

DECLASSIFIED
AUTHORITY NND 959000
By EJC NARA Date 7/31

RG 59
Entry Central Foreign Policy Files 1964-66
File Protective Services Ger W - But
Box 286

LAW OFFICES OF
GEORGE ERIC ROSDEN

JOHN P. OLIVER

TELEPHONE OLIVER 8-7575
CABLE ADDRESS "LAWROS"

5007 NAHANT STREET
WASHINGTON 18, D. C.

January 27, 1964

The Honorable
The Secretary of State
Washington 25, D. C.

ATTENTION: ELI MAURER, Esquire

Sir:

This is a request for diplomatic intervention with the Federal Republic of Germany for the benefit of a client of mine, Mr. ISBERT ADAM, of 720 West End Avenue, New York 25, New York, who is a citizen of the United States.

Mr. Adam was born as a German and resided in Danzig and Berlin, whence he left in 1939 because of persecution of Jews.

Mr. Adam is entitled to compensation for his lost properties that were located in Poland. This compensation is accorded to all persons, whether or not they are still German citizens, under the law of Equalization of Burdens and, in particular to persons who are persecuted.

Mr. Adam has been adjudged to be eligible under these provisions by the appropriate German authorities, and, in consequence thereof, certain amounts have already been paid to him.

In the latter part of last year, the "Equalization Office of Berlin Zehlendorf" promulgated a decision determining that my client would be entitled to a fairly substantial amount in addition to prior decisions. This decision, photocopy of which is enclosed as Appendix A, has become final.

On December 2, 1963, the undersigned received from the said German government agency a mimeographed form, filled out for this case, photocopy of which is appended as Appendix B. In this letter the question of the acquisition of the American citizenship by my client was inquired into and reply was made in the required form showing the naturalization of my client in the United States on March 7, 1949.

Signed by George Eric Rosden

*File
Reply 2/11/64
L/EAR-EM*

PS 8-4 GER W - NIS / ADAM, ISBERT

2

DECLASSIFIED	
Authority	NND 959000
By	EJC NARA Date 1/31

RG	59
Entry	Central Foreign Policy Files 1964-66
File	Protective Services Ger. W. Bu F
Box	286

GEORGE ERIC ROSDEN

PAGE 2, LETTER OF 1-27-64, DIRECTED TO Secretary of State, Washington, D. C.

On December 13, the undersigned received another letter from the German Government Agency, copy and translation of which are appended as Exhibit C. According to this letter, payments are suspended "since the Government of the United States of America has promulgated laws that regulate the eventual compensation of its own nationals for damages that occurred in the Eastern territories." In other words, payments to United States citizens are suspended while payments to Germans or the citizens of any other countries are not affected.

While this indicates merely a "suspension" rather than a final denial, the discrimination is sufficient, particularly with reference to a claimant who is over 83 years old and for whom the suspension is just as conclusive as a final refusal to pay.

There are other points of inequity in the picture: The Law of Equalization of Burdens is fashioned according to social principles so that the payments under this law by no means constitute full, fair, or adequate compensation but only a small percentage computed on social principles.

The Polish-American Treaty that provides for compensation of Americans whose property has been taken "without compensation" is in no way in conflict with this German law and should not be used as an excuse for escaping from statutory duties. It might finally be mentioned that Mr. Adam has little if any chance of recovery from the Foreign Claims Settlement Commission pursuant to the Polish-American Treaty because he was only naturalized in 1949 and claims are only cognizable under Foreign Claims Commission practice if the loss occurred after Mr. Adam had become a naturalized citizen of the United States. The only possibility of a conflict lies in the fact that under the interpretation of the Law on Equalization of Burdens, the time of loss is the time when the property became economically inaccessible while the Foreign Claims Commission takes the actual date of expropriation as the applicable date. For this reason, it would be feasible that a property became economically inaccessible prior to 1949 while it was expropriated only after 1949. In such fashion, duplicate indemnity might materialize although the duplication would only be a partial one because the German payment does not, in fact, exceed 6.5 per cent of the damage.

It is outside of the realm of the exercise of my judgment whether the Secretary of State wishes to make representations in general--it has become known that this is not a single occurrence but that this is a matter based on a general instruction emanating from the Finance Office for the Equalization of Burdens

346957

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By EJC NARA Date 7/31

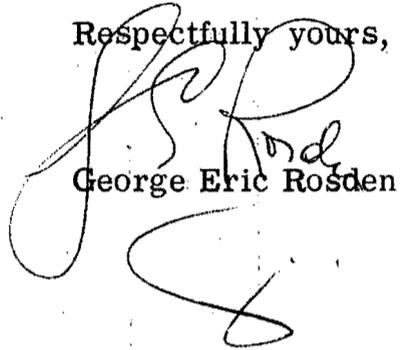
RG 59
Entry Central Foreign Policy
Files 1964-66
File Protective Services
Ger W - But
Box 286

GEORGE ERIC ROSDEN

PAGE 3, LETTER OF 1-27-64, DIRECTED TO Secretary of State, Washington 25, D. C.

in Bonn--or whether he will wish to pursue this matter with special emphasis upon the age of Mr. Adam.

Respectfully yours,



George Eric Rosden

GER:m

Enclosures

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*59**Central Foreign Policy
Files 1964-66**Protective Services
Ger W - But**286**Translation
Seal B*

(TRANSLATION)

TRANSLATION OF MIMEOGRAPHED LETTER FROM:
Bezirksamt Zehlendorf von Berlin Abt. Finanzen - Ausgleichsamt

DATED BERLIN 33, IN NOVEMBER 1963

Konigin-Luise-Str. 88

A 10 / U 695
USA

Attorney Dr. G. E. Rosden
Washington 16, D. C.
5007 Nahant Street

RE: Application for determination of your Client Isbert Adam, residing at
720 West End Avenue, New York City, New York, USA

Dear Attorney:

An intended change of the instruction sheet by the Federal Office of Equalization of Burdens (USA 2 of September 8, 1961) makes it necessary to put instructions in regard to the acquisition of the United States citizenship of your client/persecutee before the petition for determination can be handled any further. We ask you to prove the acquisition of United States nationality by having the attached form filled out and confirmed by the competent Consular General/Consulate of the Federal Republic of Germany under submission of the Naturalization section. A confirmation by a notary is also sufficient if there is no German foreign representation at the residence of the client.

In the interest of the applicant we are asking for return of the confirmation as soon as possible.

Very truly yours,

Upon instruction

/s/ Hentze

*In case the persecutee has died after May 8, 1945, the word client is to be stricken.

346959

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Authority	NND 959000
By	E/C NARA Date 7/31

RG	59
Entry	Central Foreign Policy Files 1964-66
File	Protective Services Ger W - But
Box	286

Translation of
Sik. C.

TRANSLATION OF THE LETTER OF DECEMBER 10, 1963 DIRECTED TO
Mr. G. E. Rosden from the DISTRICT OFFICE ZEHLENDORF OF BERLIN
DIVISION FINANCE, OFFICE OF EQUALIZATION

CODE NO. Fin. III/Agl. F VI/1
A 10/V 695 USA

RE: Application for determination Isbert Adam, New York
Preceding Occurrence: Your letter of November 30, 1963.

Dear Mr. Attorney:

In reply to your above-mentioned letter, we inform you that we have not overlooked your renunciation of appeal of October 14, 1963. However, we are not in a position at the moment to make payments because the Government of the United States of America has promulgated laws that regulate the eventual indemnification of their own citizens for the damages that have arisen in the areas in the East wherefrom people were ejected. Since it is still not clarified what effect these laws will have in each single case, current proceedings are to be deferred for the time being upon instruction of the Federal Office for Equalization of Burdens with reference to Section 8 (2) 4 of the law of Voluntary Jurisdiction and 249 (2) of the law for Equalization of Burdens.

Because of the unclarified situation, the declaration of assigned of the claimant of August 14, 1962, that is in our possession cannot be considered either.

We shall have an opportunity in the forthcoming time to discuss the respective complex of questions with the Federal Office for the Equalization of Burdens and we shall inform you immediately of the result of this discussion. Until that time, we ask you to be patient.

Very truly yours,

Upon instruction

/signed/ Doeling

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RG 59
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Box 286

31

In reply refer to
L/EUR

February 11, 1964

Dear Mr. Roden:

PS 8-4 Ger W - US / Adam Isbert

I refer to your letter of January 27, 1964, regarding the claim of Isbert Adam.

We are requesting our Embassy at Bonn to report on the matter and we shall communicate with you further when this report is received.

Sincerely yours,

gm

Ely Maurer
Assistant Legal Adviser
for European Affairs

PS 8-4 GER W - US / AD AM, ISBERT

Mr. George Eric Roden,
5007 Nahant Street,
Washington 16, D. C.

L:L/EUR:EMaurer:mj
2/11/64

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RG 59
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 File Files 1964-66
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DEPARTMENT OF STATE

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Approved in G
 4/16/64

Memorandum of Conversation

DATE: April 13, 1964
 TIME: 12:15 p.m.
 PLACE: Office of the Deputy
 Under Secretary for
 Political Affairs

SUBJECT: German Indemnification and Restitution Laws

PARTICIPANTS: Mr. U. Alexis Johnson, Deputy Under Secretary for Political Affairs.
 Mr. Kurt Grossman, Liaison Officer between the Conference on Jewish
 Material Claims Against Germany and Jewish Organizations in the
 United States
 Mr. Curt Silberman, President of the American Federation of Jews
 from Central Europe
~~COPIES TO:~~ Mr. Andrew Freeman, Counsel, World Federation of Hungarian Jews
 Mr. Robert W. Kent, Office of German Affairs

COPIES TO: S/S sec's NE
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APR 21 1964

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Mr. Grossman said that there are difficulties in convincing the Federal Republic to end its restitution and indemnification program in a fair way. He cited several alleged injustices which have to be corrected and gave Mr. Johnson a memorandum which enumerated these points (see attached). Mr. Grossman said his delegation was asking for the moral support of the US Government since hundreds of thousands of US citizens were involved in the compensation program. Jewish organizations needed US Governmental support because they could not put the same kind of pressure on the Federal Republic as domestic groups in the FRG have done.

Mr. Silberman observed that over 2,000 people had attended a protest meeting over the German indemnification program about two and one half weeks ago at the Hotel Americana in New York City. He then discussed the restitution law, saying that the cut off date should be reopened and criticizing a recent judicial decision which would allegedly make more difficult the pursuing of certain restitution claims.

Silberman said that German Finance Minister Dahlgren is concerned with the Federal Republic's budget in relation to the FRG compensation program. The Federal Government says that it has lived up to its legal obligations in the indemnification and restitution fields and that anything further would be charity. This attitude is of the greatest concern to Jewish representatives. The US should impress upon the German Government that all persecutees have a legal claim to compensation rather than a moral claim. There is no difference

between

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Authority NND 959000

By EJC NARA Date 1/31

RG

Entry

File

Box

59

Central Foreign Policy
Files 1964-66DS 8-4 Seizure
Damage

307

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-2-

between a refugee who was able to file before the cut off date and one who has not.

Mr. Grossman added that this German view toward compensation could reverse the Bonn Government's previous position. So far no one has suggested that indemnification is a voluntary act. The Germans may also be thinking of some connection between reparations and indemnification.

Mr. Freeman also talked of "injustices" under the present indemnification law for those who left East Europe after October 1953. Under the proposed amendments to the indemnification laws this group would not have the same rights as earlier refugees. There is no legal basis for provisions in the draft amendments concerning the post-October 1953 refugees. The previous good work of the FRG would be prejudiced if new refugees received only minor assistance. Mr. Grossman interjected that all refugees should be treated in the same fashion.

Mr. Silberman said that the German restitution and indemnification payments were not charity and that the refugees did not want to be the subject of charity. There is a moral issue--if the German Government says this is an honorable debt, there cannot be a cut off date where what was a legal claim becomes a moral claim. There would be a bad taste if matters were left this way. Mr. Grossman said that the problem has developed since Finance Minister Dahlgren has come into office.

Mr. Grossman added that the refugees wanted indemnification as a matter of right.

Mr. Silberman said it would be extremely helpful if the US Government could transmit to Embassy Bonn the interest of thousands of refugees in a dignified settlement in the problem of indemnification and restitution. He added that of course this was not only a Jewish problem.

Mr. Johnson pointed out the continuing interest of the US Government in restitution and indemnification matters and said the delegation's memorandum would be given careful study.

Attachment: ✓

Memorandum

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59Central Foreign PolicyFiles 1964-66PS 8-4 SeizureDamage307

MEMORANDUM submitted by the following organizations:

World Federation of Hungarian Jews.
 American Federation of Jews from Central Europe.
 American Association of Former European Jurists.
 Association of Yugoslav Jews.
 Jewish Nazi Victims Organization of America.
 Association of Jews from Czechoslovakia.
 Club of Polish Jews.
 United Roumanian Jews.
 Widows Group.

These organizations represent hundred thousands of Nazi victims, who for the most part now live in the United States of America. The overwhelming majority of these former persecutees have become US citizens.

The Protest Meeting which took place on March 22, 1964, in the Hotel Americana in New York, was one of the many similar protest meetings which were held in Brussels, Paris, London and Tel-Aviv. These protest meetings were a consequence of the adverse attitude by the Government of the Federal Republic towards the just demands of the persecutee-organizations, which they have submitted for the amendmends of final laws covering indemnification and restitution. The laws are now pending before the "Restitution Committee" of the Bonn Parliament.

The speakers of the meeting underlined that compensation in all respects is a matter of right, and not a voluntary act of welfare by the Federal German Government. It was pointed out that the present attitude of the responsible German officials departs greatly from the legal and moral commitments of the Adenauer administration and that of many leading German personalities in political, cultural and religious affairs.

The Protest Meeting adopted the following resolution:

"More than two thousand victims of Nazi persecution having convened at the Protest Meeting on March 22, 1964, in the Hotel Americana, New York, have unanimously resolved:

" Recognizing the contribution the Bundes Republic has made

346964

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Authority NND 959000By E/C NARA Date 7/31

RG

Entry

File

Box

59Central Foreign PolicyFiles 1964-66PS 8-4 SeizureDamage307

-2-

in the field of compensation, but recognizing that no material restitution can ever justly compensate the persecutee in view of the immensity and intensity of the crimes committed in the name of the German people," as the former Chancellor Dr. Konrad Adenauer expressed it, we note with utmost regret that the amendments to the Bundes Indemnification and Bundes Restitution Law now before the Bundestag take insufficiently into account the justified demands of the victims of Nazi persecution.

"The victims of the National Socialist terror regime having been persecuted criminally, in violation of any civilized law, have not only a moral but also an indisputable right to be compensated for their sufferings. These persecutees who in the framework of existing compensation laws have been eligible to receive indemnification, declare their solidarity with all groups of persecutees who have so far not received any compensation at all and declare that they will, according to their best abilities, assist them to achieve the fulfillment of their rights. We must insist that in the planned final compensation-legislation, among the suggestions by the persecutee organizations, the following most important provisions be included.

"1) Those persecutees who left the Eastern Bloc countries after the deadline of October 1, 1953, must have equal rights under the provision of the Bundes Indemnification Law, with those eligible under it.

"2) Widows whose husbands have passed away before October 1, 1953, must be treated equally with widows eligible under the BEG.

"3) The provision in the draft of the amendment whereby damage to health suffered by incarceration in a concentration camp is assumed as having been caused by the persecution, must be extended to those persecutees who were interned in forced labor camps or ghettos or who for reasons of persecution have lived hidden under inhuman circumstances.

346965

DECLASSIFIED

Authority NND 959000By EJC NARA Date 7/31

RG

Entry

File

Box

59Central Foreign PolicyFiles 1960-66DS 8-4 SeizureDamage307

-3-

"4) Those persecutees who have been unable to comply with the key provision of the Bundes Restitution Law (BRUEG) of proving the transfer of seized property to the geographical area prescribed, have not filed their claims, must have the opportunity to register their claims and therefore the registration dates under the law should be reopened for them.

"We thank all those persons in Germany who stand for a dignified, liberal and just compensation and appeal urgently to the Bundes Government, the Parliament and the German people to pay the debt of honor of compensation with utmost speed to the victims of Nazi persecution as expressed in this solemn resolution."

The members of the participating organizations meeting on April 6 decided that they feel an obligation as American citizens to inform the State Department of these developments, and ask for its moral and political support in their struggle for a fair and liberal final compensation-legislation.

April 13, 1964

346986

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Authority NND 959000

By ETC NARA Date 1/31

RG

59

Entry

Central Foreign
Policy Files 64-66

File

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Damage

Box

307

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By EJC NARA Date 7/31

RG 59
Entry Central Foreign
File Policy Files 64-66
Box PS 84 seizure
Damage
307

RM/R File

June 11, 1964

Dear Mr. Blaustein:

I appreciate your thoughtfulness in sending me in your letter of June 2 the excellent outline of the position of the Conference on Jewish Material Claims Against Germany on indemnification and restitution matters.

I plan to bring up the indemnification and restitution problem during the visit of Chancellor Erhard to Washington at the end of this week. We, of course, continue to have a deep interest in a final and equitable settlement of this issue.

With best wishes,

Sincerely,

/s/ Dean Rusk

Dean Rusk

Mr. Jacob Blaustein,
Senior Vice President,
Conference on Jewish Material
Claims Against Germany, Inc.,
3 East 54th Street,
New York 22, New York.

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Cleared with: GER - Mr. Creel;
L/EUR - Mr. Maurer (by phone)

S/S-RO

JUN 11 1964

is true copy of signed original

PS: G-4 215-GER

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CABLES: "JOINTDISCO" NEW YORK

TELEPHONE: Eldorado 5-5600

CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY, Inc.

3 East 54th Street, New York 22, N. Y.

President

NAHUM GOLDMANN (21)

Senior Vice-Presidents

JACOB BLAUSTEIN

Vice Presidents

JULES BRAUNSCHEVIC
SAMUEL BRONFMAN
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MAURICE M. BOUKSTEIN

Member Organizations

Agudath Israel World Organization
Alliance Israelite Universelle
American Jewish Committee
American Jewish Congress
American Jewish Joint Distribution
Committee
American Zionist Council
Anglo-Jewish Association
B'nai B'rith
Board of Deputies of British Jews
British Section, World Jewish Congress
Canadian Jewish Congress
Central British Fund for Jewish
Relief and Rehabilitation
Conseil Representatif des Juifs de
France
Council of Jews From Germany
Delegation de Asociaciones Israelitas
Argentinas (D.A.I.A.)
Executive Council of Australian Jewry
Jewish Agency for Israel
Jewish Labor Committee
South African Jewish Board of
Deputies
Synagogue Council of America
World Jewish Congress
World Union For Progressive
Judaism
Zentralrat der Juden in Deutschland

June 2, 1964

PERSONAL

Honorable Dean Rusk
Secretary of State
Department of State
Washington, D. C.

Dear Mr. Secretary:

We very much appreciate the indication, in my May 22 conference with you, of your willingness to inform Chancellor Erhard, when he comes to the United States this month, of the continued interest of our Government in the following:

- (1) That the German Federal Republic take adequate care of those certain categories of Nazi victims not now covered (through no fault of their own, principally the result of expired deadline dates) by the original Indemnification Law (BEG) and Federal Restitution Law (BRUEG);
- (2) That the German Federal Republic not proceed with its proposed amendment of Art. 30 of the Federal Restitution Law (BRUEG) which amendment would have the effect of deteriorating the legal position and encroaching upon the vested rights and interests now held by the persecutees under the existing legislation. The introduction, by the way, of the proposed adverse amendment to Art. 30 of the Federal Restitution Law to Berlin could not be effected without the consent of our State Department and its instruction to that effect to the United States Commandant of Berlin.

We also appreciate your willingness to take these matters up again with Ambassador McGhee before the Chancellor reaches here.

The Conference on Jewish Material Claims Against Germany (which acts in this field for the major Jewish organizations in the free countries) negotiated the original protocols but, as I stated to you, is now encountering much difficulty in its

(Signed) Jacob Blaustein

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PS 8-4 25-GER

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Authority NND 959000By EJC NARA Date 1/31

RG

59Entry Central ForeignFile Policy Files 64-66Box PS 84 seizure
Damage

307

To: Hon. Dean Rusk
Washington

page 2
6-4-64

effort to have the German Federal Republic deal adequately in the above situations. A crisis would be very unfortunate all around at this final stage of implementation. I should add that if the present requests by the Claims Conference of the German Federal Republic are properly met, they are intended to be final.

As I also stated, it was in great measure due to the interest and help of our Government, through President Truman and U. S. High Commissioner John J. McCloy, that the original indemnification and restitution legislation was effected. And just as it is clear that the original programs would not have been accomplished without the top level representations by our Government, just so do we feel that now only top level representation by our Government to Chancellor Erhard will avoid a crisis and assure the successful conclusion of a humanitarian effort which has brought so much good will to the German Federal Republic and some material compensation to the survivors of tragedy (the most brutal chapter in the history of "man's inhumanity to man").

I am enclosing the suggested memorandum which gives more particulars, - and I am sure you realize that we deeply appreciate your interest and readiness to assist in this matter.

With warm regard,

Faithfully,

CONFERENCE ON JEWISH MATERIAL
CLAIMS AGAINST GERMANY, Inc.

By


Jacob Blaustein,
Senior Vice President

Enc.

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RG

59

Entry Central Foreign
Policy Files 64-66File PS 84 seizure
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June 2, 1964

MEMORANDUM REGARDING GERMAN FEDERAL REPUBLIC INDEMNIFICATION AND
RESTITUTION PROGRAMS FOR VICTIMS OF NAZI PERSECUTION - - - CRISIS
HAS DEVELOPED DURING THIS FINAL STAGE

I - SOME BRIEF BACKGROUND

- 1 - There is no need to elaborate here on the importance which our Government has accorded to this program from the very first post-war days. It was one of the principal policy objectives of Military Government, subsequently reaffirmed in the Convention terminating the Occupation of Germany. Our Government - - President Truman and our highest spokesmen in Germany, High Commissioner John J. McCloy in particular - - were most instrumental in fostering the first indemnification and restitution laws in Germany.
- 2 - The German Federal Republic acknowledged from its inception that while obviously nothing could be done to restore the murdered, there existed the moral obligation to provide a measure of compensation for the suffering inflicted upon other countless victims of Nazi persecution and for the material losses sustained by them.
 - A - Chancellor Adenauer and other leaders of the Federal Republic also recognized that the enactment of restitution and indemnification legislation was an essential prerequisite for Germany's rejoining the family of nations, and that its implementation would be viewed as a touchstone of the new Germany's determination to discharge the responsibilities it inherited from the Third Reich.
- 3 - A good deal has been accomplished during the past decade in this field.

II - PRESENT SITUATION

- 1 - It is, therefore, so much more regrettable that at this late stage this program is in danger of ending in an atmosphere of bitterness and disappointment for hundreds of thousands of Nazi victims, many of whom are now citizens of the United States.
- 2 - The present situation concerns primarily Nazi victims who were exposed to the most brutal persecutory measures in Central and Eastern Europe (Poland, Baltic States, Hungary, etc.), during World War II:
 - (A - October 1953 Deadline Date Under the Indemnification Law (BEG))
 - a - Some of these Nazi victims who through no fault of their own were only able to come out into the free world after the Hungarian Revolution, are barred from filing claims under the Indemnification Law (BEG), which limits eligibility to

346971

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RG

59Entry Central ForeignFile Policy Files 64-66PS 84 seizureBox Damage307

page 2

those who were out by October, 1953. Having been exposed to both Nazi and Communist privations, these persecutees find themselves excluded from the benefits which the law provides for those who were fortunate to escape entrapment behind the Iron Curtain.

(B - April 1959 Deadline Date Under the Federal Restitution Law (BRUEG))

- a - Other such victims are deprived of the right to claim compensation under the Federal Restitution Law (BRUEG) for property confiscated from them by the Nazis.
- b - While the Federal Restitution Law allows claims for property confiscated by the Nazis outside of Germany if the assets were carried off to Germany, the German authorities, up to and at the time of the deadline for the filing of claims (April 1959), insisted that there was no conclusive evidence that goods and valuables confiscated by the Nazis in Eastern Europe were carried off to Germany. Thousands of claimants therefore - upon the advice of reputable attorneys - abstained from filing such claims.
- c - Subsequently satisfactory documentation was developed and the possibility of compensation was conceded by the German authorities. By that time, however, it was too late to file for those who during the period available for filing were counselled against filing 'hopeless' claims.

(C - Proposed Amendment to Article 30 of the Federal Restitution Law (BRUEG))

- a - Another group is now in danger of losing rights which the existing Federal Restitution Law (BRUEG) confers upon them. This encroachment upon vested rights and interests will result, if an amendment to Art. 30 of the Federal Restitution Law (BRUEG) being proposed by the Federal Government, will be enacted. The amendment would eliminate the possibility afforded to an estimated 80,000 - 100,000 claimants under the present law to pursue certain general property claims under the BRUEG if such claims were erroneously filed under the Indemnification Law (BEG), instead of under the Restitution Law (BRUEG), and contained only a general allegation of damage to property or loss of ownership caused by agents of the Third Reich.
- b - These rights have been unanimously upheld and reaffirmed by the highest courts established for this purpose under the Bonn Convention. These courts composed of German, Allied and neutral judges have recognized that the objective of Art. 30 was to give the victims of Nazi persecution an opportunity to obtain something for the enormous losses sustained by them.

346972

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Authority NND 959000By E/C NARA Date 1/31

RG

59

Entry Central Foreign
Policy Files 64-66File PS 84 seizure
DamageBox 307

page 3

- c - As far as Art. 30 is concerned, it is important to note that it cannot be amended without the consent of our State Department. The State Department would have the obligation to instruct the U. S. Commandant of Berlin whether to consent or reject the proposed amendment, since the introduction of the amended Federal Restitution Law to Berlin would require Kommandatura approval.
- d - In brief, therefore, the attempt to amend Art. 30, if successful, would amount to:
- x - a grave deterioration of the legal position of the claimants (it is the function of the final indemnification and restitution legislation to improve the rights of the persecutees, not to curtail them);
 - y - a violation of the principle of equality, as there are quite a number of restitution claims filed with no other description but "damage to Property" or "damage to ownership" which have already been positively adjudicated;
 - z - a complete disregard and boycott of the unanimous decisions of the Supreme Restitution Courts, the presidents and the majority members of whom are Allies or non-Germans.
- (3 - Present Efforts of The Conference on Jewish Material Claims Against Germany)
- A - The efforts of the Conference on Jewish Material Claims Against Germany - which acts in this field for the major Jewish organizations in the free world - has centered in this final stage on the provision of minimal compensation to persecutees who were through no fault of their own barred from benefits and on the protection of existing rights.
 - B - The German Federal Government has conceded that there are serious gaps in the existing indemnification and restitution laws and introduced amendments to both laws. These amendments, however, fail to meet the most elementary proposals to correct the inequities described above.
 - C - The only equitable remedy for dealing with the indemnification claims of the post-1953 refugees who were detained behind the Iron Curtain and with the restitution claims of those who were counselled in 1959 against filing, lies in the reopening of the filing deadlines under these laws.
 - D - The German Government refuses, however, to consider such measures. Instead, it proposes the establishment of inadequate indemnification and restitution hardship funds on the one hand, and the elimination of a large class of existing restitution claims by amending Art. 30 (BRUEG) on the other.

346973

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Authority NND 959000

By EJC NARA Date 1/31

RG

59

Entry

Central Foreign
Policy Files 64-66

File

PS 94 seizure
Damage

Box

307

page 4

(4 - Both the Indemnification Law (BEG) and Federal Restitution Law (BRUEG) Require Remedial Action - - but BRUEG, Because It Is Presently Under Consideration By The Bundestag, Requires First and Urgent Immediate Attention)

- A - In view of the very advanced stage of consideration by the Bundestag, immediate remedial action is required on the proposed amendments of the Federal Restitution Law (BRUEG).
- 5 - The forthcoming visit by Chancellor Erhard provides a unique opportunity to salvage this situation. We are convinced that a strong top level expression of United States interest in an amicable solution by agreement with the Claims Conference on minimal acceptable payments to the so-called "late claimants" would prove very effective. Simultaneously it is essential the Chancellor be advised that our Government opposes the intended abrogation of existing persecutee rights and the repudiation of the unanimous decisions of the highest Restitution Courts, on which U. S. judges serve together with other Allied judges.

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Authority NND 959000
By E/C MARA Date 7/31

RG 59
Entry Central Foreign
File Policy Files 64-66
Box PS 84 seizure
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JAMES O. EASTLAND, MISS., CHAIRMAN
OLIN D. JOHNSTON, S.C.
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EDWARD V. LONG, MO.
EDWARD M. KENNEDY, MASS.
BIRCH BAYH, IND.
QUENTIN N. BURDICK, N. DAK.
EVERETT MCKINLEY DIRKSEN, ILL.
ROMAN L. HRUSKA, NEBR.
KENNETH B. KEATING, N.Y.
HIRAM L. FONG, HAWAII
HUGH SCOTT, PA.

United States Senate
COMMITTEE ON THE JUDICIARY

S
ACTION
is assigned to
EUR

Signed: Kenneth B. Keating

8787

June 13, 1964

GER - Mr. Kent
repeated 6/18/64

Honorable Dean Rusk
Secretary of State
Department of State
Washington 25, D.C.

My dear Mr. Secretary:

It is my understanding that discussions have been taking place with regard to a proposed revision by the German authorities of Article 30 of the Federal Restitution Law of Germany.

I trust that during his forthcoming visit to the United States, you and the President will be able to impress upon Chancellor Erhardt that any revision of the Restitution Law should not impair the rights of those persons persecuted during the Nazi period.

I understand that the Restitution Courts of Germany have uniformly held under Article 30 that persons filing claims under the indemnification procedure had validly filed claims under the Restitution Law. It is now proposed by ex post facto legislation to reverse these holdings and deprive this category of person of their rights. As you undoubtedly know, substantial numbers of such persons are now residents and citizens of the United States.

The proposal, which I understand is in process in Bonn, represents a further discrimination by the German authorities against those persons who lost their properties in the territories occupied by Germany, as against those who were resident in Germany during the period of persecution. This is despite the facts that

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6/15/64

Letter and enclosures, if any
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 By EJC NARA Date 7/31

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 HUGH SCOTT, PA.

United States Senate

COMMITTEE ON THE JUDICIARY

-2-

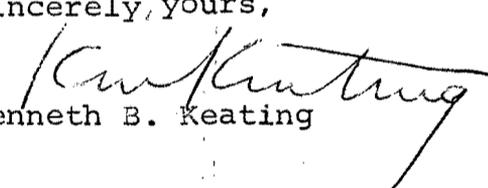
events have shown that the property confiscated from the former category was in fact brought to Germany, and benefitted the Nazi economy precisely as did all other confiscated property. In these circumstances, and particularly in the fact of uniform interpretations by the courts of Germany themselves, it seems an unwarranted turning back of the clock to propose the legislative ex post facto deprivation of rights which is now under consideration.

For the United States, as for the other Allied Powers, the situation is complicated by the fact that to bring about such a revision in Berlin, as distinguished from the Laender, requires an affirmative Allied consent. Such consent, I trust, will not be given by the United States.

It is my view that the United States should urge that the proposed revision be foregone by the West German Government. It would be highly unfortunate as the program of restitution and indemnification comes to an end, if the goodwill created were to be dissipated and the program were to end in acrimony.

I should appreciate your letting me know the outcome of discussions with the German delegation, and your comments on this situation.

Sincerely, yours,


 Kenneth B. Keating

K:pl

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Authority NND 959000
By E/C NARA Date 7/31

RG 59
Entry Central Foreign
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Box PS 84 seizure
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June 24, 1964

Dear Senator Keating:

Thank you for your letter of June 13 to the Secretary commenting on a proposed amendment to Article 30 of the German Federal Restitution Law.

The Department of State has at a high level informed the Government of the Federal Republic of Germany of our interest in the amendments to the restitution and indemnification laws now before the Bundestag. We have also told the Federal German Government that we fully share the sentiment expressed by Chancellor Erhard in his June 11 speech in New York that "just and fair solutions, also for those areas which are still open, can be found together with those concerned".

In response to your invitation to comment on your letter, the Department would like to make three observations:

1) There is disagreement as to the nature of the proposed amendment to Article 30. As you may know, the German Government has taken the position that the amendment would merely effectuate what was the real intent of Article 30. In any case the German Government expects that once the amendment becomes law it will be challenged in a German court. It would then be possible for a judicial determination to be made of its legality.

2) With respect to the alleged discrimination, the German Federal Government does not propose to deprive claimants of the possibility of submitting new claims. We understand that there is some consensus that those claimants who failed to apply for lost property under the Federal Indemnification Law because they could not identify the property should be treated on the same footing as those who did file an application, although this latter group also was unable to describe the lost property. Proposed amendments to the Federal Restitution Law would allow both groups to assert claims for lost property on the same basis.

3) Finally, on the matter of the relationship between amendments to Article 30 of the restitution law and Berlin, approval by the United States authorities in Berlin of the

law's

The Honorable
Kenneth B. Keating,
United States Senate.

Classified by RML/A

Encl: Ser: R/K Keating: gov Chd: Ser: R/EW
6/23/64

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Authority NND 959000
By EJC NARA Date 1/31

RG 59
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File Policy Files 64-66
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307

- 2 -

law's validity there does not imply any judgment as to the content of the law. It would be inappropriate for the United States to use its occupation powers in Berlin to influence German domestic legislation which is unrelated to the United States position there and is not in conflict with the Bonn Conventions or with Allied legislation in Berlin.

I hope the above information will be of interest to you. If the Department of State can be of any other assistance, please do not hesitate to write.

Sincerely yours,

Frederick G. Dutton
Assistant Secretary

EUR:GER:RWKent:gw.
6/23/64 x-4989

Cleared w/

GER - Mr. Finn
L/EUR - Mr. Naurek

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Authority NND 959020

By EJC NARA Date 7/31

RG

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Entry

Central Foreign Policy Files 1964-66

File

PS 8-4 Seizure Damage

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INCOMING TELEGRAM Department of State

PS 8-4 GER

CONFIDENTIAL

57 Action

EUR Info

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FM AMEMBASSY BONN
TO RUEHCR/SECSTATE WASHDC
RUFHJA/USMISSION BERLIN
BT

BTF NSC

C O N F I D E N T I A L

INR CIA

ACTION DEPT (582) INFO BERLIN 172 FROM BONN 13 AUG 7 PM

NSA DOD

SUBJ: APPLICATION IN BERLIN OF BRUEG AMENDMENTS

RMR

REF: 1) BERLINTEL 88 TO DEPT, BONN 76
2) BERLINTEL 144 TO DEPT, BONN 128

011289
1964 AUG 13 PM 5 29

Bonn 582

1. REFERRING TO RECENT CONFERENCE OF JEWISH ORGANIZATIONS WITH ROBERT CREEL, KATZENSTEIN (REPRESENTATIVE OF CLAIMS CONFERENCE) INQUIRED RE STATUS OF SUBJECT MATTER. WE REPLIED THAT AK LEGAL COMMITTEE WAS CONSIDERING SEVERAL PROPOSALS FOR ACHIEVING OUR TWO OBJECTIVES, NAMELY, (A) CONTINUED UNIFORMITY OF GERMAN RESTITUTION

PAGE TWO RUFHOL 1773. C O N F I D E N T I A L
LEGISLATION IN FRG AND BERLIN, AND (B) AVOIDANCE OF ANYTHING THAT COULD BE REGARDED AS APPROVAL OF SUBSTANCE OF AMENDMENT TO ARTICLE 30.

2. THE QUESTION WHETHER THE AMENDMENT TO ARTICLE 30 IS INCONSISTENT WITH ALLIED LEGISLATION WAS DISCUSSED BY US WITH AN FRG EXPERT SOME TIME AGO. HE AND WE THOUGHT THAT IT IS NOT BUT REALIZED THAT CLAIMANTS AND COURTS MIGHT TAKE THE OPPOSITE VIEW, AS THE FRENCH HAVE DONE ACCORDING TO REFERENCE (2). IN THIS SITUATION, ACCEPTANCE OF THE FRENCH PROPOSAL WOULD BE A MATTER OF SERIOUS CONCERN TO THE FRG.

3. RATHER THAN SHOWING OUR CONCERN ABOUT THE AMENDMENT OF ARTICLE 30 BY INDIRECTION (AS WE WOULD UNDER THE SOLUTION SET FORTH IN REFERENCE (1), WE MIGHT DO SO OPENLY. IN THIS LINE OF THOUGHT, WE SUGGEST THAT CONSIDERATION BE GIVEN TO THE FOLLOWING SOLUTION:

(A) THE BK/O WOULD FOLLOW THE LANGUAGE OF BK/O (57)9 AND WOULD THUS CONTAIN NO REFERENCE TO SPECIFIC ARTICLES AND NO RESERVATION.

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246979

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Authority NND 959000By EJC NARA Date 7/31

RG

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59Central Foreign Policy
Files 1964-66DS 8-4 Seizure
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CONFIDENTIAL

-2- 582, AUGUST 13, 7 PM, FROM: BONN

(B) A COMMUNICATION FROM AK TO SENAT WOULD STATE THAT "THE ORDER, LIKE BK/O(57)9, WAS ISSUED FOR THE SOLE PURPOSE OF ENSURING THAT THE PROVISIONS OF THE FEDERAL RESTITUTION LEGISLATION APPLY IN BERLIN IN THE SAME WAY AS IN THE FEDREP. TO AVOID MISUNDERSTANDING, THE AK DESIRES TO POINT OUT THAT THE AMENDMENT OF ARTICLE 0 HAS

PAGE TWO RUFHOL 1773 C O N F I D E N T I A L
GIVEN RISE TO SERIOUS CONCERN AND THAT THE ORDER MAY NOT BE REGARDED AS AN APPROVAL OF THE SUBSTANCE OF THE AMENDMENT."

IT SEEMS TO US THAT THIS SOLUTION MAY HAVE ADVANTAGES IN RESPECT OF SIMPLICITY, CLARITY AND FRANKNESS. WE BELIEVE THAT IT WOULD BE WELCOMED BY THE JEWISH ORGANIZATIONS SINCE THE COMMUNICATION SUGGESTED IN (B) ABOVE (ASSUMING THAT THEY RECEIVE A COPY) MAY PROVE HELPFUL TO THEM IN THE EXPECTED CONSTITUTIONAL LITIGATION, AND THAT THE SOLUTION WOULD NOT BE OBJECTIONABLE TO THE FRG.

GP-4 MCGHEE
BT

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Authority: NND 959000

By EJC NARA Date 1/31

RG

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Entry

Central Foreign Policy Files 64-66

File

PS 84 seizure Damage

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63

MAR 26 1965

Dear Senator Kennedy:

Your letter of March 16 co-signed by Senator Javits about the interest of several Jewish organizations in the German indemnification program arrived at a time when the German Federal Government and the German Bundestag are actively working on the matter.

At the present time, the Bundestag is considering a number of amendments to the Federal Indemnification Law which it hopes to pass into law during the first half of April. It is expected that these amendments will make provision for Nazi victims who escaped from Communist-dominated areas of Europe after October 1, 1953. I also understand that there will also be assistance for widows of persecutees whose husbands died before October 1, 1953. With regard to claims arising out of health impairment, the law will probably provide for a presumption of ill health in certain cases arising out of imprisonment in concentration camps. The German Government has said, however, that it will not be able to extend this presumption to include ghettos or forced labor camps.

Jewish leaders in the United States have had full opportunity to make their views known to the appropriate German authorities, and I do not think there is any doubt that the German Federal Government is thoroughly studying these views. Several Jewish leaders have been in touch with the German Embassy in Washington, while in Bonn representatives of the Conference on Jewish Material Claims Against Germany, including its President, Dr. Nahum Goldman, and Mr. Jacob Blaustein, have within the last two weeks seen Chancellor Erhard, Foreign Minister Schroeder, Finance Minister Dohlig, former Chancellor Adenauer, and others.

For

The Honorable
Robert F. Kennedy,
United States Senate.

Exempted by E.O. 13526

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Authority NND 959000

By EJC NARA Date 1/31

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Entry

Central Foreign
Policy Files 64-66

File

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Damage

Box

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For our part, we wish to see a final and just settlement of Germany's indemnification program which will be satisfactory both to the Federal Republic and to persecutee groups. Ambassador McGhee earlier this month repeated to Foreign Minister Schroeder our often-stated interest in a final and equitable settlement. In Washington, Secretary Rusk met recently with Mr. Blaustein, while I saw a representative of several of the groups to which your letter refers. Mr. Blaustein also saw Ambassador McGhee during his recent visit to Bonn.

I appreciate your interest in the German indemnification program. If I can give you any more information or be of service to you in any other way, please do not hesitate to get in touch with me.

Sincerely yours,

William R. Tyler

PK
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3/25/65.

Clearance:

H - Mr. Zimas

EJC (draft)

DECLASSIFIED
Authority NND 959000
By EJC NARA Date 7/31

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RMR File

JACOB BLAUSTEIN

5243

ONE NORTH CHARLES
THE BLAUSTEIN BUILDING
BALTIMORE, MD. 21203

April 7, 1965

PERSONAL

The Honorable Dean Rusk
Secretary of State
Department of State
Washington, D. C.

Dear Mr. Secretary:

When my colleagues and I of the Jewish Material Claims against Germany met with Ambassador McGhee in Bonn on March 12, we learned from him of the effective communication you addressed to the top officials there, as I requested of you in our March 2 conference and my March 3 letter. Thanks very much for this.

We had considerate conferences with Chancellor Erhard, Foreign Minister Schroeder, Finance Minister Dahlgruen, former Chancellor Adenauer and the other officials; also with the party leaders, - and we believe they were impressed with our presentations -- backed up by the knowledge of our Government's interest. But we received no definite assurances from them of adequate treatment of the items we discussed -- merely statements that there would be some improvements beyond that they originally had intended to do.

As it now stands, based on recent information from Dr. Katzenstein, our Claims Conference representative in Germany, what they have in mind is still far from adequate, and it will be necessary to continue to keep behind them. In this effort, we hope to have a continuation of your and Ambassador McGhee's support. As I have previously stated, it would be particularly unfortunate if a crisis were to develop at this late stage due to insufficient implementation.

With appreciation for your constant good assistance in this humane effort,

Faithfully,

RECEIVED BY NARA

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PS 8-4 US-GER

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Authority NND 959000
By EJC NARA Date 7/31

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CONFIDENTIAL
UNCLASSIFIED ATTACHMENTS
DEPARTMENT OF STATE
ASSISTANT SECRETARY
EUR

OR
S/S 5243

TO: The Secretary
THROUGH: S/S *CU*
FROM: EUR - William R. Tyler *WR*
SUBJECT: Reply to Letter from Jacob Blaustein - ACTION MEMORANDUM

Jacob Blaustein, representing the Conference on Jewish Material Claims against Germany, has written you about the results of his recent discussions with high-level German officials about amendments to the Federal Indemnification Law now before the Bundestag. These amendments provide benefits for a wider group of victims of Nazi persecution than is now the case.

Blaustein writes that, although the FRG has promised some improvements beyond what it originally intended, what it has in mind is "still far from adequate." He asks for a continuation of your and Ambassador McGhee's support (Tab B). (Ambassador McGhee last month orally told Foreign Minister Schroeder of US interest in a final and equitable settlement of indemnification issues.)

We should be exceedingly careful of any further approaches by us to the FRG on these matters within the near future. FRG leaders have shown a disposition to be helpful within the budgetary limitations imposed by defense, aid, and their own domestic commitments, while the Claims Conference has demonstrated only little indication of a willingness to find a compromise acceptable to the FRG. A further statement by us at this time might carry too much the mark of pressure on the FRG rather than the expression of benevolent interest which we have tried to foster in the past.

Recommendation:

That you sign the attached letter to Mr. Blaustein, telling him that we shall continue to follow his discussions with FRG officials with great interest (Tab A).

Attachments:

- Tab A - Suggested letter to Mr. Blaustein.
- Tab B - Letter from Mr. Blaustein.

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4/15/65. X4989.

CONFIDENTIAL
UNCLASSIFIED ATTACHMENTS

GROUP 4
Downgraded at 3 year
intervals; declassified
after 12 years

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Authority NND 959000
By EJC MARA Date 7/31

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RM/R File

S/S-5243

STAFF STUDY
DO NOT SEPARATE

2-3-1965

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APR 23 1965

Dear Mr. Blaustein:

I appreciate your informing me of your recent talks in Bonn with officials of the Federal German Government about claims legislation.

We will continue to follow your discussions with great interest. I would be grateful if you would keep the Department informed of the details of these talks and of the proposals which the Claims Conference makes to the German Federal Government.

Sincerely yours,

/s/ DEAN RUSK

Dean Rusk

Mr. Jacob Blaustein,
One North Charles,
The Blaustein Building,
Baltimore, Maryland.

PS 8-4 US GER

Classified by 887/AJ

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By EJC NARA Date 7/31

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United States Senate

WASHINGTON, D.C.

March 16, 1965

For response by WRT

The Honorable William R. Tyler
Assistant Secretary of State for
European Affairs
Department of State
Washington, D.C.

Send WRT separate letters

Clew with # - down in English the D. McArthur
Received EJC
3/22 - 17:30 pm

Dear Secretary Tyler:

We are writing on behalf of the Coordinating Committee of Nazi Victims Organizations to request that the State Department assist them in their discussions with the government of the Federal Republic of Germany concerning restitution. Members of the Committee include the American Federation of Jews from Central Europe; the Association of Jews from Czechoslovakia in the United States; the Association of Yugoslav Jews in the United States; the Club of Polish Jews; the Jewish Nazi Victims Organization of America; the United Roumanian Jews of America, Inc.; the Widows Group; and the World Federation of Hungarian Jews.

As you know, the West German government, through restitution and indemnification legislation, has recognized the right of surviving victims of Nazi oppression, to certain minimum compensation, and has, in fact, paid claims amounting to approximately \$4.5 billion. Some groups however, were excluded from the benefits of this legislation, and are seeking amendments to the German statute. Specifically, they favor changes which would:

1. Include those Nazi victims who escaped from Communist dominated areas of Europe after October 1, 1953.
2. Include widows whose husbands died before October 1, 1953.
3. Include a presumption that health impairments be considered a direct consequence of incarceration in a ghetto or forced labor camp.

PS 8-4 US-6 EJC

We would appreciate your advising us what steps the State Department can take to assist these American citizens in presenting their views to the West German government, and assure you of our gratitude for your courtesy and cooperation in this matter.

Sincerely

Jacob K. Javits, U.S.S.

Robert F. Kennedy, U.S.S.

2

DECLASSIFIED
Authority NND 959000
By E/C NARA Date 1/31

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File PS 84 seizure
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RM/R
FILE

S/S #19351

DEC 27 1965

COPIES FROM S/S TO
EUR
EUR/GER
RF
DATE

Dear Mr. Blaustein:

Thank you for your letter regarding the German Government's partial deferment of 1966/67 budgetary appropriations for indemnification of victims of Nazi persecution.

As you know, Ambassador McGhee discussed the matter several times with high level German officials, including Foreign Minister Schroeder, but German budget considerations precluded any change in the appropriation. An amendment to the legislation, however, will enable the Federal Republic to adjust percentages at which claims will be satisfied during the next two years in accordance with the circumstances of the case. This amendment may particularly benefit older claimants and those in serious need.

Sincerely yours,

/s/ DEAN RUSK

Dean Rusk

The Honorable
Jacob Blaustein,
One North Charles,
The Blaustein Building,
Baltimore, Maryland.

EUR:GER:KEBlock:cao 12/20/65

GER-Mr. Puhan

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Microfilmed for LBJ Library

S/S Tom
A True Copy

PS 8-4 US-GER

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Authority NND 959000

By E/C NARA Date 7/31

RG

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Entry

Central Foreign
Policy Files 64-66

File

PS 84 seizure
Damage

Box

307

Retyped please

Dear Mr. Blaustein:

Thank you for your letter ~~of November 22~~ regarding the German Government's partial deferment of 1966/67 budgetary appropriations for indemnification of victims of Nazi persecution.

As you know, Ambassador McGhee discussed the matter several times with high level German officials, including Foreign Minister Schroeder, but German budget considerations precluded any change in the appropriation. An amendment to the legislation, however, will enable the Federal Republic to adjust percentages at which claims will be satisfied during the next two years in accordance with the circumstances of the case. This amendment may particularly benefit older claimants and those in serious need.

Sincerely yours,

Dean Rusk

Retyped in S/S-S:12/23/65

The Honorable

Jacob Blaustein,

One North Charles,

The Blaustein Building,

Baltimore, Maryland.

PS 8-4 US-GER

346989

DECLASSIFIED
Authority: NND 959000
By: EJC WARA Date: 7/31

RG 59
Entry Central Foreign Policy Files 64-66
File PS 84 seizure Damage
Box 307

Dear Mr. Blaustein:

Thank you for your letter of November 29 regarding the German Government's partial deferment of 1966/67 budgetary appropriations for indemnification of victims of Nazi persecution.

As you know, Ambassador McGhee discussed the matter several times with high level German officials, including Foreign Minister Schroeder, but German budget considerations precluded any change in the appropriation. An amendment to the legislation, however, will enable the Federal Republic to adjust percentages at which claims will be satisfied during the next two years in accordance with the circumstances of the case. This amendment may particularly benefit older claimants and those in serious need.

Sincerely,

Dean Rusk

The Honorable
Jacob Blaustein,
One North Charles,
The Blaustein Building,
Baltimore, Maryland 21203.

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IN
DEPARTMENT OF STATE
EXECUTIVE SECRETARIAT

PS 8-4 US-GER

DECLASSIFIED
Authority NND 959000
By EJC NARA Date 7/31

RG 59
Entry Policy Files 64-66
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Box 307

20

JACOB BLAUSTEIN

1935

ONE NORTH CHARLES
THE BLAUSTEIN BUILDING
BALTIMORE, MD. 21203

November 29, 1965

PERSONAL

The Honorable Dean Rusk
Secretary of State
Department of State
Washington, D. C.

Dear Mr. Secretary:

I know how heavy are your many responsibilities and I, therefore, hesitate further to burden you - - - and indeed apologize for having taken the occasion of the State Department reception last evening to mention to you the item of the proposed partial deferment by the German Federal Government of the budgetary appropriations for Indemnification Legislation reducing 1966 and 1967 appropriations by DM 400 million marks per annum.

I ventured to do so: (1) because you have been so thoroughly cooperative throughout in the German indemnification and restitution matter; (2) because the adverse effect the deferment would have on both the persecutees and Germany itself; and (3) because the budgetary appropriations are now in the stage of being rushed through the Bundestag and time, therefore, is of the essence.

This is the first time in the entire history of the Indemnification Program that the Federal Government proposes to curtail appropriations to carry out this vital program.

Tens of thousands of persecutees who eagerly awaited passage of the Indemnification Legislation would, under the proposed deferment, have to wait at least until 1968 to receive their first benefits.

The Federal Government and Parliament have consistently proclaimed that the Indemnification Program is a debt of honor of the new Germany, - and the latest proposal would undoubtedly be regarded by the persecutees, if I may say so, as a breach of faith.

Classified by 6881/8

①

15/
Jacob Blaustein

PS 8-4 US-GER

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Authority <u>NND 959000</u>
By <u>E/C</u> NARA Date <u>1/31</u>

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Entry	<u>Central Foreign</u>
File	<u>Policy Files 64-66</u>
Box	<u>PS 84 seizure</u>
	<u>Damage</u>
	<u>307</u>

PERSONAL

The Honorable Dean Rusk - 2

November 29, 1965

The deferment, if adopted, would be unfair to the persecutees who already have waited 20 years, much too long, for the consideration due them; and further, the deferment would tend to derogate the good will which we have all worked so hard to create for West Germany.

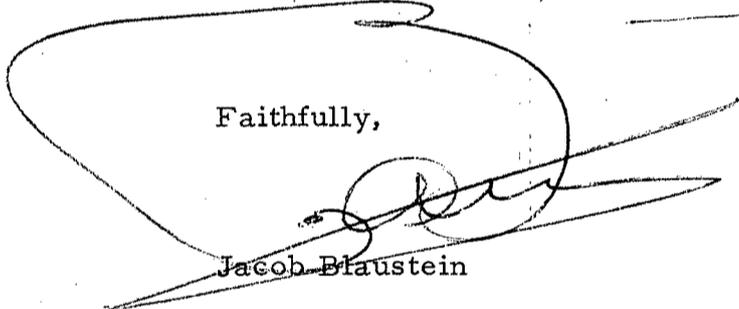
As Senior Vice President of the Conference on Jewish Material Claims against Germany, I respectfully urge that you be good enough personally to convey to the Federal Government deep disappointment in the budgetary deferment proposal, and to urge the Federal Government not to proceed with the deferment.

You remarked last evening that the Chancellor was shortly due in the United States. As I stated, however, the new date of his arrival unfortunately will be after the Parliament will have acted.

I would like to assure you, again, that any help you can now give in this situation will be to good purpose and tremendously appreciated.

With warm regard,

Faithfully,



Jacob Blaustein

346992

DECLASSIFIED

Authority MMD 969000

By EMW NARA Date 8/7/02

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Central Foreign

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PS GER

Box

1/1/68
243

DR. FREDERICK WALLACH
ATTORNEY AT LAW
64.48 BELL BOULEVARD
BAYSIDE 64, NEW YORK

April 4, 1969

PS 8-4 GER

Department of State
The Legal Adviser
Washington, D.C.

Dear Mr. Maurer:

Settlement Convention

Thank you for your letter dated March 28, 1969.

Since you state your opinion is only preliminary may I submit the following.

It would come as a shock to the victims of National socialism to learn that the Department of State turned over restitution to the Germans in a manner that these can destroy restitution by big increases in court and attorneys fees.

If "regulations issued pursuant thereto (Law 59) means only American regulations and not German regulations issued with approval (see Article 92(2) Law 59) of U.S. Military Government, then this should have been expressed at least in the working papers to the treaty. Can you explain to me whether this was done?

Does it make a difference to you that the state law of March 27, 1953 was not issued pursuant to Law 59 but is a general state law raising all state attorneys fees and only incidentally the restitution fees? In no way can it be said that this law was passed ~~passed~~ on any Military Govt. or German Federal Govt. approval.

According to the Settlement Convention, the power of Military Govt. to approve ~~expressly or by~~ ~~working orders~~, implementing orders (Art. 92(2) Law 59) were transferred to the German Federal Govt. This

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Authority NND 969000By SM NARA Date 8/7/00

RG

59

Entry

Central Foreign
Policy Files 67-69

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Box

243

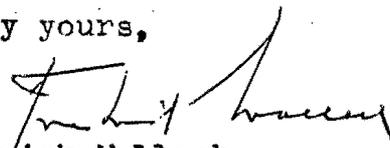
gave jurisdiction in this field to the German Federal Govt. It is stressed again in this connection, that the state law of March 23, 1953, passed after the Settlement Convention became German law, was not issued pursuant to Law 59.

I respectfully, therefore, ask for further study/

No views of the authorities of the state of Baden-Wuerttemberg were expressed so far. This matter is before a state court at present. My German attorney wants to submit an advisory opinion of the U.S. Dept. of State in this matter prior to decision.

If you prefer to see the decision of the German court first, or feel that it would be in my interest to have this court decide first, I ask to advise me. I would, of course, prefer your final opinion that the state law of March 27, 1953, as applied to restitution, violates the Settlement Convention.

Sincerely yours,



Frederick Wallach

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Authority <u>MND 969000</u>	Entry <u>Central Foreign</u>
By <u>SP/IN</u> NARA Date <u>8/7/02</u>	File <u>Yellow Files 67-69</u>
	Box <u>PS GER 1/7/68</u>
	Box <u>243</u>

RS/AN

April 15, 1969

Dr. Frederick Wallach
 Attorney-at-Law
 64-48 Bell Boulevard
 Bayside, L.I., New York 11364

Dear Dr. Wallach:

PS 8-4 GER

I refer to your letter of April 4, 1969 and previous correspondence concerning regulations issued under Military Government Law No. 59 and the relationship of such regulations to the Bonn Settlement Convention.

I have considered the points made in your recent letter in amplification of the points made in your letter of March 10, 1969 and I do not believe that there is any need at this time to modify the provisional views which I set forth in my letter to you of March 28, 1969.

PS 8-4 GER

We would, indeed, be concerned if any action were taken that would result in effectively undermining the benefits of restitution for the victim of Nazi persecution without regard to whether such action was taken under the Bonn Settlement Convention or independently of it. We note that the law of the State of Baden wuerttemberg that you refer to was enacted in 1953. In the sixteen years that have intervened since the law was enacted, the Department of State has received no complaints with regard to the undermining effect of this law on the benefits of Nazi victims.

We note your statement that the matter is before the State court at the present. We would be pleased to receive the decision of the State court as a basis for further consideration of this matter.

Sincerely yours,

Ely Maurer
 Assistant Legal Adviser
 for Military and Economic
 Regional Affairs

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PS 8-4 GER
 Department of State **TELEGRAM**

UNCLASSIFIED 280

PAGE 01 BONN 14832 251714Z

46
ACTION EUR 20

INFO SAL 01, NSA 02, EI 15, CIAE 00, DODEI 00, GPM 04, H 02, INR 07, L 03,

NSC 10, P 04, RSC 01, SP 02, SS 20, USIA 12, RSR 01, /104 W

R 251635Z JUL 68
 FM AMEMBASSY BONN
 TO SECSTATE WASHDC 9228
 INFO USBER BERLIN 3067
 AMCONSUL DUESSELDORF
 AMCONSUL BREMEN
 AMCONSUL HAMBURG
 AMCONSUL MUNICH
 AMCONSUL STUTTGART
 AMCONSUL FRANKFURT

UNCLAS BONN 14832

SUBJECT: FEDERAL RESTITUTION LAW (BRUEG)

1. THE PRESS THIS MORNING REPORTS THAT THE FEDERAL CONSTITUTIONAL COURT HAS DECLARED INVALID THAT PORTION OF PARAGRAPH 1 OF SECTION 30 OF THE FEDERAL RESTITUTION LAW (BRUEG), AS AMENDED BY THE LAW OF OCTOBER 2, 1964, WHICH REQUIRES AN APPLICANT FOR RESTITUTION TO DESCRIBE THE PROPERTY IF HIS APPLICATION IS TO BE CONSIDERED TIMELY. THE REPORTS ADD THAT APPROXIMATELY 80,000 APPLICANTS WILL BENEFIT FROM THE RULING WHICH MAY COST THE FEDERAL GOVERNMENT SEVERAL 100 MILLION DM.

2. COMMENT: THE SUIT BEFORE THE CONSTITUTIONAL COURT INVOLVED THE ISSUE WHETHER CLAIMS FOR PROPERTY LOSSES FILED BY VICTIMS OF NAZI PERSECUTION UNDER THE FEDERAL COMPENSATION LAW (BEG) BY MERELY CHECKING A BOX IN THE APPLICATION BLANK AND WITHOUT DESCRIBING THE PROPERTY ITSELF COULD BE CONSIDERED AS HAVING BEEN FILED IN TIME UNDER BRUEG. THE LATTER LAW REQUIRES "IDENTIFICATION" OF THE LOST PROPERTY. ON THE BASIS OF THE OLD SECTION 30 OF BRUEG THE SUPREME RESTITUTION COURTS IN THE FRG AND IN BERLIN HAD RULED IN FAVOR OF THE APPLICANTS. THE AMENDMENT TO SECTION 30 BY THE LAW OF OCTOBER 2, 1964, TOOK THE OPPOSITE VIEW.

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DECLASSIFIED

Authority MND 969000

By SPM NARA Date 8/7/02

RG 59

Entry Central Foreign Policy Files 67-69

File PS GER 1/1/68

Box 243



Department of State

TELEGRAM

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PAGE 02 BONN 14832 251714Z

3. THE EMBASSY WILL REPORT FURTHER BY AIRGRAM AS SOON AS THE FULL TEXT OF THE DECISION HAS BECOME AVAILABLE. LODGE

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Authority NND 969000
By SPM NARA Date 8/7/00
RG 59
Entry Central Foreign Policy Files 67-69
File PS GER 177168
Box 243

ORIGIN/ACTION			
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AIR	ARMY	NAVY	OSD
<u>5</u>	<u>3</u>	<u>5</u>	<u>24</u>
USIA	NSA	CIA	
<u>10</u>	<u>3</u>	<u>20</u>	
FCSC	NSC	OP	JUS
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NO. _____
TO : Department of State
INFO : LONDON, PARIS
AUG 15 11 55 AM 1969

FROM : Amembassy BONN
DATE: AUGUST 13, 1969
SUBJECT : Federal Agency for External Restitution
Federal Higher Authority for Restitution

REF : _____

In the course of a protracted meeting between representatives of the US, British, and French Embassies, and German representatives on July 17 covering the various tribunals established in the FRG under the Bonn Conventions, the German delegation pressed very hard for agreement that the Federal Agency for External Restitution and the Federal Higher Authority for Restitution should now be declared dissolved.

The German representative pointed out that 24 years have now passed since the end of World War II. Prior to 1955, the restitution programs were established and carried out in accordance with procedures desired by the occupying powers. Since 1955, the Federal Republic has proceeded in accordance with the provisions of the Bonn Conventions. They now believe that the time has come to take account of what has occurred. The situation with respect to the two agencies is as follows:

Federal Agency for External Restitution
There is only one case involved, a French claim involving a painting which the German authorities apparently consider of uncertain practicality since the painting is at present in East Berlin. They indicated, however, that in order to resolve the claim they are proceeding toward a settlement by means of a special agreement.

Other than the French case, there are no cases which have

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Action Taken:

Date: _____
Initials: DW

FORM 10-64 DS-323
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Drafting Date: 8-11-69
Phone No.: 3344
Contents and Classification Approved by: POL:RGLivingston

Clearances:

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59Central Foreign
Policy Files 67-69PS GER
1/7/68243Page 2 of
Bonn's A-819

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been filed by governments as required under paragraph 1, Article 2, Chapter Five of the Settlement Convention. Claims for jewelry, silverware, or antique jewelry could be claimed only if a request had been lodged with one of the Three Powers prior to May 5, 1955. No new claim for restitution of cultural property was to be made after May 8, 1955.

Since no claims have been brought to the attention of the FRG arising in the period prior to the 1955 dates there will not be anything for the Federal Agency to do. Accordingly, the FRG considers that once the French case has been settled that it would be appropriate to make a public declaration in the Federal Law Gazette that the Agency has been abolished.

Federal Higher Authority for Restitution

No cases are pending under Article 1 of Chapter Ten. Such claims were to be filed within one year from the establishment of procedures for filing, i.e., claims should have been filed over 10 years ago. There is accordingly, no possibility of cases developing which would have been proper cases for the Higher Authority.

The German representative noted that the Foreign Office is required to report periodically to the committees of the Bundestag and to individual members who inquire regarding the justification of maintaining the administrative apparatus. The difficulty of explaining under the current circumstances makes it highly desirable to have a public indication that their function has been completed.

The three Embassies took the following positions:

UK - Can agree to announcement of abolishment of both Agencies.

French - Can agree to announcement of abolishment of the Federal Agency for External Restitution under the condition that:

1. The abolishment would not interrupt the settlement of current cases
2. That items which may still be identified on German territory would be returned
3. That the payment of compensation is not questioned.

Can agree to announcement of abolishment of Federal Higher Authority for Restitution.

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