

By Article 7 of an Agreement between the Government of Israel and the Government of the Federal Republic of Germany, signed at Luxemburg on 10 September 1952,<sup>1</sup> concerning compensation for German secular property in Israel (the “Property Agreement”) it was agreed *inter alia* that

Should the negotiations not lead to agreement within nine months from their commencement, and after examination of all documentary proof submitted, the Contracting Parties will agree on a mediator. In the event of the Contracting Parties failing to reach agreement on the person of the mediator, they shall agree to request the Sovereign of either Denmark, Norway, or Sweden to nominate such mediator. The Contracting Parties undertake to be bound by the proposals of the mediator.

That Agreement entered into force on 10 September 1952. The negotiations contemplated by it commenced in 1953 and were continued until 1959, when, no agreement having been reached, it was decided to refer the matter to a mediator in accordance with Article 7 of the Property Agreement.

On 24 June 1959, the delegations of the two parties agreed upon the procedure for the designation of the mediator and upon certain basic principles which they wished to submit to the mediator for inclusion in the rules of procedure which he was to issue. After Professor Max Sørensen of the University of Aarhus (Denmark) had indicated his willingness to accept the position of mediator, the final text of the Mediation Agreement was drawn up and signed on 29 October 1959. By Article 14 of the Mediation Agreement, the Contracting Parties requested the Mediator to issue rules of procedure, if possible within a period of two months after the signing of the Special Agreement and after consultation with the Parties. It was agreed that the rules of procedure would be binding on both Parties. By Article 7 of the Mediation Agreement:

- (1) Within five months from the date of issue of the rules of procedure by the Mediator as provided for in Article 14 hereafter, the Government of the Federal Republic of Germany shall file with the Mediator a Memorial stating their views on (a) the relevant questions of law set out in Article 3, paragraph (1), and (b) the value of the property and the amount of compensation as set out in Article 2, paragraph (1), and including the facts, grounds, and submissions in respect of the claim, and communicate a copy thereof to the Government of the State of Israel. Within five months from the date of receipt of the copy of the Memorial the Government of the State of Israel shall file a Counter-Memorial and communicate a copy thereof to the Government of the Federal Republic of Germany.
- (2) Within three months from the date of receipt of the Counter-Memorial, the Government of the Federal Republic of Germany may file with the Mediator a Reply, and shall communicate a copy thereof to the Government

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<sup>1</sup> United Nations, *Treaty Series*, vol. 345, p. 92.

of the State of Israel. In this case the Government of the State of Israel may within three months from the date of receipt of the copy of the Reply file a Rejoinder and shall communicate a copy thereof to the Government of the Federal Republic of Germany.

- (3) Any further exchange of written statements has to be effected in the order and within the periods provided for in paragraph (2) of this Article.
- (4) The Mediator may, after hearing the Contracting Parties, extend any period of time provided for in this Article.
- (5) In case the Mediator intends to consider in his proposal on the questions of law (Article 3) questions other than those submitted by both Parties or either of them, he shall inform both Parties accordingly; both Parties may submit to the Mediator simultaneously and within such period of time as the Mediator determines written statements on such questions.

Article 8 of the Mediation Agreement provided for the exchange of further written statements of a consequential character and Article 9 provided for the arrangement of oral proceedings, as and when the Mediator deemed them fit. By Article 10, both Parties undertook to place before the Mediator all evidence considered necessary by him.

In accordance with the foregoing, the two written pleadings by each party were duly filed and exchanged. After the case had become ready for hearing, the Mediator fixed 21 May 1962 as the date for the commencement of the hearings, which were to take place in Geneva (with the consent of the competent Swiss Authorities).

Between the closure of the written pleadings and the date fixed for the hearings, both parties joined in requesting the Mediator to make a further effort to reach a settlement of the case, before any additional formal proceedings were commenced. Accordingly, on 21 May 1962, the date originally fixed for the hearings, the Mediator made a reconciliation proposal in the form of "Suggested Terms of a Fair Settlement". This proposal, after further negotiation, was accepted by both Parties, which, on 1 June 1962 at Geneva, signed a formal Agreement "regarding German Secular Property in Israel". This Agreement entered into force on 13 August 1962, after ratification.<sup>1</sup> By Article V of that Agreement, "This Agreement shall be communicated to the Mediator . . . with the request of both Parties that the Mediation proceedings be formally terminated."

Accordingly, on 3 July 1962, the Mediator issued the following order:

Having regard to the Special Agreement of 29 October 1959 between the Government of the State of Israel and the Government of the Federal Republic of Germany concerning the settlement of the question of compensation for certain secular property in Israel;

Having regard to the communication received from the agents of the parties on 1st June 1962, according to which representatives of the two governments, on the same date, have signed an agreement by which the matter has been settled;

The Mediator appointed by the Special Agreement mentioned above decides to terminate proceedings under the said Special Agreement.

Done in duplicate in Aarhus on 3rd July 1962.

Max Sørensen m.p.

<sup>1</sup> United Nations, *Treaty Series*, vol. 448, p. 228.