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Decision no. 1160/2016

Application

Applicant, Status

IK. W., Recommendation

Public owner

Land Burgenland  
Stadtgemeinde Mattersburg

Type of property

immovable

Real estate in

KG Mattersburg (30109), Mattersburg, Burgenland | [show on map](#)

Decision

Number

1160/2016

Date

21 Jun 2016

Reasons

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

No "extreme injustice" pursuant to Sec. 32 (2) item 1 of the GSF Law

Claim accepted by the public owners

No ownership 1938-1945

Type

substantive

Decision in anonymous form

[Entscheidung 1160 2016 \(PDF, 389.12 KiB\)](#)

Related decision

[Decision no. 1160a/2016](#)

[Press release](#)

[Press Release Decision No. 1160/2016](#)

[Burgenland, Mattersburg](#)

On 21 June 2016, the Arbitration Panel for *In Rem* Restitution granted an application for in rem restitution of two historical properties in Mattersburg to the extent of the areas that were owned by the Municipality of Mattersburg on 17 January 2001. The Municipality had acknowledged the validity of the claim for in rem restitution. The application for the other areas of properties, some of them owned by the Province of Burgenland on 17 January 2001 were rejected as the settlement concluded in 1961 for the requested properties was not deemed to be "extremely unjust".

On 12 March 1938, the property, situated in the Jewish quarter of Mattersburg, which was connected to the ownership of a one quarter share of a courtyard plot, was owned by the Jewish association J. T. E.

Following the Anschluss of Austria to the German Reich in 1938 the Liquidation Commissioner competent for Austrian associations dissolved the association and transferred its property to the Municipality of Mattersburg. The municipality then acquired further properties from Jewish owners who had been forced to leave the town.

In 1960 the collection agencies, established in 1955 on the basis of the *Staatsvertrag* ("State Treaty"), entered into negotiations with the municipality and a residential cooperative that had acquired land from the municipality regarding the restitution of seized properties. In September 1961 a settlement was concluded by the parties, according to which the collection agencies waived their claims in exchange for a payment of 200,000 Schilling.

In the application for *in rem* restitution, the applicant before the Arbitration Panel asserted that the previous restitution settlement had constituted an "extreme injustice".

In its juridical appraisal, the Arbitration Panel first examined whether the requested properties were publicly-owned and rejected the applications referring to areas that had been privately owned on the cut off day 17 January 2001. On the cut off day, the Province of Burgenland and the Municipality of Mattersburg each owned a partial area of the requested properties.

When examining the settlement of 1961 it was not possible to determine a discrepancy in value between the value of the properties at the time of the settlement and the settlement amount. As there were no indications that the collection agencies' freedom of contract had been limited in any way the settlement was not considered to be extremely unjust and the application for *in rem* restitution of the areas owned by the Province of Burgenland was also rejected.

The Municipality of Mattersburg recognized the validity of the claim to *in rem* restitution. As a change in ownership had taken place after 17 January 2001, following consultations with the municipality the Arbitration Panel will recommend that a comparable asset be paid to the applicant.

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