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Decision no. 1121b/2016

Application

Applicant, Status

Damon B., Recommendation
Jonathan B., Recommendation
Olga Maria B., Recommendation
Sabrina B., Recommendation
Gerhard Franz H., Recommendation
Ariel M., Recommendation
Larissa P., Recommendation
Miguel Carlos R., Recommendation
Roberto Enrique R., Recommendation
Elfriede T., Recommendation

Public owner

Republik Österreich
Stadt Wien

Type of property

immovable

Real estate in

KG Hietzing (01205), Wien, Wien | [show on map](#)

Decision

Number

1121b/2016

Date

21 Jun 2016

Reason

Other grounds for the decision

Type

substantive

Decision in anonymous form

Entscheidung 1121b 2016 (PDF, 78.19 KiB)

Related decisions

Decision no. 1121/2015
Decision no. 1121a/2015
Decision no. WA14/2016
Decision no. 1121c/2016

Press release

Press Release Decision No. 1121b/2016

Vienna, Hietzing

On 21 June 2016, in its decision no. 1121b/2016 re 1121/2015, 1121a/2015 and WA/RO 14/2016, the Arbitration Panel for *In Rem* Restitution, following consultations with the Federal Ministry for Science, Research and the Economy, recommended the Republic of Austria to award a comparable asset for a 3,620 m² area of allotments owned by the Republic of Austria.

In 1938, Nelly Ne., who was considered Jewish in accordance with the Nuremberg Laws of 1935, owned an agricultural property on Vienna's Küniglberg with an area of approx. 3,620 m², which she was forced to sell to the Reich Treasury (Aviation) in autumn 1938. Nelly Me. was deported to the extermination camp Maly Trostinec near Minsk in May 1942 where she was murdered.

After the war no claim was filed for restitution of the property. Once the ownership of the requested property had passed into the hands of the Republic of Austria upon enactment of the State Treaty of Vienna the collection agencies, established in 1957, filed an application with the Financial Directorate for Vienna, Lower Austria and Burgenland for restitution of the property formerly belonging to Nelly Me. In 1963 the claim for restitution was rejected on the grounds that the sale to the German Reich had not constituted a seizure as defined by the *Drittes Staatsvertragsdurchführungsgesetz* ("Third State Treaty Implementation Act").

In its judicial appraisal in decision no. 1121/2015 the Arbitration Panel came to the conclusion that although the forced sale of Nelly Me.'s property in 1938 had not constituted a seizure as defined by the Third State Treaty Implementation Act, it did constitute as seizure on the grounds of persecution listed in the *Entschädigungsfondsgesetz* ("General Settlement Fund Law" – GSF Law). As the broader definition of a seizure in the GSF Law of 2001 overrides the narrow definition of a seizure in the Third State Treaty Implementation Act, the Arbitration Panel recommended the *in rem* restitution.

In the case at hand, *in rem* restitution was neither feasible nor practical as heirs represented by the representative *in absentia* were, in part, unknown. As such, it was not possible to draw up the documentation necessary for the change of ownership to be recorded in the land register.

Therefore, since it is not possible at present to transfer ownership to the known heirs, and it cannot be expected of them to wait until the trusteeship *in absentia* ceases, the Arbitration Panel recommended that, following consultations with the Federal Ministry for Science, Research and the Economy, the applicants be awarded a comparable asset for the 3,620 m² property.

For use by media; not legally binding upon the Arbitration Panel for *In Rem* Restitution.
For further inquiries contact: presse@nationalfonds.org