

Decision no. WA15/2016

Application

Applicant, Status

Irene d., Dismissal
Erwin F., Dismissal

Public owner

Republik Österreich

Type of property

immovable

Real estate in

KG Obersievering (01509), Wien, Wien | show on map

Decision

Number

WA15/2016

Date

14 Dec 2016

Reason

Deadline expired

Type

substantive

Decision in anonymous form

Entscheidung wa15 2016 (PDF, 266.50 KiB)

Related decisions

Decision no. 204/2006
Decision no. WA9/2010

Press release

Press Release Decision No. WA15/2016

Vienna, Döbling

On 14 December 2016 the Arbitration Panel for In Rem Restitution dismissed two applications to reopen the proceedings that led to decision no. 204/2006 because the deadline for submitting applications to reopen this case had expired on 31 January 2009.

In its decision no. 204/2006 of 12 July 2006 the Arbitration Panel rejected applications for restitution of a property in Döbling, Vienna. This property was seized from its original owners during the Nazi era and owned by the Republic of Austria on the cut off day, 17 January 2001. It had already been the subject of restitution proceedings, which were concluded with a settlement in 1953. In the settlement, the former owners of the property waived restitution in exchange for a payment of 300,000 Schilling. The Arbitration Panel was unable to find sufficient evidence to indicate that this settlement by agreement could constitute an extreme injustice in accordance with the Entschädigungsfondsgesetz (“General

Settlement Fund Law" – GSF Law).

In its decision WA/RO 9/2009 re 204/2006 of 25 January 2009, the Arbitration Panel rejected the initial applications to have the proceedings reopened because the applicants had not submitted any new evidence that could have brought about a different outcome to decision no. 204/2006.

In their most recent applications to have the proceedings reopened the applicants once again submitted documents described as "new evidence" and, on the basis of a legal opinion, requested the Arbitration Panel to extend the two-year period for filing applications for reopening set out in Sec. 21a of its Geschäfts- und Verfahrensordnung ("Rules of Procedure").

The applicants asserted that an obligation existed to extend the deadline for applications to reopen proceedings defined in Sec. 21a of the Rules of Procedure. No such obligation can be derived from the GSF Law, from any other procedural laws or from the Arbitration Panel's previous procedural practice. On the contrary, general considerations regarding the principle of equality demonstrated that a two-year period was necessary in order to avoid where possible individual applicants receiving either preferential or detrimental treatment. Additionally, given the Arbitration Panel's practice of offering comprehensive support to the applicants and obtaining all evidence available to it – in doing so considerably relieving its applicants of the burden of proof – the Arbitration Panel deemed the two-year period for filing applications for reopening to be sufficient for submitting new evidence.

As the deadline for filing an application to reopen proceedings pursuant to Sec. 21a expired on 31 January 2009 in the case at issue, the Arbitration Panel dismissed the applications as they had been filed out of time.

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