

Recollecting Karl Wahle

25 Oct 2011

On 11th October 2011, an event featuring the contemporary witness Francis Wahle was held to mark the 10th anniversary of the Arbitration Panel for In Rem Restitution and the presentation of volume 4 of its decisions. The following is a summary of the speeches.

Hannah Lessing

In her address, Hannah Lessing, Secretary General of the General Settlement Fund for Victims of National Socialism, reminded the audience that two anniversaries were being celebrated. Firstly, in January 2001 the Republic of Austria and the USA signed the Washington Agreement, which lay "the foundation for several vital steps in the belated process of coming to terms with National Socialism in Austria" and provided for the establishment of the General Settlement Fund, the compensation of seized tenancy rights by the National Fund and the upcoming restoration of the Jewish cemeteries in Austria. Secondly, on 5 October 2001, on the basis of the Washington Agreement, the Arbitration Panel for In Rem Restitution, established at the General Settlement Fund, held its constituent meeting. The Arbitration Panel examines whether real estate which was seized under National Socialism and is publicly-owned today can be restituted. In addition to the three members of the Arbitration Panel, Erich Kussbach, August Reinisch and Josef Aicher, Hannah Lessing also took the opportunity to welcome to the event the members of the Claims Committee, Kurt Hofmann, Jon Greenwald and Sir Franklin Berman.

In her address, Hannah Lessing observed that the National Fund had been in contact with the "special guest", the contemporary witness Francis (Franz) Wahle, since its establishment in 1995. Francis Wahle's fate could be considered representative of the fate of many children who had to be sent away by their parents in order to save their lives. "They experienced the Kindertransport and all of its consequences – homesickness, uncertainty in a foreign country, worry for their parents and the difficulties of being reunited with them." In this respect this was a very special event. "It is hoped that it will open people's eyes to the people behind the legal decisions of the Arbitration Panel", Lessing added. With regard to Karl Wahle's life and work, which formed the focus of the event, Lessing noted that in post-war Austria "he had at first rightly been very skeptical about whether Austria was willing to deal with its National Socialist past" but had nonetheless accepted the difficult job as a judge at the Restitution Commission. "Although we are today still constantly aware of the fact that nothing can be set right, I nevertheless hope that Karl Wahle would have viewed the work of the Arbitration Panel and its contribution towards a belated attempt at 'Wiedergutmachung' favorably."

Heinz Mayer

As co-host of the event, the deacon of the Faculty of Law at the University of Vienna, Univ.-Prof. DDr. Heinz Mayer, emphasized the political dimension of law which, contrary to the opinion of some lawyers, not only existed to serve the economy but to support the weak and repressed members of society. This view was not only held by Karl Wahle but was also reflected in the decisions of the Arbitration Panel for In Rem Restitution, which were of the highest legal standard.

Josef Aicher

In his opening statements, the Chairman of the Arbitration Panel, Josef Aicher, expressed the sentiment that the reason for the event – the 10th anniversary of the Arbitration Panel – was "not cause for celebration": "In the interest of the applicants, we too had hoped to be able to more swiftly issue decisions on applications for restitution of properties which were seized from persecuted persons under the National Socialist regime and which have not yet been restituted despite the post-war restitution legislation", he said. As things stand, the Arbitration Panel would require until late 2013 or early 2014 to complete the processing of the remaining applications. The fact that the work of the Arbitration Panel was only coming to a foreseeable end ten years after its establishment was not only a result of the volume of applications received but was also due to "our strong conviction that we owe the applicants not only a legally correct decision but a decision which is also based on comprehensive historical research".

Taking stock of the Arbitration Panel's work, Aicher explained that of the 2,229 applications received in total, 1,421 were classified as so-called "formal applications", 721 of which had already been decided and 700 of which were still being processed. In turn, requests for improvements had already been sent out for 672 of these. 525 applications were classified as substantive applications, 122 of which were still in progress. Of the substantive applications already decided, 313 had resulted in rejections or dismissals; 90 applications could be concluded with a recommendation. The total area of the properties recommended for restitution amounted to around 833,000 m². Roughly estimated, the total value of this real estate came to around 42 million Euro, 7.1 million of which had been awarded in the form of a comparable asset as an alternative to in rem restitution.

In conclusion, Aicher paid tribute to Karl Wahle as "judge and jurist of great importance" and quoted Karl Hannak, who wrote an obituary for Wahle in the Juristische Blätter in 1970: "Work and duty were his life". Aicher went on to say that it was a "great stroke of good fortune" that Karl Wahle's son Francis, who is today a Catholic priest living in London, had accepted the Arbitration Panel's invitation and was willing to share his memories of his father with the audience.

Francis Wahle

Francis Wahle expressed his thanks for the honor being bestowed on his father 40 years after his death, particularly as he had "never cared for popularity" and had "always been very pragmatic". Francis Wahle began with a short overview of his ancestors. Both his father and his mother

came from Jewish families, but were "very well assimilated". His father, born in 1887, was baptized an Old Catholic in 1911 and later joined the Roman Catholic Church. He initially studied History before changing to Law. During the First World War, Karl Wahle was a lawyer at the front, where he had a nervous breakdown. As his main interest lay in the field of civil law, after the war he became a judge at the Commercial Court.

When Hitler's troops marched into Austria in March 1938, Karl Wahle, a Councilor at the Higher Provincial Court and a State Official, was immediately forced into retirement, while his mother, Head Mathematician at "Anker" and hence a private sector employee, had been able to hold on to her job for a little longer. Francis Wahle described how, as the freedom of Jewish citizens "including Christians of Jewish origin" became increasingly restricted, his mother wanted to emigrate to South America. His father, however, was against this due to his strong sense of duty. Francis Wahle remembered the words of his father: "A State Official does not leave his country". Furthermore, as a man, he could not bring himself to be supported by his wife. After the November Pogrom in 1938, an opportunity was sought for the children to emigrate (it had originally been intended that they stay with relatives in Italy). As a result, Francis Wahle and his younger sister Hedwig traveled to England on a Kindertransport.

For the first two years, Francis Wahle's parents were able to remain in their apartment in Gonzagagasse on the corner of Rudolfsplatz in the 1st District of Vienna ; from December 1941 however, they had had to share the apartment. One of the new lodgers threatened to expose Karl and Hedwig Wahle "as we ignored all of the regulations on principle", Francis Wahle quoted from a letter of his father. "A judge who ignored all regulations! When my father realized that he was marooned, he no longer felt bound by the law. He could break every rule with a clear conscience", Francis Wahle continued.

When the deportation of Viennese Jews to the occupied eastern territories commenced, Vienna became increasingly dangerous for the former Councilor at the Higher Provincial Court and his wife as no-one ever knew "in which area of the city to expect the round-ups on any particular day", Francis Wahle explained. When the Gestapo actually arrived at his parents' building to deport them in May 1942, the Wahles were able to "break through the cordon unscathed but escaped with literally only their lives". For the next three years, they became "non-people: no ID, no fixed abode, no work, no food but on the Gestapo's wanted list. My father would never have survived this period on his own. He didn't even know how to clean his shoes! He owed his life to the quick-wittedness of my mother". Until this point, it had been possible to maintain contact with the children through the Red Cross but once it had become necessary for them to give up their real identities and go underground, contact with the children was cut off.

Francis Wahle's parents were safest among strangers. In order not to be registered with the police but nevertheless not raise suspicions, they told their landlords the following story, described by Karl Wahle in a letter written after the war:

> "I introduced myself as a businessman from the provinces who was in the habit of coming to Vienna for a few days a week with my lover. As my wife was very jealous and kept tabs on me, I was unable to register with the police. Using this story, I rented two sets of lodgings in different districts. Twice a week (on Mondays and Thursdays), we moved to the other lodgings. When I told one landlady that I leaving to go home, I arrived at the rooms of the other one. Three days later, the whole farce was repeated in reverse."

On 13 April 1945, while fighting still continued in some areas of Vienna, Karl Wahle reported for service at the Central Courts of Law. According to Wahle, the previous Jewish judges had "either emigrated or been gassed". Barely any of the survivors returned to Vienna and many of the people who were still there were former Party members. "My father was often asked how he could work with such people", said Francis Wahle. If they had only been "collaborators" his father did not have a problem with them. He believed that "the average person is not a hero." He had been a strong advocate of political independence for judges and had therefore never been a member of any political party, his son continued. He had also considered it inappropriate to accept awards.

His experiences underground as a "U-Boot" during the National Socialist regime did not prevent Karl Wahle from being a sociable person. Many of Francis Wahle's friends still have vivid memories of his father's hospitality and how he had always had "Sluka" candy for them. After the war, Francis' sister Anna joined the Congregation of Our Lady of Zion, where she was known as "Sister Hedwig". She was the co-founder and later Director of the Information Center for Christian and Jewish Understanding in Vienna. After the death of their mother from cancer in 1957, Sister Hedwig remained in Vienna with her father, while her brother Francis worked as a Catholic priest in London. Karl Wahle also remained close to the Catholic church. He attended the mass in the Burgkapelle every Sunday where he established a circle of friends consisting solely of women. Francis Wahle recalled how people jokingly used to refer to them as "his harem".

Karl Wahle remained professionally active until his death. After he was retired, the former President of the Commercial Court and First President of the Supreme Court gave lectures both at home and abroad and wrote legal opinions, legal commentaries and book reviews. "During the week spent in hospital before his death, he was still proofreading books," recalled Francis Wahle. Karl Wahle died in Vienna on 15 June 1970.

Franz-Stefan Meissel

The final speaker, Franz-Stefan Meissel, endeavored to put the work of Karl Wahle in a historical legal context. According to Meissel, Karl Wahle belonged to a generation of jurists "who were instrumental in shaping the legal system of the post-war era". The "impressive wealth of literature" by Karl Wahle, particularly on the subject of private commercial law, almost pushed his "remarkable work as a judge" into the background. After participating in the First World War, Wahle resumed his career at the Commercial Court and was Chairman of its Senate when, in 1938, he was forced by the new rulers to give up his career as a judge and, from 1942, to live underground with his wife in order to escape deportation.

In the years following the war, Wahle, in his role as President, reestablished the Commercial Court and, shortly after, was appointed as a judge at the Supreme Court. His "crowning achievement", according to Meissel, was his appointment as First President of the Supreme Court in 1956, having already been Member of the Supreme Restitution Commission from 1949 to 1957, which decided on legal matters in connection with the restitution of assets to victims of National Socialism as the court of last instance. Wahle contributed to a multitude of proceedings as rapporteur or associate judge, once again proving himself to be an "astute thinker with the courage of his own convictions" (Franz Gschnitzer).

Meissel believes that Karl Wahle and the Professor of Civil Law and Theresienstadt survivor Heinrich Klang serve to illustrate that highly qualified judges with great levels of personal commitment were working at the Restitution Commissions, particularly during the early days. The dedication of people such as Klang and Wahle, who resumed their jobs as judges after years of being persecuted and took on great responsibilities in their roles, helping to rebuild the legal system, "deserves our utmost respect and from today's perspective seems nothing short of laudable", Meissel concluded.