

BERICHTE UND URKUNDEN

VÖLKERRECHT

Dokumente zu Deutschlands Rechtslage

I. Konferenz der Außenminister der Vereinigten Staaten, Großbritanniens und Frankreichs in Washington vom 6. bis 8. April 1949¹⁾

a) Grundsätze der alliierten Besatzungspolitik nach Errichtung einer deutschen Bundesrepublik²⁾

The three Governments also agreed on and recorded in their minutes the principles according to which their powers and responsibilities will be exercised after the establishment of a German Federal Republic. While the occupying governments will retain supreme authority, it is intended that military government

¹⁾ *Communiqué* über das Ergebnis der Konferenz und ergänzende Erklärung des amerikanischen Außenministers Acheson vom 8. 4. 1949, Dep. of St. Bull., Vol. XX, No. 511, April 17, 1949, S. 499 f.; Memorandum on the Measures Agreed by the United Kingdom, United States and French Foreign Ministers on the Programme for Germany, Washington, 6/8th April, 1949, Presented by the Secretary of State for Foreign Affairs to Parliament by Command of His Majesty, Cmd. 7677 – Germany No. 1 (1949); Principaux documents relatifs au statut de l'Allemagne occidentale, La Documentation Française, No. 1135 vom 21. Mai 1949, S. 12 ff. Außer den hier abgedruckten Übereinkommen wurde auf der Konferenz über folgende Punkte Einigung erzielt:

a) *Besatzungsstatut* (am 12. 5. 1949 von den alliierten Militärbefehlshabern proklamiert und nach seinem Inkrafttreten am 21. 9. 1949 im Amtsblatt der Alliierten Hohen Kommission Nr. 1 vom 23. 9. 1949, S. 13, veröffentlicht);

b) *Verbotene und Beschränkungen unterworfenen Industrien* (am 14. 4. 1949 in Form einer Vereinbarung der alliierten Militärbefehlshaber festgelegt und im Verordnungsblatt der britischen Militärregierung Nr. 35 vom 10. 9. 1949 veröffentlicht);

c) *Demontagen* (vgl. Verlautbarung des amerikanischen Außenministeriums vom 13. 4. 1949, Dep. of St. Bull., Vol. XX, No. 512, April 24, 1949, S. 524–525);

d) *Errichtung einer internationalen Ruhrbehörde* (das diesbezügliche Abkommen wurde am 28. 4. 1949 in London unterzeichnet, Cmd. 7685 – Treaty Series No. 28 [1949]).

²⁾ Verlautbarung des amerikanischen Außenministeriums vom 26. 4. 1949 betreffend *Three Power Responsibilities on Establishment of German Federal Republic*, Dep. of St. Bull., Vol. XX, No. 514, May 8, 1949, S. 590.

will be terminated and that the function of the occupation officials will be mainly supervisory. The German authorities will be free to take administrative or legislative action, and this action will be valid unless it is vetoed by Allied authority. The fields in which the occupation authorities reserve the right to take direct action themselves including the issuance of orders to German federal and local officials, will be restricted to a minimum, and it is expected that, with the exception of security questions, the exercise of direct powers will be of a temporary and self-liquidating nature. After the German Federal Republic has been established, the Economic Cooperation Administration will assume the responsibility for supervising the use of funds made available by the United States Government to the German economy for purposes of relief and recovery. It is envisaged that the German Federal Republic will become a party to the convention for European economic cooperation and will also conclude a bilateral agreement with the Government of the United States. When the German Republic has been established and military government has been brought to an end, the strictly military functions of the occupation authorities will be exercised by a Commander-in-Chief and all other functions by a High Commissioner, who will direct each of the Allied establishments in Germany other than the occupation forces. It is intended that the size of the staffs to be maintained in Germany will be kept to a minimum. A major objective of the three Allied Governments is to bring about the closest integration, on a mutually beneficial basis, of the German people under a democratic federal state within the framework of a European association.

**b) Abkommen über die Drei-Mächte-Kontrolle für die West-Zonen Deutschlands³⁾
vom 8. April 1949**

The Governments of the United Kingdom, France and the United States agree to enter into a trizonal fusion agreement prior to the entry into effect of the Occupation Statute. The representatives of the three occupying Powers will make the necessary arrangements to establish tripartite control machinery for the western zones of Germany, which will become effective at the time of the establishment of a provisional German government. The following provisions agreed by the Governments of the United Kingdom, France and the United States shall form the basis of those arrangements: –

1. An Allied High Commission composed of one High Commissioner of each occupying Power or his representative shall be the supreme Allied agency of control.
2. The nature and extent of controls exercised by the Allied High Commission shall be in harmony with the Occupation Statute and international agreements.
3. In order to permit the German Federal Republic to exercise increased

³⁾ *Agreement on Tripartite Controls for Western Germany*, Dep. of St. Bull., Vol. XX, Nr. 514, May 8, 1949, S. 589 f.; *Agreement as to Tripartite Controls*, Cmd. 7677, S. 8 f. Nach einem besonderen Protokoll betreffend Berlin kamen die drei Außenminister überein, die Bestimmungen dieses Abkommens so weit als möglich auch auf die West-Sektoren Berlins anzuwenden (vgl. La Documentation Française No. 1135, 1949, S. 16).

responsibilities over domestic affairs and to reduce the burden of occupation costs, staff personnel shall be kept to a minimum.

4. In the exercise of the powers reserved to the Occupation Authorities to approve amendments to the Federal Constitution, the decisions of the Allied High Commission shall require unanimous agreement.

5. In cases in which the exercise of, or failure to exercise, the powers reserved under paragraph 2 (g) of the Occupation Statute would increase the need for assistance from United States Government appropriated funds, there shall be a system of weighted voting. Under such system the representatives of the Occupation Authorities will have a voting strength proportionate to the funds made available to Germany by their respective Governments. This provision shall not, however, reduce the present United States predominant voice in Joint Export-Import Agency and Joint Foreign Exchange Agency while these organisations, or any successor organisation to them, continue in existence and are charged with the performance of any of their present functions. No action taken hereunder shall be contrary to any inter-governmental agreement among the signatories or to the principles of non-discrimination.

6. On all other matters action shall be by majority vote.

7. (a) If a majority decision alters or modifies any inter-governmental agreement which relates to any of the subjects listed in paragraph 2 a) and 2 b) of the Occupation Statute, any dissenting High Commissioner may appeal to his Government. This appeal shall serve to suspend the decision pending agreement between the three Governments.

(b) If a High Commissioner considers that a majority decision conflicts with any inter-governmental agreement which relates to any of the subjects in paragraph 2 a) and 2 b) of the Occupation Statute or with the fundamental principles for the conduct of Germany's external relations or with matters essential to the security, prestige, and requirements of the occupying forces, he may appeal to his Government. Such an appeal shall serve to suspend action for 30 days, and thereafter unless two of the Governments indicate that the grounds do not justify further suspension.

(c) If such appeal is from an action of the Allied High Commission either declining to disapprove or deciding to disapprove German legislation, such legislation shall be provisionally disapproved for the duration of the appeal period.

8. A High Commissioner who considers that a decision made by less than unanimous vote involving any other matter reserved by the Occupation Statute is not in conformity with basic tripartite policies regarding Germany or that a Land constitution, or an amendment thereto, violates the Basic Law, may appeal to his Government. An appeal in this case shall serve to suspend action for a period not to exceed 21 days from the date of the decision unless all three Governments agree otherwise. If such appeal is from an action of the Allied High Commission, either declining to disapprove or deciding to disapprove German legislation, such legislation shall be provisionally disapproved for the duration of the appeal period.

9. All powers of the Allied High Commission shall be uniformly exercised in accordance with tripartite policies and directives. To this end in each Land the Allied High Commission shall be represented by a single Land commissioner who shall be solely responsible to it for all tripartite affairs. In each Land the Land commissioner shall be a national of the Allied Power in whose zone the Land is situated. Outside his own zone each High Commissioner will delegate an observer to each of the Land commissioners for purposes of consultation and information. Nothing in this paragraph shall be construed to limit the functions of bodies established pursuant to inter-governmental agreement.

10. To the greatest extent possible, all directives and other instruments of control shall be addressed to the Federal and/or Land authorities.

11. The Trizonal Fusion Agreement will continue in force until altered by agreement among the Governments.

**c) Mitteilung der Außenminister an die Militärbefehlshaber
zum Grundgesetz der Deutschen Bundesrepublik ⁴⁾**

To the Military Governors:

For your guidance the Foreign Ministers of the United States, the United Kingdom and France transmit their views on the Basic Law. It is left to the Military Governors to determine the time they may consider it appropriate to communicate these views to the Parliamentary Council, but the Foreign Ministers wish that they be transmitted before opinion in the Parliamentary Council has crystallised, in order that the views given below may be reflected in the Basic Law:

“(a) The Foreign Ministers are not able to agree at this time that Berlin should be included as a Land in the initial organisation of the German Federal Republic.

“(b) In the financial field any provisions put forward by the Parliamentary Council in the direction of securing financial independence and adequate strength for both the Länder and Federal Governments in operating in their respective fields will receive sympathetic consideration.

“(c) On the questions of Article 36 (Article 95 [c]) they will also give sympathetic consideration to any formula which –

(I) eliminates from the federal powers those matters definitely excluded by the London agreement;

(II) assures to the Länder sufficient powers to enable them to be independent and vigorous governmental bodies;

(III) assures to the Federal Government sufficient powers in the important fields of government to enable them to deal effectively with those fields in which the interests of more than one Land are substantially and necessarily involved.

“(d) Finally, the Foreign Ministers request that the Military Governors indicate to the Parliamentary Council, at an appropriate time, that they are ready to

⁴⁾ *Message to the Military Governors from the Foreign Ministers of the United States, the United Kingdom and France, Cmd. 7677, S. 10.*

contemplate a suggestion for a right of the Federal State to supplement, from its own revenues, appropriations made by the Länder from revenues from their own taxes levied and collected by them, by grants for education, health and welfare purposes, subject in each case to specific approval of the Bundesrat."

d) Übereinkommen betreffend die Volksabstimmung über Württemberg-Baden ⁵⁾

It was agreed that the *status quo* in Württemberg and Baden would be maintained for the time being and that the plebiscite recommended by the German Ministers-President would be postponed in the interest of avoiding any possible delay in the establishment of the German Federal Government.

It was further agreed that the question of the Württemberg-Baden Land boundaries would be re-examined after the establishment of the German Federal Government.

e) Übereinkommen betreffend Kehl ⁶⁾

The French control authorities, with the assistance of the Strasbourg French authorities, will maintain under existing conditions jurisdiction over the Kehl port zone until establishment of the German Federal Government and conclusion of negotiations between the French and German authorities with respect to a joint port administration for Kehl.

It was agreed, on a proposal of the French Government, that the city of Kehl would gradually be returned to German administration. It was foreseen that the French temporarily domiciled in Kehl might remain during a four-year period required for the preparation of additional housing in Strasbourg. Around one-third of the French inhabitants will be able to leave Kehl within several months, and the remainder progressively thereafter as housing becomes available.

The final decision with respect to the Kehl port zone will be made in the peace settlement. If the port authority develops harmoniously, the United States and United Kingdom will be willing at the time of the peace settlement to bring an attitude of goodwill toward the establishment of a permanent joint authority.

2. Gemeinsame Erklärung der Außenminister der Vereinigten Staaten, Großbritanniens und Frankreichs, London, 14. Mai 1950 ¹⁾

1. Following the London agreements of June 1948 and the Washington agreements of April 1949, the United States of America, France and the United Kingdom replaced the military authority and the direct administration of the occupied

⁵⁾ *Agreed Minute on Württemberg-Baden Plebiscite*, Cmd. 7677, S. 11; Dep. of St. Bull., Vol. XX, No. 514, May 8, 1949, S. 590.

⁶⁾ *Agreement regarding Kehl*, Cmd. 7677, S. 11; Dep. of St. Bull., Vol. XX, No. 514, May 8, 1949, S. 590.

¹⁾ Dep. of St. Bull., Vol. XXII, No. 568, May 22, 1950, S. 787 f.

territories in force since 1945 by a civilian regime simply of supervision. By virtue of this regime Germany was able to produce a constitution, proceed to free elections, call a parliament, form a government, and elect a federal president. The Federal Government and the governments of the laender were able to take over the administration and control of internal German affairs.

Furthermore, by the agreement of April 13, 1949, the Allies decided to ease the burden of reparations on Germany. Some months later under the Petersburg protocol an agreement was reached for a final settlement in regard to the delivery of plant by way of reparations.

In the domain of foreign relations the Petersburg protocol made provision for the appointment of German consular and commercial representatives abroad. During the last few months steps have been taken by the Western powers to secure the accession of the Federal Republic to a number of international organizations including the Organization for European Economic Cooperation.

The progress made has been accomplished in large measure thanks to the action and the influence of the three Allied High Commissioners in whom the three Foreign Ministers are happy again to express their full confidence.

2. The Allies are resolved to pursue their aim laid down in the Washington agreement of April 1949, and reaffirmed at Petersburg that Germany shall reenter progressively the community of free peoples of Europe. When that situation has been fully reached she would be liberated from controls to which she is still subject and accorded her sovereignty to the maximum extent compatible with the basis of the occupation regime. This regime is imposed on the Germans and on the Allies by the consequences of the division of Germany and of the international position. Until this situation is modified it must be retained in accordance with the common interests of Germany and of Europe.

The Western powers desire to see the pace of progress toward this end as rapid as possible. Progress will depend upon the degree of confident and frank cooperation displayed by the government and the people of the Federal Republic. In the first place the pace will be determined by the extent to which the Allies can be satisfied that their own security is safeguarded by the development in Germany of a desire for peace and friendly association with themselves. In the second place the pace will be set by the rate at which Germany advances toward a condition in which true democracy governs and the just liberties of the individual are assured. Therefore, the Western powers wish to emphasize most strongly that the natural desire of the German people to secure relaxation of controls and the restoration of the sovereignty of their country depends for its satisfaction only upon the efforts of the German people themselves and of their government. They earnestly trust that the Federal Republic will fulfill in this respect the hopes placed in the wisdom of her people and her leaders. Meanwhile, the High Commissioners in exercising the powers reserved to them will continue to place their main emphasis upon essential elements of security and fundamental democratic issues of real importance.

3. In view of the continued refusal of the Soviet Government to permit the

43 Z. ausl. öff. R. u. VR., Bd. XIII

inhabitants of their zone of occupation to rejoin their fellow countrymen in a democratic and united Germany, it has not been possible, and will not be as long as this Soviet policy persists, to proceed to the conclusion of a treaty of peace with Germany. The Ministers accordingly agreed to set up a study group in London to undertake the necessary preparatory work to enable the occupation statute to be reviewed at the appointed time and to make recommendations for eliminating the major practical inconveniences arising in the countries concerned from the state of war, on the understanding that in the present situation of Europe supreme authority must remain in the hands of the allied powers.

4. While retaining the framework outlined above the Allies intend to give Germany the possibility of developing freely, while at the same time safeguarding the possibility of peaceful reunification of Germany, which remains the ultimate object of their policy. The three Governments reaffirm the offers which were formulated during the meeting of the Council of Foreign Ministers last June, and express the hope that the necessary conditions for the establishment of a government for all Germany may be achieved which would guarantee to all Germans respect for their laws and fundamental liberties and they have agreed upon the conditions which are necessary in their opinion for this purpose.

3. Konferenz der Außenminister der Vereinigten Staaten, Großbritanniens und Frankreichs in New York vom 12. bis 18. September 1950¹⁾

a) Final Communiqué on Conclusions Reached

The Foreign Ministers of France, the United Kingdom, and the United States concluded their scheduled meetings at New York on September 18, after having participated in the meeting of the North Atlantic Treaty Council and having consulted representatives of other governments interested in the problems before them.

As indicated in the interim communiqué issued on September 14, they exchanged views frankly and fully in regard to a wide range of problems of common concern. The Ministers intend, during the opening days of the General Assembly, to continue their exchange of views as occasion may arise. Some of the questions which they discussed will form the subject of United Nations consideration during coming weeks. The Ministers were agreed that the efforts of the United Nations to resist threats to the peace and to achieve peaceful settlements will receive their firmest support.

The Ministers' chief concern during their present meeting was with urgent measures required to safeguard the security of the free world in Europe and in Asia in order that peace will be maintained. The Ministers were agreed that this will continue to be their chief concern and that, in conjunction with the members of the North Atlantic Treaty Organization and other friendly governments, they

¹⁾ Dep. of State Bulletin, Vol. XXIII, No. 587, October 2, 1950, S. 530 f.

will see to it that the necessary measures to achieve this end are worked out and applied with the greatest possible despatch.

In their consideration of German questions, the Ministers were greatly assisted by the report of the intergovernmental study group which has been meeting in London during the past 3 months. The Ministers decided that this group, which was appointed at their London meeting in May, should be continued. The Ministers also had the advantage of the presence in New York of their three High Commissioners from Germany. The conclusions reached by the Ministers on a large number of questions affecting Germany are stated in an annex to this communiqué.

b) Communiqué on Western Germany

The Foreign Ministers have reviewed the situation in Germany and Allied relations with the Federal Republic, in the light of developments since their last meeting in London in May 1950. They have taken into account in their examination the views which have been expressed on recent occasions by the Government of the Federal Republic.

They and their Governments share the desire of the German people for the unification of Germany on a basis which respects the fundamental liberties. Despite their efforts to achieve this end, it will obviously not be realized so long as the Soviet Union continues to ignore proposals for democratic all-German elections, and to stage controlled elections such as the one to be held in the Soviet zone on October 15. Pending the unification of Germany, the three Governments consider the Government of the Federal Republic as the only German Government freely and legitimately constituted and therefore entitled to speak for Germany as the representative of the German people in international affairs.

They reaffirm their desire, of which they have already given many proofs, to integrate the Federal Republic into the community of free nations. They are convinced that the overwhelming majority of the German people want to take part in building the European community, and in strengthening its common civilization. It appears to them that the time has now come to take a new step toward the attainment of these aims.

In the spirit of the new relationship which they wish to establish with the Federal Republic, the three Governments have decided, as soon as action can be taken in all three countries in accordance with their respective constitutional requirements, to take the necessary steps in their domestic legislation to terminate the state of war with Germany.

This action will not affect the rights and status of the three powers in Germany, which rest upon other bases. It will, however, create a firmer foundation for the developing structure of peaceful and friendly relationships and will remove disabilities to which German nationals are subject. It is hoped that other nations will find it possible to take similar action in accordance with their own constitutional practices.

The three Ministers have given serious consideration to the problem of the

security of the Federal Republic in both its external and its internal aspects. They recognize the fact that outright military units have been created in the Soviet zone of occupation and this fact together with recent events in Germany and elsewhere have given rise to a situation of great concern.

The Allied Governments consider that their forces in Germany have in addition to their occupation duties also the important role of acting as security forces for the protection and defense of the free world, including the German Federal Republic and the Western sectors of Berlin. To make this protection more effective the Allied Governments will increase and reinforce their forces in Germany. They will treat any attack against the Federal Republic or Berlin from any quarter as an attack upon themselves.

The Ministers are fully agreed that the re-creation of a German national army would not serve the best interests of Germany or Europe. They also believe that this is the view of the great majority of the German people.

The Ministers have taken note however of sentiments recently expressed in Germany and elsewhere in favor of German participation in an integrated force for the defense of European freedom. The questions raised by the problem of the participation of the German Federal Republic in the common defense of Europe are at present the subject of study and exchange of views.

As regards internal security, the Foreign Ministers recognize the necessity for insuring that the German authorities are enabled effectively to deal with possible subversive activities. To this end, the Foreign Ministers have agreed to permit the establishment of mobile police formations organized on a land basis but with provisions which would enable the Federal Government to have adequate powers to make effective use of all or part of this force in order fully to meet the exigencies of the present situation. The High Commission and the Allied Forces in Germany will render such assistance as may be feasible in the rapid establishment of this force.

The new phase in the relations between the Allies and the Federal Republic will be marked by major extensions of the authority of the Federal Government. To make this possible, the occupying powers are prepared to amend the Occupation Statute while maintaining the legal basis of the occupation, and the Federal Republic will be expected to undertake certain commitments and other actions consonant with its new responsibilities.

In the field of foreign affairs, the Federal Government will be authorized to establish a Ministry of Foreign Affairs and to enter into diplomatic relations with foreign countries in all suitable cases. In other fields, and particularly in relation to internal economic matters, far-reaching reductions will be made in existing controls, and the present system of review of German legislation will be modified. In certain cases, the Allied powers will cease as soon as the Federal Government has given undertakings or taken suitable action. The High Commission will promptly begin discussions with the Federal Government to work out the necessary agreements for such undertakings.

The Foreign Ministers have also agreed that a review of the prohibited and limited industries agreement shall be undertaken in the light of the developing relationships with the Federal Republic. Pending this review the High Commission has been instructed to remove forthwith all restrictions on the size, speed, and number of commercial cargo ships built for export and to allow steel to be produced outside the present limitation where this will facilitate the defense effort of the west.

The three Governments pay tribute to the continued steadfastness of the people of Berlin in the valiant struggle of the city to preserve its freedom. They will continue to oppose aggression in any form against the people of the city, and are taking steps to strengthen Allied forces there. In view of the heavy price Berlin has had to pay to defend its freedom, the Governments will continue their efforts to alleviate its economic situation. They have directed the High Commission to review the statement of principles governing the relationship between the Allied Kommandatura and Berlin, and to liberalize Allied controls in the city to the maximum extent practicable.

These decisions mark an important stage in the normalization of the relations and should contribute toward the creation of an atmosphere of mutual confidence and understanding. They represent a major advance toward the progressive return of Germany to partnership in Western Europe and the consolidation of the western nations in their efforts to establish a firm basis for the future peace of Europe and the world.