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Decision no. 531/2009

## Application

### Applicant, Status

Alexander I., Rejection

Michael I., Rejection

### Public owner

Republik Österreich

### Type of property

immovable

### Real estate in

KG Pötzleinsdorf (01510), Wien, Wien | [show on map](#)

## Decision

### Number

531/2009

### Date

03 Mar 2009

### Reasons

In rem restitution already granted after 1945

Outside the jurisdiction of the Arbitration Panel or the scope of application of the GSF Law

### Type

substantive

### Decision in anonymous form

Entscheidung 531 2009 (PDF, 399.89 KiB)

English translation: Decision 531 2009 (PDF, 415.79 KiB)

### Press release

Press Release Decision No. 531/2009

### Vienna, Währing

On 3 March 2009, the Arbitration Panel for In Rem Restitution rejected the restitution of four properties with a total area of approx. 20,000 m<sup>2</sup> in Vienna, Währing. The properties, which were for the most part owned by BUWOG, had already been restituted to both heirs of the aggrieved owner in the late 1940s/early 1950s. Accordingly, the Arbitration Panel was unable to pronounce a renewed recommendation for restitution. In 1938 the property, which had originally constituted a single unit, was owned by the timber industrialist Friedrich R. He was a member of the Evangelical Religious Community, however, due to his Jewish ancestors he was subjected to persecution by the National Socialist Regime. A palatial building erected in the 1910s was situated on the property, the so-called Villa R., including a palm house and a garden salon. The undeveloped areas were park-like gardens.

In March 1941, Friedrich R. had to sell the property, including its valuable contents, to the National Socialist Deutsche Arbeitsfront (“German Labor Front”) for 55,000 Reichsmark. A short while later, Friedrich R. died in his villa. With the help of the family lawyer, the probate proceedings for Friedrich R. were able to be processed and settled in a reasonably orderly fashion during the course of the year 1941. In March 1942 however, Friedrich R.’s son and heir, Paul R., had to flee the National Socialist persecution in Vienna. In September 1942, Friedrich R.’s daughter and heir, the former Italian national, Ellen I., emigrated to Florence via Split with her three under-age children – including the two applicants.

After Magda Goebbels, the wife of the Reich Minister for Propaganda Josef Goebbels also had shown a short-lived interest in acquiring the property; it passed in 1943 to the National Socialist Peoples' Welfare Association, which planned the establishment of a rest home for disabled officers of the German Armed Forces.

At the end of the Second World War, all National Socialist Organizations, including the National Socialist Peoples' Welfare Association, were outlawed and their assets transferred to the re-established Republic of Austria. From September 1945 onwards, the Villa R. functioned as an administrative building of the American Occupying Forces.

Paul R., who had returned to Austria from Hungary was restituted his inherited half of the property in 1948 without having to pay any additional fees, as he had not received the proceeds from the sale to German Labor Front of 275,000 Reichsmark to which he had been entitled. Paul R. donated his share of the property to his wife, Therese R., immediately after the restitution.

The other half was claimed in the same year by Ellen I., who was still resident in Italy. The competent Financial Directorate for Vienna, Lower Austria and Burgenland also decided in favour of restitution, however, on the condition that Ellen I. Repaid her 250,000 Reichsmark share of the proceeds from the sale which she had received. The appeal lodged against this decision by Ellen I. was granted. The appellate authorities maintained the obligation to repay the proceeds from the sale, however, permitted the assertion of damages caused to the interior of the Villa R. during the National Socialist era as a counter-claim. This damage was caused partially by wilful destruction and arose partially through misappropriated conversion work. After a lengthy investigation into the amount of the damages, the Republic of Austria, in a settlement with Ellen I. in 1953, recognized that the damages exceeded the amount of 250,000 Schilling. Therefore, the obligation of repayment was cancelled. In addition, Ellen I. also received rental earnings amounting to around 55,000 Schilling.

In 1954, Ellen I. sold her half of the property to the other one half owner, her sister-in-law Therese R. In the 1960s, after several sales, the majority of the property had come into the possession of the Federal Chamber of Economy. In 1964 the Villa R. fell victim to a fire and was demolished. After the erection of several students' halls of residence, the property passed into the ownership of the BUWOG Ltd., a public housing association of the Republic of Austria.

Both applicants before the Arbitration Panel, two sons of Ellen I., requested the restitution of one half of the original area, which in 2001 was divided between four properties. As this had already been restituted to Ellen I. in 1949, the restitution could not be recommended. The General Settlement Fund Law provides for monetary compensation for, among other things, the loss of the inventory asserted by the applicants. However, the decision regarding this does not fall under the competence of the Arbitration Panel.

For use by media; not legally binding upon the Arbitration Panel for In Rem Restitution.

For further inquiries contact: [presse@nationalfonds.org](mailto:presse@nationalfonds.org)