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Decision no. 1526/2018

Application

Applicant, Status

Jennifer K., Recommendation

Doris L., Recommendation

Public owner

Republik Österreich

Stadt Wien

Type of property

immovable

Real estate in

KG Leopoldau (01613), Wien, Wien | [show on map](#)

Decision

Number

1526/2018

Date

24 Apr 2018

Reasons

In rem restitution already granted after 1945

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

No prior measure pursuant to the GSF Law

Type

substantive

Decision in anonymous form

Entscheidung 1526 2018 (PDF, 346.73 KiB)

Related decision

Decision no. 1526a/2018

Press release

Press Release Decision No. 1526/2018

Vienna, Leopoldau

On 24 April 2018, the Arbitration Panel for In Rem Restitution recommended two applications for in rem restitution of properties in Vienna, Leopoldau, and will award a comparable asset for the areas of public road owned by the Republic of Austria and the City of Vienna on the cut off day, 17 January 2001. The in rem restitution of other areas was rejected as they had either not been under public ownership on the cut off day or they had already been restituted in the 1950s.

In 1938 Julius K., who was considered Jewish pursuant to the Nuremberg Laws of 1935 following the Anschluss of Austria to the German Reich, was the owner of land holdings that included three agricultural property parcels in the cadastral district (KG) Leopoldau. Julius K. and his family managed to flee to Australia via Great Britain in 1938/39.

In 1941 the assets of Julius K. were forfeited to the German Reich, including the properties in KG Leopoldau. In 1943 the German Reich sold two of these property parcels to the *Simmering-Graz-Pauker AG* and the third to the *Siemens-Schuckertwerke*.

After the war ended in 1945, Julius K. filed several claims for restitution, including claims for the restitution of the properties in Leopoldau. The property parcels that had been sold to the *Simmering-Graz-Pauker AG* were restituted to Julius K. in 1950.

Following the nationalization of the Siemens-Schuckertwerke in 1946 when they were under the administration of the Soviet occupying power, the restitution proceedings for the third property parcel could only be resumed after the *Staatsvertrag von Wien* ("State Treaty of Vienna") of 1955 had come into effect. In 1956 the Restitution Commission Vienna rejected the claim because the Siemens-Schuckertwerke did not fall under the definition of "acquirer" as set out in the *Drittes Rückstellungsgesetz* ("Third Restitution Act"). The Higher Restitution Commission and the Supreme Restitution Commission both confirmed this decision.

On the cut off day 17 January 2001 a 473 m² area of this property was owned by the City of Vienna and another area, whose dimensions must still be determined, was owned by the Republic of Austria. Both form part of public roads.

In its juridical appraisal the Arbitration Panel reached the conclusion that the restitution claims previously filed for these seized areas had never been the subject of a substantive decision; nor had Julius K. or his legal successors received any other form of compensation for the seized land. Therefore, since there had been no prior measure as defined by the *Entschädigungsfondsgesetz* ("General Settlement Fund Law" – GSF Law), and with a view to the stated purpose of the GSF Law – the settlement of unresolved property issues – the Arbitration Panel granted these applications on their merits. Following consultations with the Republic of Austria and the City of Vienna, it will award the applicants a comparable asset.

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