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Decision no. 1165/2016

Application

Applicant, Status

Patricia B., Rejection

Public owner

Land Niederösterreich  
Stadt Wien

Type of property

immovable

Real estate in

KG Klein- und Großau (23119), Reichenau an der Rax, Niederösterreich | [show on map](#)

KG Grünsting (23112), Reichenau an der Rax, Niederösterreich | [show on map](#)

KG Inzersdorf Stadt (01102), Wien, Wien | [show on map](#)

[Show all on map](#)

Decision

Number

1165/2016

Date

21 Jun 2016

Reasons

In rem restitution already granted after 1945

No legal succession

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

Type

substantive

Decision in anonymous form

Entscheidung 1165 2016 (PDF, 369.18 KiB)

Press release

Press Release Decision No. 1165/2016

Vienna, Inzersdorf-Stadt and Lower Austria, Klein- und Großau

On 21 June 2016, the Arbitration Panel for *In Rem* Restitution rejected an application for *in rem* restitution of several properties in Vienna, Inzersdorf-Stadt and in Lower Austria, Klein- und Großau. In 1938, the properties in Vienna were owned by Stephan H. and those in Edlach an der Rax were owned by Helene H. The majority of the properties seized by the Nazis were restituted after 1945; in two cases Helene H. entered into a settlement, waiving restitution of a property in exchange for a compensation payment. In its juridical appraisal the Arbitration Panel reached the conclusion that these settlements had not been extremely unjust and rejected the application.

In 1938, the requested properties in Vienna were under the sole ownership of Stephan H., a partner in the company Gustav und Wilhelm H., which operated a Viennese chocolate and confectionary factory in Vienna, Favoriten. Following the *Anschluss* of Austria to the German Reich in 1938 the partners in the company were deemed Jewish in accordance with the Nuremberg Laws of 1935. They had to relinquish their positions in the company and fled abroad. After the war Stephan H. returned to Austria, the properties in Inzersdorf-Stadt that had been confiscated by the *Gestapo* ("Secret State Police") and his share in the company were restituted to him.

In 1938, Helene H. the mother of Stephan H. and the applicant's grandmother, owned a property in Vienna, Wieden, on which a tenanted apartment building was situated, and several properties in Edlach an der Rax. In June 1938, she married an Italian national and fled to Switzerland. During the Nazi era Helene H., known as Helene P. following her marriage, retained ownership of the apartment building in Vienna. In 1939 she had to sell the properties in Edlach an der Rax to the company Gustav und Wilhelm H., which had been aryanized by this time and which, in 1943, sold on parts of the properties to Victor O., a partner in the company, and to other private individuals.

Following the end of the Nazi regime, Helene P. claimed restitution of the properties in Edlach and der Rax and in 1949/50 parts of the properties were returned to her, which she subsequently sold. In 1949, Helene P. concluded settlements for the other areas of the property, whereby she waived restitution in exchange for a financial settlement.

The applicant before the Arbitration Panel, a niece of Stephan H. and a granddaughter of Helene P. asserted that the settlement in 1949 had been extremely unjust.

In its judicial appraisal the Arbitration Panel first examined whether the applicant was eligible to claim the properties in Vienna, Favoriten. It determined that she was not eligible since she was not an heir of the original owner Stephan H. Around 18 m<sup>2</sup> of the requested properties in Edlach an der Rax were publicly-owned by the Province of Lower Austria on the cut off day 17 January 2001. The Arbitration Panel could find no indications that the settlements should be qualified as extremely unjust and rejected the application for *in rem* restitution.

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