

Section Letter



VOL II  
(SI - )

1948

POL 370/48 (2)

**POLITICAL DIVISION, CCG**

F  
245

**BERLIN**

FO 1049/1339  
File No. 370

Name of File RESTITUTION TO VICTIMS  
of FASCISM.

K

Previous File(s)

Subsequent File(s) (see also Restitution Policy F 655)

1339

ARCHIVES  
CCG 94/5624  
Foreign Office (German Section)



10/134/48

Restitution to Victims of Fascism 370/67/48.

C.C. GERMANY POL. DIV.  
6-DEC 1948  
RECEIVED

Forwarded with the Compliments

of the British Embassy,

Washington, D. C.

The Chancery,  
British Embassy,  
Berlin.

A <sup>was</sup>  
2/12

30th November, 1948.

(Copy sent to F.O.)



## DEPARTMENT OF STATE

FOR THE PRESS

NOVEMBER 12, 1948  
NO. 908DEADLINE FOR FILING RESTITUTION CLAIMS UNDER  
MILITARY GOVERNMENT LAW NO. 59

The Department of State refers to the Joint State-Army Press Release of November 10, 1947, which announced the promulgation of Military Government Law No. 59, an internal restitution law providing for the restitution of identifiable property located in the U.S.-occupied zone of Germany (excluding U. S. Sector of Berlin) which was taken from its rightful owners by the Nazis during the period from January 30, 1933 to May 8, 1945 through transactions under duress arising from discrimination because of race, religion, nationality, ideology and political opposition to National Socialism.

All claims under the Law must be filed on or before December 31, 1948. The Office of Military Government for Germany (US) has informed the Department of State that no extension of the filing period provided for in Military Government Law No. 59 has been authorized or is anticipated. Claimants are not precluded from filing claims before the deadline by reason of lack of complete information since Article 58, of this Law provides that the period of limitation shall be deemed to have been complied with by filing a written statement with:

Zentralanmeldeamt (Central Filing Agency)

Bad Nauheim, Germany

Such a statement need not be under oath but should contain a description of confiscated property, stating as exactly as possible, the time, place and circumstances of the confiscation; and in addition, so far as is known to the claimant, the names and addresses of all persons having or claiming to have an interest in the property.

Claims should not be sent to the Department of State, to Military Government offices or to local German government officials.

\* \* \*

RG



C

Restitution to Victims of Fascism

370/66/48

[ F 2/13 ]

CIRCULAR No. 101

FOR INFORMATION  
O.G. GERMANY POL. DIV.  
6-DEC 1948  
RECEIVED

FOREIGN OFFICE

(German Section),

30th November, 1948.

**General Order No. 10.**

Sir,

I refer to my Circular No. 98, dated 21st October, 1947, with which was enclosed a copy of General Order No. 10 (Restitution of Property to Nazi Victims).

The Order has been amended in regard to the cut-off date for the submission of claims to certain kinds of property, and a copy of the revised edition is enclosed.

I am,

Sir,

Your obedient Servant,

ERNEST BEVIN.

X 1/12  
LW

His Majesty's Consular Officers

*The Chancery,*

*Berlin.*

15114 36051-31

RG



MILITARY GOVERNMENT, GERMANY, BRITISH ZONE OF CONTROL

GENERAL ORDER No. 10

(Amended by Amendment No. 1, dated 31st March, 1948, and  
Amendment No. 2, dated 1st October, 1948)

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

IN pursuance of Paragraph 2 of Article I of Military Govern-  
ment 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 30th January, 1933, and 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 1,000 Reichsmark.

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.

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 MGAF/P. This Form is obtainable from any Landrat or Oberbürgermeister in the British Zone of Occupation.

15114—1 36051—31A



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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 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 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 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.

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## 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.



*Restitutions to Victims of Fascism. 370/65/48*

To: Sir John Sheehy.

Telephone 1702

Telegrams "FINDIV MINDEN"

Reference FIN/20608/21

Office of the Assistant Financial Adviser (Exec.)

Zonal Executive Offices

C.C.G. Minden

64 H.Q. C.C.G. (B.E.)

B.A.O.R. I

GERMANY POL. DIV.  
RECEIVED

26th November, 1948.

Mr. C.E. Steel, C.M.G. C.V.O.  
Political Division,  
Berlin.

My dear *Steel*

I attach hereto a paper on General Claims Law for Victims of Nazi Oppression for favour of your consideration and decision regarding policy.

I have sent a copy to The Financial Adviser.

Yours sincerely,

*John Sheehy*

*Miss Anderson  
Col. White*

*Have you any comments?*

*W.M. 6/12*

*Received in  
Registry 26/4/49.  
without draft.  
L. Foley  
26/4/49.*

*Now see 266/K8A/K9  
UK.*

*See Draft  
to Sir J. Sheehy*



GENERAL CLAIMS LAW FOR VICTIMS OF NAZI OPPRESSION.

This paper raises the question of a law to indemnify victims of Nazi tyranny on account of injuries sustained by them, other than the dispossession of identifiable property which is covered by draft legislation now being considered at Foreign Office.

Annexure I to this paper is the original law on this subject promulgated by the French on July 13th 1948 unilaterally and without reference, as far as is known, either to the British or the Americans. Annexure 2 is the draft of a law under consideration by the Americans.

When the original paper on restitution was introduced into the Property Control Committee of the Finance Directorate, the British representative advanced the view, agreed with London, that all other forms of compensation to victims should be left to a future German Government which alone could know the economic facts at the time, and alone could make provision for payments in harmony with its other commitments. It was agreed too that all the Occupying Powers need do would be to incorporate the principle of compensation in the Peace Treaty. This view was acceded to by the other delegates and the matter was dropped.

As part of General Clay's undertaking to Jewish organisations in America, the Americans referred the subject to the Laenderrat, a committee of which produced the draft attached at Annexure 2.

The case is referred by Property Control for a decision of policy because it has received the papers and it was in charge of the first Victims Ordinance, which arose from property.

Both the larger aspects of whether there should be a law at all, what kind of law there should be, what degree of remedy should be afforded for what injury, and the smaller aspects of the source of legislation whether Military Government, Economic Council, Land Government or Provisional Government are primarily political matters, though the Financial Adviser will be concerned with the financial and, perhaps, with some operative implications of any affirmative decision of policy.

The Americans and French laws resemble each other very little except that in each case responsibility is placed upon the Land Government. But whereas both claimant and the nature of claims have been severely limited by the French, who have further provided that the source of payment shall be from a Trust Corporation in each Land, endowed with heirless property and arisings under Directives 50 and 57, there appears to be almost no limit imposed by the Americans on either the nature of claim or the person of claimant and the entire financial burden is imposed on the Land Government concerned, with right of recovery from individual aggressors which in most cases will be litigious and probably infructuous.

The scope of the American Law is admirably described in the covering paper entitled "Substantiation" which precedes the draft, at part II entitled "Carrier of restitution liability", and III "Carrier of restitution claim", and IV, "restitution cases". But reference is invited to Articles IX, Xiii, XV, XXXii which deal with the inheritance of claims, while Xiii - XVI provides a right to damages for injuries to life, limb, health, and liberty, property, (except war damage) including damage caused by the incidence of special taxation, fines, expenses, XVII - XX, loss of career, and future profits, xxxv - xxxvii loss of benefits under private and social insurance,

No factors are given for the statistical estimates of D.M. 150 million as the maximum cost to the three American Lander but the nature of the claims, and the series of claimants allowed, indicate that this is grossly under estimated, and it would certainly be larger in the British Zone which contained many more Jewish Communities, it is understood, than the others. It is obviously impossible

...To



2.

to calculate the amounts required under refund of taxation, or in payment of life Annuities, and pensions, and restoration of insurance benefits, nor is it possible to calculate the numbers of claimants who would include every person who believed himself to have a grievance against the late regime, each of these would claim for various injuries, and, (as we have evidence at Bad-Neundorf) for exaggerated amounts.

The financial sources suggested are:-

A special fund to be set up under the "equalization of burdens" legislation, tax - refund vouchers, interest bearing bonds, ( to be redeemed from the budgets,) taxation, and the sale of the sites of concentration camps.

Whether such burdens can, or ought, to be imposed on the financial structure of new Germany falls for decision, as also consideration of the possibility of the Land Governments refusing to enact this legislation, as they refused the law on restitution in the US Zone more than a year ago, or refusing to implement it, if legislation is passed over their heads.

Attention is also directed to Article 50 which is intended to provide for legislation regarding claims on account of sterilisation and the murder of alleged lunatics.

It must finally be noted that every claim under this law in the nature of things will require proof and that in each case the opposite party will be the State. This presumably entails an enormous volume of litigation and administrative process which must take many years to conclude, and must increase state expenditure quite apart from the fact that the state is the sole source of provision for the sums ultimately awarded.

The Financial Adviser would be grateful if he might be consulted before any decision is taken involving expenditure.

We are aware that the draft American law has been seen by I.R.O. and criticised as being not liberal enough.

We further desire to invite reference to BICO, P48/2/7/0 which suggests that the Germans are themselves approaching this problem, and are proposing substantial (though not lavish) remedies at least for losses of livelihood, for the education of children, and the provision of housing schemes.

This step is exactly in accord with British theory, as it has been held hitherto, and is probably reasonably close to what the German economy can bear. We have some doubt as to whether the French will agree as they already have a law, or the Americans because of the austerity of the proposals. But we suggest that the British should take their stand upon it, merely injecting the idea of victims in exchange for the expression "subjects of political persecution".

26th November, 1948.



Minutes.

Finances.

General Claims Law

NOTHING TO BE WRITTEN IN THIS MARGIN.

I am afraid that I omitted to approach Dr Litchfield on this yesterday, but I have read the papers & entirely agree with Finance Div<sup>n</sup> that this Law will put the lid on W. German finances besides being to a large extent impractical. I am also extremely dubious of the right of the Americans to let their Landerrat legislate on such a subject as this now. Unfortunately we cannot well deny their right to proceed by Bil. Gov. Ordinance (as I should like to do) because we ourselves are proposing shortly to do so in the case of the original Restitution Ordinance. We must ~~however~~ also be careful to see that we are not undermined by the same interests in London who re-opened the Restitution question.

We should therefore.

① Telegraph to Frankfurt asking them to enquire of the Americans whether this law is to be put through as a Landerrat law and if so why, the Landerrat having been nominally dissolved.

② Tel Finance Div<sup>n</sup> that we endorse their line and suggest that F.O. should be informed of the position with British views.

E.S. 6.i.

(attached)  
 2. → 474/2/49.  
 + Reply at 3-100  
 + see 370/65/48



*Restitution to Victims of Fascism. 370/64/48*

Zonal Office of the Financial Adviser.

*eh*

Fr: — Mr. M.J.P. Kelly.

Finance Division (Zonal Affairs)

Zonal Executive Offices

C.C.G. Minden

64 H.Q. C.C.G. (B.E.)

B.A.O.R. I

Telephone Minden 1732.

Your Reference .....

Our Reference..... *Fin/20599(FC)*

**C.C. GERMANY POL. DIV.**  
*29, NOV.*  
**RECEIVED**

29 November 1948.

My dear Weisberg,

Parker has asked me to let you know what progress has been made in the matter of <sup>the</sup> disposition of non monetary gold in the British Zone - mostly consisting of the personal effects belonging to inmates of Belsen and Neunegamme Concentration Camps. These effects have been processed into Identifiable and Non-Identifiable categories and we are on the point of handing over the Non-Identifiable to I.R.O. in pursuance of the Final Act of Paris.

We are equally prepared to return to the rightful owners the Identifiable property but do not consider that we have any authority to do so in the absence of our long awaited Restitution Law. As you are aware the French, Polish and other Allied Governments are keenly interested in the completion of this particular act of restitution and we find it difficult to justify any further delay in the hand over.

Yours sincerely,

*M. J. P. Kelly*

~~H. Weisberg Esq., C.M.G.,  
Foreign Office (German Section)  
Norfolk House,  
St. James's Square,  
LONDON, S.W. 1.~~

*D.L.S.  
30/xi*

Copy to:- Political Division.

*RC  
LM*



*Restitution to Victims of Fascism. 370/63/48*

Zonal Office of the Financial Adviser.

~~Office of the Assistant Financial Adviser (Exec)~~

Zonal Executive Offices

C.C.G. Minden

64 H.Q. C.C.G. (B.E.)

B.A.O.R. I

From:— Mr. R. H. Parker.

Telephone Minden 1733.

Telegrams "FINDIV MINDEN"

Reference FIN/20648/6 (PC)

25th November 1948.

My dear Marreco,

I spoke to Weisberg, Finance Division, German Section, by telephone yesterday and took occasion to enquire from him the present situation of the Victims Law.

He tells me that, after analysis by himself, and Simpson, it is now on its way through Sir Cyril Jones to Marchbanks. He was unaware of Garrans letter of November 9th, as from the Military Governor to the Secretary of State, but has, I understand, now procured a copy of it.

It is rather sad that London seems to have embarked on a second series of delay for it is well over two months ago that a new draft was sent over following our conference in London.

You will recollect that Peter Hampshire generously (but fairly) accepted responsibility for the previous six months series. Nevertheless a whole year has elapsed since the American and French laws were promulgated and we sent our proposals home.

I have copied this for information to Herchenroder.

*Inevitable when a country is governed by an anonymous & second-rate bureaucracy.*

Yours sincerely,

*R. H. Parker.*

*AM 29/11.*

A. Marreco Esq.,  
Office of the Political Adviser,  
HQ C.C.G. (BE)  
BERLIN, B.A.O.R. 2.

*RG  
m*



*Restitution to Victims of Fascism.*

370/62/48  
POL/205/48

Mr. Stewart.

Jewish Congregations in Germany

I note that two Laender say that there is no active desire for the restoration of their former legal status to Jewish congregations; whereas the other two are of the opinion that there would be support for such a restoration. Whether or not, in the circumstances, we should take the initiative will no doubt be treated in the Foreign Office as a matter of high policy. Niedersachsen is alone, however, in thinking that if it is decided to effect restoration, it would be better done by federal, rather than Land, legislation. Niedersachsen's opinion is based on a fear that lack of uniformity in legislation between Laender would provide scope for Jewish communities to play one Land off against another. I have no doubt that if there are substantial differences between the Laender in this matter there will be a certain amount of playing off of one against another. On the other hand, if the power to enact legislation relating to Jews is given to the Federal Government, it may well be that the Jewish congregations in Germany will one day wish that they had never been born.

X-29 343/34/48.

2. On the question of "compensation", I refer you to the papers which Mr. Wilford passed to Mr. Garran this morning relating to the release to Land governments of the considerable sums of money collected by denazification tribunals in the form of fines. This money would appear to be available for the purposes of compensation to civil servants and others, who have suffered dismissal or loss of pension or social security benefits, on racial or political grounds.

3. We have now agreed with the Americans and French that no further zonal legislation will be issued without reference to the Tripartite Sub-Committee on the Harmonisation of Legislation, so there is no danger of the Americans stealing a march on us with their "compensation" law. I suggest, however, that you ask Mr. Parker, Property Control Branch, if the law holds with their intentions.

A.M.

16 November 1948

X 18/4  
New original submitted.

26  
will



Restitution To Victims of Fascism

Immediate

370/61/48

Herford 2453

Legal Advice & Drafting Branch,  
Zonal Office of the Legal Adviser,  
CCG. HERFORD,  
65 HQ. CCG., BAOR. 15.

Legal/LAD/52431/15

9 November, 1948.

To: J.L. Simpson, Esq.,  
Foreign Office (German Section),  
LONDON, S.W.1.



My Dear Simpson

SUBJECT: Restitution Law

1. Herchenroder has sent me a copy of your letter to him of the 18th October, 1948, and has requested me to reply direct to you and send the ..... final draft, in view of the urgency of the matter. I enclose 3 copies.

2. No doubt Herchenroder will be keeping you informed of the attempts to agree a draft with the Americans.

3. Your main point is as to the trust corporation. During the seven or eight days allowed to Westwood to get out the draft Law to implement the decisions reached at the London meeting (at which he was not present) he kept very closely in touch with Parker of Property Control Branch and, indeed, during the course of three interviews went through the whole of the new draft and obtained Parker's instructions and approval. At Westwood's request Parker gave him the note dated 23rd September, 1948, of which I ..... enclose a copy. This note refers to the discussion with Marchbanks and is the justification of this Branch for incorporating the provisions of the earlier draft in the present version.

On the whole I think it is a good solution and avoids the ambiguities and clumsiness of much of Part V of the American Law.

4. On your comments on Article 1 paragraph 3, Article 3 paragraph 2 and Article 18 I have consulted the Special Legal Advice Bureau (who owing to the pressure at which the first draft was prepared could not be consulted at every point) and as a result I have modified the language of Article 1 paragraph 3 and harmonized the contents of Articles 16, 17 and 19 therewith. I think the changes made will meet the point you rightly made.

5. Your comment on Article 3 paragraph 2 is appreciated but it would be very difficult to lay down any workable principle to deal with the free right of disposal subsequent to the transaction giving rise to the transfer. In any case it would seem that the essence of the protection to be granted to a purchaser for value without notice in his good faith at the date of the transaction. This protection should not be defeated by subsequent events arising independently of the purchaser.

6. I have reviewed Article 7 and think it would be better as re-framed in the new draft since it seems inaccurate to speak of a liquidator of a dissolved juristic person or unincorporated association and the destination of the assets recovered should also be provided for. It is inevitable for Military Government to have some say in the appointment of persons to act as claimants in this group of cases and as to the destination of the property recovered (e.g. in the case of the Jewish communities formerly existing as corporations of public law); it is, however, better for the details to be worked out in schemes or by the regulations the issue of which Article 80 reserves to Military Government.

/7.

MRC



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7. Special Legal Advice Bureau welcome Article 18 (but recommend the deletion of sub-paragraph (c) which has been done) since it will shut out trifling claims. I see no reason for the omission of the Article because a corresponding Article does not figure in the American Law.

Yours *V. Sincerely*

*A. Michelson*

JW/EO

Copy to: Legal Adviser, HQ. CCG., BERLIN, BAOR 2. (4)  
Mr. Peter Ramsbottom, Political Department, Foreign Office  
(German Section), London (3)  
Property Control Branch (info. Mr. R. H. Parker) (2)  
Secretariat Section (info. Deputy Legal Adviser) (1)  
M.O.J. Branch (2)



COPY/JW

Mr. Westwood

At the Conference in London on the Victims Law it was agreed that I should discuss the Trust provisions with Marchbanks after the meeting.

I did so, and, in order to avoid difficulties of having Polish and Communist successor organisations, Marchbanks ruled that we should stand fast, even against the Americans, on

- (a) A trust corporation to receive profits and heirless property.
- (b) Non-official trustees.
- (c) No reversion to Lander but distribution of the assets amongst victims after a term of years.

Signed. R.H. Parker

23rd September, 1948

Director  
Property Control Branch



attachment to 370/61/48

(1 spare in useful Chancery  
Spares Box.)SECOND DRAFT 9th November, 1948MILITARY GOVERNMENT - GERMANYBRITISH ZONE OF CONTROLLAW NO.RESTITUTION 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 and 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. For the purpose of this Law deprivation of property for reasons of nationality shall not include measures which were taken in time of war solely in 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. No claim for restitution shall arise if the person affected or a predecessor in title acquired the property in question for value and neither knew, nor ought in the circumstances to have known of the unjust deprivation (gutgläubiger Erwerb). This paragraph shall also apply to the acquisition of rights to or over the property which has been the subject of unjust deprivation.

/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 II

UNJUST DEPRIVATION

ARTICLE 2

Acts 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:

- (a) a transaction 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 organizations;

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 his 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 (Treuhand)).

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 I shall be deemed to be an abuse of a

/governmental...



- 3 -

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.

### 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 transferee 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 of persecution 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 the



- 4 -

satisfactory to the Restitution Chamber (Article 57) and 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 I transferred 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 the 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.

/Part III...



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PART IIIGENERAL PROVISIONS ON RESTITUTIONARTICLE 6

The right to lodge a claim for restitution shall belong to a person whose property was the subject of unjust deprivation or if he is dead his heirs legatees or other successor in title.

ARTICLE 7Claims of Dissolved Associations

1. If a juristic person or unincorporated association was within the material period dissolved or compelled to dissolve for any of the reasons referred to in Article 1, the claim for restitution which would have belonged to such juristic person or unincorporated association had it not been dissolved, may be enforced by a nominee of Military Government. The duties of such nominee shall include the distribution of the assets recovered to the persons appearing to be entitled thereto having regard to any scheme which may be drawn up by Military Government applicable to such assets.

ARTICLE 8Rights of Partners

If a partnership was within the material period dissolved or compelled to dissolve for any of the reasons referred to in Article 1, the claim for restitution may be made by any partner. The claim for restitution shall be deemed to have been filed on behalf of all partners who have the same cause of action. The claim may not be withdrawn or be the subject of a compromise except with the approval of the appropriate Restitution Chamber. Notice of the filing of the claim shall be given to all other known partners or their successors in title and to the Trust Corporation interested by reason of the provisions of Article 9.

ARTICLE 9Trust for Profits and Unclaimed Property

1. A Trust Corporation under German Law (hereinafter referred to as "the Trust Corporation") shall be formed in the British Zone for the purposes hereafter mentioned and its members be appointed, and subject to dismissal, by Military Government.
2. The Trust Corporation shall examine every claim made under this Law and shall, before any order for restitution is made, lodge a claim arising under this Law:

/(a) ...



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(a) for any increase in value due to improvements or additions to the property, against the claimant;

(b) for any profits less expenditures as defined in Article 29.

3. The Trust Corporation shall claim any property which, according to available evidence, is liable to restitution, but which has not been claimed by any person entitled to make a claim under the provisions of this Law or on behalf of a victim of Nazi persecution who in the circumstances provided for by § 1936 of the German Civil Code has died or after the effective date of this Law dies without leaving a spouse or heirs.

4. Out of the monies received by it, the Trust Corporation

(a) shall, in lieu of profits, pay to a successful claimant a sum not exceeding 4% of the capital value of the property at the time of the original transfer in respect of each year or part of a year since he was deprived of it;

(b) shall pay appropriate compensation to surviving members of corporations and firms which would be entitled to claim restitution under this Law if they had not been dissolved under German Law.

5. The balance of the monies received by the Trust Corporation shall be invested and held upon trust for the compensation, maintenance and benefit of all persons in the British Zone who were victims of Nazi oppression, and for the maintenance, care and, where appropriate, the education and advancement of their dependants, in accordance with schemes for such purposes prepared by the Trust Corporation and approved by Military Government. Military Government reserves the right from time to time to review all such schemes and to give directions regarding the management and disposal of the funds in the hands of the Trust Corporation.

6. At a date to be fixed by Military Government, not earlier than 1960, the Trust Corporation shall be wound up and its assets distributed among victims in the British Zone of Nazi persecution generally in accordance with a scheme prepared by the Trust Corporation and approved by Military Government.

#### ARTICLE 10

##### Special Rights of Trust Corporations

1. If within six months of the effective date of this Law no petition for  
/restitution...



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Restitution has been filed with respect to an affected property, the Trust Corporation established pursuant to Article 9 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, the Trust Corporation shall on filing the petition succeed to the legal position and rights of action of the victim.

3. The provisions of paragraph 1 and 2 hereof shall not apply to the extent to which, any victim, in the period from 8 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 11

##### 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. The Trust Corporation shall disclose the address of the person entitled to restitution, provided it 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, make a sworn declaration to that effect through its legal representative.

#### ARTICLE 12

##### 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 owner of the affected property.

#### ARTICLE 13

##### Effect of an Adjudication of a Restitution Claim

Subject to the rights of any person protected under the provisions of paragraph 3 of Article 1 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 14 .....



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ARTICLE 14Alternative 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 IVLIMITATIONS ON THE RIGHT TO RESTITUTIONARTICLE 15Expropriation

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 recognized 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 16Protection of Ordinary and Usual Business Transactions

Except as provided in Articles 17 and 19 movable property shall not be subject to restitution if the present owner, or his predecessor in title, acquired it in the course of an ordinary business transaction, in an establishment normally dealing in that type of property. Subject to the provisions of paragraph 3 of Article 1 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



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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 17.

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 the circumstances that the person entitled thereto had been unjustly deprived thereof.

ARTICLE 18.

Exclusion of claims in respect of certain property

The following property is not subject to the provisions of this Law:

- (a) property of a value not exceeding RM 1000 at the date of its original transfer;
- (b) consumable goods.

ARTICLE 19.

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. Subject to the provisions of paragraph 3 of Article 1 bearer instruments and interests in bearer instruments shall, nevertheless, be subject to restitution if they represent:
  - (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

/by...



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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 14 June, 1938 (RGBl. 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 wrongful deprivation, it permitted the exercise of controlling influence upon the management of the business enterprise.

#### ARTICLE 20

##### 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 19, 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 in the transformed or newly formed enterprise, or in the enterprise which acquired 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 21

##### Enforcement of the principles of Article 20

The Restitution Chamber in taking the measures necessary and appropriate to give effect to the rights granted to the claimant under Article 20, 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 20, 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..



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benefited, directly or indirectly, from the unjust deprivation in connection with the state of affairs referred to in Article 20; 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 22

Other Enterprises

The provisions of Articles 20 and 21 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 23

Service

Where pursuant to Articles 20 to 22 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 Article 55.

ARTICLE 24

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 consent unless security is given to him to indemnify him against any damage which

/may...



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 25

##### 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 26

##### 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 27

##### 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 pecuniary compensation or assign any claim thereto which he 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 <sup>which</sup> with the holder or former holder of affected property acquired in respect of any damage to 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.



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unless the defendant shows that such assets were not paid for with funds of the enterprise. If the purchase was paid for 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 29. 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 24, 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.

#### ARTICLE 28

##### Conditions of Restitution

Property subject to restitution shall be accepted by the claimant in the condition in which it was on the 20th October, 1947, and the defendant may claim neither for any increase in value since the date of the original transfer, nor in respect of any money spent by him for maintenance charges or capital expenditure except to the extent that such capital expenditure has resulted in a permanent enhancement in the value of the affected property, nor shall he be liable for any loss, damage or deterioration of the property, not occasioned by his own default, except that where he has received or is entitled to receive any compensation for damage to the property he shall pay such compensation or assign the right thereto to the claimant in whose favour a Restitution Order is made in respect of that property. Provided that where the property subject to restitution has increased in value by reason of improvements or additions, the claimant shall be liable to pay to the Trust Corporation referred to in Article 9 an amount equal to the increase in value due to such improvements or additions, but may deduct therefrom the amount of any debt incurred in respect of the improvements or additions where such debt will remain secured upon the property after the Restitution Order is made, and any sum allowed to the defendant in respect of capital expenditure under the provisions of this Article.

#### ARTICLE 29

##### Profits

The claim which may be made by the Trust Corporation shall extend to the net profits which since the date of the original transfer have been

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derived from the property by the defendant or any predecessor in title not being a person protected from liability to make restitution under paragraph 3 of Article 1, 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.

#### ARTICLE 30

##### 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 and 261 of the Civil Code shall apply mutatis mutandis.

#### PART VI

##### CONTINUED EXISTENCE OF INTERESTS AND LIABILITY FOR DEBTS

#### ARTICLE 31

##### 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 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

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of encumbrances and which arises out of expenditure for which the defendant cannot claim compensation pursuant to Article 28 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 connection 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 32

##### Devolution of Encumbrances

If property in land (Grundstuck) 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 33

##### Personal Liability

If, prior to the unjust deprivation of property in land the claimant or his predecessor in interest was personally liable in respect of any debt which was secured by a 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 31, paragraph 1, second sentence, and replace charges for which the claimant or his predecessor in interest had been personally liable.

#### ARTICLE 34

##### Demand for Assignment

1. The claimant may demand the assignment to him, without compensation, of



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the benefit 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. 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 40, 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 35

##### Liability 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 1992 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 31 and insofar as the excess of liabilities is not covered by a surplus of assets resulting from the application of Article 27, paragraph 3. In such case the Restitution Chamber shall, in its discretion, take the requisite measures by applying mutatis mutandis the provisions of Article 31.

#### ARTICLE 36

##### Leases and Tenancies

1. If a defendant or any former possessor has leased property in 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

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

#### ARTICLE 37

##### Employment Contracts

Notwithstanding any contractual provision 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 38

##### Obligation to Repay

1. In exchange for the restitution of the affected property the claimant /shall



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shall, ~~subject to the provisions of paragraph 3,~~ repay to the defendant and ~~and where appropriate~~ in kind the 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 such amount as to the Restitution Authority appears to be just. 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 ~~the~~<sup>any</sup> amount exceeding the value of the affected property at the time of restitution, less the amount of any encumbrance remaining against the property.

#### ARTICLE 39

##### Lien

The defendant shall have no lien (Zurueckbehaltungsrecht) 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.

#### ARTICLE 40

##### Judicial Determination of Terms of Payment

1. The Restitution Authorities shall lay down the terms and conditions of payments to be made in connection 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.

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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 considerations on condition that such repayment be secured by a mortgage in favour of the defendant bearing interest at 4%, to be executed on the property. The terms shall upon application be laid down by the Restitution Authorities.

3. In cases provided for in Article 28, and Article 31, 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 41

##### Claims for Indemnity

1. Any claim for indemnity which the defendant may have against his immediate predecessor in title 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 apply.

2. Any claim permissible under paragraph 1 may also be made against any mediate predecessor in title who did not acquire the affected property in good faith. Such predecessors in title shall be liable as joint debtors.

#### ARTICLE 42

##### Lien of Third Persons over Claims of the Defendant

Any right over or interest in affected property which ceases to be effective by reason of the provisions of Article 31 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.



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PART VIIIGENERAL RULES OF PROCEDUREARTICLE 43Basic 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 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 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 44Right 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 strictly proved where it is unknown to the Restitution Authorities.

ARTICLE 45Presumption of Death

Any persecuted person, or any person interested in his estate, whose last known whereabouts was in Germany or a country occupied or annexed 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.



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ARTICLE 46Safeguarding

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

ARTICLE 47Trustee

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 48Competence of other Authorities to take measures under Articles 46 & 47

Where the safeguarding measures described in Articles 46 and 47 are within the competence of another agency, the Restitution Authorities shall request that agency to take such measures.

PART IXFILING OF CLAIMSARTICLE 49Central 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 53.



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ARTICLE 50Time 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 the Trust Corporation.

ARTICLE 51Relation to other Remedies

Unless otherwise provided in this Law, any 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 52Contents 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 49, paragraph 2.



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5. The time-limit prescribed in Article 50 paragraph 1 shall be deemed to have been complied with notwithstanding any formal or other defects in the petition.

#### ARTICLE 53

##### Venue

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 situate. 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 54

##### Jurisdiction *ratione materiae*

The restitution authorities shall have jurisdiction *ratione 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.

#### ARTICLE 55

##### Notice 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, persons holding interests in rem, lessees or tenants of 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 L. N. 50 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.

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 56

##### Procedure 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 existence of rights or interests, the Restitution Agency shall also make the appropriate findings on such matters.

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.



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ARTICLE 57Reference 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 58Appeal (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 53, paragraph 1, second sentence, or Article 56, 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 55, 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 55; paragraph 1, second sentence, or Article 56, paragraph 1 or 2.

ARTICLE 59Execution

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 60Members 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 Presiding Judge shall be a judge normally assigned to a court. The Associate Judges shall be appointed for a term of three years, unless they are professional judges.

ARTICLE 61Procedure

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 an interlocutory judgment (Teilurteil) on a claim before it, or on part of a claim, where the determination of any counterclaim, set-off or lieu or any other defence in the nature of a set-off or counterclaim would substantially delay 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 (Treuhandler).

ARTICLE 62Form 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



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the parties concerned. The order may be enforced by execution, a subsequent appeal notwithstanding. The provisions of Sections 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 55, 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 551, 561 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 63

##### Powers of Review

Military Government may review all decisions and orders made under this Law and nullify, amend, suspend or otherwise modify them.

#### PART XI

##### SPECIAL PROVISIONS

#### ARTICLE 64

##### Conflict of Jurisdiction

1. If any claim of any of the kinds specified in Articles 1 to 42 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.



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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 admitted 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 XII

PROVISIONS AS TO COSTS

ARTICLE 65

Costs

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 XIII

Penalties

ARTICLE 66

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 XIV

RESTORATION OF RIGHTS OF SUCCESSION AND ADOPTION

ARTICLE 67

Exclusion 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.

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 68Avoidance 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 Sections 1954 et seq. of the Civil Code.
3. Testamentary dispositions, contracts of inheritance or disclaimers of inheritance must be avoided not later than 31 December, 1949.

ARTICLE 69Testamentary 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, or could not reasonably, be expected to comply with the statutory formal requirements.
2. Any testamentary disposition coming within the provisions of paragraph 1 shall be deemed not to have been made if the testator was still capable of making a testamentary disposition complying with the statutory requirements after 30 September, 1945.



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ARTICLE 70Re-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 exception of Sections 1744, 1745, 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 71Jurisdiction

Any claims arising under Article 67 to 70 shall be decided by the ordinary civil courts. A filing of a claim with the Central Filing Agency shall not be necessary.



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REINSTATEMENT OF TRADES NAMES AND  
 OF NAMES OF ASSOCIATIONS

ARTICLE 72

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 reopened by its last owner or owners ~~or~~ of 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 73

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 name may be restored upon the application of the person who owned the business concern at the time the change was made, or of his heirs, provided he or they now own the enterprise. The provisions of Article 72 paragraph 2, second sentence, and paragraph 3 shall apply mutatis mutandis.

ARTICLE 74

Names of Juristic Persons

The provisions of Articles 72 and 73 shall be applicable to the trade names of juristic persons.



Re-instatement of former trade names

Where 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 72 to 74.

ARTICLE 76Names of Associations and endowments (Stiftungen)

Article 75 shall apply mutatis mutandis to the resumption by an association or an endowment of its former name.

ARTICLE 77Procedure

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 75. 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 78Limitation

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 operations of this Law, and in no event prior to 30th June, 1950.

ARTICLE 79Taxes and other Levies

1. Taxes and other public levies shall not be imposed in connection with restitution. No fiscal claims shall be imposed on a claimant in respect

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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 connection with the return of confiscated property.

ARTICLE 80

Implementing and Carrying-out Provisions

Military Government will by Regulation provide for the establishment and prescribe the functions and duties of the Restitution Agencies where this Law is otherwise silent and for the carrying out of the provisions of this Law.

ARTICLE 81

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 66.

ARTICLE 82

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 Articles II of Military Government Law No. 4, shall not apply to such text.

ARTICLE 83

Effective Date

This Law shall come into force on 1948.

BY ORDER OF MILITARY GOVERNMENT



*Adm Mr Marocco*  
*Political*

*with 370/61/48*

DRAFT 27th September, 1948.

MILITARY GOVERNMENT - GERMANY

BRITISH ZONE OF CONTROL

LAW NO.

RESTITUTION 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 and political belief;

IT IS HEREBY ORDERED AS FOLLOWS:-

PART I

GENERAL PROVISIONS

ARTICLE I

Basic 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. For the purpose of this Law deprivation of property for reasons of nationality shall not include measures which were taken in time of war solely in 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. It shall be open to a person affected by a claim for restitution to prove that he or his predecessor in title acquired the property which is the subject of a claim by purchase for value made in good faith and without knowledge of any unjust deprivation, in which case the provisions of German law on the protection of purchasers of property for value and in good faith shall apply.

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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 II

UNJUST DEPRIVATION

ARTICLE 2

Acts 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:

- (a) a transaction 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 organizations;

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 his 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 (Treuhand)).

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 I shall be deemed to be an abuse of a

/governmental...



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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.

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 1 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 the 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 transferee 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 of persecution 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 the presumption arising under such paragraph may be rebutted by evidence

/satisfactory...



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satisfactory to the Restitution Chamber (Article 57) and 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 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 the 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.

/Part III...



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PART IIIGENERAL PROVISIONS ON RESTITUTIONARTICLE 6

The right to lodge a claim for restitution shall belong to any person whose property was the subject of unjust deprivation or if he is dead his heirs legatees or other successor in title.

ARTICLE 7Claims of Dissolved Associations

1. If a juristic person or unincorporated association was within the material period dissolved or compelled to dissolve for any of the reasons referred to in Article 1, the claim for restitution which would have belonged to such juristic person or unincorporated association had it not been dissolved, may be enforced by a liquidator to be appointed ad hoc by Military Government.
2. The provisions of paragraph 1 shall not be applicable to the partnerships referred to in Article 8.

ARTICLE 8Rights of Partners

If a partnership was within the material period dissolved or compelled to dissolve for any of the reasons referred to in Article 1, the claim for restitution may be made by any partner. The claim for restitution shall be deemed to have been filed on behalf of all partners who have the same cause of action. The claim may not be withdrawn or be the subject of a compromise except with the approval of the appropriate Restitution Chamber. Notice of the filing of the claim shall be given to all other known partners or their successors in title and to the Trust Corporation interested by reason of the provisions of Article 9.

ARTICLE 9Trust for Profits and Unclaimed Property

1. A Trust Corporation under German Law (hereinafter referred to as "the Trust Corporation") shall be formed in the British Zone for the purposes hereafter mentioned and its members be appointed, and subject to dismissal, by Military Government.
2. The Trust Corporation shall examine every claim made under this Law and shall, before any order for restitution is made, lodge a claim arising under this Law:

/(a)...



(a) ~~for any increase in value due to improvements or~~  
additions to the property, against the claimant;

(b) ~~for any profits less expenditures as defined in Article 29.~~

3. The Trust Corporation shall claim any property which, according to available evidence, is liable to restitution, but which has not been claimed by any person entitled to make a claim under the provisions of this Law or on behalf of a victim of Nazi persecution who in the circumstances provided for by § 1936 of the German Civil Code has died or after the effective date of this Law dies without leaving a spouse or heirs.

4. Out of the monies received by it, the Trust Corporation

(a) shall, in lieu of profits, pay to a successful claimant a sum not exceeding 4% of the capital value of the property at the time of the original transfer in respect of each year or part of a year since he was deprived of it;

(b) shall pay appropriate compensation to surviving members of corporations and firms which would be entitled to claim restitution under this Law if they had not been dissolved under German Law.

5. The balance of the monies received by the Trust Corporation shall be invested and held upon trust for the compensation, maintenance and benefit of all persons in the British Zone who were victims of Nazi oppression, and for the maintenance, care and, where appropriate, the education and advancement of their dependants, in accordance with schemes for such purposes prepared by the Trust Corporation and approved by Military Government. Military Government reserves the right from time to time to review all such schemes and to give directions regarding the management and disposal of the funds in the hands of the Trust Corporation.

6. At a date to be fixed by Military Government, not earlier than 1960, the Trust Corporation shall be wound up and its assets distributed among victims in the British Zone of Nazi persecution generally in accordance with a scheme prepared by the Trust Corporation and approved by Military Government.

#### ARTICLE 10

##### Special Rights of Trust Corporations

1. If within six months of the effective date of this Law no petition for  
/restitution...



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restitution has been filed with respect to an affected property, the Trust Corporation established pursuant to Article 9 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, the Trust Corporation shall on filing the petition succeed to the legal position and rights of action of the victim.

3. The provisions of paragraphs 1 and 2 hereof shall not apply to the extent to which, any victim, in the period from 8 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 11

##### 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. The Trust Corporation shall disclose the address of the person entitled to restitution, provided it is known to it, or such date known to it as may lead to the tracing of such person, or where none of these particulars are known, make a sworn declaration to that effect through its legal representative.

#### ARTICLE 12

##### 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 owner of the affected property.

#### ARTICLE 13

##### Effect of an Adjudication of a Restitution Claim

1. Subject to the rights of any person protected under the provisions of paragraph 3 of Article 1 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 14...



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ARTICLE 14Alternative 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 IVLIMITATIONS ON THE RIGHT TO RESTITUTIONARTICLE 15Expropriation

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 recognized 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 16Protection of Ordinary and Usual Business Transactions

Except as provided in Articles 17 and 19 movable property shall not be subject to restitution if the present owner, or his predecessor in title, 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

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an object of unusual artistic, scientific, or sentimental personal value, or was acquired at an auction<sup>or</sup>/private sale in an establishment engaged mainly in the business of disposing of property the subject of an unjust deprivation.

ARTICLE 17Currency

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

ARTICLE 18Exclusion of claims in respect of certain property

The following property is not subject to the provisions of this law:

- (a) property of a value not exceeding RM 1000 at the date of its original transfer;
- (b) consumable goods;
- (c) property irretrievably lost through an act of God.

ARTICLE 19Bearer Instruments

1. Bearer instruments shall not be subject to restitution if the holder proves that, at the time he acquired the instrument, he neither knew nor should have known in the circumstances that it had been the subject of unjust deprivation. In the absence of evidence to the contrary, good faith shall be presumed if the instrument was acquired in the course of an ordinary business transaction, and the transaction did not involve a dominant participation as hereinafter defined.
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 if they represent:
  - (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 on 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...



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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 14 June, 1938 (RGBl. 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 wrongful deprivation, it permitted the exercise of controlling influence upon the management of the business enterprise.

#### ARTICLE 20

##### 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 19, 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 in the transformed or newly formed enterprise, or in the enterprise which acquired 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 21

##### Enforcement of the principles of Article 20

The Restitution Chamber in taking the measures necessary and appropriate to give effect to the rights granted to the claimant under Article 20, 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 20, 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..