Title:
IX.3 - Enrichment

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(a) A party is enriched by:

i) an increase in assets or a decrease in liabilities;

ii) receiving a service or having work done; or

iii) use of another's assets.

(b) In determining whether and to what extent a party obtains an enrichment, no regard is to be had to any disadvantage which that party sustains in exchange for or after the enrichment.

Commentary:

1 The Principle contains a broad definition of enrichment for purposes of application of the basic rule. The question whether a party is enriched or not is determined under a purely objective test. Enrichment does not necessarily require a positive act of acquisition by the enriched party. It is also immaterial whether the enrichment is wrongful or not, i.e. whether the enriched party has committed a wrongful act in obtaining the enrichment or whether it was aware or unaware of the enrichment, e.g. of the increase of its assets under Subsection (a) i). These aspects may be relevant for restitution claims under other legal grounds which are not excluded by a claim under the basic rule.

2 The most obvious case of enrichment is the increase in assets or decrease in liabilities of a person. This means that the enriched party must have received a new asset or that one of its existing debts must have been partially or fully discharged. A value may also be rendered to a person by rendering a service or performing a work for that party because the market considers that service or work as something valuable. Finally, a party may also be enriched simply by using another party's assets. This latter alternative covers a broad range of transferable and non-transferable assets, such as property in assets, intellectual property, contractual rights, rights of personality etc.