Memorial to the Murdered Jews of Europe

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Abstract. This case explores the ethical dilemmas faced by Wolfgang Thierse and other board members of the Memorial Foundation for the Murdered Jews of Europe. They must decide whether Degussa AG, a memorial subcontractor, can continue working on the memorial, despite Swiss and German media reports that a former subsidiary of Degussa’s, named Degesch, manufactured and supplied the nerve gas that killed Jews and other individuals in the Auschwitz concentration camp. The board’s decision is complicated by negative publicity the memorial has received, by the fact that Degussa has already applied its anti-graffiti coating to some of the pillars that form the memorial’s main design, and by questions of whether the board exercised due diligence when Degussa was originally proposed as a project subcontractor. Students are asked to help Thierse reach a personal decision about Degussa’s continued participation and, in his role as board chair, formulate a discussion strategy for the upcoming, potentially volatile board meeting.

Keywords: Holocaust, nonprofit organizations, nonprofit governance, Board of Trustees, Degussa AG, social responsibility, Germany.

1. Introduction

On 11 November 2003, German Bundestag President Wolfgang Thierse was busy fielding telephone calls. He faced a looming controversy surrounding a nonprofit foundation board on which he served—the Foundation for the Murdered Jews of Europe. His day had been consumed by telephone conversations with colleagues on the foundation board, members of the press, citizens, and fellow Bundestag members. A foundation vote tomorrow would decide the future of the partially built memorial in Berlin. Thierse, who joined the foundation board in 1998, had hoped that once construction began on the memorial in Spring 2003, the foundation might be able to move on to other topics and be less often in the news. That did not seem likely, given this most recent set of events.

The current controversy involved a supplier on the job, Degussa AG, a German-based multinational specialty chemical company headquartered in Düsseldorf. Degussa was to supply an anti-graffiti coating for the 2711 free-standing, concrete pillars that comprised the memorial’s design. An anti-graffiti coating was needed to protect the open-air memorial from being defaced by neo-Nazis. By Fall 2003, the memorial’s foundation had been poured and 25 pillars, each coated with Degussa’s anti-graffiti spray Protectosil®, had been installed.
Yet, in September 2003, some Holocaust survivors and descendents began to question the appropriateness of Degussa’s involvement in the memorial’s construction. In early October 2003, the Swiss newspaper *Tages-Anzeiger* published an article, entitled “Making Money off the Holocaust Twice,” pointing to the fact that Degussa had collaborated with the Nazis during World War II (Fleischman 2003). The newspaper reported that during the Nazi era, Degussa processed confiscated Jewish gold and silver and used slave labor supplied by the Nazis. But even more damning was Degussa’s wartime ownership of Degesch. That company manufactured Zyklon B, the cyanide nerve gas used to asphyxiate millions of individuals in Nazi concentration camps. Public discussion of Degussa’s connection to Zyklon B resulted in a firestorm of media interest, conflict among the memorial foundation trustees, and public debate. Holocaust survivors and descendents of both victims and survivors weighed in on the propriety and ethics of proceeding. Memorial foundation trustees had strong feelings on both sides of the issue. Lea Rosh, a driving force for the memorial from the beginning and now Vice Chair of the memorial foundation, openly called to have Degussa barred from continuation on the project.

Acknowledging the controversy, on 23 October 2003, the foundation board voted to suspend all construction pending a formal decision about Degussa’s continued involvement. Further complicating the issue, on 5 November 2003, it was revealed that another subsidiary of Degussa had supplied a concrete-thinning product used in the already-poured foundation (Warkentin 2003). Rejecting all Degussa participation could mean removing not only the already installed coated pillars, but also most of the memorial’s foundation.

Some media called for Degussa to be dropped from the project, while other coverage called for forgiveness and “moving on”. Some Jews threatened to boycott the memorial if Degussa’s products were used, while others admitted that finding German companies completely free of Nazi involvement could be difficult.

Thierse had many thoughts racing through his mind. If Degussa was banned completely from the project, would all the existing pillars and the entire foundation need to be removed and replaced? If this occurred, how could the board justify possible cost overruns and/or abandonment of the project? In granting Degussa the contract, had the board and/or the memorial foundation staff failed in their due diligence obligations? Would Jews, as some claimed, boycott the memorial? Indeed, would sentiment be so high that the memorial would offend those whom it hoped to console? Thierse was bewildered. Neither allowing Degussa to continue on the project nor banning it seemed a suitable solution. Each choice had serious consequences, and he was truly unsure which was the right decision.
2. The Memorial to the Murdered Jews of Europe

The Memorial to the Murdered Jews of Europe\(^1\) (Denkmal zu den ermöderten Juden Europas) had its origins in the Holocaust, a systematic murder by the Nazis of various religious, ethnic, national, and secular groups during World War II. Adolf Hitler took advantage of Germany’s bleak economy after World War I to gain power with his Nazi party. Hitler was strongly anti-Semitic and blamed Jews for all of Germany’s problems. Hitler also believed in a master race of Aryans, claiming that all other groups were inferior. Hitler worked his way up in politics through the 1930s and declared himself *Führer*, or leader of Germany, in 1934. He vowed to take over Europe and to eliminate all non-Aryans.

Concentration camps were the most dramatic expression of the Nazis’ concerted effort to create a racially pure Germanic state. Jews, Communists, gypsies, political dissidents, homosexuals, and individuals with mental and physical handicaps were all deported to concentration camps. When the camps became too crowded, and other approaches to ridding Germany of these German “misfits” failed, the Nazis resorted to large-scale, mass murder by using a cyanide-based nerve gas called Zyklon B.

Historians estimate that between 5.1 and 5.75 million Jews were murdered during the war (Gilbert 1991, Hilberg 1985). An equal number of non-Jews were also murdered (Hilberg 1985). As a way to honor the individuals killed and to remind society not to let such events happen again, many countries have built memorials to Holocaust victims. Holocaust museums were also built, not only to help preserve the historical record connected with these events, but also to provide opportunities for understanding, remembrance, and education.

In 1988, Lea Rosh, a German TV journalist, launched a campaign to build a Memorial to the Murdered Jews of Europe (Schlör 2005). Rosh’s idea for the memorial was inspired by a visit she and historian Eberhard Jäckel had made the previous year to Yad Vashem, the Israeli memorial to Jewish victims of the Holocaust (Gay 2003). Upon their return to Germany, they both agreed that a similar memorial to the victims of the Holocaust was needed in the country of the perpetrators (Gay 2003). Soon thereafter Rosh founded the Association to Promote the Establishment of a Memorial to the Murdered Jews of Europe (Förderkreis zum Errichten eines Denkmals für die ermördeten Juden Europas).

Almost immediately, the memorial was embroiled in controversy. Representatives of groups who were also killed in the concentrations camps, such as the Sinti and Roma (Gypsies), wanted the memorial to be more inclusive. Also, directors of other existing Holocaust memorial sites—such as the concentration camps themselves, important Nazi buildings now converted into museums, and the Wannsee House (where Nazi officials planned the “final solution” for extermination of the Jews)—claimed that funding for a memorial

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1. The memorial foundation uses the English translation, “Memorial to the Murdered Jews in Europe”. 
dedicated to Jewish victims would diminish their annual funding from the state (Knischewski and Spittler 2005). The fall of the Berlin Wall in 1989 brought additional debate. A unified Germany meant that the memorial’s location might be in the former Communist or eastern sectors of Berlin.

In 1992, the German Bundestag made two important decisions. First, it decreed that the memorial would be devoted just to Jewish victims, and second, that the memorial’s site would be a large open field in central Berlin, just inside the former boundary between East and West Berlin. This site was deeply symbolic, lying very near the Reichstag (home of the German Parliament) and the famous Brandenburg Gate (which originally served as an entrance into Berlin and through which German Emperors as well as Hitler marched). The site was also in the area of Hitler’s wartime bunker and the “no-man’s land” created by the Soviets to prevent East Berlin citizens from escaping over the Berlin Wall into democratic West Berlin. The memorial was expected to be completed in 2001, the same year that the reunited German government would relocate from its Soviet-era headquarters in Bonn back to Berlin.

But many controversies plagued the memorial’s progress. In April 1994, Helmut Kohl, then German Chancellor, announced an open competition for the memorial’s design. The German government, the city of Berlin, and Lea Rosh’s group would jointly select the final design. The memorial’s design competition received over 500 entries. The jury met for five days and selected two designs as co-winners. The first was an 85-by-85 meter steel construction made of oversized girders engraved with the names of the concentration camps (Knischewski and Spittler 2005). The second design was a huge concrete wall engraved with the 4.3 million recoverable names of Jews killed in the Holocaust (Young 2000). Public outcry against the designs was heated. Critics saw the proposed monument’s size as an attempt to match the enormity of the crime with an equally enormous memorial (Knischewski and Spittler 2005). In the end, Chancellor Kohl rejected the designs, calling the memorial slab with the engraved names “undignified” (Public Broadcasting System 2005). The German Parliament continued to debate the issue. The Berlin Senate held three expert colloquia between 1996 and early 1997 on the subject. At these colloquia’s end, there was still no consensus on how to proceed. James Young, a participant in the colloquia, wrote:

Over and over again, the other speakers—senators, art historians, and artists—bemoaned the abject failure of their competition. All of which was compounded by their acute embarrassment over the incivility of it all, the petty bickering, the name-calling, the quagmire of politics into which the process seemed to be sinking [Young 2000, page 193].

In April 1997, another memorial design competition opened, this time with only invited participants. In addition to twelve internationally known artists, nine entrants from the first competition were asked to submit new designs. A design by American architect Peter Eisenman and American artist Richard Serra
ultimately was selected. Their design was to install over four thousand concrete pillars throughout the memorial site, which was larger than two football fields—almost five acres. Each pillar would be nine feet nine inches in length, 37 inches wide, and would range from 18 inches to 15 feet in height. The pillars would be spaced so closely together that only a single person could pass between them, thereby heightening the feelings of oppression and disorientation. Chancellor Kohl, responding to criticism that this plan was too “ oppressively gigantic”, asked Eisenman and Serra to decrease both the number of pillars and their height, as well as to add trees (Public Broadcasting System 2005). At this point, Serra dropped out of the project, but Eisenman complied with the Chancellor’s requests.

The year 1998 brought a variety of new controversies. Site preparation was briefly halted when bulldozers uncovered part of Hitler’s wartime bunker. Some board members felt the site should be abandoned. The government was dedicated to the site but passed legislation banning all demonstrations on the streets near the memorial, to discourage feared neo-Nazi desecration of the memorial (Public Broadcasting System 2005). Also in 1998, Gerhard Schröder defeated Helmut Kohl and became Germany’s new Chancellor. Schröder concurred with the view of his State Minister for Culture, Michael Naumann, that the memorial should be a documentation center rather than a memorial. Lea Rosh opposed changing the memorial into a documentation center and was joined by community members, such as the Mayor of Berlin, in this view. Because the federal government had a strong vested interest in the memorial, it instructed Eisenman to design a million-volume library and study area to be built underneath the memorial. Concerns about the memorial’s rising cost were also being voiced (Gay 2003).

Debate raged on either side of this conflict about remembrance or forgetting, but progress continued. Martin Walser, in his speech accepting the Frankfurt Book Fair Peace Prize, decried what he called the “Holocaust industry”, and the “exploitation of our disgrace for present purposes.” He criticized the “monumentalization of the shame”, claiming that no other city has a “memorial of national ignominy”. He argued that, “It will be obvious later what kind of harm was done by those who, in the discussion about the Holocaust memorial, felt responsible for the conscience of others” (Public Broadcasting System 2005). Others entered the debate by wondering whether the memorial would reinforce the image of Berlin as a city merely devoted to remembering Nazi atrocities. These critics noted that already Berlin had, among other monuments and museums, the architecturally innovative Jewish Museum devoted to remembering Jewish-German life and the Typography of Terror, an outdoor exhibit devoted to Nazi history that incorporated the rubble of original buildings used by the Gestapo (the Nazi Secret Police) and the SS (the Nazi military and security force) (Gay 2003).

In 1999, the Bundestag took over responsibility for the memorial’s design. It decided to look for yet a different and simpler architectural model for the
memorial. But it ultimately passed a resolution to erect the memorial as designed and twice modified by Eisenman on the already designated site in central Berlin. Eisenman’s final design involved rows of various-sized, dark grey concrete pillars (called “stele”) built on an undulating, uneven cobble-stone path that was meant to evoke the “feelings of claustrophobia and oppression reminiscent of the experience of Jews in the concentration camps” (Harjes 2005, page 142). At the same time, it established the memorial foundation under public law. Chartered as a non-profit organization, the memorial foundation was charged not only with overseeing the building of the memorial and planning for the information center to be housed underneath, but also for maintenance of the memorial. The foundation would receive an annual subsidy from the Bundestag and would be allowed to collect donations from third parties, but it would be obligated to pursuing non-profit goals that justified its tax concessions. The law established that the foundation would be led by a board of trustees with specific representation from a variety of organizations. In particular, the unpaid board would include the Bundestag President, other governmental representatives, the Association to Promote the Establishment of a Memorial to the Murdered Jews of Europe, and certain other Jewish groups (see the foundation charter in the Appendix).

In 2001, a fund raising controversy arose when the foundation used billboards announcing in large print, “The Holocaust Never Happened”, and in smaller letters, “There are still many people who make this claim. In 20 years, there could be even more.” Jewish leaders complained, and a Holocaust survivor filed suit based on the fact that “Holocaust denial” is a crime in Germany. The billboards were removed after only three weeks (Milwaukee Journal Sentinel 2001).

Construction finally began in spring 2003, following a bidding process led by general contractor Geithner Bau. But by fall of that year, the memorial was embroiled, yet again, in controversy—this time about the Degussa product. Bowing to public and internal strife, the board decided to stop construction until it could consider how to proceed in regard to Degussa.

In 2001, Degussa AG, a well-known German chemical company, submitted a bid to subcontractor EAG Efinger & Albani GmbH to coat the 2711 pillars of the Berlin memorial with its product, Protectosil®. Founded in 1843 as Deutsche Gold- und Silber- Scheideanstalt vormals Rössler, or the Gold and Silver Separation Institute, Inc., Degussa had its origins in the gold and silver smelting business for the German mint. Through diversification, mergers, acquisitions, and joint ventures, the original business eventually expanded into the global specialty chemical company known as Degussa AG. By 2001, Degussa operated more than 200 facilities in 50 countries, employed more than 53,000 individuals worldwide, and was organized into six divisions comprised of 23 business units (Degussa AG 2001, 2002).

In 1998 the Degussa board hired Peter Hayes, an American university historian who had researched IBM’s collaboration with the Nazis, to research its
own Nazi past without bias (Degussa AG n.d.). Furthermore, in 2000, Degussa participated with 16 other companies to create the Foundation for Remembrance, Responsibility and the Future. This foundation raised millions of dollars to distribute to survivors of slave labor and their heirs. The bid for the memorial’s anti-graffiti coating, 40% lower than market price for the job, represented a continuation of Degussa’s efforts to confront its Nazi past.

In response to the controversy over its role in building the memorial, Degussa issued the following statement on 3 October 2003, following the work stoppage ordered by the foundation board:

Degussa AG, Düsseldorf, regrets the decision of the “Memorial to the Murdered Jews in Europe” Foundation, but respects it. In its meeting of October 23, 2003, the Board of Trustees for the Foundation decided that the use of products supplied by Degussa to protect against graffiti would not be in keeping with the special nature of the memorial project.

The fact is, however, that Degussa had not concluded any agreement with the Foundation. The contractual partner of the Board of Trustees is the Wilhelmshaven-based general contractor, Geithner Bau. The Hanover-based firm of EAG Efinger & Albani GmbH Gesellschaft für Beschichtungssysteme und Oberflächenschutz was subcontracted by this general contractor to be responsible for surface protection. In addition to its own products, EAG also offers Degussa products as distributor for Germany [Degussa AG 2003].

3. Thierse’s Dilemma

The vote on whether Degussa should continue as a subcontractor on the memorial project, to be taken the following day, made Thierse confront what seemed to be conflicting roles and positions. Truthfully, he had strong feelings on both sides of the current issue. As he fielded phone calls and anticipated the next day’s foundation board meeting, he was obliged to consider his responsibilities as an individual, as a German, as a businessman, and as a politician. As Bundestag President, he knew his opinion would carry weight in the foundation board deliberations to come, and his high-profile position made him the “person to call” for concerned citizens, government officials, and the media, as well as his fellow board members.

Like many other modern Germans, Thierse grew up in post-war Germany and had struggled with the “sins of the fathers”. He had, after all, advocated for governmental action on behalf of the memorial as the “assertion of Germany’s historical responsibility” (Broomby 2001).

Thierse felt strong fiduciary responsibility to make a good decision about monies donated over several decades and not to endanger future funding needed for completion. Constant controversy over nearly twenty years had already increased costs and delayed construction (Baumann 2005). He wondered if the
board had the right to drive costs up again and/or endanger the memorial’s completion. Some of his fellow board members, including the vocal Lea Rosh, advocated discontinuing the relationship with Degussa. That would mean turning to the next best anti-graffiti product, made by a Swiss company, PSS Interservice. Accepting that bid would incur increased short-term expense to redo the already coated pillars, a cost overrun estimated to be 2.5 million USD just for the anti-graffiti part of the project (Fleishman 2003). Unlike other anti-graffiti products, Protectosil® provided long-lasting protection, with its protective coating remaining undamaged even after repeated cleanings (Protectosil, n.d.). The Degussa subsidiary’s concrete chemical that was incorporated into the already poured foundation of the memorial presented an even more expensive problem. If Degussa was banned completely from the project, would all the existing foundations be removed and replaced? The cost would be astronomical and could cause the project to be abandoned altogether.

Thierse thought about the critics’ complaint that Degussa was benefiting twice from the Holocaust and about the difficulty of balancing corporate profit with social contrition. He considered more moderate voices that said that allowing Degussa to continue on the project would help to “clear the air” and help Germany move beyond its past. He remembered as well what he had already said to the media, “Germany, the country, is building this memorial for the murdered Jews… We should not exclude parts of society and certain companies even if their predecessors are linked with the crimes of the Nazis... We have learned again that the past reaches into the present” (Fleishman 2003). On the other hand, he acknowledged the passionate voices that said that Degussa’s participation in the project was a blatant affront to Jews and especially to those directly affected by the Nazis.

Thierse wondered with critics why the foundation had allowed Degussa to become an issue. Efinger & Albani GmbH claimed that all the interested parties (presumably including the foundation board) knew about the acceptance of all bids (Basler Zeitung 2003). Thierse had read a statement from Efinger & Albani GmbH, the subcontractor responsible for casting and installing all 2711 pillars, saying that Degussa’s involvement in the memorial had been disclosed to “all interested parties” at the time the subcontract was approved. Presumably this included the board. Thierse was unsure whether the foundation board actually received no notice or was simply not paying attention when the contract was approved.

In theory, modern Germans are legally innocent. But seeing a modern-day Degussa “profiting from its newfound virtue” rankled many (Rosenbaum 2003). Speaking on German television, board trustee Guenter Nooke asked: “Is it possible to build a memorial in Germany without firms being involved which had a sinister Third Reich past? I don’t think we can... we can’t get round that one” (Allen 2003).

Wolfgang Gibowski, speaking for the Foundation for Remembrance, Responsibility, and the Future, argued that the conditions would be hard to meet
if all companies involved with the Nazis were disqualified. He asked, “Where do you stop with these arguments?” Noting that nearly every German company collaborated with the Nazis, he asked further: “Where do you get sand to produce those monuments? Do you get it from Israel and America or Germany? Where do you get the cement, the trucks? What kind of buses do you use to take visitors there in the future?” (Bernstein 2003). If Degussa was disqualified from the project because of Nazi collaboration, would other contracts need to be examined and other companies similarly banned? On the other hand, Sybille Quack, Executive Director of the memorial foundation, stated that Zyklon B, perhaps more than any other single symbol, represented the murder of Europe’s Jews (Bernstein 2003).

Thierse agreed with some board members that legal action was possible. If the foundation broke its contract with Degussa, the company could conceivably tie the foundation up in a lawsuit. Lawsuits also were threatened by those who thought that Degussa should not continue, as well as from those who wanted the memorial finished without further delay and without cost overruns.

Beyond practical issues lay the compelling issue of the feelings of Holocaust victims and their survivors, and of other Jews. Thierse struggled with the obvious effect this decision would have on Holocaust survivors, survivor families and the broader Jewish community. Should these considerations sway the foundation board? Klaus Hillenbrand, editor of Tageszeitung, said, “You can’t argue to the survivors that Degussa has become a very fine company… It’s a personal question. If there are survivors of the Holocaust who feel this way, you just have to accept it” (Bernstein 2003). Thierse wondered if accepting their objections would mean canceling the Degussa contract and endangering the project. Lea Rosh, commenting on Degussa’s efforts at atonement, particularly their discounted bid, noted that Degussa had “offered their hand”, but she felt the board could not take it (Deutsche Welle 2003).

Thierse felt trapped. He believed that the Degussa anti-graffiti product was the best for this job—in quality, up-front costs, and long-term maintenance costs. He also knew that the below-market price represented yet another token of Degussa’s efforts at acknowledging and atoning for its past. On the other hand, he acknowledged the passionate objections to allowing Degussa to continue on the project. The important vote at tomorrow’s foundation meeting promised to be hotly contested and full of emotion. He knew that Lea Rosh was trying to win board members to her view that Degussa should be barred. He heard that Rosh had also gone before the press and was quoted in the Berlin Morgenpost as saying, “We asked ourselves: Where should one draw the line? And we came to the conclusion the line is very clearly Zyklon B” (Deutsche Welle 2003). He was truly unsure of which was the right path, but he needed to clarify his own thinking and to present cogent, ethical leadership to the foundation board as it faced this newest dilemma.
References:


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APPENDIX

Charter of the Foundation for the Memorial to the Murdered Jews in Europe
The Foundation's Charter

Federal Law Gazette, Part 1 No. 10
Published in Bonn on 22 March 2000

Act concerning the establishment of a »Foundation for the Memorial to the Murdered Jews in Europe« of 17 March 2000

The German Bundestag has passed the following Act:

§ 1 - Establishment and legal form
Under the name of »Foundation for the Memorial to the Murdered Jews in Europe«, a foundation under public law with legal capacity at a federal level will be established with headquarters in Berlin. The Foundation will come into being with the entry into force of this Act.

§ 2 - The Foundation's objective
(1) The objective of the Foundation is to implement the Resolution by the German Bundestag of 25 June 1999 (publication no.: 14/1238) concerning the establishment of a Memorial to the Murdered Jews in Europe.

For this purpose, the Foundation will, in particular, undertake the following:
1. Adopt the function of principal for the realisation of Peter Eisenman’s scheme for a field of stelae (»Eisenman II«),
2. Take responsibility for the planning and realisation of the Information Centre, which will complement the field of stelae by providing details on the victims commemorated and the historical memorial sites.
3) The Foundation will play a part in ensuring that all victims of National Socialism are remembered and honoured appropriately.

§ 3 - The Foundation's assets, non-profit character
(1) With the entry into force of the Act concerning the establishment of a Foundation for the »Memorial to the Murdered Jews in Europe«, ownership of movable and immovable assets already made available and acquired by the Federal Government of Germany for the endowment fund for the »Memorial to the Murdered Jews in Europe« is transferred to the Foundation.
(2) To fulfill its remit, the Foundation will receive an annual subsidy from the Federal Government calculated according to the federal budget current at the
time. (3) The Foundation is entitled to accept donations from third parties. (4) The resources of the Foundation are to be used only within the framework of the Foundation's Objective. (5) The Foundation is exclusively and directly committed to pursuing non-profit goals as defined under the section of the tax code relating to »objectives attracting tax concessions«. No person may receive disbursements that are alien to the objective of the Foundation, nor receive disproportionately high remuneration.

§ 4 - The Foundation's constituent bodies
(1) The bodies making up the Foundation are
   1. the Board of Trustees,
   2. the Board of Directors
(2) An Advisory Board will be formed.
(3) The Foundation has an Executive Office and an Executive Director.

§ 5 - Board of Trustees
(1) The Board of Trustees is made up of the following members appointed from the following institutions:
   1. The German Bundestag
      - the President of the German Bundestag,
      - and one member per 100 members or part thereof of each party represented in the German Bundestag,
   2. the Federal Government - two members,
   3. the Senat of the Land of Berlin (state government) - two members,
   4. the Association to Promote the Establishment of a Memorial to the Murdered Jews in Europe - three members,
   5. the Central Council of Jews in Germany - two members,
   6. the Jewish Community of Berlin - one member,
   7. the Jewish Museum of Berlin - one member,
   8. the Topography of Terror Foundation - one member,
   9. the Working Group of Concentration Camp Memorials in Germany - one member.
Members of the Board of Trustees can transfer their vote to another member or, by way of special written authority, have themselves represented in cases when for important reasons they are unable to take part in board meetings.
(2) The Board of Trustees decides all fundamental issues within the Foundation's remit, in particular:
   1. the appointment of the Board of Directors and the Executive Director,
   2. the budget drawn up by the Board of Directors,
   3. the appointment of the members of the Advisory Board.
The Board of Trustees oversees the activities of the Board of Directors and the Executive Director.

(3) The appointment of the members of the Advisory Board. The Board of Trustees oversees the activities of the Board of Directors and the Executive Director.

(4) Meetings are convened by the Board of Directors at the behest of the chairperson of the Board of Trustees. The Board of Trustees has a quorum if more than half of its members are present or represented. The Board of Trustees makes decisions on the basis of a simple majority.

In the event of an equal distribution of votes, the chairperson has the casting vote.

(5) The institutions appointing members to the Board of Trustees can recall such members and replace them with other members

§ 6 - Board of Directors

(1) The Board of Directors is made up of a chairperson and two vice-chairs. It is appointed by the Board of Trustees for a four-year term. It is responsible for implementing the resolutions of the Board of Directors and conducting the business of the Foundation.

(2) The Board Of Directors maintains an Executive Office supervised by an Executive Director. The Executive Director is appointed by the Board of Trustees on the recommendation of the Board of Directors for a period of four years. Reappointment is permitted.

§ 7 - Advisory Board

(1) The Board of Trustees appoints an Advisory Board.

(2) The Advisory Board consists of at least twelve members. These are appointed by the Board of Trustees for four years. Reappointment is permitted.

(3) The Advisory Board advises the Board of Trustees and the Board of Directors.

§ 8 - Honorary status

The members of the Board of Trustees, of the Board of Directors and the Advisory Board are appointed on an honorary basis. They are compensated for travelling expenses according to the relevant federal statutes.

§ 9 - Employees

Employees of the Foundation are employed on the basis of the collective salary agreements and other provisions for employees of the Federal Government applicable at the time.

§ 10 - Budget, audit, supervisory control

(1) The Foundation's management of its budget, its cash management and
accounting, along with its financial reporting, are subject to the regulations applicable to federal agencies. The Foundation's financial practices and management procedures are subject to auditing by the German Auditor General's office.

(2) The Foundation is subject to the supervisory control of the highest relevant federal authority.

§ 11 - Charter
The Foundation draws up its own charter, which is approved by the Board of Trustees with a majority of three quarters of its members. The same applies to amendments to this charter.

§ 12 - Entry into force
This Act enters into force on the fourteenth day after the day on which it is published in the Federal Law Gazette. When the Act enters into force, all rights and obligations that the Federal Republic of Germany had assumed for the endowment fund for the »Memorial to the Murdered Jews in Europe« are transferred to the Foundation.

The constitutional rights of the Bundesrat (Upper House) are guaranteed. The aforesaid Act is hereby executed and will be promulgated in the Federal Law Gazette.

Berlin, 17 March 2000
Federal President
Johannes Rau
Federal Chancellor
Gerhard Schröder