



COUR EUROPÉENNE DES DROITS DE L'HOMME  
EUROPEAN COURT OF HUMAN RIGHTS

FOURTH SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 47550/06  
by PREUSSISCHE TREUHAND GmbH & Co. KG a.A.  
against Poland

The European Court of Human Rights (Fourth Section), sitting on 7 October 2008 as a Chamber composed of:

Nicolas Bratza, *President*,

Lech Garlicki,

Giovanni Bonello,

Ljiljana Mijović,

David Thór Björgvinsson,

Ledi Bianku,

Mihai Poalelungi, *judges*,

and Lawrence Early, *Section Registrar*,

Having regard to the above application lodged on 15 November 2006,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Preußische Treuhand GmbH & Co. KG a.A. (“the applicant company”), is a German legal person – a limited partnership – with its registered office in Düsseldorf. It pursued the application on behalf of, and in connection with facts concerning, twenty-three natural persons (“the individual applicants”), its shareholders, all German nationals who authorised the applicant company to act for them in the proceedings before the Court. Their names and personal details are listed in an annex attached to the present decision. The applicant company was represented before the Court by Mr T. Gertner, a lawyer practising in Bad Ems.

### A. The origins of the case

2. The individual applicants submit that they themselves are, or are successors in title to, persons who before the end of the Second World War lived within the national frontiers of the German Reich as they stood until 31 December 1937, namely in the provinces of Eastern Pomerania, East Brandenburg, Silesia and East Prussia, or were Polish nationals of German ethnic origin who lived in Polish territory within the Polish frontiers as they stood on the aforementioned date. Most of the latter lived in the areas separated from the German Reich when the Polish State was restored at the end of the First World War, namely the Regions of Posen (in Polish, Poznań), Pomerania (in Polish, Pomorze), Bromberg (in Polish, Bydgoszcz) and East Upper Silesia – the area around Kattowitz (in Polish, Katowice), Tarnowitz (in Polish, Tarnowskie Góry) and Königshütter (in Polish, Chorzów), or in the former Free City of Danzig (in Polish, Wolne Miasto Gdańsk).

3. After the defeat of Germany at the end of the Second World War, when the border between Germany and Poland was drawn along the Oder-Neisse line, these regions were included in the territory of Poland.

The inclusion of the said territories was linked with arrangements following the Yalta Conference and undertakings under the Potsdam Agreement (see also paragraphs 31-32 below), in particular the question of war reparations for Poland and the delimitation of the Polish-Soviet border along the Bug River. The latter resulted in the Polish pre-war eastern provinces – often referred to as the “Borderlands” (*Kresy*) – being annexed to the Soviet Union, with the Polish population residing there being “repatriated” to Poland under the so-called “Republican Agreements” (*umowy republikanskie*) concluded between the Polish Committee of National Liberation (*Polski Komitet Wyzwolenia Narodowego*) and the former Soviet Socialist Republics of Ukraine, Belarus and Lithuania between 9 and 22 September 1944.

The former German lands east of the Oder-Neisse line, which the Polish communist authorities named “Regained Territories” (*Ziemie Odzyskane*), were considered part of the war reparations and “compensation” for the Polish eastern provinces taken over by the Soviet Union (see also paragraphs 31-33 below).

Under the policy pursued at that time by the Polish authorities, the “Regained Territories”, after the expulsion of Germans residing there, were intended for the accommodation of Polish citizens “repatriated” from beyond the Bug River (see paragraph 40 below, and also *Broniowski v. Poland* (merits) [GC], no. 31443/96, §§ 10-12 and 43, ECHR 2004-V).

## **B. Historical background**

### *1. Evacuation of German civilians ordered by German authorities*

4. The Nazi authorities prepared plans for the evacuation of German civilians from eastern Europe, including from what are now the western and northern parts of Poland situated east of the Oder-Neisse line, towards the end of the Second World War. The implementation of the plans started on various dates. Most of the evacuation began in January 1945 and continued throughout March or even April 1945.

The evacuation of East Prussia was effected in three stages. The first took place in July 1944, the second in October 1944. The population was evacuated to Pomerania and Saxony. The third stage started on 20 January 1945, during the Soviet offensive, and was carried out throughout that month. The capital city, Königsberg, surrendered to the Soviets on 9 April 1945. The Red Army took control of this territory in May 1945. It was later annexed to the Soviet Union and at present belongs to the Russian Federation.

The evacuation of Pomerania started in January 1945 but was delayed and further suspended (at the end of February 1945) on account of the fact that massive groups of people evacuated from East Prussia had filled the territory.

The evacuation of Silesia began on 19 January 1945. The population was evacuated to Saxony and Bohemia.

The evacuation of East Brandenburg (*Neumark*) and Greater Poland (*Wielkopolska*) started on 20 January 1945.

### *2. Expropriation of German property by Poland*

5. The Polish State, by virtue of several laws enacted in 1945 and 1946, formally expropriated the property left behind by Germans following their evacuation or expulsion or still occupied by them in the former German territories east of the Oder-Neisse line. The expropriation laws concerned agricultural and forest land, industry and enterprises and other “post-German” property (see paragraph 39 below).

They included laws not addressed exclusively to Germans, for instance decrees on the takeover by the State of certain forests and the 1946 nationalisation law, whereby most private owners either had their property expropriated entirely (with or without compensation) or could retain only a certain proportion of it. However, Germans were treated differently since size limitations did not apply to their property, which was expropriated without compensation.

The second group of laws specifically concerned the takeover of German property, with a separate set of regulations regarding the “Regained Territories” and the confiscation of property belonging to persons –

Germans or others – who were disloyal to the Polish State or nation during the war. They included the Law of 6 May 1945 on Abandoned and Derelict Property (*ustawa o majątkach opuszczonych i porzuconych* – “the 1945 Act”), the Decree of 8 March 1946 on abandoned or post-German property (*dekret o majątkach opuszczonych i poniemieckich* – “the March 1946 Decree”), the Decree of 6 September 1946 on the agrarian system and settlement in the Regained Territories and the former Free City of Gdańsk (*dekret o ustroju rolnym i osadnictwie na obszarze Ziemi Odzyskanych i byłego Wolnego Miasta Gdańska* – “the September 1946 Decree”) and the Decree of 15 November 1946 on the seizure of property of States at war with the Polish State in the years 1939-45 and of property of legal persons and citizens of those States and on the receivership of such property (*dekret o zajęciu majątków państw pozostających z Państwem Polskim w stanie wojny w latach 1939-45 i majątków osób prawnych i obywateli tych państw oraz o zarządzie przymusowym nad tymi majątkami*).

### **C. The circumstances of the case**

6. The facts of the case, as submitted by the individual applicants, may be summarised as follows.

#### *1. Facts concerning individual applicants*

##### **(1) Irene Ziebolt**

7. The applicant, who was born in Breslau (at present Wrocław), submits that she came under pressure from 1938 onwards from the Nazis because of her Jewish descent. Being a German national, she fled to West Berlin when the Red Army occupied Breslau. She later lived for four years in New York and, afterwards, in Israel, before returning to Germany. She at present lives in Berlin.

The applicant's father, V.G., died on 27 April 1947. Because of her Jewish descent, her mother, E.G., was not deported along with Germans from Poland. She lived there until the end of her life. When she died, the family's property was confiscated.

The applicant submits that up to the present time the Polish State has not allowed her to recover her property, on the ground that, under the March 1946 Decree, all immovable and movable property lost by its owners as a consequence of the war which began on 1 September 1939, and not recovered by them before the Decree took effect, is considered abandoned. Since the applicant's parents were forcibly prevented from exercising the right of ownership of their property, the Polish State became the owner. She has so far been refused rehabilitation and restitution. The applicant has not produced any documents or other evidence showing that she has submitted any such claims to the Polish authorities.

**(2) Anneliese Dittmer**

8. On 4 March 1945 the applicant's mother, grandmother and sister, in view of the Red Army's approach, had to flee Massow (at present Maszewo), then in the district of Kaugard (at present Nowogard) in Pomerania, and were first directed to Hagenow in Mecklenburg. Forced to leave in a hurry, they had managed to save very little, and had even left vital items (such as documents) behind, assuming that they would soon be able to go home.

The applicant herself had been recruited to the labour corps, and at that time had been working in Bavaria. The applicant and her family have still not been allowed to return to their home, and restitution has been refused.

**(3) Horst Labesius**

9. In January 1945, having learned of the Allies' decision to divide Germany into occupation zones, the applicant's family left their farm in Dammfelde (at present Dąbrówka Mała), owned by the applicant's father, H.L., before the advancing Red Army arrived. They reached the British occupation zone. The applicant submits that he has still not been allowed to return to his home and has been refused restitution of his property.

**(4) Ernst Bohry**

10. M.B., the applicant's mother, was driven from her family farm in Rohnstock (at present Roztoka) and died, while fleeing, on 12 or 16 April 1945. The applicant, as his mother's heir, has still not been allowed to return to the family's home and has been refused restitution of his property.

**(5) Edith Bleeker-Kohlsaatz**

11. At the end of January 1945 the applicant and her brothers and sisters, together with an aunt and her family, left their place of residence, Wisenthal-Röhrsdorf (at present Osowa Sień), in the district of Fraustadt (at present the Wschów District) in Lower Silesia to escape the advancing Red Army. They and the other Germans had an hour to join a convoy of horse-drawn vehicles in the neighbouring village of Röhrsdorf. The applicant's grandfather, E.G., after the applicant and her family had been forced to leave, was shot or beaten to death by Soviet troops on his own farm, and the farm buildings were burned. The house, however, survived.

After spending a long time on the road and enduring severe hardship, the applicant and her family reached Saxony. They have still not been allowed to return to their home and have been refused restitution.

**(6) Karl-Joachim Stabler**

12. In late January or early February 1945, the applicant and his family were forced to leave their farm in Ziegellscheune (at present Wszewniki). Each person was allowed to take only one suitcase. From the railway station at Militsch (at present Milicz), they were taken west in cattle wagons, experiencing the bombing of Dresden on the way. The applicant and his family eventually reached Altenroda (Thuringia). In June 1957 he left the former German Democratic Republic and moved to the Federal Republic of Germany. He has still not been allowed to return to his property and has been refused restitution.

**(7) Egon Dittmer**

13. On 4 March 1945, the applicant's parents and their children were forced to leave their house in Massow (at present Maszewo) since the Red Army was some 20 kilometres away and their evacuation was ordered. Nonetheless, they later returned to Massow, where, according to him, looting, rape and so on were daily occurrences.

In September and October 1945 the first Poles arrived, taking over homes and farms. At the end of October 1945 the family's farm was confiscated by the Polish militia. The applicant's father was later arrested by Poles, and taken without reason to the police station at Stettin (at present Szczecin), where he suffered ill-treatment for six weeks. He was then brought before a judge and released. The applicant himself, whose arrest had also been planned, was forced to work for nothing on the farm without any help. Early in 1946, the Poles began to deport the Germans from Stolzenhagen (at present Stolczyn). Since the family's residence permits were due to expire on 31 May 1946, they first went to Odermünde and then to Pölitz, finally reaching the British occupation zone in July 1946. They have still not been allowed to return to their property and have been refused restitution. The family also left behind property in Stettin-Stolzenberg (at present Szczecin-Stolczyn).

**(8) Daniel Jung**

14. In January 1945, the applicant's grandparents were expelled from Zoppot (at present Sopot). They went overland westwards.

The applicant has still not been allowed to return to his family home and restitution has been refused.

**(9) Christine Heinrich**

15. In 1946 the applicant's mother and her family were expelled from their farm in Ober Ohlisch (at present Olszówka Górna) by the Polish militia. They were not allowed to take anything with them. The applicant and her mother went first to Polish neighbours, who gave them a room. The

applicant's mother had previously been denounced and falsely accused of stealing a horse's harness from a Pole. For three weeks, she was required to report daily to the militia, where she spent the day cleaning toilets and other rooms in the barracks, and looking on while other Germans were questioned and beaten. The applicant and her mother then went back to their home, which had been given to another Pole in the meantime. They were given the room in which the grandmother was still living, but were not allowed to use the toilet or water, and stones were thrown through their window. They also had to pay rent. Having found other quarters, they finally left in 1956.

They remained in Poland until 24 June 1989, and then travelled on a visitor's visa to the Federal Republic of Germany, where they decided to stay and where they still live.

The applicant submits that they have repeatedly applied to the Polish authorities for restitution of their property, but have been refused on the ground that, as Germans, they have not been rehabilitated. The applicant has not submitted any documents or other evidence showing that she submitted her claims to any Polish administrative, judicial or other authority.

**(10) Walter Durschlag**

16. In May 1946, the applicant's father and his family were visited by Polish militiamen in their house in Bad Charlottenbrunn (at present Jedlina Zdrój) and told that they were to be deported at once. They were given about an hour to pack essentials, and each was allowed to take only 20 kilograms of luggage. They marched five kilometres to the station and were loaded onto open goods wagons. As the journey went on, many people were robbed of their last belongings. There were repeated body-searches, and Germans were ordered by loudspeaker to hand over valuables, such as savings books, and threatened with severe punishment if they failed to comply. The applicant's father and his family eventually succeeded in reaching the Western occupation zone. The applicant has still not been allowed to return to his family home and has been refused restitution.

**(11) Otto-Theodor Koerner**

17. On 20 January 1945, following an order for Germans to leave Stołęzyn and report in Schwarzacker, the applicant and other members of his family fled their home. They stopped in Czarnikau (at present Czarnków), where all the roads were blocked, and they could proceed no further. Red Army soldiers suddenly turned up and were on the point of shooting the applicant – even old people and children had been killed simply because they were German – but a Pole stepped in to protect him. All their belongings were taken, but the family escaped alive.

On 23 January 1945 the Soviets ordered the family to return to their home, which they reached on 25 January 1945. The house had been looted. In February 1945, Polish militiamen expelled them again, and they were

taken to an internment camp at Elsenau (at present Damasławek), where the last of their belongings were taken, and where they were seriously maltreated. Eventually, they were forced to leave their homeland. They have still not been allowed to return to their home and have been refused restitution.

**(12) Detlef Wunderlich**

18. The applicant's grandmother P.N. wished to stay on the family farm in Ridbach (at present Rzeck), but the applicant, his mother and his sister had left by ship in 1945 before the Red Army arrived. The grandmother was shot on the farm shortly afterwards by Red Army soldiers.

Since the end of the war the applicant and other members of his family have not been allowed to return to their home and have been refused restitution.

**(13) Fritz Leuschner**

19. In August 1946 the applicant's father and his family were driven at gunpoint from their house and market garden in Bad Charlottenbrunn (at present Jedlina-Zdrój) in Lower Silesia. Polish militiamen told them that they had to be in the street and ready to leave within an hour. They marched with others under police escort to the railway station, some five kilometres away, and various pieces of their luggage were stolen on the way. They were taken in goods wagons to the district town, Waldenburg (at present Wałbrzych), where they were again searched and lost more of their belongings. They were taken towards the Oder-Neisse crossing and from there to the Soviet occupation zone. The applicant has still not been allowed to return to his home and restitution has been refused.

**(14) Johannes Nikowski**

20. The applicant submits that his parents' names had been entered in the Beuthen (at present Bytom in Poland) property register as half-share owners of two houses. They lived in, and did not flee, their home in Königsberg (at present Kaliningrad, in Russia) when the war ended. The applicant has never been able to find out what happened to his mother when the Red Army entered Königsberg. She was probably sentenced to forced labour and died in 1947. The applicant has still not been allowed to return to his property and restitution has been refused.

**(15) Monika Schulze**

21. In February 1945 the applicant's grandparents still lived on their farm in Ober-Görrisseiffen (at present Płóczki Górne), in an area already occupied by Soviet troops. One evening, anti-aircraft batteries opened up in the area and the grandparents were ordered to start moving east. They



packed essentials and secretly headed west, in the hope of joining other members of the family, following the German army as it retreated. When the war ended on 8 May 1945, they returned to Löwenberg (at present Lwówek Śląski), where their house was the only one not yet looted. At the end of June 1945, given the time to pack only the barest of essentials, they were taken away. Those who wanted to stay were arrested or immediately shot. After stopping in various places on the way, they eventually reached the West, getting as far as the Rhineland.

The applicant has still not been allowed to return to her lost homeland and has been refused restitution.

**(16) Volker von Zitzewitz**

22. On 3 March 1945 the applicant and his parents fled their property in Pomerania with other landowners to escape the approaching Red Army. They reached Testorf in Holstein on 23 March 1945. The applicant has still not been allowed to return to his home and has been refused restitution.

**(17) Ernst Wienß**

23. Until the end of the War, the applicant's mother lived on her farm in Schönhorst (at present Gniazdowo) in the region of the former Free City of Danzig. On 24 January 1945 she was ordered to leave. She fled with carts, heading west, eventually reaching Sittensen, in the Bremervörde district, in March 1945. The applicant has still not been allowed to return to her family home and restitution has been refused.

**(18) Dietlinde Krawitz**

24. The applicant and her family were forced to leave their home in Treuburg (at present Olecko) to escape the advancing Red Army in January 1945. They fled, eventually reaching Berlin. They headed further west, and were overtaken by Soviet troops in Mecklenburg. They have still not been allowed to return to their home and have been refused restitution.

**(19) Waltraud Schwietz**

25. On 9 July 1947, the applicant's father and his family were forced to leave their 27.14 hectare farm in Lokau (at present Tłokowo). The applicant has still not been allowed to return to her home area, and has been refused restitution.

**(20) Axel von der Lancken**

26. The applicant submits that his family were among those Germans who had not been deported by the Soviets but were expelled by the Poles from areas east of the Oder on 27 June 1945. They were allowed to take only bare essentials with them. The applicant's uncle (later declared dead on

31 December 1945) was not in Stolzenfelde (at present Stołeczna) at the time, and his wife had died there on 20 February 1945. They did not experience the expulsion – unlike the applicant and his surviving relatives, who have so far been refused rehabilitation and restitution.

**(21) Klaus Kohsow**

27. The applicant's great-aunt and her family survived the heavy air raid on Swinemünde (at present Świnoujście), which took place on 12 March 1945, and were also left unharmed when the Red Army arrived on 5 May 1945. On 6 October 1945 Poland took over Swinemünde and Polish civilians started to attack and rob Germans. In April 1946 the Polish militia ordered the applicant and his mother to leave, taking only the barest personal essentials with them. The applicant's great-aunt and grandmother were at first unwilling to leave, but the threat of violence left them no choice and they eventually reached Stralsund in summer 1947. The applicant and his mother had already fled to Stralsund in April 1946.

All members of his family have consistently been refused rehabilitation and restitution.

**(22) Marta-Edith Hauptmann**

28. On 22 October 1944 the applicant and her parents fled their home village Moschenen (at present Możne) in the Treuburg District (at present the Olecko District). They reached the Sensburg (at present Mrągowo) District in East Prussia, but could get no further, since all the roads were blocked by refugees. They decided to return to the lodgings they had found in the Sensburg district, where they saw German civilians murdered when the Red Army arrived. One of the victims was the applicant's father, who was shot in early February 1945.

In June 1945, the applicant and her mother set off for their home village of Moschenen, to see if their farm was still there, but the Poles who were already in possession of it immediately reported their arrival to the Soviet authorities in Treuburg. Threatened with shooting and unable to reclaim their farm, their only choice was again to flee.

The family have been refused rehabilitation and restitution.

**(23) Felix Hoppe**

29. On 29 January 1945 the applicant and his parents fled their home in Heilsberg (at present Lidzbark Warmiński), escaping the advancing Red Army, first to Heiligenbeil (at present Mamanowo) and then, at the beginning of February 1945, to Danzig. When the Red Army entered on 27 or 28 March 1945 all refugees were ordered back to their homes. At the end of May 1945, the family set out on foot, with a handcart, for their home in Heilsberg. The parents' houses were still occupied by Soviet troops and the refugees were housed by relatives. At the end of July 1945 they were

expelled from Poland, and taken by goods train via Bischoffsstein (at present Bisztynek) to Berlin, losing various belongings to thieves on the way. They eventually arrived at Beckum in Westphalia on 1 February 1946.

The applicant, like his deceased relatives, has been refused rehabilitation and restitution.

## 2. Preußische Treuhand GmbH & Co. KG a.A.

30. Preußische Treuhand was founded in 2000 as a self-help organisation of “displaced persons from private German properties in the expulsion territories”. It seeks to secure and execute the restitution of the confiscated properties of Germans expelled from territories which after the Second World War became parts of various eastern European States, including Poland. Preußische Treuhand proclaims that it represents and promotes the ownership rights of single individuals and asserts them legally and commercially.<sup>1</sup>

## D. Relevant international and domestic law

### 1. *International law instruments*

#### (a) **The Yalta Conference**

31. The Yalta Conference, which was held by the Allied leaders, Churchill, Roosevelt and Stalin, from 4 to 11 February 1945, was devoted to the final strategy of the Second World War and the proposed future occupation of Germany. It was agreed that the new border between Poland and the Soviet Union would be drawn along the Curzon line, which meant that part of Poland's eastern border was to be fixed along the Bug River, whose central course formed part of that line, and that the Polish eastern provinces (at present, parts of Belarus, Lithuania and Ukraine) were to be annexed to the Soviet Union (see also paragraph 3 above). Poland was to be granted territorial compensation in the west. Stalin proposed the Oder-Neisse line as a new Polish-German border but the matter was eventually left for decision at the further conference, which was held in Potsdam.

#### (b) **The Potsdam Agreement of 2 August 1945**

32. The Potsdam Agreement, an agreement on policy for the occupation and reconstruction of Germany after the Second World War and the German surrender of 8 May 1945, adopted by the Three Heads of Government of the United States (USA), the United Kingdom (UK) and the Union of Soviet Socialist Republics (USSR) (“the Three Powers”), set out, among other things, the principles governing war reparations from Germany (Chapter III:

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1. The description is based on information provided by the applicant company on its own website (<http://www.preussische-treuhand.org>).

“Reparations from Germany”), the delimitation of the border with Poland (Chapter VIII B: “Western frontier of Poland”) and the repatriation of German nationals to Germany (Chapter XII: “Orderly transfer of German population”).

The provisions of the chapter “Reparations from Germany” read, in so far as relevant, as follows:

“1. Reparation claims of the USSR shall be met by removals from the zone of Germany occupied by the USSR and from appropriate external German assets.

2. The USSR undertakes to settle the reparation claims of Poland from its own share of reparations.”

The sub-chapter “Western frontier of Poland” reads, in so far as relevant, as follows:

“The three heads of Government agree that, pending the final determination of Poland's western frontier, the former German territories east of a line running from the Baltic Sea immediately west of Swinemünde, and thence along the Oder River to the confluence of the Western Neisse River and along the Western Neisse to the Czechoslovak frontier, including that portion of East Prussia not placed under the administration of the Union of Soviet Socialist Republics in accordance with the understanding reached at this conference and including the area of the former Free City of Danzig, shall be under the administration of the Polish State and for such purposes should not be considered as part of the Soviet zone of occupation in Germany.”

The chapter “Orderly transfer of German populations” reads, in so far as relevant, as follows:

“The Three Governments, having considered the question in all its aspects, recognise that the transfer to Germany of German populations, or elements thereof, remaining in Poland, Czechoslovakia and Hungary, will have to be undertaken. They agree that any transfers that take place should be effected in an orderly and humane manner.

Since the influx of a large number of Germans into Germany would increase the burden already resting on the occupying authorities, they consider that the Control Council in Germany should in the first instance examine the problem, with special regard to the question of the equitable distribution of these Germans among the several zones of occupation. They are accordingly instructing their respective representatives on the Control Council to report to their Governments as soon as possible the extent to which such persons have already entered Germany from Poland, Czechoslovakia and Hungary, to submit an estimate of the time and rate at which further transfers could be carried out having regard to the present situation in Germany.

The Czechoslovak Government, the Polish Provisional Government and the Control Council in Hungary are at the same time being informed of the above and are being requested meanwhile to suspend further expulsions pending an examination by the Governments concerned of the report from their representatives on the Control Council.”

**(c) War reparations for Poland**

33. The issue of war reparations for Poland, which in accordance with the Potsdam Agreement were to be settled by the Soviet Union from its share (see paragraph 32 above), was resolved by a bilateral treaty between the USSR and Poland, namely the Agreement of 16 August 1945 between the Polish Provisional Government of National Unity and the government of the USSR on compensation for financial losses sustained during the German occupation (*umowa między Tymczasowym Rządem Jedności Narodowej RP a Rządem ZSRR o wynagrodzeniu szkód finansowych wyrządzonych przez okupację niemiecką*). Under the terms of the agreement, the USSR relinquished to Poland all its claims to German assets located on Polish territory, including the portion of German territory east of the Oder-Neisse line that was to be assigned to Poland. It was assumed that this treaty constituted an instrument for the implementation of the Potsdam Agreement and a basis for Poland's takeover of German property located in Poland within the borders as fixed by that Agreement.

**(d) The border delimitation treaties between Poland and the former GDR**

*(i) The 1950 Treaty of Zgorzelec*

34. The so-called “Treaty of Zgorzelec”, that is, the Agreement concerning the demarcation of the established and the existing Polish-German State frontier, was signed by the heads of government of the Polish People's Republic and the German Democratic Republic (“the former GDR”) in Zgorzelec (in German, Görlitz) on 6 July 1950. It recognised and acknowledged the Oder-Neisse line as referred to in the Potsdam Agreement as the border between Poland and the former GDR. The treaty, although considered valid and binding by the Contracting States, was not accepted by the authorities of the former Federal Republic of Germany (“the former FRG”).

*(ii) The 1989 Treaty on the delimitation of the sea area*

35. The Treaty between the German Democratic Republic and the Polish People's Republic on the Delimitation of the Sea Area in the Oder Bay, concluded on 22 May 1989, was a subsequent instrument aimed at the implementation of the provisions of the Treaty of Zgorzelec concerning the Polish-German state border. It concerned the delimitation of the territorial sea, the continental shelf and the fishery zones of both States.

**(e) The 1970 Treaty of Warsaw between Poland and the former FRG**

36. The Agreement between the Polish People's Republic and the Federal Republic of Germany concerning the basis for normalisation of their mutual relations, also called the Treaty of Warsaw (in German, *Warschauer Vertrag*), was an agreement concluded by the former FRG and Poland on

7 December 1970. It was ratified by the FRG's Parliament (*Bundestag*) on 17 May 1972. Under the terms of that Treaty, the parties committed themselves to non-violence, affirming that any disputes between them were to be resolved by peaceful means, that they would refrain from the use, or the threat, of force and that they would take steps aimed at full normalisation and further development of their mutual relations.

Article 1 of the Treaty read:

“(1) The Federal Republic of Germany and Polish People's Republic state in mutual agreement that the existing boundary line, the course of which is laid down in Chapter IX of the decisions of the Potsdam Conference of 2 August 1945 as running from the Baltic Sea immediately west of Swinemünde, and thence along the Oder River to the confluence of the Western Neisse River and along the Western Neisse to the Czechoslovak frontier, shall constitute the western State frontier of the Polish People's Republic.

(2) They reaffirm the inviolability of their existing frontiers now and in the future and undertake to respect each other's territorial integrity without restriction.

(3) They declare that they have no territorial claims whatsoever against each other and that they will not assert such claims in the future.”

**(f) Treaty of 14 November 1990 between the Federal Republic of Germany and the Republic of Poland on the confirmation of the frontier between them**

37. After German reunification by virtue of the Unification Treaty (*Einigungsvertrag*) of 31 August 1990, the frontier between Poland and Germany, as established under the Potsdam Agreement and endorsed by further treaties with former separate German States, was confirmed by the Treaty of 14 November 1990 in the following way:

**Article 1**

“The Contracting Parties reaffirm the frontier between them, whose course is defined in the Agreement between the Polish Republic and the German Democratic Republic concerning the demarcation of the established and existing Polish-German State frontier of 6 July 1950 and agreements concluded with a view to implementing and supplementing the Agreement (Instrument confirming the demarcation of the State frontier between Poland and Germany of 27 January 1951; Agreement between the Polish People's Republic and the German Democratic Republic regarding the delimitation of the sea areas in the Oder Bay of 22 May 1989, as well as the Agreement between the Polish People's Republic and the Federal Republic of Germany concerning the basis for normalisation of their mutual relations of 7 December 1970).”

**Article 2**

“The Contracting Parties declare that the frontier between them is inviolable now and in future and mutually pledge to respect unconditionally their sovereignty and territorial integrity.”

### Article 3

“The Contracting Parties declare that they have no territorial claims against each other and they shall not put forward such claims in future.”

#### 2. *Polish law*

##### (a) **The 1945 Act**

38. Under section 1 of the 1945 Act, any movable or immovable property which in connection with the war that began on 1 September 1939 was not in the possession of its owners or their legal heirs or representatives was considered abandoned property. Section 2 stated that any movable or immovable property which had been owned or possessed by the German State and on the date of the entry into force of the 1945 Act had not yet been taken over by the Polish authorities, as well as property of German citizens or persons who had defected, was considered “derelict property” for the purposes of that Act. Under section 5 of the 1945 Act, all abandoned or derelict property was placed under State administration. In contrast to German – “derelict” – property, abandoned property could be repossessed by the owners or their close relatives on application.

##### (b) **The March 1946 Decree**

39. The March 1946 Decree replaced the 1945 Act. It entered into force on 19 April 1946 and was repealed on 1 August 1985.

As regards the two types of property referred to therein, “abandoned” covered mostly property owned by Jews in Poland, possession of which they had lost in consequence of the war and the Holocaust, whereas “post-German” covered property owned by the German Reich and German natural and legal persons.

“Abandoned property” was defined by section 1 of the March 1946 Decree. This provision read, in so far as relevant, as follows:

“1(1). Any property (movable or immovable) of persons who in connection with the war that began on 1 September 1939 lost and did not subsequently recover possession of it shall be considered abandoned property within the meaning of this Decree.”

Under sections 15 et seq., owners of abandoned property could apply for, and obtain, its restoration. The deadline for making such applications was set at 31 December 1948. The State acquired ownership of such property by prescription within five years (as regards movables) and ten years (as regards immovable property), which started running “at the end of the calendar year in which the war ended”.

Pursuant to section 2, “post-German” property was to be taken over by the State and neither compensation nor restoration procedures applied. Section 2 read, in so far as relevant, as follows:

“2(1). By virtue of the law, any of the following kinds of property shall, in its entirety, be taken over by the State Treasury:

- (a) belonging to the German Reich and the former Free City of Gdańsk;
- (b) belonging to citizens of the German Reich and the former Free City of Gdańsk;
- (c) belonging to German and Gdańsk legal persons, except public-law legal persons;
- (d) belonging to companies controlled by German or Gdańsk citizens or by the German or Gdańsk administration;
- (e) belonging to persons who have defected.

2(2) The preceding provision shall not apply to the necessary personal items belonging to the persons referred to in subsections (a) and (b).”

**(c) The September 1946 Decree**

40. The September 1946 Decree entered into force on 14 October 1946 and, although amended on several occasions, has not yet been repealed.

Pursuant to section 1, all agricultural and forest land (the latter if its surface exceeded 25 hectares), except for land already owned by natural persons, was designated for securing a pool of property for Polish citizens who moved there within the framework of the “settlement action” carried out by the authorities. The action concerned mostly persons resettled from the former eastern provinces of Poland beyond the Bug River, taken over by the Soviet Union (see paragraph 3 above).

**(d) The November 1946 Decree**

41. This was the final decree on the expropriation of property of German persons. Its purpose was to secure the definite takeover of property which might not have been covered by the previous expropriation laws.

## COMPLAINTS

42. The applicant company and the individual applicants in essence alleged a breach of Article 1 of Protocol No. 1 to the Convention. They relied on numerous arguments, the thrust of which can be summarised as follows.

The applicants first submitted that after 19 October 1944, the date on which the Red Army had crossed the Reich's frontier, they or their predecessors in title had been collectively and non-judicially punished by the Polish authorities, without being convicted by a court, and expelled from their homeland, which made them victims of ethnic cleansing – if not indeed genocide – which had already at that time been proscribed as a crime against humanity.



In their opinion, in order to determine Poland's responsibility for the alleged violation of Article 1 of Protocol No. 1 with respect to the individual applicants' or their predecessors' possessions in Poland, the Court should take into account the principles of State responsibility under international law.

Relying on the *Loizidou v. Turkey* judgment (*Loizidou v. Turkey* (merits), 18 December 1996, *Reports of Judgments and Decisions* 1996-VI), the applicants stressed that the decisive point was not whether the action complained of was taken by a State recognised by international law or merely a regime which was illegitimate under international law but whether the State action, at the time it was taken, violated mandatory rules of international law. The expulsion and seizure of the property of the individuals concerned, accompanied by the above-mentioned ethnic cleansing, constituted a serious violation of mandatory rules of international law – a “composite act” as defined by Article 15 of the International Law Commission's Articles on Responsibility of States for Internationally Wrongful Acts (“the ILC Articles”).<sup>2</sup> Since crimes against humanity and their consequences were not subject to limitation, the actions in question had created a “continuing situation”.

In the applicants' submission, Poland had violated mandatory rules of international law as soon as it had started to expel Reich and ethnic Germans in order to exclude them from its peacetime social system. In accordance with Article 53 of the Vienna Convention on the Law of Treaties, this constituted an offence engaging Poland's responsibility within the meaning of Article 12 of the ILC Articles.<sup>3</sup> In consequence, Poland was not allowed to perpetuate the consequences of these measures in respect of property taken by it but, pursuant to Article 35 of the ILC Articles, had to make restitution unless this was “materially impossible”.

The applicants contended that a situation created by a crime against humanity could not be considered lawful. The mass deportations of Germans, accompanied by acts of violence which had served as a means of seizing their property, had constituted collective punishment, in so far as

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2. The 2001 Draft Articles on Responsibility of States for Internationally Wrongful Acts, reproduced in *Yearbook of the International Law Commission, 2001*, vol. II (Part Two). Article 15 (Breach consisting of a composite act) reads:

“1. *The breach of an international obligation by the State through series of actions or omissions defined in aggregate as wrongful occurs when the action or omission occurs which, taken with the other actions or omissions, is sufficient to constitute the wrongful act.*

2. *In such a case, the breach extends over the entire period starting with the first of the actions or omissions of the series and lasts for as long as these actions or omissions are repeated and remain not in conformity with the international obligation.*”

3. Article 12 (Existence of a breach of an international obligation) reads: “*There is a breach of an international obligation by a State when an act of that State is not in conformity with what is required of it by that obligation, regardless of its origin or character.*”

they had been imposed indiscriminately on all Germans. If property had been taken without compensation from a specific group and that action had been directly and inherently connected with genocide or crimes against humanity committed against that group, the seizure of their property was unlawful in the same way as crimes against humanity in international law.

Consequently, the confiscation of German-owned property in Germany's former eastern territories by Poland had violated international law which had applied at the material time and still applied today. It had had and still had no legal basis and had caused a continuing breach of the property rights protected by Article 1 of Protocol No. 1.

43. Furthermore, the applicants complained that although the human rights of the individuals concerned had been seriously violated by their deportation, physical and mental ill-treatment and, not infrequently, internment and death, the Polish Parliament had refused to pass a rehabilitation law rescinding the confiscation of their property and a restitution law to correct the effects of this confiscation in the sphere of their ownership rights.

44. The applicants concluded by stating that their complaints based on the foregoing grounds were admissible regardless of the fact that none of the individual applicants had made any attempt to secure rehabilitation and restitution in the Polish courts. There was no legal basis for such claims in Polish law and the applicants could not be expected to have recourse to costly proceedings which would obviously lack any prospects of success. Lastly, even though the expulsion and confiscation complained of had taken place before the entry into force of the Convention and Protocol No. 1 in respect of Poland, the above-mentioned ethnic cleansing measures applied by the Polish authorities accompanied by confiscations of property constituted serious violations of international law, which had not been instantaneous acts but had created a continuing situation.

## THE LAW

45. The applicants complained that on various dates after 19 October 1944, the date on which the Red Army crossed the Reich's frontier, they or their predecessors had been forced by the Polish authorities to leave their homes and property, which were now situated within Poland's borders, in circumstances which amounted to ethnic cleansing – if not genocide – and also to collective extra-judicial punishment, inhuman treatment and, in consequence, a crime against humanity (see paragraphs 42 and 44 above). This made the actions complained of inherently unlawful and produced a continuing violation of Article 1 of Protocol No. 1 to the Convention, which reads:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

46. The applicants also complained that the Polish State had not enacted any laws enabling the victims of the above unlawful measures to seek rehabilitation and obtain financial reparation for the expropriated property (see paragraph 43 above).

### **A. The Court's competence to deal with the matter**

47. The Court notes at the outset that the applicant company cannot itself claim to be a victim of the violations alleged. The individual members of that company can assert victim status. It further notes that the company is acting in a representative capacity on their behalf in the Convention proceedings (see also paragraph 1 above).

48. Pursuant to Article 35 § 3 of the Convention, which sets out the admissibility criteria, the Court, in examining any individual application submitted under Article 34, must first determine whether those criteria have been fulfilled. Compatibility of an application with the Convention and its Protocols is seen as the primary requirement listed in the order established by that provision – a requirement *sine qua non* for the Court's competence to deal with the matter.

Article 35 § 3 reads as follows:

“3. The Court shall declare inadmissible any individual application submitted under Article 34 which it considers incompatible with the provisions of the Convention or the Protocols thereto, manifestly ill-founded, or an abuse of the right of application.”

### **B. Compatibility *ratione personae***

49. Most of the individual applicants maintained that either they or their close relatives had been forced to leave their property, which is at present situated within the borders of the Polish State, in circumstances that had amounted to ethnic cleansing and were similar, if not tantamount, to genocide (see paragraphs 40-44 above).

50. These complaints fall within the scope of Article 2 (right to life) and Article 3 (prohibition of torture) of the Convention. The Court must first determine whether responsibility for the events complained of can be attributed to the Polish State.

51. First of all, it is to be noted that only some of the individual applicants maintained that their families had been expelled from their homes by the Polish authorities at various dates in 1945 and 1946 (see paragraphs 13, 15-17, 19, 21 and 25-29 above) or, as Ms Ziebolt submitted, had their property confiscated at a later stage by the Polish State (see paragraph 7 above). The families of the remaining applicants had abandoned their property to escape the approaching Red Army in the period between January and March 1945 (see paragraphs 8-12, 14, 18 and 22-24 above). One of the applicants, Mr Nikowski, submitted that at the material time his parents had remained in Königsberg, at present Kaliningrad in Russia, and that he had never learnt what had happened to them after the city had surrendered to the Red Army on 9 April 1945 (see paragraphs 3 and 20 above).

52. The Court notes, as a matter of historical fact, that at various dates in January and February 1945 the German Nazi authorities, in connection with the Soviet offensive, ordered the evacuation of German civilians, who – like the applicants concerned or their relatives – had to abandon their homes in Eastern Pomerania, East Brandenburg, Silesia, Greater Poland and East Prussia from January to March and even April 1945 and head for the western provinces of the Reich (see paragraphs 2-3 above). Indeed, those applicants themselves submitted that they or their families had fled because of, and in fear of, the victorious Red Army's imminent approach (see paragraphs 8-12, 14, 18 and 22-24 above). It cannot therefore be said that the Polish State, which at that time had no *de jure* or *de facto* control over those territories – which were still German, before being gradually taken over by the Soviet troops – and was entrusted with the administration of the regions east of the Oder-Neisse line only under the provisions of the Potsdam Agreement of 2 August 1945 (see paragraph 32 above), can be held responsible for the alleged acts of violence and expulsion referred to by the above-mentioned applicants. Similarly, the circumstances surrounding the disappearance of Mr Nikowski's family and loss of property in what was Königsberg in East Prussia and is now Kaliningrad in Russia cannot be attributed to the Polish State since this territory was not – either at the material time or at any time afterwards – under Polish administration but was conquered by, and then annexed to, the former Soviet Union and now belongs to the Russian Federation (see paragraph 4 above).

53. Accordingly, in respect of the above-mentioned applicants, the application is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 and must be rejected pursuant to Article 35 § 4.

### C. Compatibility *ratione temporis*

54. Having regard to its above finding as to the scope of the Polish State's responsibility *ratione personae* under the Convention, the Court will determine whether, in so far as the application can be regarded as directed against Poland, the events complained of, in particular the alleged deprivation of property, fall within its jurisdiction *ratione temporis*.

#### 1. General principles deriving from the Court's case-law

55. The Court's jurisdiction *ratione temporis* covers only the period after the date of ratification of the Convention or its Protocols by the respondent State. From the ratification date onwards, all the State's alleged acts and omissions must conform to the Convention or its Protocols and subsequent facts fall within the Court's jurisdiction even where they are merely extensions of an already existing situation (see, for example, *Broniowski v. Poland* [GC] (dec.), no. 31443/96, §§ 74 et seq., ECHR 2002-X, with further references).

Accordingly, the Court is competent to examine the facts of the present case for their compatibility with the Convention only in so far as they occurred after 10 October 1994, the date of ratification of Protocol No. 1 by Poland. It may, however, have regard to the facts prior to ratification inasmuch as they could be considered to have created a situation extending beyond that date or may be relevant for the understanding of facts occurring after that date (*ibid.*).

56. A continuing violation of the Convention – a situation which originates before the entry into force of the Convention but continues after this date – has effects on the temporal limitations of the Court's jurisdiction. In particular, such situations as a continuing and total denial of access to and control, use and enjoyment of property as well as any compensation for taking property may fall within this notion, even if they stemmed from events or laws that occurred before the ratification of the Convention or the Protocol (see, *inter alia*, *Loizidou v. Turkey* (merits and just satisfaction), 18 December 1996, §§ 41 et seq., *Reports* 1996-VI; and *Cyprus v. Turkey* [GC], no. 25781/94, §§ 187-189, ECHR 2001-IV).

57. However, as the Court has consistently held, in particular in the context of expropriation measures effected in connection with the post-war regulation of ownership relations, the deprivation of ownership or another right *in rem* is in principle an instantaneous act and does not produce a continuing situation of “deprivation of a right” (see, among many other authorities, *Malhous v. the Czech Republic* [GC] (dec.) no. 33071/96, ECHR 2000-XII; *Smoleanu v. Romania*, no. 30324/96, § 46, 3 December 2002; *Bergauer and Others v. the Czech Republic* (dec.), no. 17120/04, 13 December 2005; and *Von Maltzan and Others v. Germany* [GC] (dec.), nos. 71916/01, 71917/01 and 10260/02, § 74, ECHR 2005-V).

2. *Application of the above principles in the present case*

58. The applicants acknowledged that the expropriation complained of had taken place before the Convention and Protocol No. 1 had entered into force in respect of Poland.

However, they submitted that the Polish authorities, in connection with the confiscation of their property, had used ethnic-cleansing measures which constituted serious violations of international law and which had been and still remained inherently unlawful. They were not instantaneous acts but had created a continuing situation (see paragraphs 42 and 44 above).

59. As already noted above, the applicants or their predecessors lost possession of their property currently situated in Poland in different circumstances and at various dates starting in January 1945 (see paragraphs 51-52 above). Although the applicants have supplied no information as to whether – and if so, on which dates – any acts of formal expropriation resulting in the transfer of ownership of their property to the Polish State were carried out by the authorities, the Court, on the basis of the material before it, finds that from 6 May 1945 to 15 November 1946 Poland enacted a series of laws designed to take over German State and private property in the territories east of the Oder-Neisse line. Initially, under the 1945 Act, German property was placed under the Polish State's administration but later, pursuant to the 1946 Decrees, the property of all German persons, including the individual applicants, was expropriated (see paragraphs 5 and 38-41 above). These laws were enacted following the Yalta Conference, the Potsdam Agreement and the Three Powers' undertakings in respect of war reparations for Poland, which, in accordance with the relevant international instruments, were satisfied from the previously German-owned assets located in Polish territory, including the regions east of the Oder-Neisse line (see paragraphs 31-33 above).

It is therefore evident that in the present case the acts of deprivation of ownership attributable to the Polish State and effected under laws enacted by it took place mostly in 1946 and, as regards Ms Ziebolt, who has not specified any date on which her parents' property was expropriated, on an unspecified date before the March 1946 Decree was repealed on 1 August 1985 (see paragraph 7 and 39 above).

60. The applicants did not allege that the Polish State was responsible for any further interference with the individual applicants' rights under Protocol No. 1 at any time afterwards. However, they compared their situation to the one obtaining in the *Loizidou* case (cited above), stating that the confiscation of German-owned property in Germany's former eastern territories by Poland violated international law and had had and still had no legal basis, thereby causing a continuing breach of property rights (see paragraphs 42 and 44 above).

61. The Court does not subscribe to this opinion. First of all, the applicants' complaint is based on specific events, namely individual acts of

violence, expulsion, dispossession and seizure or confiscation of property, which in part cannot be attributed to the Polish State (see paragraphs 49-53 above) and which, if assessed as a whole, cannot be regarded as anything more than instantaneous acts (see paragraph 57 above, and also *Bergauer and Others*, cited above, and *Von Maltzan and Others*, cited above, §§ 80 et seq.). Secondly, in the *Loizidou* case the inherent illegitimacy of measures stripping the applicant of her ownership rights derived from the fact that the expropriation laws in question could not be attributed legal validity for the purposes of the Convention as they emanated from an entity which was not recognised in international law as a State and whose annexation and administration of the territory concerned had no basis in international law. As a result, it could not be said that formal acts of expropriation were carried out (see *Loizidou*, cited above, §§ 41 et seq.).

In the present case the situation is different. There can be no doubt that the former German territories on which the individual applicants had their property were lawfully entrusted to the Polish State under the provisions of the Potsdam Agreement (see paragraph 32 above) and that, subsequently, the Polish-German border as referred to in that Agreement was confirmed by a sequence of bilateral treaties concluded between Poland and two former separate German States and, finally, between Poland and the reunified Federal Republic of Germany (see paragraphs 34-37 above).

In consequence, the applicants' arguments as to the existence of international-law violations entailing the "inherent unlawfulness" of the expropriation measures adopted by the Polish authorities and the continuing effects produced by them up to the present date must be rejected.

What is more, since the confiscation of the applicants' property, the Polish State has not enacted any further pre- or post-ratification restitution or compensation laws providing for restoration of German property expropriated under the previous regime that might have generated a new property right eligible for protection under Protocol No. 1 (see, by contrast, *Broniowski* (merits), cited above, §§ 122-125, and *Von Maltzan and Others*, cited above, § 74 *in fine*).

In the circumstances, there is no continuing violation of the Convention which could be imputable to Poland and which could have consequences for the Court's temporal jurisdiction as defined above (see paragraphs 55-57 above).

62. It thus follows that this part of the application is incompatible *ratione temporis* with the provisions of the Convention and the Protocols thereto within the meaning of Article 35 § 3 and must be rejected pursuant to Article 35 § 4.

#### **D. Compatibility *ratione materiae***

63. It remains for the Court to examine the applicant's complaint about Poland's failure to enact rehabilitation or restitution laws that would put right the injustices suffered by its individual members and their families and compensate them for the loss of their property (see paragraph 43 above).

64. The Court would reiterate that Article 1 of Protocol No. 1 cannot be interpreted as imposing any general obligation on the Contracting States to return property which was transferred to them before they ratified the Convention. Nor does this provision impose any restrictions on the Contracting States' freedom to determine the scope of property restitution or rehabilitation laws. The States are free to choose the conditions under which they agree to restore property rights of former owners and the Convention imposes no specific obligation on them to provide redress for wrongs or damage caused prior to their ratification of the Convention (see *Von Maltzan and Others*, cited above § 74, and *Kopecký v. Slovakia* [GC], no. 44912/98, §§ 35 and 37-38, ECHR 2004-IX).

Accordingly, the Polish State has no duty under Article 1 of Protocol No. 1 to enact laws providing for rehabilitation, restitution of confiscated property or compensation for property lost by the individual applicants.

65. It follows that the remainder of the application is incompatible *ratione materiae* with the provisions of the Convention and the Protocols thereto within the meaning of Article 35 § 3 and must be rejected pursuant to Article 35 § 4.

For these reasons, the Court unanimously

*Declares* the application inadmissible.

Lawrence Early  
Registrar

Nicolas Bratza  
President



## ANNEX

### List of individual applicants

1. Irene Ziebold, born in 1926;
2. Anneliese Dittmer, born in 1925;
3. Horst Labesius, born in 1920;
4. Ernst Bohry, born in 1944;
5. Edith Bleeker-Kohlsaas, born in 1936;
6. Karl-Joachim Stabler, born in 1934;
7. Egon Dittmer, born in 1927;
8. Daniel Jung, born in 1972;
9. Christine Heinrich, born in 1939;
10. Walter Durschlag, born in 1928;
11. Otto-Theodor Koerner, born in 1929;
12. Detlef Wunderlich, born in 1942;
13. Fritz Leuschner, born in 1934;
14. Johannes Nikowski, born in 1930;
15. Monika Schulze, born in 1965;
16. Volker von Zitzewitz, born in 1934;
17. Ernst Wienß, born in 1918;
18. Dietlinde Krawitz, born in 1937;
19. Waltraud Schwietz, born in 1943;
20. Axel von der Lancken, born in 1932;
21. Klaus Kohsow, born in 1939;
22. Marta-Edith Hauptmann, born in 1931;
23. Felix Hoppe, born in 1931.