REPORTS OF INTERNATIONAL ARBITRAL AWARDS

RECUEIL DES SENTENCES ARBITRALES

Administrative Decision No. I

1 November 1923

VOLUME VII pp. 21-22

NATIONS UNIES - UNITED NATIONS
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Decisions, Part One

ADMINISTRATIVE DECISION No. I

(November 1, 1923, pp. 1-3 [1])

TERMINOLOGY USED IN DECISION. — FINANCIAL OBLIGATIONS OF GERMANY UNDER TREATY OF BERLIN. Definition of terms used in decision, and of financial obligations of Germany to United States arising under Treaty of Berlin.

Cross-references: A.J.I.L., Vol. 18 (1924), pp. 175-176; Kiesselbach, *Probleme*; pp. 174-176 (German text); Witenberg, Vol. I, pp. 7-9 (French text).

Bibliography [2]*:* Borchard, pp. 135-136; Isay, p. 606; Kersting, p. 1843, Kiesselbach, *Probleme*, pp. 10, 31; Partsch, pp. 131-132; Prossinagg, pp. 10-11.

PARKER, *Umpire*, rendered the decision of the Commission, the American Commissioner and the German Commissioner being unable to agree:

As used herein the following terms shall be taken to have the meaning indicated below:

United States: the United States of America, and/or the Government of the United States of America;

Germany: the German Empire, and/or the Government of Germany;

Germany or her allies: the German Empire or the Austro-Hungarian Empire, Bulgaria, and/or Turkey;

War period: the period between August 1, 1914, and July 2, 1921, both inclusive, the latter date being that on which the joint resolution passed by the Congress of the United States declaring the war at an end became effective;

Period of neutrality: the period between August 1, 1914, and April 5, 1917, both inclusive;

Period of belligerency: the period between April 6, 1917, and July 2, 1921, both inclusive, the former date being that on which the joint resolution declaring a state of war to exist between Germany and the United States became effective;

American national: a person wheresoever domiciled owing permanent allegiance to the United States of America;

Treaty of Berlin: the treaty between the United States and Germany signed at Berlin August 25, 1921, restoring the friendly relations existing between the two nations prior to the outbreak of war;

Agreement: the agreement between the United States and Germany signed at Berlin August 10, 1922, entered into in pursuance of the Treaty of Berlin, providing for the creation of this Mixed Commission.

[1] References to page numbers are to the original Report mentioned on p. 3 *supra*.

[2] References in this section are to publications referred to on pp. 5-6 *supra* and to the Annual Digest. References to comments by Dr. Kiesselbach are limited to his *Probleme*.

There are expressly excepted from this decision (1) claims of the United States as such against Germany, (2) claims based on debts owing to American nationals by Germany or by German nationals, and (3) claims arising out of the application of either exceptional war measures or measures of transfer as defined in paragraph 3 of the Annex to Section IV of Part X of the Treaty of Versailles. These three excepted classes of claims (hereinafter referred to as "excepted claims") have not been referred to the Umpire for decision by the National Commissioners.

The financial obligations of Germany to the United States arising under the Treaty of Berlin on claims other than excepted claims, put forward by the United States on behalf of its nationals, embrace:

(A) All losses, damages, or injuries to them, including losses, damages, or injuries to their property wherever situated, suffered directly or indirectly during the war period, caused by acts of Germany or her agents in the prosecution of the war, provided, however, that during the period of belligerency damages with respect to injuries to and death of persons, other than prisoners of war, shall be limited to injuries to and death of civilians; and also

(B) All damages suffered by American nationals during the period of belligerency caused by:

(1) GERMANY through any kind of maltreatment of prisoners of war;

(2) GERMANY OR HER ALLIES and falling within the following categories:

(*a*) Damage wherever arising to civilian victims of acts of cruelty, violence, or maltreatment (including injuries to life or health as a consequence of imprisonment, deportation, internment, or evacuation, of exposure at sea, or of being forced to labor), and to the surviving dependents of such victims;

(*b*) Damage, in territory of Germany or her allies or in occupied or invaded territory, to civilian victims of all acts injurious to health or capacity to work, or to honor, and to the surviving dependents of such victims;

(*c*) Damage to civilians by being forced to labor without just remuneration;

(*d*) Damage in the form of levies, fines, and other similar exactions imposed upon the civilian population;

(*e*) Damage in respect of all property (with the exception of naval and military works or materials) wherever situated, which has been carried off, seized, injured, or destroyed, on land, on sea, or from the air;

(3) ANY BELLIGERENT and falling within the following categories:

(*a*) Damage directly in consequence of hostilities or of any operations of war in respect of all property (with the exception of naval and military works or materials) wherever situated;

(*b*) Damage wherever arising to injured persons and to surviving dependents by personal injury to or death of civilians caused by acts of war, including bombardments or other attacks on land, on sea, or from the air, and all the direct consequences thereof, and of all operations of war.

The American Agent and the German Agent and their respective counsel will be governed by this decision in the preparation and presentation of all cases.

Done at Washington November 1, 1923.

Edwin B. PARKER
Umpire

Concurring:

Chandler P. ANDERSON
American Commissioner