H e a d n o t e

to the Judgment of the First Senate of 23 November 1999

– 1 BvF 1/94 –

The exclusion of restitution by reason of good-faith purchase and the restrictions on such exclusion of restitution in § 4.2 of the Property Act are compatible with the Basic Law.

FEDERAL CONSTITUTIONAL COURT

– 1 BvF 1/94 –

Pronounced

on 23 November 1999

Achilles

Amtsinspektorin

as Registrar of the Court Registry

IN THE NAME OF THE PEOPLE

In the proceedings for constitutional review

of § 4.2 of the Act on the Settlement of Open Property Issues (*Gesetz zur Regelung offener Vermögensfragen, Vermögensgesetz – VermG)* as promulgated on 3 August 1992 (Federal Law Gazette, *Bundesgesetzblatt* – BGBl I p. 1446)

applicant: *Land* government of Brandenburg, represented by the Ministry for Justice, Federal and European Affairs,

Heinrich-Mann-Allee 107, Potsdam –

the Federal Constitutional Court – First Senate –

with the participation of Justices

Vice-President Papier,

Grimm,

Kühling,

Jaeger,

Haas,

Hömig,

Steiner

Hohmann-Dennhardt

held on the basis of the oral hearing of 12 May 1999:

JUDGMENT :

§ 4.2 of the Act on the Settlement of Open Property Issues (*Gesetz zur Regelung offener Vermögensfragen, Vermögensgesetz – VermG*, Property Act) as promulgated on 3 August 1992 (Federal Law Gazette (*Bundesgesetzblatt – BGBl*) I p. 1446) is compatible with the Basic Law (*Grundgesetz*).

REASONS :

A.

The proceedings for the review of a statute relate to the provision on good-faith acquisition in § 4.2 of the Act on the Settlement of Open Property Issues. 1

I.

1. The Property Act grants persons who in the past were deprived of property holdings in the German Democratic Republic in a manner contrary to the rule of law a claim to retransfer (§ 3.1 of the Property Act). Under § 4.2 sentence 1 of the Property Act, the retransfer claim is excluded after 8 May 1945 if natural persons, religious groups or non-profit foundations in good faith acquired ownership of or *in rem* rights of use of the property. Under § 4.2 sentence 2 of the Property Act, however, this normally does not apply to the sale of land and buildings if the legal transaction on which the purchase is based was entered into after 18 October 1989. On 18 October 1989, Erich Honecker resigned from the office of Chairman of the State Council of the German Democratic Republic. Good-faith purchase after this date is in principle not protected. 2

2. Between 1949 and 1989, the authorities of the German Democratic Republic took possession of land, above all land belonging to persons who had left the territory of the German Democratic Republic, lawfully or unlawfully according to its law, and had settled in the West. The property of illegal emigrants (*Republikflüchtlinge*) and "non-returners" was "confiscated" in the early years of the German Democratic Republic; this amounted to expropriation without compensation. Later, in cases of illegal exit from the country, the property was put under the "fiduciary administration" of the state, which rendered no account of its administrative measures. From 1969, there was […] state seizure of this property by way of sales transactions. In the case of a legal exit, the grant of the exit permit was often made dependent on the emigrants selling their plots of land or buildings to the state or to third parties. In addition, after land was transferred to public ownership, it was often encumbered with rights of use of third parties. 3

The Federal Republic of Germany always took the legal viewpoint that the open property issues based on this "injustice arising from the division of Germany" (*Teilungsunrecht*) had to be solved by reparation. […] But a real opportunity for reparation arose only after the political change of course in the German Democratic Re- 4

public, when the government of the Federal Republic of Germany and the government of the German Democratic Republic in December 1989 appointed a Joint Commission to Solve the Open Property Issues (*Gemeinsame Kommission zur Lösung der offenen Vermögensfragen*) […]

Before the commission discussed the questions of restitution of property and compensation, the authorities of the German Democratic Republic had already begun to sell buildings and plots of land to private persons to an increasing extent. This happened at first on the basis of administrative instructions of the Council of Ministers (*Ministerrat*) and subordinate authorities of 5 and 14 December 1989. On the basis of the Act on the Sale of Publicly Owned Owner-Occupied Homes, Co-Owners' Interests and Buildings for Recreational Purposes (*Gesetz über den Verkauf volkseigener Eigenheime, Miteigentumsanteile und Gebäude für Erholungszwecke*) of 19 December 1973 (Law Gazette of the German Democratic Republic (*Gesetzblatt der Deutschen Demokratischen Republik* – GBl) p. 578; hereinafter: Sale Act), however, this was permissible only to a limited extent. In particular, it was not legally possible to transfer publicly owned land. The sales activities were considerably expanded when, on 7 March 1990, the *Volkskammer* (parliament of the German Democratic Republic), shortly before the first free elections to the *Volkskammer*, passed a new version of the Sale Act (Law Gazette of the German Democratic Republic I p. 157). It was the aim of this new version to make it possible for private and commercial lessees or users of publicly owned buildings and plots of land to buy these property holdings. §§ 1, 2 and 4 of the new version of the Sale Act read as follows:

§ 1

Sale of publicly owned buildings for commercial purposes

Publicly owned buildings may be sold for commercial purposes to private craftsmen and businesspersons who are citizens of the German Democratic Republic or foreigners with their permanent residence in the German Democratic Republic (hereinafter referred to as: craftsmen and businesspersons).

§ 2

Sale of publicly owned one-family and two-family houses and buildings for recreational purposes

Publicly owned one-family and two-family houses and publicly owned buildings used for personal recreational purposes (hereinafter referred to as: buildings) may be sold to citizens of the German Democratic Republic and foreigners with their permanent residence in the German Democratic Republic (hereinafter referred to as: citizens).

§ 4

Passing of ownership of the building 13

(1) At the request of the district council (*Rat des Kreises*), a land register building folio must be established, and the purchaser must be registered on this folio as the owner of the building. When the purchaser is registered as the owner of the building, the ownership of the building passes to the purchaser. 14

(2) The purchaser is to be given a right of use of the publicly owned land associated with the building, unless otherwise provided by statute. If publicly owned one-family and two-family houses are purchased or owner-occupied homes are built, the publicly owned plot of land may be acquired. The same applies to publicly owned plots of land for which a right of use was granted in connection with the purchase of one-family and two-family houses or the building of owner-occupied homes before this Act came into force. 15

(3) (…) 16

The new version of the Sale Act came into force one day after the first free elections to the *Volkskammer* on 19 March 1990. In the following months, approximately 300,000 contracts for the sale of plots of land and buildings were entered into. The large number of persons wanting to purchase led to considerable bottlenecks at the few state notaries' offices and at the land registries and to correspondingly long waiting times. First of all there was a delay in notarial recording, and then a delay in registration. This mass sale of publicly owned real property also affected buildings and plots of land with regard to which it was conceivable that former owners might have claims to retransfer. 17

In summer 1990, the Joint Commission agreed on basic points for a solution of the open property issues. These basic points included the principle that in the cases of injustice arising from the division of Germany there should be restitution. In this, not only expropriations without compensation and judicial orders of state compulsory administration were taken into account, but also cases in which people had lost property holdings as a result of wrongs in the administration of justice or dishonest intrigues, or as a result of financial constraints. These basic points were laid down in a Joint Declaration on the Settlement of Open Property Issues (*Gemeinsame Erklärung zur Regelung offener Vermögensfragen*) by the two German governments of 15 June 1990 (Bulletin of the Press and Information Office of the Federal Government (*Bulletin des Presse- und Informationsamtes der Bundesregierung*) of 19 June 1990, pp. 661-663), which later became law as Annex III of the Treaty between the Federal Republic of Germany and the German Democratic Republic on the Establishment of German Unity (*Vertrag zwischen der Bundesrepublik Deutschland und der Deutschen Demokratischen Republik über die Herstellung der Einheit Deutschlands*, Unification Treaty) of 31 August 1990 (Federal Law Gazette II p. 889 (1237-1238). This states: 18

3. Expropriated real property shall in principle, taking account of the groups of cases set out under a) and b), be returned to the former owners or their heirs. 19

a) (…) 20

b) If citizens of the German Democratic Republic have in good faith acquired ownership or *in rem* rights of use of real property that is to be returned, socially acceptable indemnification must be made to the former owners by exchange of plots of land of comparable value or by payment of compensation. 21

The same applies to real property that was sold to third parties by the state trustee. The details have yet to be clarified. 22

13. The procedure: 24

a) The German Democratic Republic will without delay create the necessary legal provisions and rules of procedure. 25

b) It will announce where and within what period of time the citizens affected can register their claims. The period for application will not be longer than six months. 26

c) (…) 27

d) The German Democratic Republic will ensure that by the end of the period under number 13 b) above, no sales are made of plots of land and buildings the earlier ownership rights in which are undecided, unless the parties agree that there is no question of a retransfer or a right to retransfer is not asserted. Sales of plots of land and buildings the earlier ownership rights in which are undecided and that nevertheless took place after 18 October 1989 will be reviewed. 28

In implementing the Joint Declaration, the government of the German Democratic Republic, on 11 July 1990, introduced a freeze on permits in the Ordinance on the Registration of Property Claims (*Verordnung über die Anmeldung vermögensrechtlicher Ansprüche*, Law Gazette of the German Democratic Republic I p. 718). The Registration Ordinance (*Anmeldeverordnung*) provided that where ownership rights were undecided, in future no more real property dealings permits would be granted and permit procedures that were pending were to be suspended until it was finally clarified that no plot in relationship to which former ownership rights were undecided was affected by the intended change of law. In addition, in the cases where permits had already been granted, the procedures were to be reopened on the application of the person formerly entitled if the transaction had been entered into after 18 October 1989 and under the Registration Ordinance should not have been given a permit. Without a property dealings permit, entry in the land register was not possible. The provisions were slightly amended by the government of the German Democratic 29

Republic by the Second Ordinance on the Registration of Property Claims of 21 August 1990 (*Zweite Verordnung über die Anmeldung vermögensrechtlicher Ansprüche*, Law Gazette of the German Democratic Republic I p. 1260). The relevant sections were as follows:

§ 6 30

Grounds for refusal and suspension 31

(1) In the permit procedure under the Ordinance on Dealings in Land (*Verordnung über den Verkehr mit Grundstücken, Grundstücksverkehrsverordnung*, Land Dealings Ordinance) of 15 December 1977 (Law Gazette of the German Democratic Republic I 1978 no. 5 p. 73), amended by an Ordinance of 14 December 1988 (Law Gazette of the German Democratic Republic I no. 28 p. 330), the permit is to be refused if the intended amendment of law or creation of new law affects a plot of land that is under fiduciary or state administration and the owner's consent has not been given. 32

(2) The permit procedure under the Land Dealings Ordinance is to be suspended until it is conclusively clarified that the intended amendment of law or creation of new law does not affect any plot of land the earlier ownership rights in which are undecided. Cases that are regarded as undecided are cases in which, after 6 October 1949, plots of land were transferred to public ownership or sold to third parties by confiscation or under provisional state administration or state trusteeship and cases in which the claims of entitled persons have been registered. The permit can be granted if the person entitled declares that he or she consents to the amendment of law, this declaration to be either notarially certified or declared and recorded in writing by the body issuing the permit, or if a claim to retransfer has not been asserted by the person entitled by 13 October 1990. 33

§ 7 34

Reopening of permit procedure 35

(1) The permit procedure under the Land Dealings Ordinance shall be resumed on the application of the former owner or of the person entitled affected by the interim state or fiduciary administration if the legal transaction was entered into after 18 October 1989 and under § 6.1 and 6.2 a permit should not have been granted. The application can be made only until 13 October 1990. The parties to the contract shall be involved in the procedure. 36

(2) The application for the reopening of the permit procedure shall 37

have a suspensive effect.

(3) If the entry in the land register has already been made, the competent authorising authority shall of its own motion arrange for an objection to the correctness of the land register to be made if the applicant supplies *prima facie* evidence of his or her former right of ownership of the plot of land involved and the legal transaction was entered into after 18 October 1989. The objection shall be cancelled if in the case of an appeal against the reopening of the permit procedure there has been a final decision in favour of the complainant. 38

By reason of these provisions and of the registration backlog at the land registries, the majority of the sales transactions carried out in 1990 relating to restitution-burdened plots of land remained, as it were, held up in the enforcement stage. According to estimates of the government of the *Land* (state) Brandenburg, approximately 95 per cent of the purchasers were not entered in the land register. 39

3. The open property issues were dealt with by statute in the Treaty Between the Federal Republic of Germany and the German Democratic Republic on the Establishment of German Unity (*Vertrag zwischen der Bundesrepublik Deutschland und der Deutschen Demokratischen Republik über die Herstellung der Einheit Deutschlands, Einigungsvertrag,* Unification Treaty). The two German governments agreed to incorporate the Act on the Settlement of Open Property Issues in the Unification Treaty. It was to deal not only with the cases of injustice arising from the division of Germany, but also with the cases of National Socialist injustice. The German Democratic Republic had predominantly not granted reparation to persons who were persecuted for reasons of race, politics, religion or ideology in the period between 30 January 1933 and 8 May 1945 and who had lost property holdings for that reason. The Property Act was passed as Annex II chapter III subject area B part I no. 5 of the Unification Treaty by the legislative bodies of the German Democratic Republic and the Federal Republic of Germany. The Unification Treaty came into force on 29 September 1990, that is, four days before the accession on 3 October 1990 (see Federal Law Gazette 1990 II p. 1360; Law Gazette of the German Democratic Republic 1990 I p. 1988). 40

a) The original statutory provision on good-faith purchase in § 4. 2 of the Property Act, old version, (Federal Law Gazette 1990 II p. 889 (1159).; Law Gazette of the German Democratic Republic 1990 I p. 1629 (1899)) read as follows: 41

Retransfer is also excluded if natural persons, religious groups or non-profit foundations in good faith acquired property or *in rem* rights in the property holding. This shall not apply in the case of land and buildings to the extent that the legal transaction on which the purchase was based was entered into after 18 October 1989 and under § 6.1 and 6.2 of the Registration Ordinance it ought not to have been permitted. 42

Thus even after the first version of the Property Act, the restitution of land and buildings acquired in good faith was not excluded if the contract of sale on which they were 43

based was entered into after the key date 18 October 1989. This provision had detrimental effects above all for "lessee buyers" who after 18 October 1989 had bought the building or plot of land they had rented. In contrast, persons who had acquired ownership of or *in rem* rights in buildings before the key date and after the key date had merely acquired the ownership of the land in addition ("cases of finalisation") were not affected. By the wish of the legislature, these sales were excluded from the key date provision (see Federal Ministry of Justice, *Stichtagsregelung des § 4. 2 Satz 2 Vermögensgesetz – Darstellung der geltenden Rechtslage, Zeitschrift für Vermögens- und Immobilienrecht –VIZ* 1992, pp. 102 ff.). Since the key date provision of § 4.2 sentence 2 of the Property Act governs only the acquisition of plots of land and buildings, from the beginning it did not apply to the acquisition of movable property ("movable property acquisition cases") and the acquisition of rights of use that the state had granted for the purpose of building an owner-occupied home ("home-builder cases"). These three groups of exemptions were of considerable practical significance. According to assessments by the Federal Government, the finalisation cases in particular constituted from 80 to 90 per cent of the contracts entered into under the Sale Act.

b) In the following period, the key date provision remained politically disputed. Under the Act to Amend the Property Act and Other Legal Provisions (*Gesetz zur Änderung des Vermögensgesetzes und anderer Rechtsvorschriften* (*Zweites Vermögensrechtsänderungsgesetz – 2. VermRÄndG*) Second Property Act Amendment Act) of 14 July 1992 (Federal Law Gazette I p. 1257), the legislature subsequently made corrections. The key date provision now does not apply if the purchaser initiated the purchase transaction before 19 October 1989 ("purchase initiation cases"), acquired a building for commercial purposes ("enterprise protection cases") or made considerable investments in relation to the object ("investment protection cases"). The provision presented for review of § 4.2 of the Property Act as promulgated on 3 August 1992 (Federal Law Gazette I p. 1446) reads as follows: 44

Retransfer is also excluded if natural persons, religious groups or non-profit foundations have after 8 May 1945 in good faith acquired property or *in rem* rights in the property holding. This shall not apply to sales of plots of land and buildings if the legal transaction on which the purchase was based was entered into after 18 October 1989 without the consent of the person entitled, unless 45

a) there was a written application for the sale or the sale was initiated in another way indicated on the record before 19 October 1989, 46

b) the purchase was made on the basis of § 1 of the Act on the Sale of Publicly Owned Buildings (*Gesetz über den Verkauf volkseigener Gebäude*) of 7 March 1990 (Law Gazette of the German Democratic Republic I no. 18 p. 157) or 47

c) the purchaser before 19 October 1989 incurred substantial expenditure for improvements or preservation of substance. 48

4. In practical implementation, however, the three exemption provisions were not of great importance. For according to the case law of the Federal Administrative Court (*Bundesverwaltungsgericht* – BVerwG), an acquisition in the meaning of § 4.2 of the Property Act occurs only if the purchaser was entered in the land register before the Property Act came into force (see BVerwG*, Neue Juristische Wochenschrift – NJW* 1994, p. 470). In the majority of the purchases in which the contract of sale was entered into after 18 October 1989, this was not the case. A relatively large number of the cases in which the contract of sale was initiated before 19 October 1989 were entered in the land register before the Property Act came into force. But only a few of the purchasers who used buildings commercially or had made substantial investments succeeded in this. 49

5. The legislature later took account of the interests of the purchasers whose purchases were not entered in the land register before the Property Act came into force in the Property Law Adjustment Act (*Sachenrechtsbereinigungsgesetz – SachenRBerG*), which was passed as Article 1 of the Act to Amend Property-Law Provisions (*Gesetz zur Änderung sachenrechtlicher Bestimmungen, Sachenrechtsänderungsgesetz – SachenRÄndG*, Property Law Amendment Act) of 21 September 1994 (Federal Law Gazette I p. 2457). § 121.1 and 121.2 of the Property Law Adjustment Act reads as follows: 50

§ 121 51

Rights after entering into a contract of sale 52

(1) The user who before the end of 18 October 1989 entered into a valid, documented contract of sale with a state agency of the German Democratic Republic on a plot of land, a building or a building structure and under this contract or under a lease or other contract of use obtained or exercised possession shall have the rights under chapter 2 *vis-à-vis* the owner of the land even if the plot of land, the building or the building structure has been retransferred under the Property Act. Sentence 1 shall not apply if the contract was not performed for the reasons set out in § 3.3 sentence 2 nos. 1 and 2. The user shall have the rights under sentence 1 even if the contract of sale was entered into after 18 October 1989 and 53

a) there was a written application for the contract of sale or the sale was initiated in another way indicated on the record before 19 October 1989, 54

b) the contract of sale was entered into on the basis of § 1 of the Act on the Sale of Publicly Owned Buildings of 7 March 1990 (Law Gazette of the German Democratic Republic I no. 18 p. 157) or 55

c) the user before 19 October 1989 incurred substantial expenditure for improvements or preservation of substance. 56

(2) The user shall also have the rights set out in subsection 1 above, if the user 57

a) on 18 October 1989 used an owner-occupied home under a contract of lease or other form of use that was entered into before the end of 18 October 1989, 58

b) before the end of 14 June 1990 entered into a valid, documented contract of sale with a state agency of the German Democratic Republic relating to this owner-occupied home and 59

c) uses this owner-occupied home as a dwelling himself or herself on 1 October 1994. 60

Under this provision, the purchasers who are not entered in the land register have an option to choose between being granted a hereditary building right and buying the land at half its market value. This follows from the reference in subsection 1 sentence 1 to chapter 2 of the Property Law Adjustment Act. This statute deals in detail with the right of purchase (§ 61 of the Property Law Adjustment Act), the right to have a hereditary building right created (§ 32 of the Property Law Adjustment Act) and the option to choose (§ 15 of the Property Law Adjustment Act). 61

II.

The government of the *Land* Brandenburg made an application to the Federal Constitutional Court for abstract proceedings for the review of a statute under Article 93.1 no. 2 of the Basic Law (*Grundgesetz – GG*) to be performed. 62

1.It regards the key date provision with regard to good-faith purchase as unconstitutional and applies for § 4.2 sentence 2 of the Property Act to be declared void. […] 63-65

2.[…] 66-67

3.[…] 68

III.

[…] 69-84

IV.

[…] 85

B.

The applications of the government of the *Land* Brandenburg are unfounded. § 4.2 of the Property Act is compatible with the Basic Law. 86

I.

1. The object of constitutional review is the provision in § 4.2 of the Property Act in 87

the form as amended by the Second Property Law Amendment Act. The constitutional review must start by considering the statutory context of sentence 1 and 2 of § 4.2 of the Property Act. […]

2. The scope of constitutional review is essentially determined by two principles: 88

a) The abstract review of a statute is an objective procedure in which a legal provision is to be reviewed from all legal viewpoints, irrespective of the intention of the applicant (see Decisions of the Federal Constitutional Court (*Entscheidungen des Bundesverfassungsgerichts* – BVerfGE) 37, 363 (397); 52, 63 (80)). Consequently, the Federal Constitutional Court must review equally whether the provision in § 4.2 of the Property Act is compatible with the fundamental rights both of the buyers of the land (II.) and of the former owners (III.). 89

b) In performing the abstract review of a statute under Article 93.1 no. 2, part 1 of the Basic Law, the Federal Constitutional Court is restricted to constitutional review. In these proceedings, it reviews whether federal or *Land* law is compatible formally and substantively with the Basic Law. In contrast, the interpretation of law below the constitutional level is in principle a matter for the courts that are in general competent for it and is largely exempt from constitutional review (see BVerfGE 18, 85 (92-93)). Consequently, even in the abstract review of a statute under Article 93.1 no. 2 part 1 of the Basic Law, the Federal Constitutional Court must take as a basis the interpretation that the provision has been given in the case law of the nonconstitutional courts. It can intervene and prescribe a different interpretation only if the interpretation of the provision by the nonconstitutional court does not sufficiently take into account the scope of constitutional principles or its result leads to a disproportionate restriction of constitutional rights (see BVerfGE 85, 248 (258)). 90

3. The overriding review standard is the constitutional fundamental right to property. It is in this connection that the protection against retroactive statutes must be discussed; in Article 14.1 of the Basic Law, this protection is given independent reference (see BVerfGE 36, 281 (293); 75, 78 (105); 95, 64 (82); established case-law). 91

The review of the prohibition of retroactive law is not dispensable for the reason that the provisions of the Property Act entered into force as early as on 29 September 1990 and are defined in the Unification Treaty as law of the German Democratic Republic continuing in effect [,] […] [for the Property Act], as part of the Unification Treaty, was approved not only by the *Volkskammer*, but also by the federal German *Bundestag*, under Article 23 sentence 2, old version, in conjunction with Article 59.2 of the Basic Law […] Such Acts approving international treaties must in principle be compatible with the Basic Law (see BVerfGE 4, 157 (168-169); 95, 39 (46)). For this reason, the Federal Constitutional Court, in its consistent practice, has tested the provisions of the Unification Treaty against the Basic Law. 92

II.

The provision of § 4.2 of the Property Act violates no fundamental rights of the purchasers. 93

1. In particular, it does not violate the fundamental guarantee of ownership of Article 14 Basic Law. 94

a) The protection of the fundamental right of property covers, in the area of private law, in principle all property rights that are allocated to the person entitled by the legal system in such a way that the person entitled is permitted to exercise the powers connected therewith to his or her own private benefit following a decision on his or her own responsibility (see BVerfGE 83, 201 (209)). Article 14 of the Basic Law gives protection against sovereign encroachments by the Federal Republic of Germany even to ownership that exists on the basis of a foreign legal system, provided this legal system does not contradict German public order in this respect (reservation in favour of the public policy principles of the Federal Republic of Germany; see BVerfGE 45, 142 (169)). The rights acquired under the legal system of the German Democratic Republic (ownership of land, ownership of buildings, rights of use etc.) have therefore, since the accession, been protected by Article 14.1 of the Basic Law (see BVerfGE 91, 294 (307-308); 95, 267 (300); established case-law). 95

b) The provision in § 4.2 of the Property Act changes the purchaser's legal position. It leads to the extinction of the claims for performance under the contract of sale, and where applicable to the reversal of the *in rem* acquisition of the right. However, there is no expropriation in the meaning of Article 14.3 of the Basic Law. Expropriation is state encroachment on the individual's property. By its purpose, it is directed towards the complete or partial removal of concrete subjective legal positions guaranteed by Article 14.1 sentence 1 of the Basic Law, in order to fulfil specific public tasks (see BVerfGE 52, 1 (27); 72, 66 (76); 79, 174 (191); BVerfG, *Europäische Grundrechte-Zeitschrift – EuGRZ* 1999, p. 415 (419)). In contrast the provision in § 4.2 of the Property Act is concerned with legally correcting purchase processes with the purpose of creating a balance between diverging private interests. The provision challenged is related to the reorganisation of the ownership relations impaired by unjust state measures. § 4.2 of the Property Act is a provision determining the content and limits of ownership in the meaning of Article 14.1 of the Basic Law (see BVerfGE 95, 48 (58-59)). 96

c) The legislature determining content and limits does not have unlimited freedom of drafting (see BVerfGE 95, 64 (84)). Instead, in carrying out its duty to create law, it must observe the recognition of private property in Article 14.1 sentence 1 of the Basic Law and act in accordance with all other constitutional norms (see BVerfGE 14, 263 (278); 74, 203 (214); established case-law). 97

aa) When the legislature uses the authorisation to determine content and limits, it has a particular duty to achieve a just balance and a harmonious relationship between the interests of those involved (see BVerfGE 95, 48 (58); established case- 98

law). One-sided favourable or unfavourable treatment is not in accord with the constitutional idea of societal restrictions on private property (see BVerfGE 52, 1 (29); established case-law). The provision in § 4.2 of the Property Act does justice to these requirements.

At the time of reunification, the legislature was confronted with the task of creating a socially acceptable balance in the interest of peace under the law, on the one hand between the interests of the former owners and their successors in title in obtaining compensation for the unconstitutional loss of assets during the time when Germany was divided, and on the other hand the interests of the purchasers of such assets or their successors in title in keeping the assets (see BVerfGE 95, 48 (58)). The owners demanded the most extensive reparation possible in the form of retransfer. The purchasers demanded protection of the rights acquired under the legal system of the German Democratic Republic and wanted the former owners to be referred to state compensation. In solving this conflict of interests, there was no means that would have been equally just to both interests and in every respect. A retransfer in all cases would have been incompatible with the purchasers' interests in the continuation of rights. The pure compensation solution would have inadequately satisfied the interests of the former owners in reparation. Firstly, from a financial point of view, compensation at the full market value could not have been expected in view of the situation of the public budgets, and secondly, even compensation at the full value could not have compensated for the immaterial loss. 99

The legislature therefore had to weigh up against each other the interests of the former owners in reparation and the interest in protecting the reliance of the purchasers on their good-faith acts. Here, the idea of material justice argued more strongly in favour of restoring the original state. For a retransfer would have largely compensated the injustice suffered by the former owners in material and immaterial respects. On the other hand, the idea of certainty with regard to the law and reliability of legal dealings argued more strongly for the protection of purchasers. If the ownership relations that developed in the German Democratic Republic had been retained without change, this could also have had the advantage from the point of view of economics of a greater certainty of the investment. Since, from a constitutional point of view, the advantages of the one solution did not outweigh the advantages of the other solution, a particular decision in this conflict of interest on the part of the legislature was not prescribed by the Basic Law. 100

Instead, the legislature had great freedom in drafting. It could decide in favour of the former owners and their successors in title and follow the principle that property holdings that they had been deprived of or been forced to sell are to be returned in kind by the purchaser, but would not have to enforce this principle without exception. Instead, it could provide that in the case of purchase in good faith, there would be no restitution, in order to achieve a socially acceptable balance (see BVerfGE 95, 48 (58-59)). 101

To ensure the priority of restitution, the legislature was also authorised to lay down a 102

key date before which the protection of public confidence has priority and after which restitution in favour of the former owner or the successors in title of the former owner takes precedence without restrictions. In this way it was able, on the one hand, to take into account the interest in the protection of public confidence of the purchasers, who seemed particularly deserving of protection by reason of their law-abiding conduct when purchasing the property and because they had normally been owners for an extended period of time. On the other hand, in the cases where purchase had been manipulative or the purchaser had exercised legal control over the property for only a short time, the legislature could give priority to the interest in restitution of the former owners. The statutory provision does not contain a general assumption of purchase in bad faith after the key date. Instead, it concerns the assessment of the degree to which opposed interests are worthy of legal protection at different times. Such a solution, which differentiates factually and depending on the date, is not inappropriate preferential or unfavourable treatment and leads to an acceptable balancing of the differing interests.

bb) […] 103

cc) Nor does the provision in § 4.2 of the Property Act violate the principle of the protection of public confidence, which must be taken into account in the area protected by Article 14.1 of the Basic Law. In particular, it does not contain any retroactive effect that would be constitutionally inadmissible. 104

(1) The basic prohibition of statutes with a retroactive onerous effect is based on the principles of certainty with regard to the law and protection of public confidence (see BVerfGE 45, 142 (167-168)). It protects confidence in the reliability and predictability of the legal system created under the regime of the Basic Law and of the rights acquired on the basis thereof. There is also a need for certainty of the law with regard to legal positions that were acquired in the German Democratic Republic before the Basic Law entered into force, and therefore there is protection for reliance on the continuation in effect of statutes that were valid before the Basic Law came into force. However, it was not possible for a general development of reliance on the continuation in effect of old rights; the reliance developed only where there was particular reason to expect that the law of the German Democratic Republic, exceptionally, would continue in force (see BVerfGE 88, 384 (404-405)). Reliance on the basic recognition of the ownership positions and rights to obtain ownership acquired before the Basic Law entered into force can therefore not enjoy the same broad protection as reliance in the continuation of the rights acquired under the Basic Law (see also BVerfGE 41, 126 (150 ff.)). At all events, the protection of this reliance can be based only on the factual and legal situation that was found by the Federal German legislature at the end of the existence of the German Democratic Republic as a state and which, in the course of reunification, was introduced to the area of application of the Basic Law as, in effect, the normative stock. 105

The encroachment of the provision in § 4.2 of the Property Act upon this basic stock 106

is not constitutionally inadmissible. The provision of § 4.2 of the Property Act is compatible with the requirements of the prohibition of retroactive effect of a state under the rule of law. This prohibition subjects various groups of cases to various requirements.

A false retroactive effect is in principle constitutionally admissible. It exists if a norm has an effect on present factual circumstances that are not yet completed and legal relations for the future and thus at the same time subsequently invalidates the legal positions affected. However, there may be limits to the admissibility of this arising from the principle of protection of public confidence and the principle of proportionality. These principles have only been overstepped if the false retroactive effect required by the legislature is not suitable or necessary to attain the purpose of the statute, or if the interests of those affected in the continuation of their rights outweigh the legislature's grounds for amending the law (see BVerfGE 95, 64 (86); established case-law). 107

A genuine retroactive effect, on the other hand, is in principle inadmissible under constitutional law. It exists if a statute subsequently encroaches upon and alters elements of cases that have been dealt with and belong to the past (see BVerfGE 11, 139 (145-146)). But in this case too there are exceptions. The prohibition of retroactive law, which has its foundation in the protection of public confidence, has lower priority if no confidence that deserves protection in the continuation of current law was able to develop (see BVerfGE 95, 64 (86-87)). In addition, protection of public confidence is out of the question if paramount concerns of the public interest, which take priority over the principle of certainty of the law, require norms to be repealed retroactively (see BVerfGE 13, 261 (272); 88, 384 (404)). 108

(2) To the extent that the Property Act removes legal positions from purchasers who are not entered in the land register, this is a case of false retroactivity. The same applies if when the German Democratic Republic was still in existence the permit procedure under § 7 of the Registration Ordinance was resumed. In these cases the principle of restitution (§ 3.1 of the Property Act) does not take effect on real-world fact situations that are already completed, which under the old legal situation established a final legal position. Such a completed process, under the law of the German Democratic Republic, did not already exist if a notarially certified contract of sale had been entered into. The private law of the German Democratic Republic had abandoned the separation of executory agreement and performance by a real contract that dominates the Federal German Civil Code (see Westen/Schleider, *Zivilrecht im Systemvergleich*, 1984, pp. 315-316). The contract of sale and the acquisition of the right were treated as a unified legal process. Under the civil law of the German Democratic Republic, the purchase of a plot or land or a building required not only entering into a contract of sale recorded by a notary but also a state permit for property dealings and entry in the land register (§§ 26.2, 285, 297 of the Civil Code of the German Democratic Republic (*Zivilgesetzbuch – ZGB*)). Only when these requirements had been fulfilled did the purchaser obtain the ownership of the plot of land or building and was the 109

uniform legal procedure completed. Since until the Property Act entered into force about 95 per cent of the sales transactions entered into after the key date 18 October 1989 had, as it were, remained held up in the permit procedure or the entry procedure, and therefore the process of purchase as the requirement for the exemption from restitution had not been completed, in most of the disputed cases there is false retroactivity, which is normally constitutionally admissible.

Nor is this false retroactivity proceeding from § 4.2 of the Property Act, exceptionally, inadmissible because the reliance of the non-registered purchasers on the execution of the contracts deserved priority in protection (see BVerfGE 67, 1 (15); 78, 249 (284)). The legislature was entitled to proceed on the assumption that the interest in protection of public confidence of the non-registered purchasers does not, at all events in the normal case, outweigh the interest in restitution of the former owners. For the purchasers, under the legal system of the German Democratic Republic, had not attained the position of owners before they were entered in the land register, and normally they had made no particular dispositions with regard to the expected acquisition of rights. In addition, since the passing of the Registration Ordinance of 11 July 1990 it had been plain that all contracts already entered into would be reviewed (on this, see B II 1 c cc [3] below). Against this, it was also to be taken into account in balancing the interests that the former owners or their successors in title had a particular material and immaterial interest in restitution in kind and that the retransfer in many cases was impossible for other reasons, for example because the object to be restored had been fundamentally changed or to give priority to investment. Since the principle of restitution thus had to take lower priority in a large number of cases, the legislature was able to attach particular weight to the restitution interest of the former owners in the cases in which the principle of restitution could be adhered to relatively easily because the acquisition of rights by third parties had not yet been completed. In weighing up the various interests, therefore, it cannot be established that the interest of non-registered purchasers in the protection of public confidence is normally paramount. If individual purchasers exceptionally made particular dispositions with regard to the property bought, the legislature took adequate account of this in the provision of § 121.1 sentence 3 letter c of the Property Law Adjustment Act, which grants non-registered purchasers an option to choose between a hereditary building right and the purchase of the plot of land at half the market value. 110

(3) The provision in § 4.2 of the Property Act is constitutional even in the cases in which, exceptionally, it leads to a genuine retroactive effect. A genuine retroactive effect exists if a purchaser entered in the land register has a duty under the provisions of §§ 3.1, 4.2 of the Property Act to retransfer the ownership the purchaser has already acquired to the former owner or the former owner's successor in title. This is the case if either the purchaser acquired the property in bad faith or the contract of sale was initiated and entered into only after 18 October 1989. In both groups of cases, the legislature was permitted to pass a provision that was genuinely retroactive. 111

The judicial order of the restitution of plots of land and building acquired in bad faith is constitutionally unobjectionable. For the prohibition of retroactive law is not only based on the principle of the protection of public confidence, but also finds its limits there (see BVerfGE 13, 261 (272); 88, 384 (404); established case-law). Reliance in the continuation in effect of rights acquired in bad faith is in principle not worthy of protection (see BVerfGE 27, 231 (239); 32, 311 (319)). This applies in particular in the cases of acting in bad faith described in § 4.3 of the Property Act. They are marked by the fact that there is always manipulative conduct on the part of the purchasers (see BVerwG, *Zeitschrift für Vermögens- und Investitionsrecht* 1993, pp. 250-251). This charge may also be made of the heirs of purchasers in bad faith, since the heirs as the statutory successors in title need not be treated better than their predecessors in title (see Order of the First Chamber of the First Senate of the Federal Constitutional Court of 3 March 1995, *Neue Juristische Wochenschrift* 1995, p. 1884). 112

But the legislature was also able to permit genuine retroactive effect in the cases in which the purchasers entered in the land register had acted in good faith but had initiated and entered into the contract of sale only after 18 October 1989. For at the date when the Property Act came into force, in the cases of injustice arising from the division of Germany, and thus in the overwhelming majority of the fact situations covered by the Property Act, there had no longer been a reliance worthy of protection on the continuation of these rights of ownership even on the basis of the law of the German Democratic Republic. Here it is not necessary to determine how far the reliance on the continuation of the rights acquired on the basis of the Sale Acts of 1973 and 1990 had already been shaken by the Joint Declaration of 15 June 1990. For at all events, it was destroyed by the Registration Ordinance passed by the government of the German Democratic Republic on 11 July 1990. Under this Ordinance, not only were the permit procedures that were still pending to be suspended until any restitution claims had been clarified (§ 6.2 of the Registration Ordinance); § 7 of the Registration Ordinance also provided that the permit procedures for all contracts of sale entered into after 18 October 1989 should be taken up again and at the same time, official objections to the acquisition of rights should be entered in the land register. These provisions passed by the government of the German Democratic Republic are not, as set out above, to be judged by the standards of the prohibition of retroactive law in the Basic Law. The sole deciding factor for the assessment of the Property Act, for which the Federal German legislature bore joint responsibility, from a constitutional point of view is that at the end of the existence of the German Democratic Republic as a state and before the Property Act came into force, reliance based on statutory provisions of the German Democratic Republic on the continuation of rights acquired after the key date was no longer possible. 113

(4) However, there are sets of circumstances in which a reversal of the purchase of property under the law of the German Democratic Republic could not be envisaged before the Property Act came into force. The Joint Commission did discuss the restitution claims of victims of National Socialism, but it did not reach unity on this. Where- 114

as the Federal German delegation was in favour of a restitution solution in these cases too, the representatives of the German Democratic Republic thought it was adequate to compensate the victims of National Socialism (see Wasmuth, in: *Rechtshandbuch Vermögen und Investitionen in der ehemaligen DDR*, vol. II, 1999 version, introduction to the Property Act marginal nos. 319, 380). In consequence, neither the Registration Ordinance nor other statutory provisions of the German Democratic Republic provided for a review of the purchases in this connection.

In a comparable way, before the accession there was not complete agreement between the two states on the treatment of what were known as rehabilitation cases (see Wasmuth, *loc. cit.,* marginal nos. 382-383, 412-413). The Rehabilitation Act (*Rehabilitierungsgesetz*) of 6 September 1990 (Law Gazette of the German Democratic Republic I p. 1459), passed by the *Volkskammer* of the German Democratic Republic, provided for the return of property holdings of which they had been deprived to persons who had been prosecuted, discriminated against or severely harmed in another way by the Soviet occupying power or by courts and authorities of the German Democratic Republic in such a way that their human rights were violated. §§ 6.2 and 23.2 of the Rehabilitation Act, however, always excluded the right to return in the case of good-faith acquisition. 115

However, in both cases paramount concerns of the public interest justify an exception to the prohibition of retroactive effect (see BVerfGE 88, 384 (404); 97, 67 (81 ff.)). For the compensation of National Socialist injustice is a particularly important objective in the public interest. It must be taken into account that the unconstitutional removal of property holdings was only part of a far larger injustice. The victims of National Socialism often lost more than their worldly goods. Many of them suffered severe personal persecution and lost life and limb. Since the German Democratic Republic for many decades refused reparation for this injustice in the property area, the restitution made to victims of National Socialist injustice was a particularly urgent objective in the public interest and a central precept of justice. 116

The situation can be no different for the cases in which the Soviet occupying power or courts and authorities of the German Democratic Republic committed severe violations of human rights and where in connection with this property holdings were seized. In these cases too, the legislature was able to regard the interest of those persecuted in restitution as the paramount concern of public interest and, exceptionally, treat as of lower priority the interest of the good-faith purchasers in protection of public confidence, who were owners of the plots of land or buildings only for a relatively short time and normally had had no particular confidence that they would keep their tangible property. To the extent that these purchasers, exceptionally, were particularly worthy of protection and for example had demonstrated their confidence particularly clearly by making substantial investments, the legislature took this into account in the exemption provisions of § 4.2 sentence 2 of the Property Act, new version, and thus permitted no genuine retroactive effect. 117

2. Nor does the provision in § 4.2 of the Property Act violate the requirement of equal treatment. 118

a) The inferior position of the purchasers who were not entered in the land register before the Property Act came into force in comparison to the registered purchasers does not violate Article 3.1 of the Basic Law. 119

There is a violation of the principle of equality before the law if a group of persons who are addressed by a specific statute is treated differently in comparison to other persons addressed by that statute although there are no differences between the two groups of such a nature and of such weight that they could justify the unequal treatment (see BVerfGE 55, 72 (88); 88, 87 (96-97); established case-law). Such a violation of fundamental rights may be committed not only by the legislature. It is also committed if the courts, in the course of interpreting a statute or filling a gap, make a distinction in treatment that the legislature is prohibited from making (see BVerfGE 84, 197 (199)). 120

In entering into the contract of sale, the purchasers acquired little more than a chance of purchasing and, after they had been given the permit for real property dealings, they had at most an expectancy. The purchasers that were entered in the land register, in contrast, had acquired the ownership of the plot of land or building. There are differences of such a nature and such weight between these legal positions that they justify unequal treatment. For only the owner has a position that is secured against all the world and enforceable, on the continuation of which he or she can in principle rely. The non-registered purchaser, in contrast, has only a right of acquisition that exists in relation to the vendor. The non-registered purchaser cannot rely unrestrictedly on actually obtaining the object sold and above all on being able to defend his or her rights as a purchaser against third parties. Accordingly, also purchasers who were not registered before the Property Act came into force on 29 September 1990 could certainly not rely in a comparable way on being able to assert their rights against the former owners or their successors in title. 121

Nor was equal treatment required for the reason that it was often a matter of chance whether registration occurred before 29 September 1990 or not. For the legislature, which is bound by the principle of equality before the law, was not obliged to consider these practical difficulties, which existed not only with regard to the entries in the land register, but also with regard to entering into contracts of sale, because the few notaries' offices were overburdened, but in the reconcilement of interests it had to carry out was entitled to take as a basis the legal situation that it found at the date when the Property Act came into force. 122

b) It is also compatible with Article 3.1 of the Basic Law that the legislature restricted the exclusion of restitution for good-faith acquisition by a key date provision in § 4.2 sentence 2 of the Property Act. 123

Inequalities that are created by a key date must be accepted if the introduction of 124

such a key date was necessary and the choice of the date, oriented with regard to the facts in question, is justifiable (see BVerfGE 75, 78 (106); 87, 1 (43)). In view of the purchase transactions, beginning towards the end of the year 1989 and undertaken in huge quantities in spring 1990, the legislature may have feared that if the provisions on exclusion of retransfer because of good-faith purchases were permitted to apply without restriction, the principle of restitution might be further constrained (see *Bundesministerium der Justiz, Stichtagsregelung des § 4. 2 Satz 2 Vermögensgesetz – Darstellung der geltenden Rechtslage, Zeitschrift für Vermögens- und Investitionsrecht* 1992, pp. 102 ff.). For this reason the legislature must have regarded it as necessary to introduce a key date.

Nor did the legislature exceed the scope it had for evaluation when it chose the key date. 18 October 1989 is a justifiable date to separate the short-term ownership, which is less worthy of protection, from the longer-term legal control, which is more worthy of protection. If a much later date had been chosen as the key date, there would have been a danger that the principle of restitution would be substantially more restricted, in view of the mass sale of real property that had been commenced. This mass sale of plots of land and buildings was not set in motion only by the Sale Act of 7 March 1990. Instead, on the basis of the statute of 19 December 1973, the sales were instigated to a considerable extent by the instructions to sell of 5 and 14 December 1989, which were similar to guidelines; here, persons who were "close to the state and close to the party" in the German Democratic Republic clearly had an advantage. The legislature was therefore able to choose as the key date a date that was clearly before this first "small" wave of sales and did not apply only to the "large" wave of sales that began with the Sale Act of 7 March 1990. In view of this, 18 October 1989 presented itself as a suitable date, because the date when Erich Honecker retired from the office of the Chairman of the State Council marked a break in the history of the German Democratic Republic and because this key date had been used as a key date not only in the Joint Declaration, but also in the Registration Ordinance of the German Democratic Republic and thus had already entered the law of the German Democratic Republic. 125

c) Finally, the decision of the legislature, by way of an exception, in § 4.1 sentence 2 letter b of the Property Act to protect confidence shown by legal transaction even if it was created only after the key date is compatible with the principle of equality before the law. For the key date provision, without this exception, would have affected the group of commercial purchasers particularly hard. On the one hand, businesspersons were able to obtain real property for the first time after the Sale Act of 7 March 1990, and on the other hand they had based their commercial livelihood on this (see *Bundestag* document (*Bundestagsdrucksache – BTDrucks*) 12/2944, p. 51). In addition, there was a macroeconomic interest in making it easy to build up and continue independent craftsmen's and commercial enterprises in the area of the former German Democratic Republic. 126

3. The choice of 18 October 1989 as the key date, contrary to the petitioner's submissions, is also compatible with the content of the Joint Declaration. It is therefore not necessary to answer the question as to what would be the legal consequences of incompatibility with this Declaration. The Joint Declaration governs the exclusion of restitution only for good-faith purchases in which the underlying legal transaction was entered into before 18 October 1989, and in number 13 d) it provides for a "review" in the case of sales that took place later. In accordance with its character as a paper setting out the basic points, the Joint Declaration left open the results of this review. Consequently there was also the possibility of wholly or partially omitting an exclusion of restitution for the contracts of sale entered into after 18 October 1989. Insofar as the government of the *Land* Brandenburg submits that the "review" provided for in number 13 d) of the Joint Declaration is only a review of whether purchase was in good faith in individual cases, this is not convincing. For the principle of good-faith purchase is already contained in number 3 b) of the Joint Declaration and always presupposes a review of good faith in the individual case. If number 13 d) of the Joint Declaration also required only a review of good faith in the individual case, the provision would be superfluous in substance. The restriction of the review to the legal transactions entered into after 18 October 1989 contained therein would be pointless. 127

III.

Nor does the key date provision violate the fundamental rights of the former owners and their successors in title. 128

1. The original key date provision in § 4.2 sentence 2 of the Property Act, old version, does not affect the constitutional rights of the former owners, for one reason because the claims of the former owners to compensation for the injustice done them is not protected by Article 14.1 of the Basic Law at dates before its definition in the Property Act. Since the former owners *de facto* had no more property rights, the claim to the restoration of legal positions that they have been deprived of can be based only on the principle of the state under the rule of law and the principle of the social welfare state (see BVerfGE 84, 90 (pp. 125-126)). In consequence, the legislature had a particularly broad scope when drafting this legal right in the Property Act. It is not apparent that the legislature exceeded this drafting scope in the provision in § 4.2 of the Property Act, old version. 129

2. The subsequent restriction of the right to retransfer in § 4.2 sentence 2 of the Property Act, new version, similarly does not violate the constitutional rights of the former owners. 130

Even if one assumes that the right to retransfer, following its drafting in the Property Act, is protected by Article 14.1 of the Basic Law (see BVerfGE 95, 48 (58)), the subsequent amendment of the key date provision and the ensuing expansion of the exclusion of restitution in cases of good-faith purchase must be regarded as an admissible provision determining the content and limits of ownership. The fundamental right to property does not require that legal positions once created are forever to remain 131

unchanged in their content (see BVerfGE 83, 201 (212)). On the contrary, under Article 14.1 sentence 2 of the Basic Law, the legislature may amend individual legal positions by appropriate and reasonable transitional provisions (see BVerfGE 70, 191 (201-202); established case-law).

The amendment of § 4.2 sentence 2 of the Property Act, new version, had the objective of subsequently taking into account a relatively small group of purchasers particularly worthy of protection that had been overlooked in the original key date provision and correcting the hardships associated with the key date provision. In the purchase initiation cases, the key date provision was restricted because it appeared unfair to apply them even if the desire to purchase had not been satisfied in time for reasons over which the purchaser had no influence (see *Bundestag* document 12/2480, p. 44). In the "enterprise protection cases", reasons of economics argued in favour of overlooking the restitution solution that affected the foundations of the business operations of craftsmen and other small businessmen. Finally, in the "investment protection cases", there had been an extraordinary amount of reliance involved and this needed to be taken into account. 132

In the interest of these goals relating to the public interest, the legislature was able to regard a restriction of the right to retransfer as necessary and proportionate in the narrower sense, because the interest of the former owners was overridden only to a very restricted extent and the amendment of the statute also adequately took into account aspects relating to the protection of public confidence. The revised provision, under Article 14.4 of the Second Property Law Amendment Act, applied only to restitution procedures that on the date when the amending statute entered into force had not yet been terminated by an administrative decision closing the administrative procedure (see Decisions of the Federal Administrative Court (*Entscheidungen des Bundesverwaltungsgerichts – BVerwGE*) 94, p. 279 (280-281)). In addition, the provisions of the Property Act that were contained in the Unification Treaty, in view of the complexity of the factual and legal position in the area of the former German Democratic Republic, cannot be regarded as established permanently and in all details. These provisions were rather a "legislatory pilot project", which was undertaken with potential amendment, adjustment and rearrangement in mind, in view of experience and understanding that might be acquired later (see BVerwG, *Neue Juristische Wochenschrift* 1996, p. 1767 (1768)). Finally, the former owners were not deprived of the right to restitution without compensation: the right was converted into a right to compensation. 133

C.

[…] 134

Papier Grimm Kühling

Jaeger Haas Hömig

Steiner Hohmann-Dennhardt

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