

26546

CONTROL COMMISSION FOR GERMANY (BRITISH ELEMENT)

Frankfurt

FINANCE DIVISION

PROPERTY CONTROL BRANCH

W
438

No. FIN/26546.

SUBJECT:-

RESTITUTION OF PROPERTY FORMERLY BELONGING

TO ALLIED NATIONALS, SUBJECT TO

DISCRIMINATORY MEASURES.

FRANKFURT

REFERENCE TO OTHER RELEVANT FILES

FILE No.	SUBJECT
BERLIN No. -	FIN/20701/20 (PC)

1046/599
dead

Referred to	Folio or I.O.M.	Date	Intd.	Referred to	Folio or I.O.M.	Date	Intd.	Referred to	Folio or I.O.M.	Date	Intd.
Mr. Lisle	6	12/11	ML								
Mr. March	4.9	30/8	RPM								
Mrs. Heifern	10.M.1	30/8	B.H								
Col. Jones	Letter signature	1/9									
Col. Jones	"	29/10									
Central Reg.											

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CCG 108/6314

Authority for final closing

INITIALS: (599)

BRANCH: (599)

DATE:

FIN DIV FILE NO

MINUTE SHEET NO.

I.O.M. # 1

30 August

Mr. Neilfern -

Please prepare answer to Folio 10A based upon Folio 9. answer should be for signature of Chief. No reason why reply cannot indicate concurrence of Finance Group.

A P Mord

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BIPARTITE CONTROL OFFICE
 Joint Secretariat
 FRANKFURT

30 June 1949

BICO/Sec(49)355

To: Chairman,
Bizonal Executive Committee

Subject: EXPIRATION DATES FOR THE SUBMISSION OF RESTITUTION
CLAIMS

Reference your ExC(49)127 dated 28th March 1949 in which you requested information as to the termination date of restitution claims in the British Zone; delay in replying is regretted.

This is to inform you that where it can be proved satisfactorily that good reasons exist for their non-submission before the specified date of 30th June, 1948 special claims were accepted in the British Zone until 30th June, 1949. A period of nine months from the closing date for registry of the claim, i.e. until 31st March 1950, will be given for the identification of unlocated property. No new claims will be accepted after 30th June 1949 and after 31st March 1950 all unlocated claims will be declared invalid.

for
 E. LINDE

E. Linde
 U.S. Secretary

L.C.M. Nash
 L.C.M. NASH, Col.

U.K. Secretary

Distribution: "A", "B", "C".

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MILITARY GOVERNMENT GAZETTE - GERMANYBRITISH ZONE OF CONTROLLAW NO. 59RESTITUTION OF IDENTIFIABLE PROPERTY TO VICTIMS OF NAZI OPPRESSION

In order to provide for the restitution of property to those persons who between the 30th January, 1933, and the 8th May, 1945, were deprived thereof by reason of their race, creed, nationality or political belief;

IT IS HEREBY ORDERED AS FOLLOWS:-

PART IGENERAL PROVISIONSARTICLE IBasic Principles

1. The purpose of this Law is to effect to the largest extent possible the speedy restitution of identifiable property (tangible and intangible) to persons whether natural or juristic who were unjustly deprived of such property between the 30th January, 1933, and the 8th May, 1945 (hereinafter called the "material period") for reasons of race, religion, nationality, political views or political opposition to National Socialism. Subject to the provisions of paragraph 5 of Article 2 of this Law deprivation of property for reasons of nationality shall not include measures which were taken in time of war solely on the ground of enemy nationality.
2. Identifiable property of which a person was unjustly deprived for any of the reasons referred to in paragraph 1 may be made the subject of a claim for restitution in accordance with the provisions of this Law.
3. Property shall be restored to its former owner or to his successor in interest in accordance with the provisions of this Law even though the interests of other persons who had no knowledge of the wrongful taking must be subordinated. Provisions of law for the protection of purchasers in good faith, which would defeat restitution, shall be disregarded except where this Law provides otherwise.
4. For the purpose of this Law the person entitled to claim restitution of identifiable property is hereinafter referred to as "the claimant"; the person against whom such claim is made is hereinafter referred to as "the defendant", and property which is capable of being the subject of a claim for restitution is hereinafter called "the affected property".

PART IIUNJUST DEPRIVATIONARTICLE 2Acts constituting unjust deprivation

1. For the purpose of this Law property shall be considered as having been the subject of unjust deprivation if the person entitled thereto was within the material period deprived of the ownership or possession thereof or any present or contingent rights thereover as the result of:

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- (a) a transaction contra bonos mores or induced by threats or duress or involving an unlawful dispossession or any other tort;
- (b) a seizure by governmental or administrative act or by the abuse of governmental or administrative authority; or
- (c) a seizure by measures taken by the NSDAP, its formations or affiliated organisations;

provided that the transaction, seizure or act in question constituted or resulted from a measure of persecution for any of the reasons referred to in Article 1.

2. A defendant may not plead that any act of . . . was not wrongful merely because it conformed with prevailing ideas involving discrimination against persons on account of their race, religion, nationality, political views or their political opposition to National Socialism.

3. A governmental or administrative act within the meaning of paragraph 1(b) shall be deemed to include a sequestration, confiscation, forfeiture by operation of law or by a Court or other order and a transfer by order of the State or any of its officials (including a trustee (Treuhänder)).

4. A judgment or order of a Court or of an administrative agency which although based on general provisions of law duly applicable was issued solely or primarily with the object of injuring the party affected by it for any of the reasons referred to in Article 1 shall be deemed to be an abuse of a governmental act. The procurement of a judgment or of measures of execution shall also be deemed to be an abuse of a governmental act where the circumstances were such that the claimant was exploited in that he was prevented from protecting his interests on account of his race, religion, nationality, political views or his political opposition to National Socialism. The Restitution Authorities (Restitution Agency, Restitution Chamber and Oberlandesgericht) shall disregard any such judgment or order of a court or administrative agency whether or not such judgment or order may be the subject of an appeal or a re-opening procedure.

5. Where property has been placed under administration on the ground of enemy character and the administrator, curator or other custodian has transferred the title to the property under administration, such transfer shall be deemed to be an unjust deprivation unless such transfer constituted a proper exercise of the functions of the administrator, curator or custodian.

ARTICLE 3

Presumption of Unjust Deprivation

1. The following transactions within the material period shall give rise to a presumption in favour of a claimant that they constituted an unjust deprivation within the meaning of Article 2:-

- (a) any transfer or relinquishment of property made by a person who was directly exposed to measures of persecution on any of the grounds referred to in Article 1;
- (b) any transfer or relinquishment of property made by a person who belonged to a class of persons which the German government or the N.S.D.A.P. intended on any of the grounds referred to in Article I to eliminate in its entirety from the cultural and economic life of Germany by measures taken by the State or the N.S.D.A.P.

2. In the absence of other factors proving or leading to the inference of an act of unjust deprivation within the meaning of Article 2 the presumption arising under the preceding paragraph may in the case of a transfer within paragraph 1(a) be rebutted by showing that the transferor was paid a fair purchase price, that is to say an amount of money which a willing buyer would pay and a willing seller would take including in the case of a commercial enterprise the goodwill which such enterprise would have in the hands of a person not subject to the measures

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of prosecution referred to in Article 1, and in any case that the transferor had a free right of disposal of the said purchase price.

3. In the case of a transfer within paragraph 1(b) of this Article where such transfer took place between the 15th September 1935 and the 8th May, 1945, the presumption arising under such paragraph may only be rebutted by evidence additional to the requirements of the preceding paragraph that:-

- (a) the transaction in the light of its essential terms would have taken place even in the absence of a National Socialist regime, or
- (b) the transferee protected the proprietary interests of the claimant or his predecessor in title in an exceptional manner and with substantial success for example by helping him to transfer his assets abroad.

ARTICLE 4.

Gifts

Where a person persecuted for any of the reasons referred to in Article 1 transferred a property to another gratuitously within the material period, it shall be presumed in favour of the claimant that the transfer gave rise to a fiduciary relationship and was not a gift. No such presumption shall arise, where, from the personal relationship between the transferor and the transferee it can be shown that the transfer was a gift based on moral considerations (Anstandsschenkung) in which case no claim for restitution may be made.

ARTICLE 5

Fiduciary relationships

1. The provisions of Parts III to VII of this Law shall not apply to agreements giving rise to a fiduciary relationship entered into for the purpose of preventing threatened damage to property or mitigating actual damage thereto arising from any of the reasons referred to in Article 1.

2. The claimant may at any time, by notice, terminate any agreement of the kind specified in the preceding paragraph. Termination shall be effective immediately on service of the said notice, any contractual or statutory provision to the contrary notwithstanding.

3. A person in a fiduciary relationship may not plead that the agreement giving rise to a relationship was made in breach of a statutory prohibition in force at or subsequent to the time of the transaction or that a statutory or other requirement as to form had not been complied with, where such non-compliance was attributable to any act or measure of the National Socialist regime or to conditions prevailing under such regime.

PART III

GENERAL PROVISIONS ON RESTITUTION

ARTICLE 6

Persons entitled to lodge claims

Subject to the provisions of Article 8 the right to lodge a claim for restitution shall belong to any person whose property was the subject of unjust deprivation or his heirs or other successor in title.

ARTICLE 7

Claims of Dissolved Associations and Partnerships

If a juridical person, unincorporated association or partnership was within the material period, dissolved or compelled to dissolve for any of

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the reasons referred to in Article 1, the claim for restitution may be pursued by any shareholder, member or partner. A claim for restitution shall be deemed to have been filed on behalf of all the shareholders, members or partners who have the same cause of action. The claim may not be withdrawn or compromised without the approval of the appropriate Restitution Authority. Notice of the filing of the claim shall be given to all other known shareholders, members or partners or their successors in interest and to the Trust Corporation to be constituted under Article 8.

ARTICLE 8.

Trust Corporation in respect of Heirless and Unclaimed Property

(1) One or more trust corporations under German Law shall be formed in the British Zone for the purpose of claiming unclaimed and heirless property.

(2) Trust corporations shall claim any affected property -

(a) where no claim for restitution has been lodged; or

(b) where the victim of Nazi persecution has died or dies intestate without leaving a spouse or relative entitled to his inheritance.

(3) Regulations to be made by Military Government will provide for the establishment of trust corporations and the appointment of their members and will define their rights and obligations and specify the classes of persons to whose property they may respectively lay claim.

ARTICLE 9

Special Rights of Trust Corporations

1. If within six months of the effective date of this Law no petition for restitution has been filed with respect to an affected property, a Trust Corporation established pursuant to Article 8 may file a petition and apply for all measures necessary to safeguard the property.

2. If the victim does not himself file a petition on or before 31st December, 1949, a Trust Corporation shall on filing the petition succeed to the legal position and rights of the victim.

3. The provisions of paragraph 1 and 2 hereof shall not apply to the extent to which any victim or his successor in interest in the period from 8th May, 1945, to 31st December, 1949, has delivered to the defendant, to the appropriate Restitution Authority, or to the Central Filing Agency an express waiver in writing of his claim for restitution.

ARTICLE 10

Obligation of Successors in title to give information

1. If so ordered by the appropriate Restitution Authority, a claimant whose claim for restitution is derived as an immediate or mediate successor in title to the person who suffered an unjust deprivation of his property, shall disclose to the Authority the name and last known address of his predecessor in title, or where any of these particulars are unknown to him, make a sworn declaration to that effect.

2. A Trust Corporation shall, in respect of any claim which it may make under this Law, if called upon disclose the address of any person interested

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therein, provided such address is known to it, or such information known to it as may lead to the tracing of such person, or where none of these particulars are known, if so required make a sworn declaration to that effect through its legal representative.

ARTICLE 11

Persons Liable to make Restitution

The person primarily liable to make restitution within the meaning of this Law shall be the person who, on the effective date of this Law, or on the making of any order for restitution, is the possessor or holder of the affected property.

ARTICLE 12

Effect of an Adjudication of a Restitution Claim

Unless otherwise provided in this Law an order for restitution shall have the effect that the title of the claimant or his predecessor in title to any property the subject of an unjust deprivation shall be deemed not to have been divested.

ARTICLE 13

Alternative Claim for Additional Payment

1. If he relinquishes all other claims under this Law the claimant may demand from the person who first acquired the affected property, the difference between the price received by the claimant therefor and the fair purchase price at the time of the transaction as defined in Article 3 paragraph 2. Appropriate interest shall be added to this amount in accordance with the provisions relating to profits contained in this Law.

2. A demand under the preceding paragraph shall not be permissible:

- (a) after the property has been restored to the claimant by an order no longer subject to appeal; or
- (b) after the Restitution Chamber has given a decision on the merits; or
- (c) after the claimant and the defendant have reached an amicable agreement with regard to the restitution claim.

PART IV

LIMITATIONS ON THE RIGHT TO RESTITUTION

ARTICLE 14

Expropriation

1. Affected property which, subsequent to the deprivation, was expropriated for a public purpose, or was sold or assigned to an enterprise for the purpose of which the right of expropriation could be exercised, shall not be subject to restitution if, on the effective date of this Law, the property remains in use for a public purpose still recognised as lawful.

2. If property is not subject to restitution by reason of the provisions of paragraph 1, the present owner shall compensate the claimant to the extent to which the claims open to the claimant under Part V of this Law do not afford adequate compensation.

ARTICLE 15

Protection of Ordinary and Usual Business Transactions

Except as provided in Articles 16 and 17 movable property shall not be subject to restitution if the present owner, or predecessor in title,

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acquired it in the course of an ordinary business transaction, in an establishment normally dealing in that type of property. The provisions of this Article shall not however apply to articles having a religious association, or to property which was acquired from a private owner, if such property is an object of unusual artistic, scientific, or personal value, or was acquired at an auction or private sale in an establishment engaged mainly in the business of disposing of property the subject of an unjust deprivation.

ARTICLE 16

Currency

Currency, so far as it is identifiable, shall be subject to restitution only if at the time he acquired the money the defendant or a predecessor in title knew or should have known in the circumstances that the person entitled thereto had been unjustly deprived thereof.

ARTICLE 17

Bearer Instruments

1. If a bearer instrument was acquired in the course of an ordinary business transaction good faith (gutgläubiger Erwerb) shall be presumed unless the transaction falls within the provisions of paragraph 3 of this Article.
2. The provisions of paragraph 1 shall also apply to interests in bearer instruments deposited in a central account (Sammelverwahrung).
3. Bearer instruments and interests in bearer instruments shall, nevertheless, be subject to restitution under this Law if at the time of the unjust deprivation they represented:
 - (a) a participation in a business with a small number of members, such as a family corporation; or
 - (b) a participation in a business the shares of which had not been negotiated in the open market; or
 - (c) a dominant participation in a business as to which it was known, generally or in the trade, that a dominant participation was held by persons who belonged to one of the classes described in Article 3, paragraph 1 (b); or
 - (d) a dominant participation in a business establishment which was registered under the Third Ordinance to the Reich Citizen Law (Reichsbürgergesetz) of 14th June, 1938 (RGB. I. p. 627).
4. A participation shall be deemed to be dominant if, either standing alone, or on the basis of a mutual working agreement in existence prior to or at the time of the unjust deprivation, it permitted the exercise of controlling influence upon the management of the business or enterprise.

ARTICLE 18

Restitution where changes in the Legal or Financial Structure of an Enterprise have occurred

If within the material period a participation of the type described in Article 17, paragraph 3, was the subject of unjust deprivation and the enterprise was dissolved, merged into, consolidated with or transformed into another enterprise, or was changed in any other way in its legal or financial structure, or if its assets were transferred wholly or in part to another enterprise, the claimant may demand that he be given an appropriate share

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in the transformed or newly formed enterprise, or in the enterprise which required wholly or in part the assets of the original enterprise, thereby restoring as far as possible his original participation and the rights incidental thereto.

ARTICLE 19

Enforcement of the Principles of Article 18

The Restitution Chamber in taking the measures necessary and appropriate to give effect to the rights granted to the claimant under Article 18, may order the cancellation, new issue or exchange of shares, participation certificates, interim certificates, and other instruments evidencing a participation; the establishment of a partnership relationship between the claimant and the transformed enterprise referred to in Article 18, and order the performance of any act required by law to give effect to such rights. Such measures shall be taken primarily at the expense of the persons liable to make restitution in accordance with the provisions of this Law. If such measures would affect any other shareholder, they shall be ordered so far as he is concerned only to the extent to which such other shareholder benefited, directly or indirectly, from the unjust deprivation in connexion with the state of affairs referred to in Article 18; or if the enterprise itself would be liable to make restitution or to pay damages under this Law or under the relevant provisions of the Civil Code, including the principle of respondeat superior.

ARTICLE 20

Other Enterprises

The provisions of Articles 18 and 19 shall apply mutatis mutandis where the object of unjust deprivation was a business owned by an individual, a participation in a partnership or a limited partnership; a personal participation in a limited partnership corporation (Kommanditgesellschaft auf Aktien); a share in an association with limited liability (Gesellschaft mit beschränkter Haftung) or in a Co-operative Society; or a share of a similar legal nature.

ARTICLE 21

Service

Where pursuant to Articles 18 to 20 it is necessary to effect service on any person whose identity or present address is unknown, service shall be effected by publication in accordance with the provisions of paragraph 2 of Article 53.

ARTICLE 22

Delivery of a Substitute in Lieu of Restitution

1. Where subsequently to the unjust deprivation the affected property has undergone fundamental changes which have substantially enhanced its value, the Restitution Chamber may order the delivery of an adequate substitute in lieu of restitution. In determining the adequacy of the substitute the Restitution Chamber shall consider the value of the property at the time of the unjust deprivation and the rights and interests of the parties. The claimant may, however, demand the allocation of an appropriate share in the property unless the defendant offers a substitute of similar nature and of like value.
2. Where the defendant has combined the affected property with other property in such a way as to make it an essential part thereof, he may where severance is possible sever the latter property and retain it. In such case he shall at his own expense restore the affected property to its former condition. Where the claimant has obtained possession of the combined property he shall be obliged to permit the severance; he may, however, withhold his

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consent unless security is given to him to indemnify him against any damage which may result from the severance.

3. In determining whether property has been enhanced in value within the meaning of paragraph 1, only that enhancement in value for which the defendant may claim compensation under the provisions of this Law shall be taken into account.

ARTICLE 23

Restitution of an Aggregate of Properties

A claimant may not restrict his demand for restitution to separate items out of an aggregate of properties if the aggregate can be returned as a whole and if the limitation of the restitution to separate items would unfairly prejudice the defendant or the creditors.

ARTICLE 24

Protection of Debtors

The debtor liable to satisfy a claim (Forderung) which has been the subject of unjust deprivation may at any time before notice to him of the filing of a petition for restitution discharge his debt or obligation by payment to the defendant. The same rule shall apply in favour of a debtor who, prior to the entry in the Land Register (Grundbuch) of an objection to its correctness, or of a notice concerning restitution proceedings, makes a payment to a defendant entered in the Land Register as the person to whom a payment is due.

PART V

COMPENSATION AND ANCILLARY CLAIMS

ARTICLE 25

Subrogation

1. Upon request of the claimant, a former holder of affected property who would be liable to restitution if he were still holding it, shall surrender any compensation or assign any claim thereto which he has acquired during the period of his ownership. Whatever the claimant receives from one of several defendants shall be set off against the claims he has against the remaining defendants.

2. The same rule shall apply with respect to any compensation or any claim for compensation which the holder or former holder of affected property acquired in respect of any loss, damage or deterioration of such property.

3. In case of the unjust deprivation of a business enterprise the claim for restitution shall extend to assets acquired after the unjust deprivation unless the defendant shows that such assets were not paid for with funds of the enterprise. If the assets were acquired out of the funds of the enterprise the resulting increase in the value of the business shall be deemed to constitute profits within the meaning of Article 27. This rule shall also apply to any other aggregate of property. If the purchase was not made with funds of the enterprise the defendant shall have the right of severance, conferred by Article 22, paragraph 2, provided nevertheless, that the claimant shall have the right to take over the property if the operation of the enterprise would otherwise be seriously hampered.

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ARTICLE 26

Conditions of Restitution

1. The defendant may claim compensation neither for any increase in value of the affected property since the date of the original transfer, nor in respect of any capital expenditure by him, save in the latter case to the extent to which the value of the property is still enhanced by such expenditure at the date of restitution.
2. If the affected property has been lost or damaged or has deteriorated the defendant shall be liable in damages unless he can show that the loss, damage or deterioration was not due to his default. Nothing in this paragraph shall affect the claimant's right under Article 25, paragraph 2.

ARTICLE 27

Profits

1. A claimant shall be entitled to claim the net profits which since the date of the original transfer have been derived from the affected property by the defendant or any predecessor in title, or which ought to have been derived if the defendant or his predecessor in title as the case may be had managed the property as a prudent owner. For the purpose of calculating net profits there shall be taken into account amounts paid by the defendant or his predecessor in title in respect of the ordinary maintenance of the affected property, usual outgoings, interest on money borrowed to provide any purchase money and a reasonable sum for management.
2. Military Government may in regulations to be issued pursuant to Article 78 of this Law more specifically define the rights and obligations under paragraph 1 of this Article either generally or in respect of special classes of case.

ARTICLE 28

Obligation to Furnish Particulars

The parties shall be obliged to furnish to each other such particulars as are material to any claims under this Law. Sections 259 to 261 of the Civil Code shall apply mutatis mutandis.

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CONTINUED EXISTENCE OF INTERESTS AND
LIABILITY FOR DEBTS

ARTICLE 29

Continued Existence of Interests

1. Any rights over or interests in the affected property of third parties shall continue to be effective to the extent to which they existed prior to the act constituting the unjust deprivation and to the extent that they have not subsequently been extinguished or discharged. The same rule shall apply to any right or interest subsequently created to the extent to which the aggregate amount of all principal and ancillary claims does not exceed the aggregate amount of all such claims as they existed prior to the act constituting the unjust deprivation. Such rights and interests are hereinafter referred to as "the limit of encumbrances". A right or interest which does not involve payment of money shall continue to be effective only where an interest of the same kind already existed prior to the unjust deprivation and the interest subsequently created is not more burdensome than that existing at the time of the unjust deprivation or where such interest would have come into existence even though the property had not been the subject of an unjust deprivation.
2. The limit of encumbrances may be increased by the amount of any encumbrance created for the purpose of capital expenditure enhancing the value of the property. Any other interest of a third person which exceeds the limit of encumbrances and which arises out of expenditure for which the defendant cannot claim compensation pursuant to Article 26 shall be extinguished except to the extent to which at the time of the restitution the value of the property remains correspondingly enhanced as a result of the expenditure.
3. Rights in or interests over the affected property which, in connexion with the unjust deprivation, were created in favour of the claimant or his predecessor in title shall continue to be effective irrespective of the limit of encumbrances and without prejudice to any claim of the claimant for the restitution of such interests where they were themselves the subject of an unjust deprivation.
4. Interests resulting from the commutation of the Home-Rent Tax, (Hauszinssteuer) other than those in respect of overdue payments, shall continue to be effective irrespective of the limit of encumbrances.

ARTICLE 30

Devolution of Encumbrances

If property in Land (Grundstück) has been encumbered by any transaction, act of or in the law or any governmental act constituting an unjust deprivation within the meaning of this Law, the rights under such encumbrance shall devolve upon the claimant and shall not be considered in computing the limit of encumbrances.

ARTICLE 31

Personal Liability

If, prior to the unjust deprivation of property in land the claimant or his predecessor in title was personally liable in respect of any debt which was secured by mortgage, land charge (Grundschild) or annuity charge (Rentenschuld) on such property, he shall assume personal liability at the time of restitution to the extent to which the mortgage, land charge or annuity charge continues to be effective under the preceding provisions. The same shall apply in case of obligations in regard to which the defendant may demand to be released pursuant to Section 257 of the Civil Code. The same shall apply also in the case of liabilities which continue to be effective in accordance with Article 29, paragraph 1, second sentence, and replace charges for which the claimant or his predecessor in interest had been personally liable.

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ARTICLE 32Demand for Assignment

1. The claimant may demand the assignment to him, without compensation, of any mortgage, land charge or annuity charge against property in land subject to restitution which is held by any holder or former holder of such property who at any time obtained the property by way of an unjust deprivation where such deprivation resulted from a transaction contra bonos mores or from threats made by such holder or on his behalf, or from a tort. This shall not apply to the personal debt on which the mortgage is based. Any interest created prior to the unjust deprivation shall be subject to the provisions of Article 38, paragraph 3 applied mutatis mutandis.
2. The provisions of this Article shall not apply to encumbrances which are to be registered in accordance with the provisions of this Law.

ARTICLE 33Liability for Debts of a Business Enterprise

1. If the claimant recovers a business enterprise or any other aggregate of properties, creditors may in respect of debts to them incurred in the operation of the enterprise or obligations with which the aggregate of properties has been encumbered also assert such claims arising thereout against the claimant in so far as they are in existence at the time of the restitution.
2. In such case the liability of the claimant shall be limited to the property restored and to any other claims to which he is entitled under this Law. The claimant's right to limit his liability shall be governed by Sections 1990 and 1991 of the Civil Code.
3. The claimant shall not be liable under paragraphs 1 and 2 to the extent to which the total amount of liabilities exceeds the limit of encumbrances to be computed by applying mutatis mutandis the provisions of Article 29 and insofar as the excess of liabilities is not covered by a surplus of assets resulting from the application of Article 25, paragraph 3. In such case the Restitution Chamber shall, in its discretion, take the requisite measures by applying mutatis mutandis the provisions of Article 29.

ARTICLE 34Leases and Tenancies

1. If a defendant or any former possessor has leased land to a third person, the claimant may terminate the lease by giving the notice required by law to the person entitled to possession under the Lease. Such notice may not be given until the restitution Authority has determined that the property is subject to restitution and such determination is no longer subject to appeal, or until the obligation to restore the property has been acknowledged in any other way. The notice must be given within three months of the happening of the said events whichever shall first happen.
2. The provisions of the Law for the Protection of Tenants (Mieterschutzgesetz) in the version of 15 December, 1942 (RGBl. I, page 712) shall not apply to any defendant or his predecessor in title who obtained the affected property by way of an unjust deprivation or who, at the time he acquired the property, knew, or should have known in the circumstances, that the property had at any time been obtained by way of an unjust deprivation. The provisions of the said Law shall also not apply where the claimant requires the premises as a suitable dwelling for himself or his near relatives (nahe Angehörige). The said Law shall likewise not apply if a dwelling which at the time of the unjust deprivation or of the filing of the petition for restitution was used in connexion with the operation of a business enterprise subject to restitution, is required for the continued operation of such enterprise. The provisions of the said Law shall not apply to premises used for commercial purposes if the claimant has a legitimate interest in the immediate return of such premises.

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3. Leases entered into by or with the approval of Military Government may be cancelled only with the consent of Military Government.

ARTICLE 35

Employment Contracts

Notwithstanding any contractual provisions to the contrary, and without prejudice to the right of the claimant to terminate an employment contract for just cause without notice, the claimant may, by giving notice as provided in a collective labour agreement or in the absence thereof within the statutory period, terminate any existing employment contract made since the unjust deprivation by the defendant or any former holder of a business enterprise subject to restitution. A notice may not be given until the Restitution Authorities have determined that the enterprise is to be restored and such determination is no longer subject to appeal, or until the obligation to restore it has been acknowledged in some other way. The notice must be given within three months of the happening of the said events, whichever shall first happen.

PART VII

CLAIMS OF THE DEFENDANT FOR REPAYMENT AND
INDEMNITY

ARTICLE 36

Obligation to Repay

1. In exchange for the restitution of the affected property the claimant shall, subject to the provisions of paragraph 3, repay to the defendant and where appropriate in kind any consideration received by him. The amount shall be increased by the amount of any encumbrance against the affected property existing at the time of the unjust deprivation and discharged thereafter, unless such encumbrance has been replaced by another encumbrance which continues to be effective, and unless the discharged encumbrance was created as the result of an act of unjust deprivation within the meaning of this Law.
2. Where several items of affected property were the subject of a total consideration, but restitution takes place in regard to some only of these items, the total consideration shall be reduced in the proportion which at the time of the unjust deprivation the item restored bore to the entirety of the affected property.
3. If, at the time of the unjust deprivation, the claimant, for any of the reasons referred to in Article 1, did not obtain, wholly or in part, the power freely to dispose of the consideration received, the repayment shall be diminished by the like amount. The claimant shall surrender to the defendant any claim for indemnity to which he may be entitled in the circumstances.
4. The claimant shall not in any case be required to repay any amount exceeding the value of the affected property at the time of restitution, less the amount of any encumbrance remaining against the property.

ARTICLE 37

Lien

The defendant shall have no lien (Zurückbehaltungsrecht) in respect of his claims where such lien would substantially delay the speedy restitution of the affected property. The same shall apply to any execution against or attachment of the affected property founded on any counterclaim.

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ARTICLE 38Judicial Determination of Terms of Payment

1. The Restitution Authorities shall lay down the terms and conditions of payments to be made in connexion with a restitution, after taking into consideration the purpose of this Law, the ability to pay of the person liable and the existing statutory prohibitions and limitations on payments.
2. In cases involving the restitution of property in land and interests of a like nature, the claimant may demand that an adequate period not exceeding ten years be allowed for the repayment of the consideration on condition that such repayment be secured by a mortgage on the property to be executed in favour of the defendant and bearing interest at 4%. The terms shall upon application be laid down by the Restitution Authorities.
3. In cases provided for in Article 26 and Article 29, paragraph 2, the Restitution Authorities shall determine the maturity dates of debts and the terms of payment in such a way that the restitution of the affected property will not be prejudiced in any way nor its enjoyment by the claimant be unduly impaired.

ARTICLE 39Claims for Indemnification

1. Claims for indemnification which the defendant may have against his immediate predecessor in interest shall be governed by the rules of the Civil Law. The liability to make restitution shall be deemed to constitute a defect in title within the meaning of the Civil Code. Section 439, paragraph 1 of the Civil Code shall not be applicable.
2. In case of restitution of real or tangible personal property, any claim provided in paragraph 1 may be asserted not only against the immediate predecessor but also against any mediate predecessor in interest who was not in good faith at the time he acquired the property. Such predecessors in interest shall be liable as joint debtors. They shall not be liable, if the defendant himself was not in good faith.

ARTICLE 40Lien of Third Persons over Claims of the Defendant

Any right over or interest in affected property which ceased to be effective by reason of the provisions of Article 29 shall constitute a lien on any claim which the defendant may have for repayment of consideration and for indemnity under this Law and on the sum received by the defendant in satisfaction of such claim.

/PART VIII

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PART VIIIGENERAL RULES OF PROCEDUREARTICLE 41Basic Principles

1. The restitution proceedings shall be commenced by petition and the proceedings shall be conducted in such a manner as to bring about a speedy and complete restitution. For the purpose of this Law the filing of a claim in accordance with Military Government General Order No. 10 as amended shall be deemed to be the filing of a petition.
2. In ascertaining the relevant facts the Restitution Authorities shall take fully into account the circumstances in which the claimant finds himself as a result of measures of persecution for the reasons referred to in Article 1. This shall apply in particular where the production of evidence is rendered difficult or impossible through the loss of documents, the death or non-availability of witnesses, or similar circumstances. Sworn declarations made by the claimant or his witnesses shall be admissible notwithstanding the subsequent death of the person making any such declaration.

ARTICLE 42Right of Succession and Foreign Law

1. Any person who founds a claim upon a right of succession on death shall be required to prove such right.
2. Foreign Law shall be proved where it is unknown to the Restitution Authorities.

ARTICLE 43Presumption of Death

Any persecuted person, or any person interested in his estate, whose last known whereabouts was in Germany or a country under the jurisdiction of, or occupied by, Germany or her Allies and as to whose whereabouts or continued existence after 8th May, 1945, no information is available, shall be presumed to have died on 8th May 1945: nevertheless, where it appears probable that such person died on a date other than 8th May, 1945, the Restitution Authorities may presume such other date as the date of death.

ARTICLE 44Safeguarding

1. The Restitution Authorities shall, if the situation so requires, safeguard affected property in a suitable manner. To that end they may issue temporary injunctions (*einstweilige Verfügungen*) or restraining orders (*Arrestbefehle*) either on their own initiative or upon application. Such injunctions or orders shall be modified or revoked if the property can be safeguarded by any measures other than those taken or if there is no further need for their continuation.

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2. The provisions of the Code of Civil Procedure for the time being in force relating to "Arrest und einstweilige Verfügung", shall apply mutatis mutandis.

ARTICLE 45

Trustee

1. Where supervision of any affected property is necessary and no other authority is entitled to exercise jurisdiction thereover a trustee shall be appointed for the purpose.
2. Military Government will issue regulations as to the appointment and supervision of a trustee.

ARTICLE 46

Competence of other Authorities to take measures under Articles 44 and 45

Where the safeguarding measures described in Articles 44 and 45 are within the competence of another agency, the Restitution Authorities shall request that agency to take such measures.

PART IX

FILING OF CLAIMS

ARTICLE 47

Central Filing Agency

1. The Central Office for the Administration of Property (Zentralamt für Vermögensverwaltung) referred to in Military Government General Order No. 10 (as amended) shall perform the functions of a Central Filing Agency.
2. The Central Filing Agency shall transmit any petition filed with it to the Restitution Agency or Agencies competent to deal with it under the provisions of Article 51.

ARTICLE 48

Time Limit and other requirements

1. The filing of a petition for restitution shall be in accordance with the requirements and be made within the time-limits laid down in the said General Order as amplified by the provisions following or any Regulations to be issued by Military Government.
2. The petition shall when necessary be substantiated by documents or sworn declarations.
3. The petition may be effectively filed by any one of several co-claimants.
4. Any petition filed by a person who is not entitled to restitution of the property shall be deemed to have been effectively filed in favour of the true claimant, or where appropriate, of a Trust Corporation.

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ARTICLE 49Relation to other Remedies

Unless otherwise provided in this Law, a claim within the scope of this Law may be prosecuted only under the provisions and within the limits of time laid down in this Law. Any claim based on a cause of action outside the scope of this Law may be prosecuted in the ordinary courts.

ARTICLE 50Contents of Petition to be filed

1. The petition shall contain a description of the affected property and such other particulars as a claimant is required to give in the form referred to in the said General Order.
2. The Central Filing Agency or the Restitution Authorities may request the claimant to supplement his petition by a statement (in an appropriate case by way of sworn declaration) containing such information as may be necessary for the purpose of adjudicating on the claim.
3. If the claimant has no domicile or residence in Germany and has not appointed there an attorney authorised to accept service of process, he may nominate a person domiciled there for such purpose. If he fails to nominate such a person within a reasonable time the Restitution Agency shall do so and notify the claimant of the appointment.
4. The Central Filing Agency shall notify the claimant of the Restitution Agency or Agencies to which the petition has been transmitted pursuant to Article 47, paragraph 2.
5. The time-limits prescribed in Article 48 paragraph 1 shall be deemed to have been complied with notwithstanding any formal or other defects in the petition.

ARTICLE 51Venue

1. Any petition for restitution shall be transmitted by the Central Filing Agency to the Restitution Agency of the district in which the affected property is situated. If it appears that a petition has been transmitted to a Restitution Agency which lacks jurisdiction, such petition shall be referred by such Restitution Agency to the Restitution Agency having jurisdiction. The order of reference shall be binding on the Agency to which the petition has been so referred.
2. Regulations may provide for additional rules as to venue, and in particular as to claims for compensation and ancillary claims and may authorise the Central Filing Agency to make Restitution orders in certain cases.

ARTICLE 52Jurisdiction ratiōne materiae

The restitution authorities shall have jurisdiction ratiōne materiae irrespective of whether under any other statutory provision a claim for restitution would come within the jurisdiction of any ordinary administrative or other court or whether no court whatsoever would have jurisdiction.

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ARTICLE 53Notice of Claim

1. The Restitution Agency shall give notice of the petition by formal service on the parties concerned requiring that an answer be filed within two months of such service. Parties concerned shall be deemed to be the defendant, lessees or tenants of, or persons holding other interests in the affected property, as well as any other person the claimant may demand to be joined in the proceedings. If the German Reich, a Land, a former Land, the former NSDAP or one of its formations or affiliated organisations is a party concerned, service shall be made upon the appropriate Land Minister of Finance. In the cases last mentioned the Land shall be authorised to join in the proceedings as a party having an interest therein.
2. Where the identity or present address of a defendant is unknown or where it appears from the petition that any unidentified third person may have an interest in the affected property, the Restitution Agency shall effect service of notice of the petition by publication requiring the defendant and the unidentified third person to declare within two months to the Restitution Agency their interests (with proof thereof). Service by publication shall be effected in accordance with the provisions of Section 204, paragraph 2, of the Code of Civil Procedure as amended by Control Council Law No. 38 in the form applicable to a summons. Service shall be deemed to be effective one month after publication in the periodical specified in Section 204, paragraph 2, of such Code. Where the claim relates to securities the Restitution Agency shall give notice of the petition by publication in the Official Gazette of the Combined Economic Area referred to in Ordinance No. 28 of the Economic Council dated 22nd June 1948 (Gesetz und Verordnungsblatt des Wirtschaftsrates des Vereinigten Wirtschaftsgebietes 1948, page 53) and such publication shall have the effect of a notice under § 367 of the Commercial Code (in the version of § 6 of the Ordinance for the simplification of Notices concerning securities of 22nd January 1944, RGBl. 1 page 42).
3. Upon service of the petition the case shall be deemed to be a *lis pendens* (*rechtshängig*).
4. When the claim for restitution affects property in land or an interest of a like nature, the Restitution Agency shall request that an entry be made in the Land Register to the effect that a claim for restitution has been filed, (*Rückerstattungsvermerk*). The notice of restitution shall be effective against any third person.
5. The provisions of the Code of Civil Procedure concerning Third Party procedure shall apply *mutatis mutandis*.

ARTICLE 54Procedure before the Restitution Agency

1. If no answer is made to the petition within the time specified in the notice, the Restitution Agency shall issue an order granting the petition. Where there is no dispute as to the limit of encumbrances and as to the continued existence of rights or interests, the Restitution Agency shall also make the appropriate findings on such matters.

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2. Where a petition for restitution does not conclusively disclose a cause of action, or the truth of any of the allegations contained therein is controverted by entries in public records or by public documents available to the Restitution Agency, the latter Agency shall require the claimant to submit a statement within an appropriate period of time. The Agency shall dismiss the petition on the merits if the claimant does not within this period submit an explanation justifying his petition or supplementing the facts alleged therein.

3. Where an answer is filed but an amicable settlement is reached the Restitution Agency shall, on application, record the settlement in writing, and shall deliver a certified copy of the terms thereof to the parties concerned.

ARTICLE 55

Reference to the Court

1. If an amicable agreement cannot be reached either wholly or in part or if the requisite measures to be taken are not within the competence of the Restitution Agency, it shall to the extent necessary refer the case to the Restitution Chamber of the Landgericht having jurisdiction over the Restitution Agency. This shall apply in particular to cases where only the limit of encumbrances or the continued existence of rights or interests or the liability for debts is in dispute.

2. Regulations may confer jurisdiction on Landgerichte generally, on certain Landgerichte or on Landgerichte other than those specified in paragraph 1.

ARTICLE 56

Appeal (Einspruch)

1. Any party may, by filing an appeal with the Restitution Agency, appeal to the Restitution Chamber against a decision of the Restitution Agency given pursuant to Article 51, paragraph 1, second sentence, or Article 54, paragraphs 1 and 2; notice of appeal shall be filed within one month unless the appellant resides in a foreign country in which case the period shall be three months. The time for appeal shall begin to run from the service of the decision appealed against. Article 53, paragraph 2, shall apply mutatis mutandis.

2. An appeal shall be permissible only when it is founded on a violation of the provisions of Article 53, paragraph 1, second sentence, or Article 54, paragraph 1 or 2.

ARTICLE 57

Execution

Agreements recorded by the Restitution Agency and orders of the Restitution Agency which are no longer subject to appeal may be enforced by execution pursuant to the provisions of the Code of Civil Procedure. For this purpose, the Restitution Agency shall have the powers of a Court (Vollstreckungsgericht). In effecting execution, the Restitution Agency may avail itself of the services of other agencies and in particular of the courts.

PART XJUDICIAL PROCEEDINGSARTICLE 58Members of the Restitution Chamber

The Restitution Chamber shall be composed of a Presiding Judge and two Associate Judges, eligible for the office of judge or for the higher Administrative Service to be appointed by the Minister of Justice of the appropriate Land with the approval of Military Government. The Associate Judges shall be appointed for a term of three years, unless they are professional judges.

ARTICLE 59Procedure

1. The Restitution Chamber shall adjust the legal relations of the parties in accordance with the provisions of this Law.
2. Unless otherwise provided in this Law, the procedure shall be governed by the rules applicable to matters of non-contentious litigation, subject, however, to the following modifications:
 - (a) The Chamber shall order an oral hearing which shall be in public.
 - (b) The proceedings may at the request of the claimant be stayed for a period not exceeding six months.
 - (c) The Chamber may give a part judgment on one of several claims or on part of a claim where the determination of any counterclaim, set-off or lien or any other defence of the nature of a set-off or counterclaim would substantially affect the decision on restitution.
 - (d) Without prejudice to the final decision, the Chamber may order the temporary surrender of the affected property to the claimant either with or without security. In such cases the claimant shall have, with respect to third persons, the rights and obligations of a trustee (Treuhand).

ARTICLE 60Form and Contents of the Decision.

1. The decision of the Restitution Chamber shall be pronounced in an order the grounds for which shall be given. Such order shall be served on the parties concerned. The order may be enforced by execution, a subsequent appeal notwithstanding. The provisions of Section 713, paragraph 2, and Sections 713a to 720 of the Code of Civil Procedure shall apply mutatis mutandis.
2. An objection (sofortige Beschwerde) may be made against the order by filing notice of such objection within one month or, in the case of a person residing in a foreign country, within three months. The time for giving notice of objection shall begin to run from the date of service of the order; Article 53 paragraph 2, shall apply mutatis mutandis. The Civil Division of the Oberlandesgericht shall hear the objection. The objection may be founded only on an allegation that the decision violated the relevant legal provisions. The provisions of Sections 552, 562 and 563 of the Code of Civil Procedure shall apply mutatis mutandis.
3. Regulations may confer on a certain Oberlandesgericht jurisdiction to hear such objections.

ARTICLE 61Powers of Review

A Board of Review to be appointed by Military Government may review all decisions and orders made under this Law and nullify, amend, suspend, or otherwise modify them.

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PART XISPECIAL PROVISIONSARTICLE 62Conflict of Jurisdiction

1. If any claim of any of the kinds specified in Articles 1 to 40 is made by a person entitled to restitution in proceedings before a Court or by way of execution, defence or counterclaim the Court concerned shall notify the Restitution Agency. The Court may, and on request of the Restitution Chamber shall, stay the proceedings or temporarily suspend execution by an Order against which there may be no appeal. The Restitution Chamber may direct that the claim be dealt with under this Law and not by exercise of jurisdiction by the ordinary courts, or it may authorise the claimant to prosecute his claim before such courts; in which latter case the authorisation shall be binding on the courts. If an action in the ordinary civil courts is terminated by reason of the claim being dealt with under this Law, any Court fees charged shall be remitted and neither party shall be entitled to any extra-judicial costs.
2. The Court shall report to the Central Filing Agency any measures taken under paragraph 1.

PART XIIPROVISIONS AS TO COSTSARTICLE 63Costs

1. No Court fees shall normally be charged in proceedings before Restitution Authorities. Regulations may, nevertheless, provide for the levying of costs, fees and expenses in certain cases.
2. No advance payment, or bond or security for costs may be demanded from a claimant.

PART XIIIPENALTIESARTICLE 64

1. Any person who alienates, damages, destroys, or conceals any affected property in order to defeat the rights of a claimant, shall upon conviction be punished with imprisonment not exceeding five years, or a fine, or both, unless heavier penalties under any other law are applicable.
2. Penal servitude not exceeding five years may be imposed in especially serious cases.
3. An attempt shall be punishable.

PART XIVRESTORATION OF RIGHTS OF SUCCESSION AND ADOPTIONARTICLE 65Exclusion from Inheritance

1. An exclusion from the right of succession by will or on intestacy or the forfeiture of an estate which occurred during the material period by virtue of a legislative measure for any of the reasons referred to in Article 1 shall be deemed not to have occurred.

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2. For the purpose of determining any periods of limitation, the event giving rise to the succession shall be deemed to have occurred on the effective date of this Law.

ARTICLE 66

Avoidance of Testamentary Dispositions and
of Disclaimers of Inheritance

1. Testamentary dispositions and contracts of inheritance made in the material period by virtue of which any descendant, parent, grandparent, brother, sister, half-brother, half-sister, or their descendants, as well as a spouse, was excluded from inheritance for the purpose of avoiding a seizure of the estate by the State, anticipated by the party making the disposition, for any of the reasons referred to in Article 1, shall be capable of being avoided. Subject to the provisions of paragraph 3 of this Article the power of avoidance shall be governed by Sections 2080 et seq. or 2281 et seq. of the Civil Code.
2. Disclaimers of inheritance by persons described in paragraph 1 shall be capable of being avoided provided such disclaimers were made within the material period in order to prevent an anticipated seizure of the property by the State, for any of the reasons referred to in Article 1. Subject to the provisions of paragraph 3 of this Article, the right of avoidance shall be governed by Section 1954 et seqq. of the Civil Code.
3. Testamentary dispositions, contracts of inheritance or disclaimers of inheritance must be avoided not later than 31st December, 1949.

ARTICLE 67

Testamentary Disposition of a Persecuted
Person

1. A testamentary disposition made within the material period shall be valid, notwithstanding non-compliance in whole or in part with any formal requirements, if the testator made such disposition in view of an actual or imagined immediate danger to his life, based on measures of persecution for any of the reasons referred to in Article 1, and where the circumstances were such that he could not reasonably be expected to comply with the statutory formal requirements.
2. The provisions of paragraph 1 shall not apply if the testator was still capable of making a testamentary disposition complying with the statutory requirements after 30 September, 1945.

ARTICLE 68

Re-establishment of Adoption

1. If an adoption relationship was revoked within the material period for any of the reasons referred to in Article 1, such relationship may be reinstated nunc pro tunc by a contract between the foster-parent or his heirs and the child or his heirs. Sections 1741 to 1772 of the Civil Code, with the exceptions of Sections 1744, 1745, 1747, 1752 and 1753, shall apply to ^{the} contract of reinstatement. A contract of reinstatement may be judicially confirmed notwithstanding the death of the parties to it. If one of the parties concerned is not capable of being brought before the Court a guardian ad litem (Pfleger) may be appointed to represent his interests in the proceedings for reinstatement.
2. Where an adoption was revoked by decision of a court during the material period for any of the reasons referred to in Article 1 and no facts appeared which would have entitled any of the contracting parties to revoke the adoption subsequently on his own initiative, such party or his heirs may require that the decision be quashed.

3. The Amtsgericht which cancelled the adoption shall have jurisdiction in cases falling within the provisions of paragraph 2. Paragraph 1, fourth sentence, shall apply mutatis mutandis. The decision of the court shall be discretionary and shall take into account the interests of the parties. Upon a revocation of the order cancelling the adoption, the adoption shall be deemed to be reinstated nunc pro tunc. The Court may stipulate that certain parts of its order shall not have retrospective effect.

4. No costs or fees shall be charged in such proceedings.

5. An application for re-establishment of an adoption must be made on or before 31st December, 1949.

ARTICLE 69

Jurisdiction

Any claims arising under Articles 65 to 68 shall be decided by the ordinary civil courts. A filing of a claim with the Central Filing Agency shall not be necessary.

PART XV

REINSTATEMENT OF TRADE NAMES AND OF NAMES OF ASSOCIATIONS

ARTICLE 70

Re-registration of Cancelled Trade Names

1. Where a trade name was cancelled in the Commercial Register within the material period after the business establishment had been closed for any of the reasons referred to in Article 1, the cancelled trade name shall, on application, be re-registered if the business is re-opened by its last owner or owners or his or their heirs.
2. If the business establishment closed was conducted at the time of its closing by a single owner, the last owner or his heirs shall be entitled to demand the re-registration of the cancelled trade name. If there are several heirs, and if not all of them participate in the resumption of the enterprise, the re-registration of the cancelled trade name may be demanded provided that the heirs who do not participate in the business assent to the resumption of the trade name.
3. If at the time of its closing the business establishment was conducted by several partners personally liable, re-registration of the cancelled trade name may be demanded if all the partners so liable establish a business enterprise, or if one or several of them do so with the consent of the remaining partners; in respect of heirs of partners the provisions of paragraph 2 shall apply mutatis mutandis.

ARTICLE 71

Change of Firm Name

Where a firm name was changed in the material period for any of the reasons referred to in Article 1, the former firm may be restored upon the application of the person who owned the business name concerned at the time the change was made, or of his heirs, provided he or they now own the enterprise. The provisions of Article 70, paragraph 2, second sentence, and paragraph 3, shall apply mutatis mutandis.

ARTICLE 72

Names of Juristic Persons

The provisions of Articles 70 and 71 shall be applicable to the trade names of juristic persons.

ARTICLE 73Re-instatement of Trade Names in other cases

Whenever the use of a former trade name is requisite to secure full restitution, the Restitution Chamber may permit the reinstatement of a cancelled or changed trade name in cases other than those provided for in Articles 70 to 72.

ARTICLE 74Names of Associations and endowments (Stiftungen)

Article 72 shall apply *mutatis mutandis* to the resumption by an association or an endowment of its former name.

ARTICLE 75Procedure

Applications for the registration in the Commercial Register of former firm and trade names must be filed within the period prescribed by this Law for the filing of claims for restitution. The Amtsgericht in its capacity as Court of Registry shall have jurisdiction over these applications except in the cases provided for in Article 73. In all other respects the procedure shall be governed by the rules of procedure applicable to matters of non-contentious litigation. No costs or fees shall be charged in such proceedings.

PART XVIFINAL PROVISIONSARTICLE 76Limitation

To the extent to which the provisions of the Civil Code as to limitation of actions, or as to prescriptive rights, might defeat any claim falling under this Law, any relevant periods of limitation or prescription shall be deemed not to have expired until six months after such cause of action arises by reason of the operation of this Law, and in no event prior to 30th June, 1950.

ARTICLE 77Taxes and other Levies

1. Taxes and other public levies shall not be imposed in connexion with restitution. No fiscal claims shall be imposed on a claimant in respect of the period during which he was unjustly deprived of the affected property.
2. No taxes, including inheritance taxes, or other public assessments, fees or costs shall be refunded in connexion with the return of affected property.

ARTICLE 78Implementing and Carrying-out Provisions

1. Military Government will by Regulation provide for the establishment and prescribe the functions and duties of the Restitution Agencies.
2. Unless otherwise provided in this Law or ordered by Military Government the Minister President of each Land or any Minister designated by him, (in the case of Hansestadt Hamburg the Buergermeister or Senate) shall issue the legal and administrative regulations necessary for the implementation of this Law.

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ARTICLE 79

Jurisdiction of German Courts

Subject to the limitations on the jurisdiction of German Courts imposed by Military Government Law No. 2 in the version for the time being in force, German Courts are hereby authorised to exercise jurisdiction in cases involving offences against any of the provisions of Article 64.

ARTICLE 80

Official Text

The German text of this Law shall be the official text and the provisions of Military Government Ordinance No. 3 and of paragraph 5 of Article 2 of Military Government Law No. 4, shall not apply to such text.

ARTICLE 81

Effective Date

This Law shall come into force on 12th of May, 1949.

BY ORDER OF MILITARY GOVERNMENT.

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13

30 December 1948

TO : Office of the Finance Adviser
OMGUS
APO 742

SUBJECT: Letter from U.S. Consulate General
Frankfurt, Germany
re request of Messrs. Freundlich and Markus

1. This matter has been referred in turn to Mr. McJunkins of Restitutions Branch and Mr. Porter of Property Control Branch, Property Division. Each of them indicated that action could not come from their division.

2. Although there is a reference in the third paragraph of the enclosed letter to a prior consultation with the Office of the Finance Adviser it is believed to be incorrect.

3. It is requested that this office be furnished with the basis for a suitable reply which may be forwarded to the US Chairman, BICC.

H.P. JONES
Deputy Chief

Tel. 8526

Encl.: a/s

THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

AMERICAN CONSULATE GENERAL,
Frankfort-on-the-Main, Germany,
December 17, 1948.

Major General C. L. Adcock,
United States Chairman,
Bipartite Control Office,
APO 757, U. S. Army.

Sir:

I have been requested by the State Department to investigate the present status of the negotiations being carried out by one Erich A. Freundlich, an American citizen, to secure licenses under MG laws 52 and 53 to effectuate the retransfer to his firm of the Duesseldorf firm, "Rheinkalte". The facts, as reported by the State Department, are as follows:

"Erich A. Freundlich, US citizen since 1946 and Otto Markus a British citizen since 1942 filed claim for restitution of the Duesseldorf firm "Rheinkalte". Claim was also registered in the British Zone. Subsequently, on July 30, 1948 Freundlich and Markus effected a contractual settlement of their claim with then owners R. Helm and G. Welter, to whom the original interest had been transferred as a result of Nazi pressure. Under the terms of the contract the claimants subsequently regained their original interest.

"Subsequent application was made by the firm for licenses under MG Laws 52 and 53 to effectuate the retransfer of interest to the original owners. The firm was informed by British MG that the Office of the Financial Adviser of the Bipartite Control Office at Frankfurt considered that there was small probability of granting the licenses. The Financial Advisers office asked for certain additional material, and from the nature of the material requested, it would appear that the Office suspected that some consideration other

/than the

- 2 -

than the settlement of the restitution claim passed between the claimants and the possessors of the firm. This, Freundlich emphatically states, is not the case."

In order that I may submit the desired report to the Department of State, it would be greatly appreciated if I might be furnished with the facts as they are known to your office and whether it is believed that reasonable grounds exist for the denial of the granting of the appropriate licenses. This information is desired for the State Department's guidance in considering Mr. Freundlich's request for intervention.

Yours very truly,

Walter W. Hoffmann,
American Consul.

File 804.46
WWH/djg

Attached letter was not sent because ~~the~~ file
was misplaced and not found until 28 Oct 48.

hg

Col. Jones

29 Oct 48

I found the attached file (and 4 others) in the safe
yesterday and turned them in to Central Files. I typed
the note saying the letter was not sent and turned it in
to Central Registry. They felt that perhaps it should be
sent anyway - What say you? Inasmuch as their original
request for the info was on 23 July and this answer is
dated 31 August - and it's now 29 October, it seems
unnecessary to me.

Yes, too old
hg
HP

1 Sep

Col Jones -

Attached is in
accordance with Folio 9

and appears to be
appropriate for signature
Request from Transport is

Folio 10A

RPMarch

BIPARTITE CONTROL OFFICE
 Finance Group
 APO 757

12

FIN/26546

31 August 1948

SUBJECT: Disposal of Ex-Prussian State Property

TO : Mr. A.H. Wilson, Chief, Financial Adviser
 Transport Group, BICO

1. Reference is made to your letter of 23 July in which you request a ruling from this Group that the Verwaltung fuer Verkehr can enter into negotiations with the Laender and other parties concerned with a view to acquiring the property concerned.

2. Having referred the matter to OMGUS, Property Division, Property Control and External Assets Branch we received the following answers:

"1. From the facts presented in the attached letter from the Transport Group, Bipartite Control Office, dated 23 July 1948, it appears that this matter concerns properties of the former German State of Prussia."

"2. The temporary custody and use or the administration over these properties may be immediately transferred to the Hauptverwaltung der Eisenbahnen and the Hauptverwaltung des Seeverkehrs. All that would be required to make such a step would be the approval of the Bipartite Transport Group and the concurrences of other interested offices or divisions of Military Government in the bizonal area."

"3. Title or ownership to properties in the U.S. Area of Control which belonged to the former German Reich or to the former German States cannot be transferred or in any way dealt with at present time. The Property Division, OMGUS, now has under study a draft of a proposed Military Government Law which will clarify the title of such properties and provide for the disposition thereof. The draft will, in the near future, be ready for circulation among the interested offices and divisions of Military Government for approval."

3. Consequently in accordance with para 2 of the afore-mentioned letter of Property Division, Finance Group has no objections to negotiations between the Verwaltung fuer Verkehr and the Laender etc., as far as transfer of temporary custody and administration over these properties is concerned.

Telephone: 8831

HOWARD P. JONES
 Deputy Chief

FIN/26546

31 August 1948

SUBJECT: Disposal of Ex-Prussian State Property

TO : ~~Mr. R.P. March~~

1. Reference is made to your request of 30 August 1948.
2. Draft for an answer is herewith attached.

Telephone 8183

BERT HEILPERN *BH*

→ To Mr. Heilpern -

1. Suggest you use your proposed first paragraph as amended.

2. Suggest second paragraph indicate that matter was referred to Property Division which has replied as follows.

3. Suggest last paragraph indicate that in accordance with Para 2 of Property Division letter Finance Group has no objections.

R P March

Draft

RA

BIPARTITE CONTROL OFFICE
 Finance Group
 Frankfurt, Germany
 APO 757

FIN/26546

31 August 1948

SUBJECT: Disposal of Ex-Prussian State Property

TO : Mr. A.H. Wilson, Chief, Financial Adviser
 Transport Group, BICO

request 1. Reference is made to your letter of 23 July ⁱⁿ which you ~~require~~ a ruling from this Group, ~~whether~~ ^{that} the Verwaltung fuer Verkehr can enter into negotiations with the Laender and other parties concerned with a view to acquiring the property concerned.

2. According to Allied Control Council Proclamation No. 2 of 20 September 1945 (Section V, Paragraph 14), transfer of titles or ownership to property in the US area of control formerly belonging to the former German Reich or to the former German States, is not possible ~~for the time being~~. However, there is no objection to the immediate transfer of temporary custody and use or administration over such properties to the "Hauptverwaltung der Eisenbahnen and to the "Hauptverwaltung des Seeverkehrs, if Transport Group, BICO, approves of such a step.

3. We understand, however, that the afore-mentioned rule as to the ~~final~~ transfer of ownership is going to be changed and that Military Government will then disregard such a rule. We also understand that Property Division, OMGUS, now has under study such a draft (Military Government Law) which will clarify the title of such properties and finally provide for the disposition thereof. As far as immediate transfer under temporary custody and use or administration over such properties is concerned, this Group has no objection whatever.

Telephone 8831

HOWARD P. JONES
 Deputy Chief

File FIN/2654
6

Secretariat
~~Office of the Assistant Financial Adviser (Exco)~~
Zonal Executive Offices,
C.C.G. MINDEN,
64 H.Q. C.C.G. (BE),
B.A.O.R.1.

Tel.: Minden 1791

Ref.: FIN(ZA)28018(SEC)

Telegrams: FINDIV MINDEN

4 October, 1948.

To:- Distribution as below.

Subject:- Victims of Nazi-Persecution.

F. I. A

Herewith advance copy of Amendment No. 2 to
General Order No. 10.

[Handwritten Signature]
(L. FRY)

for Assistant Financial Adviser (Exco)

Encl.
LF/BU.

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FIN/20.648/10(PC)

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The Commissioner General for Netherlands Economic Recuperation, Keizersgracht 105 (Centrum), Amsterdam Z.		1
Allied Commission for Austria, Property Control Branch, Vienne, CMF.		1
Office of Finance Adviser OMGUS, Blocking Policy Section, Berlin, APO 742, U.S. Army.		2
Property Division, Property Control & External Assets Branch, OMGUS APO 633, Wiesbaden, U.S. Army.		2
Service Central de Controle des Biens, Division de l'Economie General et des Finances, Baden-Baden (Allemagne), Zone Francaise d'Occupation.		1
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Administration of Enemy Property Department, Chesham House, 32 Warwick Street, London, W.1.		1
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Allied Liaison Branch, ZEO, CCG (BE), Bad Salzungen.		75
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Interpreters' Group, CCG Bad Pyrmont, 68 Hq CCG (BE), BAOR Attention: Mr. Hone).		1



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Spares.

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11A

MILITARY GOVERNMENT - GERMANY

BRITISH ZONE OF CONTROL

AMENDMENT NO. 2 TO GENERAL ORDER NO. 10.

(Pursuant to Military Government Law No. 52 -
Blocking and Control of Property).

ARTICLE I

1. General Order No. 10 (Military Government Gazette No. 21 page 634)
as amended by Amendment No. 1 dated 31 March 1948 is further amended
as follows:-

(a) By inserting after paragraph 2 of Article I thereof
the following new paragraph:

"2A. For the purpose of this General Order the
expressions following shall have the meanings
respectively assigned to them that is to say:

(a) "Securities" includes stocks, shares, mortgage
and other bonds whether expressed in German or
non-German currency and whether issued in Germany
or elsewhere;

(b) "Currencies" includes coins and other monetary
symbols but not bank balances".

(b) By substituting the following for Article III paragraph 6;

"ARTICLE III

Submission of Claims

6. Any person deprived of property which is the subject
of this Order may file a claim for its restitution.
Such claim must be filed on or before 31st December, 1949,
unless it relates to securities or currencies in which
latter case it must be filed on or before 31st December,
1948.

A claim/.....

A claim filed after the appropriate date will be inadmissible. A claim should be made on Form MGAF/C in triplicate and be forwarded to:-

Das Zentralamt für Vermögensverwaltung,
 (Britische Zone)
 Bad Nenndorf,
 Land Niedersachsen.

In the case of persons resident in Germany the form is obtainable from any Landrat or Oberbürgermeister within the British Zone of Occupation.

In the case of persons resident outside Germany the form is obtainable as follows:-

Great Britain and Northern Ireland	Foreign Office, (German Section), Norfolk House, St. James's Square, London, S.W.1.
British Commonwealth	Offices of British High Commissioners.
British Dependencies	Offices of the Government concerned.
Foreign Countries	British Consulates".

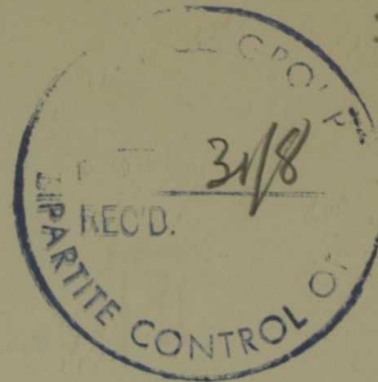
ARTICLE II

Effective Date

2. This Amendment shall become effective on 1 Oct 1948.

BY ORDER OF MILITARY GOVERNMENT.

BIPARTITE CONTROL OFFICE
Joint Secretariat
FRANKFURT



5258
26 August 1948

BICO/Sec(48)527

To: Bipartite Secretariat,
BERLIN.

Subject: EFFECT OF CONTROL COUNCIL LAW No. 5

1. Enclosed is a copy translation of a letter from the Director of the Verwaltung für Wirtschaft dated 9th June which was subsequently forwarded to this office with a letter from the Chairman of the Executive Committee dated 7th July, a copy of which is also annexed. The subject matter of the letter may be summarised as follows:-

A. German property abroad has been seized by individual countries and also by Control Council Law No. 5 has been vested in the German External Property Commission, except assets in the United Kingdom and Commonwealth, the USSR, the USA, France, "and any other United Nations determined by the Control Council" (Article IX).

B. In the light of this the V.f.W. requests that:

- i. U.S. and British Military Governments take action to exempt from the vesting in the commission of:

Property belonging to victims of Nazi oppression
Property belonging to religious and welfare organisations
Property belonging to institutions for the re-opening of commercial relations
Furniture of former diplomatic representatives
Those goods of which the costs of custodianship are out of proportion to their value.

- ii. The same treatment is asked for goods that were outside Germany only for temporary purposes, such as:

Railway trucks
Furniture vans
Building scaffoldings and tools

- iii. Furthermore the letter asks for information on:

Foreign legislation about the confiscation of German property:
(a) in the countries of the occupying powers;
(b) in other countries.
Figures and data of confiscated German property abroad.
Individual German assets, especially trade marks.
Whether any other nations have been determined by the Control Council pursuant to Article IX (see above).

- iv. The letter also asks the U.S. and British Military Governments:

To decide that Control Council Law No. 5 is applicable only to German property which was abroad on 30 October 1945, i.e. the date when this Law came into force.

To suggest to the other nations concerned that they should fix a date for the termination of confiscations.

/2. ...

- 2 -

2. Article III of Law No. 5, which deals with property owned by a German national outside Germany is applicable only to persons who have enjoyed full rights of German citizenship at any time since 1 September 1939 and who have at any time since 1 September 1939 been within any territory then under the control of the Reich government. The Law does not differentiate in the same way with regard to German nationals inside Germany. It may be argued that it was the intention to vest in the commission all property of German nationals inside Germany, whether they were victims of Nazi oppression or not. On the other hand U.S. Law No. 671 allows victims of Nazi oppression to claim restitution of their property in the U.S.

3. With regard to information about foreign legislation in general and individual German property abroad see BICO/Sec(48)378, paragraph 3, which states that the Bipartite Control Office has no objection to bizonal authorities approaching foreign consulates for information.

4. The problem of trade marks is understood to be under consideration.

5. It seems reasonable to assume that Law No. 5 is only applicable to German property which was abroad on 30th October 1945.

6. The letter from the V.f.W. raises various problems some of which appear to be insoluble at the present time and others which can only be dealt with on a Governmental level and would, presumably, form part of the Peace Treaty.

A joint opinion is asked from the Legal Advisers to the Military Governors in co-ordination with the other interested Advisers as to what reply can be made to the Chairman of the Executive Committee for the benefit of the V.f.W.

L.C.M. Nash

 L.C.M. NASH, Col. Br. Secretary

E. Linde

 E. LINDE U.S. Secretary

DISTRIBUTION: Lists A, B, C & E.

fd

TRANSLATION

VERWALTUNG FÜR WIRTSCHAFT
Des
Vereinigten Wirtschaftsgebietes

Frankfurt/Main-Hoechst, 9.6.48.
McNair-Barrack
Tel: Ffm/Bifa 10521, App.714

- THE DIRECTOR -

A.Z. 1/5 - 991/48

To:
Bipartite Control Office
Frankfurt/Main
489 HQ, CCG
APO 757
I.G. Farben Building

Subject: Interpretation of Control Council Law No. 5

Of late various enquiries relating to German external assets have been directed to the German economic agencies.

1. Persons, e.g. who as long as National Socialism was in power, were persecuted for reasons of their political creed, race or religion and deposited assets such as jewellery abroad, now approach us with the question what to do in order to repossess their property. Such property was in part requisitioned by foreign states on the strength of laws expressly issued to this end. Apart from that, this property is, however, also subject to the general seizure pursuant to Control Council Law No. 5. Under para II of same all rights and titles on property outside Germany which is owned held or controlled by a person of German nationality living in Germany are transferred to a commission for "German external assets" established under para I of the law.

It would appear desirable to issue at least in respect of property of inhabitants of the Combined Area implementing instructions and Law No. 5 to the effect that the property of politically persecuted persons should be exempt from the general seizure and transfer to the "Commission of German external assets." Although such a step would not directly affect the seizure of German property by foreign states, the corresponding implementing instruction and Law No. 5 in favour of the property of politically persecuted people would secure a better legal standing for these persons or their heirs respectively, when raising legal claims abroad. This seems important, since as far as we are informed, only in the United States by the laws Nos. 322 and 671 - 79 Congress, regulations taking account of the interests of the politically persecuted were issued. In addition to this, it would appear desirable to exempt also external assets of religious organisations and private welfare associations from seizure and liquidation.

It would be appreciated, if the question could be examined, whether for reasons of equity British and U.S. Military Governments can issue a notice to this end, providing for a less broad interpretation of Control Council Law No. 5, or whether it is expedient to submit appropriate recommendations to the governments of the Western Occupying authorities on the handling of German assets under their jurisdiction as well as on their possible intervention with other interested governments.

Moreover it would be appreciated if for the same reason consideration could be given to the possibility of an exemption of property of institutions charged with the reestablishment of trade relations with the Combined Area, from seizure and liquidation, as has already been decided in respect of German assets in Italy. In this connection I beg to refer to the provisions of Article 79 in the Italian Peace Treaty, to provisions of the treaty on the handling of German assets concluded between the United States, and Great Britain and France on 14th August 1947, as well as to the Italian Law issued on 3rd February 1948 for the execution of the said treaty.

/"Rules ...

- 2 -

"Rules for accounting for German assets in countries members of the Inter-Allied Reparation Agency", as laid down by a resolution of the Inter-Allied Reparation Agency in Brussels on 21st November 1947, also provide in part III a.o. that the property of politically persecuted persons, religious organisations or private welfare associations as well as household goods of former German representatives in the diplomatic and consular service need not be disposed of by any country, member of the JARA, subject to the understanding that the country refrains from seizing or retaining such property. In accepting such fundamental principles, members of JARA have undoubtedly intended to provide for certain exceptions and relaxations in the handling of the general seizure of all German external assets. These alleviations, as well as releases actually effected, e.g. in Italy, will be of little practical value to the favoured owners, if Control Council Law No. 5 will remain in force also in respect of such property without any amendment. It is therefore assumed that the country under jurisdiction of which the assets concerned come, in accordance with the rules fixed by JARA, or, as in the case of German assets in Italy, such property has been released with the approval of the British, US and French governments. I should be grateful if you would please confirm this interpretation is correct.

2(a). At the moment of the surrender, German railway wagons and furniture vans were in part abroad carrying through current transports. Transport and furniture vans, owing to their nature, require frequent border crossing and it results that means of transport are located at times over a shorter or longer period abroad. Thereby such railway wagons or furniture vans do not - in the German opinion - become "German external assets" in the sense of the law No. 5. The basic idea of this law is undoubtedly that German external assets, e.g. branch offices of German firms real estates of Germans abroad or German capital invested in foreign countries should be drawn on for meeting the reparation claims of the Allied Powers. In the German opinion it cannot, however, be the sense of the Law to include inland assets, as e.g. furniture vans belonging to a forwarding agent residing in the home country, which were by chance on 30/10/1945 abroad, executing an orderly transaction, into the general seizure on reparation account. As VFW were informed by the Arbeitsgemeinschaft Soedition (working team forwarding trade), the issue of German furniture vans abroad was already discussed by a delegate of the a.n. working team with COMUS-Berlin, where great interest was shown for this matter and a complete list of the German furniture vans concerned asked for.

(b). During the war many German firms were carrying out construction work in the occupied territories. These constructions were partly of a military nature, but also included road constructions and other works of a non-military character not carried out pursuant to an order from official agencies but on the grounds of contracts with foreign firms. For these works the German firms brought their equipment with them from Germany. A large part of this equipment was left behind in the foreign countries, no possibility for their timely repatriation existing at the end of the war. The German firms concerned have now approached VFW with the request to take steps so that they may re-possess their urgently needed equipment. In this connection it has been pointed out by the representatives of some firms that information has been received from foreign business friends, e.g. in Denmark, Norway and Austria to the effect that in these states no objections are raised on principle to the equipment being returned to owners, the material in question being in some cases of no use to the foreign states. The fundamental trouble, however, is the non-existence of implementing instructions pursuant to Law No. 5, stating at least in respect of the Combined Area, that only such assets are subject to seizure under Law No. 5 as are earmarked for a plant abroad, not, however, articles originally intended for inland use which are only temporarily abroad for certain purposes. It will not be necessary to state in detail how important it would be for German building contractors, charged with so great tasks in connection with the essential reconstruction program, to re-possess their equipment from foreign countries. It would be appreciated, if the scope of Control Council Law No. 5 could be ascertained and confirmation would be given of the interpretation, at least in respect of inhabitants of the Combined Area, that implements which at the time of the capitulation were only temporarily located abroad and the sales proceeds of which are low in proportion to the damage to the German economy

/resulting ...

- 3 -

resulting from their seizure, such as the a/m furniture vans and construction equipment, do not come under Control Council Law No. 5. It is realized that these implements, irrespective of restrictions pursuant to Law No. 5, are in part also subject to seizure orders of the countries under the jurisdiction of which they are at the present date. It is, however, felt that the way to a decision of the governments in question, to release such assets, would be considerably smoothed by the statements that said assets are not subject to Control Council Law No. 5.

3. Although 3 years have passed since the capitulation, German agencies are still largely left in the dark about foreign ordinances and international agreements relevant to German external assets. In by far most cases, the owners concerned are as yet unaware of what has happened to their property. Frequent enquiries being addressed to German authorities by German nationals, on the subject of treatment of their property, it would be appreciated if VFW were enabled to directly approach foreign missions and consulates as well as other competent foreign agencies for the relevant laws, texts of international agreements and the resolutions of the Inter-Allied Reparation Agency. Without such material German authorities will not be in a position to answer to the enquiries made by the owners concerned. Moreover, this material will be essential for investigations and assessment of the indemnity which may be claimed by owners in the regulation of compensation for damage caused by the war and its direct consequences. The danger arises that such indemnity claims will be made to an unjustified extent, unless German authorities are enabled to check the volume and the justification of such claims by means of official foreign statements. To correctly estimate the total of such indemnity claims and to insert this figure in the planning of a future balance of losses as far as possible correct documents on the total scope of German external assets subject to seizure will be required. Such papers are not at present at the disposal of German authorities. By registration under Law 53 and the utilization of such data, which in the meantime is in good progress, the British and US Military Governments, however, dispose of very exact figures as to the scope of German external assets. It would be appreciated, if final figures based on such data could be notified to me as early as possible.

(b) The same desire for information exists in respect of the treatment of individual German assets abroad. The fact that in many cases the German owners concerned are not informed on what has happened to their external assets has often led to complications. This is especially true in respect of German trademarks abroad, where the German export industry feels the lack of official information to be particularly prejudicial. The legal status of German trademarks abroad is exceedingly intricate and no survey is possible for German agencies. The larger part of foreign states have come to special regulations, by which German trademarks abroad have in part been transferred to custodians for seized German property, and in part been sold to private persons. No official notification of such actions has as yet been received by German agencies. This legal insecurity has a particularly prejudicial effect on exports, as in many cases German firms will refrain from exporting their products prior to clarification of the legal situation, in order to forestall unforeseen damage. Reference is here made to this office letter dated 9th March 1948 - 175/48 I 5b.

Finally, German agencies are not as yet informed of what has happened to such property as, under the provisions of Article IX of Law No. 5, has not been transferred to the Commission set up under Article I. Article IX empowering the Control Council to determine, in addition to the states enumerated under same article, further countries to which Articles II and III of Law No. 5 do not apply. Information is requested as to which other states, if any, exemption from provisions of Articles II and III has been extended.

4. Control Council Law No. 5 does not define the period over which its provisions will be effective and w.e.f. which day German external Assets will be considered as transferred to the German External Assets Commission. According to the German interpretation there can be no doubt that the law applies to such German property only as has been located abroad on the day of the promulgation of subject law, i.e. 30th October 1945. German property moved, created or acquired by German subjects, abroad after 30th October 1945, should not be subject to that law.

/According ...

- 4 -

According to the alternate interpretation, e.g. no German firms could be represented at foreign trade fairs, exhibition samples being subject to disposal by the Commission of German External Assets the moment the border is crossed.

It is admitted that difficulties may be arising from the seizure steps taken by foreign countries partly irrespective of the effective date of 30th October 1945. Remonstrations on such a practice so detrimental to the rehabilitation of German foreign trade would have much greater chances of success if an official statement confirmed that Control Council Law No. 5, at least as far as applies to inhabitants of the Combined Area, does not apply to German property moved to foreign countries, created there or acquired by Germans after 30th October 1945.

It is my opinion that in the interest of the rehabilitation of German foreign trade it is indispensable that further seizure of German external assets should be discontinued. There would be a striking disproportion between the gain of countries eligible for reparations from further seizures and the economic damage done thereby to the reestablishment of trade relations owing to the ensuring insecurity.

It would, therefore, be appreciated if, apart from the a/m request to confirm the limit to Law No. 5, set by the 30th October 1945, U.S. and British Military Governments could approach the governments concerned in an appropriate manner for the purpose of fixing an effective adequate date for the seizure of assets subject to Control Commission Law No. 5. Such an interpretation of Control Commission Law No. 5 would induce countries which have not, like the United States, fixed an effective date for the end of further seizures, to lay down final terms for the seizure of German external assets in their national legal prescriptions.

I should be grateful, if comments could be made on the above raised problems by Bipartite Control Office. It is realised that the approval of some of the above applications is beyond the competence of Bipartite Control Office. Bipartite Control Office being, however, the only Allied office to which German authorities charged with watching over the economic interests of the entire Combined Area may apply, and the questions embarked on above being problems of vital importance to the entire economy of the Combined Area, it is requested to forward the above applications together with your favourable recommendations to the agency of Allied governments competent for dealing with the problems brought forward.

(Signed) Dr. Ludwig Erhard

BIPARTITE CONTROL OFFICE
FINANCE GROUP
APO 757

9

Date 27/8/48

R O U T I N G S L I P

- Chief
- Deputy Chief
- Special Assistant to Deputy Chief
- Administrative Officer
- Secretariat
- Chief, Public Finance Branch
- Special Assistant to Chief, Public Finance Branch
- Deputy Chief, Public Finance Branch
 - Budget Section
 - Taxation Section
 - Audit Section
 - Research Section
- Chief, Financial Policy & Institutions Branch
- 3 Deputy Chief, Financial Policy & Institutions Branch *18 23*
 - Banking Section
 - Price Policy Section
 - Miss Grimm (U.S. Admin.)

ACTION COPY

(2) Jan FIN/26546

Remarks : _____

5262

9

Subject: Disposal of Ex-Prussian State Property
E/L: FIN/26546 dtd 2 Aug 48

1st Ind.

OMGUS, Property Division, Property Control and External Assets Branch,
Wiesbaden, Germany, APO 633, U.S. Army, 25 August 1948

TO: Bipartite Control Office,
Frankfurt, Germany, APO 757
Attn: Chief, Finance Group

*all. over. (see
action 21 20/8/48
1948
12.14.*

1. From the facts presented in the attached letter from the
Transport Group, Bipartite Control Office, dated 23 July 1948, it
appears that this matter concerns properties of the former German
State of Prussia.

2. The temporary custody and use or the administration over
these properties may be immediately transferred to the Hauptverwaltung
der Eisenbahnen and the Hauptverwaltung des Seeverkehrs. All that
would be required to make such a step would be the approval of the
Bipartite Transport Group and the concurrences of other interested
offices or divisions of Military Government in the bizonal area.

*Prop.
control
council*

3. Title or ownership to properties in the U.S. Area of Control
which belonged to the former German Reich or to the former German
States cannot be transferred or in any way dealt with at the present
time. The Property Division, OMGUS, now has under study a draft of
a proposed Military Government Law which will clarify the title of
such properties and provide for the disposition thereof. The draft
will, in the near future, be ready for circulation among the inter-
ested offices and divisions of Military Government for approval.

*Wiesbaden
213 41
41. 437*

Fred E. Hartzsch
FRED E. HARTZSCH
Chief

1 Incl: n/c

Telephone: Wiesbaden 21341
Ext 479

*Have
reconsidered
because it is going to
be more effective
but subject
effective*



Subject: Disposal of Ex-Prussian State Property
B/L: FIN/26546 dtd 2 Aug 48

1st Ind.

OMGUS, Property Division, Property Control and External Assets Branch,
Wiesbaden, Germany, APO 633, U.S. Army, 25 August 1948

TO: Bipartite Control Office,
Frankfurt, Germany, APO 757
Attn: Chief, Finance Group

1. From the facts presented in the attached letter from the Transport Group, Bipartite Control Office, dated 23 July 1948, it appears that this matter concerns properties of the former German State of Prussia.
2. The temporary custody and use or the administration over these properties may be immediately transferred to the Hauptverwaltung der Eisenbahnen and the Hauptverwaltung des Seeverkehrs. All that would be required to make such a step would be the approval of the Bipartite Transport Group and the concurrences of other interested offices or divisions of Military Government in the bizonal area.
3. Title or ownership to properties in the U.S. Area of Control which belonged to the former German Reich or to the former German States cannot be transferred or in any way dealt with at the present time. The Property Division, OMGUS, now has under study a draft of a proposed Military Government Law which will clarify the title of such properties and provide for the disposition thereof. The draft will, in the near future, be ready for circulation among the interested offices and divisions of Military Government for approval.

FRED E. HARTZSCH
Chief

1 Incl: n/c

Telephone: Wiesbaden 21341
Ext 479

Mr. Lowenthal

9A

BIPARTITE CONTROL OFFICE
Finance Group
Frankfurt, Germany
APO 757

FIN/26546/1

2 August 1948

SUBJECT: Disposal of Ex-Prussian State Property.

TO: Property Division
OMGUS
c/o OMG Hesse
Wiesbaden Germany
APO 633 US ARMY

1. The enclosed letter has been received from the Bipartite Transport Group for action by this Group.
2. It appears that it is not within the competence of this group to rule as requested in paragraph 2 of the enclosure. It is therefore requested that your office prepare a suitable reply.
3. If, in your opinion, the ruling must be secured from Berlin would you kindly forward the request and advise us of the action taken.

1 Incl

for *R P March*
R. P. MARCH
CHIEF
Finance Group

FRANKFURT 8267

From: Financial Adviser
 Tel: 8514
 Ref: BIPTPT/FIN/3041

3530
 TRANSPORT GROUP,
 BIPARTITE CONTROL OFFICE,
 FRANKFURT,
 497, HQ CCG,
 BAOR 21

23 July 1948.

Subject:- Disposal of Ex-Prussian State Property.

Finance Group,
 Bipartite Control Office.
Frankfurt.

1. A letter has been received from the Verwaltung fur Verkehr, requesting the transfer of certain ex-Prussian State property to the Hauptverwaltung der Eisenbahnen and to the Hauptverwaltung des Seeverkehrs. This claim, which, apart from certain properties and real estate in various North German ports, would also involve 2 and possibly 3 Kleinbahnen in the British Zone, has the approval of this Group as it is considered that more economical working and eventual improved financial results are to be expected from the transfer.
2. This matter has been discussed with Property Control Branch who state that under existing laws, transfer of the administration of the property can be effected, but if alienation or transfer of ownership is contemplated, sanction must first be obtained. The latter being the case, a ruling is required from you whether the Verwaltung fur Verkehr, through their subordinate offices, can enter into negotiations with the Lander and other parties concerned, with a view to acquiring the property concerned.

A. Wilson

(A.H. WILSON)
 Chief,
 Financial Adviser.

Copies.
 Float.
 File.

Colonel Stoker.

8

Br. Zone General Order No. 10.

I only have the two copies attached at this stage.

Propose that we send one copy — with others to follow — to BIXFIN. I would like the second copy for

file

24/10

JS.

(Return 1 Copy to British Element)

MILITARY GOVERNMENT—GERMANY
BRITISH ZONE OF CONTROL

GENERAL ORDER No. 10

(Pursuant to Military Government Law No. 52—Blocking and Control of Property.)

In pursuance of paragraph 2 of Article I of Military Government Law No. 52, as amended by Ordinance No. 38, it is hereby ordered:—

ARTICLE I

Property Subject to this Order

1. Subject to the exception contained in paragraph 2 of this Article, this Order relates to all identifiable property which was between the 30th January, 1933, and the 8th May, 1945, confiscated or removed from the ownership, possession or custody of any person by reason of his race, nationality, religion or political opinions, whether such confiscation, removal and/or other form of dispossession was due to, or authorised by, legislation or procedures which purported to follow forms of law, or otherwise.

2. This Order does not relate to any property having at the date of transfer a total value of less than 1000 Reichsmark.

ARTICLE II

Submission of Declarations

3. Any person who has, or at any time since 30th January, 1933, has had, possession, custody or control of any property to which this Order relates shall, within six months from the date of this Order, make in respect of such property and deliver to the Landrat of the Kreis or Oberbürgermeister of the Stadtkreis in which he or she resides a declaration (in triplicate) on Form MG AF/P. This Form is obtainable from any Landrat or Oberbürgermeister in the British Zone of Occupation.

4. Any person who has knowledge of any specific transfer since 30th January, 1933, of property to which this order relates shall, within six months from the date of this Order, make in respect of such property, and deliver to the Landrat of the Kreis or Oberbürgermeister of the Stadtkreis in which he or she resides a declaration (in triplicate) on Form MGAF/K. This Form is obtainable from any Landrat or Oberbürgermeister in the British Zone of Occupation.

5. Property shall be so declared, notwithstanding that it may have been sequestered, requisitioned or declared for any purpose under any other Order of Military Government.

ARTICLE III

Submission of Claims

6. Any person deprived of property which is the subject of this Order may file a claim for its restitution. Such claims must be filed on or before the 31st December, 1948. Claims filed after that date will be inadmissible. Claims should be made on Form MGAF/C in triplicate and should be forwarded to:—

Das Zentralamt für Vermögensverwaltung,
(Britische Zone),
Bad Nenndorf,
Land Niedersachsen.

MILITARREGIERUNG — DEUTSCHLAND
BRITISCHES KONTROLLGEBIET

ALLGEMEINE VERFUGUNG Nr. 10

(auf Grund des Gesetzes Nr. 52 der Militärregierung betreffend Sperre und Kontrolle von Vermögen).

Gemäß Artikel I Abs. 2 des Gesetzes Nr. 52 der Militärregierung in der Fassung der Verordnung Nr. 38 wird hiermit verordnet:

ARTIKEL I

Von der Verfügung betroffenes Vermögen

1. Diese Allgemeine Verfügung bezieht sich, vorbehaltlich der Ausnahmen des Abs. 2, auf jedes als solches erkennbare Vermögen, das zwischen dem 30. Januar 1933 und dem 8. Mai 1945 aus Gründen der Rasse, der Staatsangehörigkeit, der Religion oder der politischen Überzeugung einer Person enteignet, weggenommen oder ihrer Verwaltung entzogen worden ist. Dabei ist es unerheblich, ob diese Beschlagnahme und Enteignung, Wegnahme oder sonstige Form der Entziehung auf Grund von Gesetzen oder in angeblich rechtmäßigen Verfahren oder sonstwie durchgeführt worden ist.

2. Die Verfügung bezieht sich nicht auf Vermögen, dessen Wert zur Zeit des Übergangs weniger als 1000 Reichsmark betragen hat.

ARTIKEL II

Anzeigepflicht

3. Wer seit dem 30. Januar 1933 irgendwelches Vermögen (Artikel I) besitzt, verwaltet oder beaufsichtigt oder besessen, verwaltet oder beaufsichtigt hat, ist verpflichtet, innerhalb von sechs Monaten nach Inkrafttreten dieser Verordnung in dreifacher Ausfertigung auf Vordruck MG AF/P eine Erklärung über dieses Vermögen bei dem Landrat des Kreises oder dem Oberbürgermeister des Stadtkreises seines Wohnorts abzugeben. Dieser Vordruck ist bei jedem Landrat und Oberbürgermeister des britischen Besatzungsgebietes erhältlich.

4. Wer von einem bestimmten Vermögensübergang (Artikel I) Kenntnis hat, ist verpflichtet, innerhalb von sechs Monaten nach Inkrafttreten dieser Verordnung in dreifacher Ausfertigung auf Vordruck MG AF/K eine Erklärung über dieses Vermögen bei dem Landrat des Kreises oder dem Oberbürgermeister des Stadtkreises seines Wohnorts abzugeben. Dieser Vordruck ist bei jedem Landrat und Oberbürgermeister des britischen Besatzungsgebietes erhältlich.

5. Über das Vermögen ist die Erklärung auch dann abzugeben, wenn es auf Grund anderer Anordnungen der Militärregierung in Zwangsverwaltung genommen, beschlagnahmt oder für sonstige Zwecke bestimmt worden ist.

ARTIKEL III

Anmeldung von Ansprüchen

6. Wer Vermögen (Artikel I) verloren hat, kann seine Ansprüche auf Wiedererstattung anmelden. Diese Ansprüche müssen bis zum 31. Dezember 1948 angemeldet sein. Ansprüche, die nach dieser Frist angemeldet werden, werden nicht berücksichtigt. Die Ansprüche sind in dreifacher Ausfertigung auf Vordruck MG AF/C einzureichen an

das Zentralamt für Vermögensverwaltung
(Britische Zone)
Bad Nenndorf
Land Niedersachsen.

In the case of persons resident in Germany these Forms are obtainable from any Landrat or Oberbürgermeister within the British Zone of Occupation. In the case of persons resident outside Germany the Forms are obtainable as follows:—

Great Britain and Northern Ireland	Foreign Office (German Section) Norfolk House, St. James's Square, LONDON, S.W. 1.
British Commonwealth	Offices of British High Commissioners.
British Dependencies	Offices of the Government concerned.
Foreign Countries	British Consulates.

ARTICLE IV

Blocking of Property

7. All property to which this Order relates is hereby declared to have been and to be subject to all provisions of Military Government Law No. 52.

ARTICLE V

Offences and Penalties

8. Any person required by Article II of this Order to make a declaration who fails to do so or omits any material fact or particular from such a declaration or makes any false or misleading statement therein shall upon conviction by a Control Commission or German Court, be liable to imprisonment for a term of not more than five years or a fine not exceeding RM 100,000 or both.

ARTICLE VI

Hansestadt Hamburg

9. The provisions of this General Order apply mutatis mutandis to Hansestadt Hamburg. Declarations shall be made to the Bürgermeister.

ARTICLE VII

Effective Date

10. The date of this General Order is 20th October, 1947.

BY ORDER OF MILITARY GOVERNMENT.

Für in Deutschland wohnende Personen sind diese Vordrucke bei jedem Landrat und Oberbürgermeister des britischen Besatzungsgebietes erhältlich.

Für im Ausland wohnende Personen sind diese Vordrucke bei folgenden Stellen erhältlich:

Great Britain and Northern Ireland	Foreign Office (German Section), Norfolk House, St. James's Square, LONDON, SW 1.
British Commonwealth	Offices of British High Commissioners.
British Dependencies	Offices of the Government concerned.
Foreign Countries	British Consulates.

ARTIKEL IV

Vermögenssperre

7. Jedes Vermögen (Artikel I) wird hiermit, auch rückwirkend, allen Bestimmungen des Gesetzes Nr. 52 der Militärregierung unterworfen.

ARTIKEL V

Zu widerhandlungen und Strafen

8. Wer nach Artikel II dieser Verfügung zur Abgabe einer Erklärung verpflichtet ist, diese aber unterläßt, oder wer bei Abgabe einer solchen Erklärung wesentliche Tatsachen oder Einzelheiten verschweigt, oder wer falsche oder irreführende Angaben macht, wird mit Gefängnis bis zu fünf Jahren und Geldstrafe bis zu 100.000 RM oder mit einer dieser Strafen bestraft, wenn er von einem Gericht der Kontrollkommission oder einem deutschen Gericht für schuldig befunden wird.

ARTIKEL VI

Hansestadt Hamburg

9. Die Bestimmungen dieser Allgemeinen Verfügung finden auf die Hansestadt Hamburg entsprechende Anwendung. Erklärungen sind bei dem Bürgermeister einzureichen.

ARTIKEL VII

Tag des Inkrafttretens

10. Diese Allgemeine Verfügung tritt am 20. Oktober 1947 in Kraft.

IM AUFTRAGE DER MILITÄRREGIERUNG.