

Article 2 Agreement with the JCC

In July 1990, the first of seven rounds of negotiations between the JCC and a German delegation led by the German Finance Ministry began. In September 1992, an agreement was reached in Bonn that satisfied both sides – the Article 2 Agreement.

The Article 2 Agreement was further elaborated in annual negotiations between the JCC and the German Finance Ministry and adapted to the changing needs of the Jewish victims of Nazi persecution.

The most important addition in material terms is the provision of home care to support Holocaust survivors in need. The Federal Republic of Germany provides annual financial support of over €100 million to a network of care facilities which the JCC has established around the world.

Twenty years after it was originally concluded, a new version of the Agreement will be signed on 15 November 2012. This version further simplifies the rules and takes account of arrangements that have been made in the meantime regarding modifications.

Accepting responsibility in the Unification Treaty

Article 2 of the above Agreement became a common foundation for the two German states. It promised, in reference to the GDR parliament's decision of 12 April 1990, that the reunified Germany would work to ensure "just compensation for the material losses of the victims of the Nazi regime." According to the agreement, the German Government was prepared, "in continuation of the policy of the Federal Republic of Germany, to enter into agreements with the Claims Conference for additional fund arrangements in order to provide hardship payments to victims of persecution who thus far have received no or only minimal compensation according to the legislative provisions of the Federal Republic of Germany."



The German Interior Minister, Dr. Wolfgang Schäuble, at the signing of the Unification Treaty on 31 August 1990. Two weeks later, on 18 September, the Agreement on the Enactment and Interpretation of the Unification Treaty was signed.

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The Article 2 Agreement

Background, Establishment
and Development



Ever since its foundation in 1949, communist East Germany, officially known as the German Democratic Republic (GDR), steadfastly refused to follow the example of the Federal Republic of Germany when it came to compensating victims of Nazi persecution.

The GDR's anti-fascist foundation myth played a particularly important role in terms of the state's resistance towards claims for compensation from abroad. The East German state did not see itself as the Third Reich's legal successor. Rather, it viewed itself as being part of an anti-fascist tradition. On this basis, it rejected providing material support for victims of the Nazi regime living in other countries, and also refused to accept that it shared moral responsibility for the crimes of Nazi Germany.

It was only after the fall of the Berlin Wall and the reunification of the two German states that this group of people also received compensation. Claims could finally be made for material injustices that were inflicted during the Nazi era on the territory of the later GDR. The results included the restitution of assets and the payment of hardship compensation.

East Germany's anti-fascist foundation myth

The GDR's position of rejecting Israeli and American claims was mainly based on its anti-fascist foundation myth. But the state's new foreign policy orientation and the resulting influence of the Soviet Union also played an important role in the GDR's refusal to make restitution and compensation payments. After its initial support for Israel, the Soviet Union was forced to realise that the Jewish state was not prepared to accept the role which Moscow had intended for it, namely as a disruptive factor for the Middle East policies of the UK and US.

As a consequence, the GDR not only rejected all concrete demands from the Jewish Claims Conference (JCC) and Israel, but it also criticised the payments which the Federal Republic of Germany pledged to make in the Luxembourg Agreement of 1952.

Covert willingness to negotiate from the 1970s onwards

It was only in the course of the wave of diplomatic recognition of the GDR in 1972/1973 that East Germany's hard line began to soften. Although the GDR did stick in principle to its rejection of foreign claims, the new foreign policy situation meant that East Germany had little choice but to engage in discussions, albeit covertly. Compensation payments totalling \$1 million that were agreed upon in the course of unofficial negotiations were however promptly returned by the JCC.

Similarly, the prospect of economic benefits in the form of a most-favoured-nation clause for the trade in goods, which the United States offered the GDR for a time as an incentive to suc-

cessfully conclude negotiations, failed to lead to any substantial progress. The US withdrew its offer as a consequence of the Soviet invasion of Afghanistan and the resulting international developments. It was not until the 1980s that tentative contacts between the GDR and the JCC were re-established.

Diplomatic rapprochement after the fall of the Wall

After the fall of the Berlin Wall in November 1989, the impending reunification of the two German states made it necessary to legally harmonize the regulations in support of victims of National Socialist persecution which had developed independently over a period of 40 years.

At the beginning of 1990, negotiations began between the GDR and Israel over the establishment of diplomatic relations. The final round was held in Copenhagen in July 1990. These efforts were however suspended as a result of the upcoming unification with the Federal Republic of Germany which had already been agreed.



People on the Berlin Wall near the Brandenburg Gate on 9 November 1989

Symbolic declaration by the East German parliament

Nonetheless, a 12 April 1990 declaration by the first and last freely elected East German parliament achieved considerable symbolic significance. In that statement, the members of parliament not only accepted the GDR's shared responsibility for Nazi crimes, but also declared that they were willing to "work towards a just compensation of material losses." Although these promises could no longer be upheld by the GDR, the reunited German state was obliged to respect them.

In August 1990, the president of the JCC, Israel Miller, approached German Chancellor Helmut Kohl. He demanded that expropriated Jewish properties on the territory of the GDR be returned and that appropriate compensation be provided for Holocaust survivors who had previously received no or only minimal compensation payments and who were in need of support. The compensation payments were then incorporated in principle into the Agreement on the Enactment and Interpretation of the Unification Treaty reached between the West German and East German governments, which went a long way toward meeting the JCC's requests.



GDR Prime Minister Lothar de Maizière at the session of the East German parliament on 12 April 1990