

**ACT dated 8 July 2005**  
**about payment of a right for compensation from title of leaving estate**  
**beyond present borders of the Republic of Poland**

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(as translated by Aneta Hoffmann and edited by Stefan Wisniowski, 13 September 2007)

**Article 1.**

1. Act defines principles of payment for a right for compensation from title of leaving estate beyond present borders of Republic of Poland in result of expulsion from former territory of Republic of Poland or by reason of war started in 1939 and based on:
  - 1) Agreement of 9 September 1944 between Polish Committee of National Liberation (PKWN) and government of Belorussian socialist republic concerning evacuation of Polish citizens from the territory of B.S.R.R. and Belorussian population from Polish territory;
  - 2) Agreement of 9 September 1944 between Polish Committee of National Liberation (PKWN) and government of Ukrainian socialist republic concerning evacuation of Polish citizens from the territory of Ukr.S.R.R. and Ukrainian population from Polish territory;
  - 3) Agreement of 22 September 1944 between Polish Committee of National Liberation (PKWN) and government of Lithuanian socialist republic concerning evacuation of Polish citizens from the territory of L.S.R.R. and Lithuanian population from Polish territory;
  - 4) Agreement of 6 July 1945 between temporary government of national unity of Republic of Poland (Tymczasowy Rząd Jedności Narodowej) and government of Soviet Union about right of changes of Soviet citizenship status of persons of Polish and Jewish nationalities living in USSR and about their evacuation to Poland, and about changes of Polish citizenship status of persons of Russian, Ukrainian, Belarussian, Rusin and Lithuanian nationality, living on Polish territory and their evacuation to USSR,

hereafter named "right for compensation".

- 1a. The right for compensation vests also to persons, which left real estates beyond the current borders of Republic of Poland in reference to the agreement between Republic of Poland and USSR dated on 15 February 1951 about exchange of parts of the state territories.
2. Regulations of point 1 apply also to persons, which because of other circumstances related with war started in 1939, were forced to leave former territory of the Republic of Poland.

**Article 2.**

1. Right for compensation applies to owner of estate left beyond present borders of the Republic of Poland, if he jointly fulfills mentioned below requirements:
  - 1) on 1 September 1939 he was Polish citizen; was living at that day on former territory of the Republic of Poland and left it because of the reasons mentioned in Article 1;
  - 2) has Polish citizenship.

**Article 3.**

1. In case, when estate left beyond present borders of the Republic of Poland, was an object of joint ownership, the right for compensation belongs to all co-owners fulfilling requirements stipulated in Article 2, or some of them, indicated by the rest of co-owners. Indication of person with right for compensation is made through depositing the statement with signature notarially confirmed or before organ of public administration or by depositing the statement in Polish Consular outpost.
2. In case of death of owner of estate left beyond present borders of the Republic of Poland, the right for compensation belongs to all inheritors or some of them, indicated by the other inheritors, if they fulfill the requirement defined in Article 2 point 2. Indication of person with right for compensation is made through depositing the statement with signature notarially confirmed or before organ of public administration or by depositing the statement in Polish Consular outpost.

#### **Article 4.**

The right for compensation confirmed basing on hereby Act and other regulations is non-transferable.

#### **Article 5.**

1. Confirmation of the right for compensation is made basing on request of person applying for confirmation of such right, placed not later than 31 December 2008.
2. The application for confirmation of the right for compensation in cases, mentioned in Article 3, is deposited by co-owner or inheritor, or indicated person authorised for compensation.
3. The right for compensation is confirmed through the decision of:
  - 1) The Voivod (Governor) of the place of residence of the applicant being an owner of estate left beyond actual borders of the Republic of Poland or
  - 2) The Voivod (Governor) of the last place of residence of the person being the owner of estate left beyond actual borders of the Republic of Poland, if for such confirmation are applying the inheritors of that person, or
  - 3) The Voivod (Governor) of the place of residence of one of the applicants indicated by the others, if co-owners of the estate reside or resided in different voivodships, or
  - 4) The Voivod (Governor) of the place where the application is delivered, if it is not possible to comply with points 1-3.
4. The Voivod (Governor) where the application for confirmation of the right for compensation had been placed, informs the Voivods (Governors) of the place of residence of the rest of co-owners or inheritants or persons defined as entitled for compensation about starting the proceeding.

#### **Article 6.**

1. The hereby mentioned below documents should be attached to the application, mentioned in art.5 point 1:
  - 1) proof confirming leaving an estate beyond current borders of the Republic of Poland because of the reasons, mentioned in article 1, and confirming its kind and the real estate's size;
  - 2) proof confirming possession of Polish citizenship, mentioned in article 2 and 3;
  - 3) proof confirming place or places of residence of applicant. In case mentioned in article 3.2 – also proof confirming place of residence after coming to current territory of Poland of persons, mentioned in article 2 or article 3; In case of lack of such proofs there should be attached to the application a statement of the applicant about place or places of residence of those persons;
  - 4) statement stipulating a person authorised in case of situation mentioned in article 3.1;
  - 5) statement about the present status of realisation of the right for compensation.
2. In case of death of the owner of the real estate left beyond the current borders of the Republic of Poland, the following documents should be attached to the application:
  - 1) decision about receiving the inheritance or about splitting of inheritance;
  - 2) statement stipulating a person authorised in case of situation mentioned in article 3.2.
3. A person who, based on the other regulations within the confines of payment for compensation **rights**, has acquired either ownership or all-time use of real estate belonging to the State Treasury, or such estates were bought by their legal precursors, affixes to the application legal documents confirming such purchase.
4. Proofs, mentioned in point 1.1 and 1.2, can be in particular:
  - 1) official descriptions of property;
  - 2) statement issued by former Panstwowy Urzad Repatriacyjny (State Repatriation Office);
  - 3) official documents, including court ones, and other documents received from state archives of the Republic of Belarus, Republic of Lithuania, Russian Federation, Ukraine or other countries;
  - 4) documents, issued by Polish authorities, confirming possession of Polish citizenship.

5. In case of lack of documents, mentioned in point 4.1 and 4.2, proofs mentioned in point 1.1 could be statements of two witnesses made, under rigor for depositing of false statement, before notary, organ proceeding leading or in Polish consular outpost in country of residence of witness, who:
  - 1) Resided in the town, in which the estate left beyond current borders of the Republic of Poland is located, or in a neighboring one;
  - 2) are not relatives – in the meaning of regulations of Act dated on 21 August 1997 about real estate management (Dziennik Ustaw [State Acts Bulletin] of year 2004, No. 261 position 2603 and No. 281 position 2782 as well as of year 2005, No. 130 position 1087) – of the owners or inheritors applying for confirmation the right for compensation.
6. If the application does not fulfill the requirements mentioned in point 1-3, the Voivod (Governor) will request that the applicant complete the shortcomings within 6 months from the day of delivering the request.

#### **Article 7.**

1. The Voivod (Governor), after initiating the procedure, performs an estimation of implementation the requirements mentioned in article 2, article 3 and article 5.1 and 5.2, basing on the proofs mentioned in article 6. A positive estimation is made through resolution. The Voivod in resolution will request the applicant to:
  - 1) stipulate one of chosen form of payment a right for compensation, defined in article 13.1;
  - 2) indicate a bank account number in case of choosing financial service realized in the form of bank transfer;
  - 3) attach to the application, mentioned in article 5.1, an estimate operatus made by property expert, where value of the estate left beyond current borders of the Republic of Poland was stipulated;
  - 4) in cases, mentioned in article 6.3, as well attaching an estimate operatus, where a value of acquired ownership right to the estate or value of acquired right of user of all-time land estate and value of buildings put on it as well as other machineries or premises, had been stipulated.
2. In case of not fulfilling requirements, mentioned in article 2, article 3 and article 5.1 and 5.2, the Voivod will issue a decision of refusal of confirmation of the compensation rights.
3. Persons who possess certificates or decisions confirming the right for compensation issued based on other regulations and who have not realized the right for compensation, apply to the Voivod which issued the decision, or to the Voivod of the headquarters of the starost (council) which issued the certificate or decision, with application about disclosure in register, mentioned in article 19.1, a chosen form of payment of the right for compensation according to article 13.1. In case of choosing financial service made through bank transfer, the entitled person will indicate a bank account number.
4. On the decision or certificate mentioned in point 3, the Voivod places a note about chosen form of payment of the compensation right and the amount of compensation, defined according to article 13.

#### **Article 8.**

1. The decision mentioned in article 5.3 includes an indication of:
  - 1) a person or persons, which receive a confirmation of the compensation right;
  - 2) valorized value of the real estate left beyond current borders of the Republic of Poland on the day of issuing the decision. In case of a situation mentioned in article 6.3, also indication of valorized value (for the day of issuing the decision) of acquired ownership right of the estate or value of acquired right of user of all-time land estate and value of buildings put on it, as well as other fix-ups or placements;
  - 3) amount of compensation defined according to article 13;
  - 4) chosen form of payment of the compensation right according to article 13.1.
2. A valorization, mentioned in point 1.2, is made according to article 5 of Act dated on 21 August 1997 about real estate management.

#### **Article 9.**

Suitable minister in questions of the State Treasury is an organ of superior degree in matters, mentioned in article 5.3 and article 7.2.

#### **Article 10.**

1. Estimated operatuses, mentioned in article 7.1 point 3, are made taking into consideration proofs mentioned in article 6.1 point 1 and article 6.3.
2. In case of estimated operatuses, mentioned in point 1, regulations of article 156.4 and article 158 of Act dated on 21 August 1997 about real estate management do not apply.

#### **Article 11.**

1. The market value of estate left beyond current borders of the Republic of Poland is defined on base of similar estate, located in the area of comparable local markets currently functioning in the Republic of Poland. In case of defining the value of the estate an average transaction prices received for similar estates, sold in town of similar number of inhabitants, similar urbanisation level and administrative character comparing to the town where the left estate is located, on the territory of voivodship or a separated city, mentioned in point 2, with taken into consideration indexes defining differences in development level of those voivodships or cities in the period before year 1939 are taken into consideration on condition of point 4.
2. Mentioned below voivodships are taken as comparable voivodships and separated cities including indexes mentioned in point 1:
  - 1) Lviv voivodship – Podkarpackie voivodship – index 1.00
  - 2) Tarnopol voivodship – Malopolskie voivodship – index 0.67; Podkarpackie voivodship – index 0.76
  - 3) Stanislawow voivodship – Malopolskie voivodship – index 0.74; Podkarpackie voivodship – 0.84
  - 4) Wolyn voivodship – Lublin voivodship – index 0.84; Swietokrzyskie voivodship – index 1.02
  - 5) Polesie voivodship – Podlaskie voivodship – index 0.71
  - 6) Wilno voivodship – Podlaskie voivodship – index 0.64; Mazowieckie voivodship – index 0.41
  - 7) Nowogrodek voivodship – Podlaskie voivodship – index 0.80; Mazowieckie voivodship – index 0.52
  - 8) Bialystok voivodship – Podlaskie voivodship – index 1.00
  - 9) city of Lviv – city of Cracow – index 1.00;
  - 10) city of Wilno – city of Lublin – index 1.00.
3. Value of estate presenting forest or plantations of many years of cultivation are defined as amount of value of land and properly values of stand of trees or many years of cultivation. When stipulating the value of the land, a method of estimated indexes of lands applies. When defining value of stand of trees and many years of cultivation, regulations of article 135.5 and 6 of Act dated on 21 August 1997 about real estate management apply.
4. In case of lack of transaction prices mentioned in point 1, in case of defining value of buildings, houses or part of these houses, their replacement value is defined.
5. The value of estates left beyond the present borders of the Republic of Poland is defined according to status on the day of their leaving and according to prices or reconstruction costs on the day of making the pricing.
6. The value of estates defined basing on rules mentioned in point 1 and 3-5, is based on multiplying per indexes mentioned in point 2.

#### **Article 12.**

1. In the case mentioned in article 6.3, a value of gained ownership right of estate or value of acquired right of user of all-time land estate and value of buildings placed on it as well as other fix-ups or premises is defined according to status for a day of buying or based on prices or reconstructive costs for a day of making the pricing on condition of point 2.

2. In case of persons, mentioned in article 6.3, which have realized right for compensation after 1 January 1998, a value of acquired ownership right of the estate is taken based on price included in the agreement of displacement of ownership of the estate ownership, valorized as of the day of issuing the decision. If the all-time right of user was acquired, including that belonging to the State Treasury, a value of acquired right is taken based on charges, valorized as of the day of issuing the decision, stipulated in the agreement of giving a land estate for all-time use and selling price of the buildings located on it as well as other fix-ups or premises, or selling price of right of all-time user belonging to the State Treasury. Valorization is made according to article 5 of Act dated on 21 August 1997 of real estate management.

#### **Article 13.**

1. A right for compensation is realized in one of the following forms:
  - 1) taking value of the estate left beyond present borders of the Republic of Poland on account of :
    - a) selling price of the estate belonging to the State Treasury or
    - b) selling price of the right of all-time user of land estate, belonging to the State Treasury or
    - c) charges for all-time user right of the land estate belonging to the State Treasury and selling price of buildings and other fixed-ups or premises located on it, or
    - d) charges for changing right for all-time usage into ownership right of estates belonging to the State Treasury, which were mentioned in other regulations, or
  - 2) payment paid from the assets of Recompensation Fund mentioned in article 16.
2. Counting the value of estates left beyond the present borders of the Republic of Poland is made in the amount equals to 20% of value of those estates. Payment equals to 20% of value of left estates.
3. In the case mentioned in article 6.3, the calculated amount and payment mentioned in point 2, is reduced by the value of acquired ownership of estate **rights** or value of acquired right of all-time user of land estate and value of buildings as well as other fixed-ups or premises located on it, by the persons mentioned in article 2 or article 3.

#### **Article 14.**

1. Organs, organizational units and agencies, which have been entrusted, basing on separate regulations, for entitlement to execute ownership rights of the State Treasury, stipulating conditions of selling real estate, can not exclude way of payment the selling prices for estates or charges, mentioned in article 13.1 point 1 letter c and d, in the way defined in article 13. In such case a payment can be done only by a person mentioned in a certificate or a decision or by his/her inheritors, which will show selling party a court decision confirming acquiring of inheritance or about partition of the inheritance and proofs confirming fulfilling requirements, mentioned in article 2 or article 3.
2. In the case mentioned in article 6.3, a person, applying for payment for the right for compensation, is obliged to present official documents proving a value of acquired ownership right of the estate or value of acquired right of all-time user of land estate and value of buildings as well as other fixed-ups or premises located on it, acquired through realization of the compensation right by that person or his/her legal precursors.
3. An amount equal to a value of estates left beyond present borders of the Republic of Poland and amount equal to value of acquired rights, mentioned in point 2, subject to valorization by parties, mentioned in point 1, according to article 5 of Act dated on 21 August 1997 of real estate management, as at the day of realisation of the compensation right.
4. A person mentioned in point 1, is released from obligation of *wadium* payment up to an amount not higher than a value of acquired compensation right, if he/she will enclose a written obligation for paying amount equal to the amount of not paid *wadium* in case of failure to sign the agreement.

#### **Article 15.**

In case of purchasing the estate basing on regulations stipulated in the Act, regulations of articles 62-66 article 68.1-2a and 68.4 and article 109-111 of the Act dated on 21 August 1997 about real estate management do not apply as well as discounts defined in other regulations don't apply.

#### **Article 16.**

1. A special state fund is created under the name of the "Recompensation Fund" from which payment mentioned in article 13.1 point 2, is paid as well as a service of those money payments. Suitable minister in questions of the State Treasury is a disposer of the Recompensation Fund.
2. Incomes of the Recompensation Fund are:
  - 1) incomes from sale of the estates coming from State Agricultural Stock together with their parts, of total area not less than 400.000 ha;
  - 2) interests from funds kept on bank account of the Recompensation Fund;
  - 3) loans from the State budget made in case of lack of assets mentioned in point 1 and 2, in the amount specified in the budget act.
3. The Cabinet of Ministries, on the application of minister suitable in questions of the State Treasury and minister suitable in questions of budget, taking into consideration actual budget situation, condition of public finance and unique aim for which loans were made, can remit the loans mentioned in point 2.3, in case of straining financial resources of the Recompensation Fund mentioned in point 2.1 and 2.2.
4. Means from resources, mentioned in point 2.1, proper organisational units are delivering in the form of quarter prepayments, in the amount established on the basis of financial plans of those units, within 30 days after quarter closing. Clearing obligations is made within 60 days after finishing current year or budgeted one.
5. To the dues of Recompensation Fund in range specified in point 2, regulations of III part of Act dated on 29 August 1997 – Tax regulations (Dz. Ustaw of year 2005, no. 8 point 80; No. 85 point 727, No. 86 point 732 and No. 143 point 1199) apply.

#### **Article 17.**

1. Payments mentioned in article 13.1 point 2, are made by Bank Gospodarstwa Krajowego, hereafter "Bank", from the means of Recompensation Fund based on the agreement signed with minister suitable in questions of the State Treasury.
2. Suitable minister in questions of the State Treasury delivers to the Bank personal data of persons, which have right to receive money payment, included in the registers, mentioned in article 19.1 and 19.2.
3. Payment is made based on an application of authorized person and after making note, mentioned in article 18, in the form of cash withdrawal in bank office or by transfer at the bank account specified by the authorised person.
4. Bank after receiving data mentioned in point 2 informs about a payment persons authorised for receiving payment. In the information Bank informs about addressee of its outpost as well as about documents necessary for making money withdrawal.
5. Bank making payment is making valorization according to article 5 of the Act of 21 August 1997 about real estate management, as of the day of realisation of the compensation right.

#### **Article 18.**

1. Organs, organizational units and agencies, mentioned in article 14.1, and the Bank in case of money service withdrawal, on the day of realisation the compensation right by authorised person, will put on the certificate or decision which confirmed the compensation right a note about realisation a whole or part of such right.
2. The note, mentioned in point 1, includes:
  - 1) date, name of notary and reference number of notarial act of selling the real estate or giving a land estate for all-time use;
  - 2) date and reference number of decision changing the right for all-time use into ownership right;
  - 3) location and indication of the estate;

- 4) stipulating a form of realisation of the compensation right;
  - 5) amount referring to the value of realised compensation right and percentage participation of it in the value of estates left beyond nowadays borders of the Republic of Poland.
3. In case of money withdrawal a note consists of:
- 1) date of money withdrawal;
  - 2) amount referring to the value of realised compensation right and a percentage participation of it in the value of estates left beyond nowadays borders of Republic of Poland.
4. In cases mentioned in article 64 of Civil Code, such note is made by the Court.

#### **Article 19.**

1. Voivods (Governors) will maintain provincial registers consisting of data concerning:
  - 1) decisions or certificates issued on the basis of hereby Act or separate regulations, confirming the right for compensation;
  - 2) persons, which are authorised for such rights;
  - 3) status and form of realisation of those rights.
2. Voivods deliver once per quarter, till the end of the month after finished quarter, data included in provincial registers to the ministry responsible for State Treasury matters, which maintains a central register.
3. The registers mentioned in points 1 and 2, are maintained in electronic form.
4. The registers mentioned in points 1 and 2, include the following personal data of people with a right for compensation:
  - 1) first name and surname;
  - 2) first name of the father;
  - 3) PESEL number or, if such number has not been transmitted , passport number, ID number or any other document proving identity;
  - 4) address of residence.
5. Organs, organisational units and agencies mentioned in article 14.1, are obliged to deliver to Voivods, within 14 days from a day of realisation of compensation right, extracts from notarial acts. In cases mentioned in article 13.1.1d – a copy of decision from which a whole or part of the realisation of compensation right confirmed by certificates or decisions appears. Extracts or copies of decisions are delivered to voivods responsible for the location of real estate and to voivods maintaining registers mentioned in point 1.
6. The Bank is obliged to deliver the Voivod responsible a confirmation of money withdrawal within 14 days from the day of making payment.
7. A minister responsible for the State Treasury will define, through disposition, examples of registers mentioned in point 1 and 2, taking into consideration a need of effective data transfer and a control of realisation of the compensation right.

#### **Article 20.**

For procedures ended by issuing a decision or certificates, confirming a right for compensation, regulations of part II chapter 12 and 13 of Administrative Code with exclusion article 146 § 1 apply.

#### **Article 21.**

In the Act dated 28 July 1983 about inheritance and donations' tax (Dz. Ustaw of year 2004, No. 142, point 1514 and No. 146 point 1546 and of year 2005, No. 143 point 1199) in article 4.1 in point 15 full stop is substituted by semicolon as well as point 16 is added:

“16) receiving through inheritance a right for compensation as defined in Act dated on 8 July 2005 about realisation of the right for compensation of leaving estate beyond present borders of the Republic of Poland” (Dz. U. No 169 point 1418)”.

#### **Article 22.**

In the Act dated 26 July 1991 about income tax from physical persons (Dz. Ustaw from year 2000, No. 14 point 176 with further changes) in article 21.1 point 30a following are added after point 30:

“30a) incomes received from:

- a) a realisation of the compensation right based on the Act of 8 July 2005 about realisation of the right for compensation from title of leaving estate beyond present borders of the Republic of Poland” (Dz. U. No 169 point 1418) by the persons authorised based on that Act
- b) sale of the estate or right for all-time use, received in reference to the realisation of the compensation right in price of real estate or right for all-time use from the day of purchasing the estate or a right for all-time use”.

#### **Article 23.**

In the Act dated 30 August 1996 about commercialization and privatization (Dz. Ustaw of year 2002, No. 171 point 1397 with further changes) in article 53, point 4 following is added:

“4. To persons, mentioned in regulations concerning realisation of the compensation right from title of leaving estate beyond present borders of the Republic of Poland, value of left estate confirmed by decision or certificate is included in the amount of 20 % of value of those estates, on account of amount due from title:

- 1) part of selling price of the enterprise mentioned in point 2, amounting the value of rights to real estates being part of the enterprise, mentioned in regulations about realisation the compensation right from title of leaving estate beyond present borders of the Republic of Poland;
- 2) selling price or charges for all-time use of the estate being a subject for sell, as an asset not being an enterprise, which were taken over by the State Treasury after termination or expiring of the agreement of giving it to paid use by the enterprise.”

#### **Article 24.**

In the Act dated 9 September 2000 about tax from civil action (Dz. Ustaw of year 2005, No. 41 point 399 and No. 143 point 1199) in article 9 point 14 full stop is being replaced by semicolon and point 15 in mentioned below tone is added :  
“15) a sale of real estate, made within the payment of a compensation right from title of leaving estate beyond present borders of the Republic of Poland (Dz. Ustaw, No. 169 point 1418) – up to amount referring to a value of realized compensation right”.

#### **Article 25.**

In the Act dated 9 September 2000 about treasure charge ( Dz. Ustaw of year 2004, No. 253 point 2532 with further changes) changes in article 2.1 in point 1 letter l) semicolon is being replaced by comma and point m) is added as follows:  
“m) compensations defined by the Act of 8 July 2005 about realisation of the right for compensation from title of leaving estate beyond present borders of the Republic of Poland” (Dz. U. No 169 point 1418)”

#### **Article 26.**

Whenever in separate regulations there is mentioned a right for including value of estates beyond current borders of Polish State in reference to the war started in 1939, a compensation right mentioned in hereby Act should apply.

#### **Article 27.**

Proceedings for confirmation of the compensation right, started and not finished before the day entering in force of this Act, is run based on its regulations.

#### **Article 28.**

The Act dated 12 December 2003 about including on account of selling price or charges from title of all-time use of estate of the State Treasury a value of estate left beyond present borders of the Republic of Poland (Dz. Ustaw of year 2004, No. 6 point 39 and No. 273 point 2722) expires.

#### **Article 29.**

This Act enters in force after 30 days from a day of announcement.