945 – had little solidarity, sympathy or sacrifice to expect.⁸³ If anything, they were kept apart as much as possible from the communal bonds of the post-war *Volksdeutsche* and,⁸⁴ consequently were excluded, as much as practicable, from the LAG. This is the main reason why, from the beginning, Katzenstein's and the JCC's epic efforts to correct the status of the Jews under the LAG were doomed to fail, and why the inclusion of Jewish Holocaust survivors from central and eastern Europe into the BEG could only be achieved by considering them as fictional expellees. Only by agreeing to put these Jews on an almost equal footing with expelled *Volksdeutsche* could Katzenstein and the JCC succeed in enlarging the circle of eligible BEG claimants. In the end, this opened German compensation payments to Jewish Holocaust survivors who otherwise would have been left with minimal financial assistance, or without any support at all.

⁷⁸ Katzenstein (1898–1989) worked in the Weimar Republic as a lawyer in Hamelin, Lower Saxony. In 1934, after losing his practice, he was forced to leave Germany and emigrated to Palestine. In 1949 he was appointed Chief Officer of the Jewish Restitution Successor Organization (JRSO) in Germany and in 1956 he became Director of JCC's German office. Pross, p. 10.

⁷⁹ Hughes, *Shouldering*, p. 37.

⁸⁰ *Ibid.*, p. 41, cf. p. 37.

⁸¹ *Ibid.*, p. 20.

⁸² *Ibid.*, pp. 35–42; *idem*, 'Mastering War's Material Consequences in West Germany: The Conceptual Background to the Lastenausgleich in International Comparison', in Erker, pp. 249–264.

⁸³ José Brunner, 'Property, Solidarity and (German) History', in *Theoretical Inquiries in Law Forum* 10 (2009), pp. 9–16, here p. 15, <http://services.bepress.com/cgi/viewcontent.cgi?article=1008&context=tilforum>.

⁸⁴ *Ibid.*, pp. 15ff.

