



Files of the Restitution Commissions

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Origins of the holdings

After Austria's liberation from National Socialism by the Allies in 1945, in the years 1946 to 1949 the Austrian National Council resolved seven restitution acts which, in principle, provided for the in rem restitution of assets which had been seized by the National Socialists between 1938 and 1945. The Drittes Rückstellungsgesetz ("Third Restitution Act") is of special importance: it enabled the material restitution of all assets or parts of assets which did neither fall under the law of the First Restitution Act nor under the Second Restitution Act at the time the claim was filed by means of civil proceedings before specially established Restitution Commissions at the Provincial Courts. Due to the vast amount of seized property and huge numbers of people potentially obligated to restitute, the Third Restitution Act was the most politically contentious of the restitution acts. The requirements included the aggrieved person or his/her heir actively submitting a timely application (before the expiration of the deadline) and the physical presence of the requested asset on Austrian territory.

Contents of the files

The files of the Restitution Commissions of the first instance pursuant to the Third Restitution Act reflect the course and results of the negotiations before the Restitution Commissions, which are available either in the form of rulings or settlements. If an appeal was lodged against a ruling, the results of negotiations before the Higher Restitution Commission (second instance) are also documented. In addition, the files contain procedural legal documents which allow the proceedings, the tactics and arguments of the restitution claimants and adverse parties as well as the decision-making principles to be followed.

Informational content

The circumstances and the course of the seizures under National Socialism can be gathered well from the individually worded applications for restitution. In line with the evidentiary requirements of the restitution acts and the requirements under procedural law, documents are contained in the file which provide an insight into National Socialist policies of injustice and into the circumstances in the years directly after the war and the adverse parties' lines of argumentation (e.g. statements and counterstatements of the parties to the proceedings and witness protocols). Furthermore, valuation reports, copies from the land register or from the historical trade register and declarations of death and documents relevant to the law of succession might also be found which supplement the details on the legal proceedings with financial, biographical and property law information.

Alternative sources of information

For real estate, the event and date of the commencement of restitution proceedings and their conclusion as well as any changes in the ownership status can be viewed in the so called B-sheet at the locally competent land register authorities (if the only information is the cancellation of the record that restitution proceedings had been commenced, this could signal a legally binding settlement, a negative decision for the restitution claimants or the withdrawal of the restitution claim). In the case of a de facto restitution of the property to a restitution claimant, the related rulings of the Restitution Commission are also included in the collection of documents to the land register.

The outcome of restitution proceedings can also be gathered from the notifications pursuant to the *Vermögensentziehungs-Anmeldungsverordnung* ("Ordinance on the Notification of Seized Property"). Copies of the rulings or decisions of the Restitution Commissions can generally also be found enclosed here.

If an application was filed with the *Abgeltungsfonds* ("Compensation Fund"), this file also contains at least an excerpt from the restitution file.

Indications of restitution proceedings and their outcome can sometimes also be gathered from the *Negativ-Akten Liegenschaften der Sammelstellen A und B* ("Negative files, immovable properties of the Collection Agencies A and B") regarding properties and from the *Negativ-Akten Handel und Gewerbe* ("Negative files, trade and commerce") of the Collection Agencies A and B regarding companies.

If proceedings pursuant to the Third Restitution Act were conducted at all stages of appeal up to the Supreme Restitution Commission at the Supreme Court (third instance), then the restitution proceedings are documented in the papers of the Supreme Court from the second instance

(Higher Restitution Commission) onward. The holdings in question, the so called Rkv files from the years 1947 to 1973 are also stored at the Austrian State Archives. However, all files of the Supreme Court and, as such, all files of the Supreme Restitution Commission, are restricted access and therefore not accessible to the general public.

Explanations and comments

The rulings of the Restitution Commissions are insofar public documents and as such accessible to interested parties, if the people involved are listed in the archives of the land register. The files of the Restitution Commission underlie the data protection laws and are therefore only accessible according to the respective archival legislation. Beyond the holdings of restitution files contained in the *Findbuch*, it should, as a rule, be noted that the negotiations held before the Restitutions Commissions can also involve cases in which the property is situated outside of the regional area of competence of the respective Provincial Court. As the place of residence of the adverse party was the decisive factor in determining where the case would be heard, it was possible for the courts to deal with properties which were situated beyond the provincial boundaries. Gaps in the nominal holdings can arise due to the fact that the restitution applications pursuant to the Third Restitution Act were transferred for legal reasons to the competent Financial Directorate to be processed pursuant to the First Restitution Act or Second Restitution Act .

Carinthian Regional Archives

Record group: **Gerichtsbehörden** ("Judicial authorities")

File series: **Klagenfurt, Landesgericht** ("Klagenfurt, Provincial Court"), **Rückstellungskommission** ("Restitution Commission")

Period: 1947–1961

Signature: *AT KLA 144*

The ca. 1,680 restitution applications filed with the Restitution Commission at the Provincial Court Klagenfurt by 1961 are stored at the Carinthian Provincial Archives and have been preserved almost in their entirety. The vast majority of National Socialist property seizures dealt with in this file series involve members of the Slovenian ethnic group. The files are accessible in the Provincial Archives by means of an alphabetical list of names, the Namensverzeichnis für die Rückstellungskommission beim Landesgericht Klagenfurt 1947 bis 1957/58 (1970) ("List of names for the Restitution Commission at the Provincial Court Klagenfurt 1947 to 1957/58 [1970]"), which, in addition to the file number of the proceedings also contains the names of the adverse parties to the proceedings. An in-house finding aid, Landesgericht Klagenfurt Rückstellungskommission (1947–1961) ("Provincial Court Klagenfurt Restitution Commission [1947–1961]") from which the related box number can also be gathered, also provides assistance in locating specific files. The file number of the proceedings and the box number serve to help locate the file within the holdings. Details on the individual proceedings such the outcome and the object of proceedings are contained in a supplementary in-house finding aid entitled Rückstellungs- und Rückgabe- Kommission beim Landesgericht Kagenfurt ("Restitution and Restoration Commission at the Provincial Court Klagenfurt").

Information on data processing: Files of the Restitution Commission at the Provincial Court Klagenfurt

Archives of Upper Austria

Record group: **Gerichtsarchive** ("Court archives")

Holdings: **Sondergerichte** ("Special courts") (LG Linz – Sondergerichte ["Provincial Court Linz – Special courts"])

File series: **Rückstellungskommission** ("Restitution Commission")

Period: 1947–1966

Abbreviation for this type of file: *Rk*

Record group: **Staatliche Verwaltung** ("State administration")

Holdings: **Landesverwaltung seit 1945** ("Provincial administration since 1945") (Amt der Landesregierung seit 1945 ["Office of the Provincial Government since 1945"])

File series: **Finanzamt Rückstellungen** ("Tax office restitutions")

Period: 1940s and 1950s

Abbreviation for this type of file: *FiRK*

Information on data processing: Files of the Financial Department of the Province of Upper Austria – Restitutions

In January 1986, files were transferred to the Upper Austrian Provincial Archives by the Financial Department of the Office of the Upper Austrian Provincial Government (file series *Financial Department of the Province of Upper Austria*, abbreviated *FiRK*) which were created during the course of the restitution of the property seized by the Reich Region Upper Danube between 1938 and 1945. In the files, the Province of Upper Austria appears as the adverse party to the restitution and the files were administered by a department established especially for this purpose. According to the Upper Austrian Provincial Archives, these files constitute the remainder of a holdings which no longer exists in their former extent. The facts and circumstances documented in the files in part overlap with the files of the Financial Directorate for Upper Austria "Financial Directorate – Confiscated assets", "Financial Directorate – Restitution of assets" and with the file series "Restitution Commission" (Rk) 1947–1966 in the sub-holdings Provincial Court Linz – special courts established pursuant to the Third Restitution Act. Files from the 13-file series can be ordered by giving the holdings title and the box number.

Information on data processing: Files of the Restitution Commission at the Provincial Court Linz

Salzburger Landesarchiv

Record group: **Zentralregistratur** (“Central registry”) (from 1850)
Holdings: **Justizverwaltung** (“Judicial administration”)
Sub-holdings: **Landesgericht** (“Provincial Court”) **Salzburg 1850-1962**
File series: **Rk-Akten** (“Restitution Commission files”)
Period: 1947–1961

Abbreviation for this type of file: *Rk*

The sub-holdings “Restitutions” at the Salzburg Provincial Archives were transferred from the Provincial Court to the Provincial Archives in the 1980s. This file holdings is almost completely intact, with the exception of the year 1959 which was already lost before the Provincial Archives took over the holdings.

Information on data processing: Files of the Restitution Commission at the Provincial Court Salzburg

Tyrolese Provincial Archives

Record group: **Behörden und Ämter** (“Authorities and offices”)
Holdings: **Zentrale Behörden nach 1868** (“Central authorities after 1968”)
Sub-holdings: **Tiroler Justizbehörden** (“Tyrolese judicial authorities”)
File series: **Rückstellungskommission beim Landesgericht** (“Restitution Commission at the Provincial Court”) **Innsbruck**
Period: 1947–1968

Abbreviation for this type of file: *RK-Akten*

The activities of the Restitution Commission at the Provincial Court Innsbruck reached a peak in 1948, during which approx. half of the restitution applications were filed. In total, in 1948 to 1950 proceedings were held for around two-thirds of all applications. Although the number of applications declined steeply in the following years, the Restitution Commission was still active until well into the 1960s.

Information on data processing: Files of the Restitution Commission at the Provincial Court Innsbruck

Municipal and Provincial Archives of Vienna (MA 8)

Holdings 2: **Landesarchiv 14. Jh.–21. Jh.** (Provincial Court 14th century–21st century)
Holdings 2.3: **Staatliche Gerichte 1725–20. Jh.** (State Courts 1725–20th century)
Holdings 2.3.5: **Landesgericht für Zivilrechtssachen 1850-1984** (Provincial Court for Civil Matters 1859–1984)
Signature: **2.3.5.A29** (RK – Rückstellungskommission [Restitution Commission])
Period (years contained): 1956, 1958-1965, 1969

Abbreviation of this type of file: RK

The files of the Restitution Commission at the Provincial Court for Civil Matters Vienna, taken on by the Municipal and Provincial Archives of Vienna in 1988, formed just a fraction of the holdings accumulated for proceedings conducted pursuant to the Third Restitution Act (Federal Law Gazette 1947/54) since 1947. The procedural files that document the initial years following the enactment of the law and, as such, the intensive phase of the restitution proceedings conducted pursuant to this act, were destroyed by the competent judicial authority in 1986. As a result the files from the years 1947 to 1955 and from the year 1957 no longer exist. This severe intervention in historically significant file holdings entailed the loss of a vast amount of procedural documentation for the Province of Vienna, which was the hub of the Nazis’ antisemitic policies of seizure and aryanization in Austria between 1938 and 1945.

The loss of these procedural files raises the question of whether alternative documentation of the proceedings exists. Pursuant to Sec. 13 (2) and (3) of the Third Restitution Act, rulings in restitution proceedings, restitution settlements and acknowledgements (that a restitution claim is merited) had to be reported to the local authority responsible for the notifications of seized assets (in Vienna to the higher authority, municipal department 62). This gave rise to the possibility that the mentioned documents are enclosed in the file holdings of the Ordinance on the Notification of Seized Property (Federal Law Gazette 1946/166) for the Federal Province of Vienna, which are also held at the Municipal and Provincial Archives of Vienna. The information that they contain is limited to the outcome of the restitution proceedings, without documenting the historical background of the often protracted proceedings. Retrospectively, the proceedings that stretched over a long period of time proved advantageous if they were concluded in a year for which the documents were not destroyed.

If restitution proceedings were pursued through the judicial preview process up to and including the Supreme Restitution Commission, it is possible to “gather important information about the course of the proceedings and decisions of the lower courts” from its procedural documentation (Meissek/Olechowski/Gnant 2004). The outcome of restitution proceedings involving real estate can also be gathered from the collection of documents of the competent Viennese land register (district) courts.

Brief references to provisions of the Third Restitution Act can be found in the “remarks” field of the detailed view for certain records,

- “Compensation pursuant to Sec. 10 (1).” This paragraph dealt with liens, rights of easement and land charges that are secured on a property in the land register.
- “Reimbursement of the purchase price pursuant to Sec. 15” pertained to the recourse claims between (a chain of) buyers following a seizure.
- “Taking an oath”: pursuant to § 28 the person affected by a restitution application (person liable to retribute) could be forced to provide information on the “whereabouts of the asset” (the seized object) under oath.

In addition, there are also a few references to “Sec. 10 (1) of the 5th Restitution Act”: this paragraph of the 5th Restitution Act [BGBl 1949/164] deals with restitution to or compensation of minority shareholders of dissolved corporations, commercial partnerships limited by shares, limited liability partnerships, commercial and trading cooperatives, and companies as defined by the Mountain Act (Berggesetz). The Restitution

Commissions also conducted and decided on proceedings pursuant to the 5th Restitution Act.

From 1959 onward, Collection Agencies A and B increasingly appeared as applicants in restitution proceedings. This development was due to the first amendment to the Receiving Organizations Act (Federal Law Gazette 1957/73), which enabled the Collection Agencies to lay claim to assets that had remained unclaimed or heirless as a result of the Nazi terror, pursuant to the Third Restitution Act. Upon enactment of the 4th Restitution Claims Act (Federal Law Gazette 1961/133) the Collection Agencies could, under certain conditions, transfer their claims to so-called applicants for equitable relief, meaning that the applicants could enter into the proceedings.

Obwohl das Landesgericht für Zivilrechtssachen Wien für den Gerichtssprengel Wien, Niederösterreich und das Burgenland den Sitz der Rückstellungskommission bildete und Außensenate in Krems, St. Pölten und Wiener Neustadt unterhielt, sind die Akten dieser Verfahren – mit Ausnahme einzelner Verfahrensakten aus Krems – im Bestand nicht enthalten.

Although the Provincial Court for Civil Matters Vienna was home to the Restitution Commission Vienna for the court circuit of Vienna, Lower Austria and Burgenland, and had external senates in Krems, St. Pölten and Wiener Neustadt, with the exception of a few isolated procedural files from Krems, the files for these proceedings are not contained in the holdings.

Literature:

-Franz-Stefan Meissel, Thomas Olechowski, Christoph Gnant: Untersuchungen zur Praxis der Verfahren vor den Rückstellungskommissionen (Publications of the Austrian Historical Commission. Vermögensentzug während der NS-Zeit sowie Rückstellungen und Entschädigungen seit 1945 in Österreich, volume 4/2), Vienna, Munich 2004, p. 30, fn 20.

- Rigele, Brigitte: Wiedergutmachung. Bestände zu den Rückstellungsverfahren im Wiener Stadt- und Landesarchiv; in: Studien zur Wiener Geschichte (= Jahrbuch des Vereins für Geschichte der Stadt Wien Nr. 56/2000), p. 127-143.

Information on data processing: Files of the Restitution Commission at the Provincial Court for Civil Matters Vienna