

General Settlement Fund Law

Federal Law on the Establishment of a General Settlement Fund for Victims of National Socialism and on Restitution Measures (General Settlement Fund Law), as well as on an Amendment to the General Social Security Law and the Victims Assistance Act (NR: GP XXI AB 476 p. 55. BR: AB 6301 p. 672). Original Version: Federal Law Gazette I No. 12/2001.

Amendments:

Federal Law Gazette I no. 40/2001
Federal Law Gazette I no. 58/2001
Federal Law Gazette I no. 114/2002
Federal Law Gazette I no. 108/2004
Federal Law Gazette I no. 142/2005
Federal Law Gazette I no. 20/2007
Federal Law Gazette I no. 2/2008
Federal Law Gazette I no. 89/2008
Federal Law Gazette I no. 54/2009

Latest Version (as at: February 2009). The amendments are set off in italics.

Article 1

Federal Law on the Establishment of a General Settlement Fund for Victims of National Socialism and on Restitution Measures (General Settlement Fund Law)

Part 1

General Settlement Fund

Title 1

Establishment of the General Settlement Fund

Establishment and Purpose of the Fund

§ 1. (1) In order to comprehensively resolve open questions of compensation of victims of National Socialism for losses and damages as a result of or in connection with events having occurred on the territory of the present-day Republic of Austria during the National Socialist era, the General Settlement Fund (in short: Fund) shall be established.

(2) The Fund's purpose shall be to acknowledge, through voluntary payments, the moral responsibility for losses and damages inflicted upon Jewish citizens and other victims of National Socialism as a result of or in connection

with the National Socialist Regime. The return of works of art shall be governed by the special legislation presently in force.

(3) The Fund shall be an institution of the Republic of Austria, subject to Austrian law, shall be an independent legal entity, and shall exclusively serve non-profit purposes. The Fund shall have its headquarters in Vienna. It shall be exempt from all federal taxes and duties. The payments provided by the Fund shall be governed by the principles guiding the public administration acting under private law.

(4) The Fund shall be regarded as dissolved once its tasks are fully completed.

Capital of the Fund

§ 2. (1) To carry out its tasks, the Fund shall be endowed with an amount of 210 million US Dollars. This amount shall be made available, at the latest, 30 days after all claims in the United States pending as of June 30, 2001 against Austria or Austrian companies arising out of or related to the National Socialist era or World War II have been dismissed. Excepted therefrom are claims covered by the Reconciliation Fund, Federal Law Gazette I, No. 74/2000, claims for the return of works of art, as well as claims for *in rem* restitution against provinces or municipalities, unless or until the latter have availed themselves of the option under § 38. Furthermore, the Fund may dispose of the interest that will accrue at the 3-month Euribor rate from investment by the Fund, starting with the date cited above and continuing for the entire duration of the Fund. *The Federation [Bund] shall make financial means available in the amount of the payments awarded after 1 July 2009, inclusive of the necessary costs for personnel, material and administration as well as the costs for the Claims Committee. These additional means shall be transferred to the Fund in installments in advance, in compliance with actual need.*¹

*(1a) A contribution to the Fund of up to 60 million US Dollars may also be made available from those amounts which the Federation [Bund] receives in the financial year 2000 pursuant to § 69 (3) of the National Bank Act 1984, Federal Law Gazette No. 50/1984, as amended by the Federal Law, Federal Law Gazette I No. 60/1998. The amount of 210 million US Dollars as specified in Paragraph 1 remains hereby unchanged.*²

(2) Contributions to the Fund shall not be subject to inheritance and gift taxes or similar financial burdens having the same purpose or effect. They may be treated as company expenditures.

(3) Yields from the Fund's capital and other revenues shall be used exclusively for the Fund's purposes. This includes the necessary costs for personnel, material and administration of the Fund, including the costs of the Claims Committee, in so far as these cannot be covered by the budget of the National Fund.

¹ § 2 (1) was changed by the amendment to the GSF Law, Federal Law Gazette I no. 54/2009.

² § 2 (1a) was inserted by the amendment to the GSF Law, Federal Law Gazette I no. 40/2001.

(4) The legal transactions necessary for carrying out the Fund's tasks shall be exempt from federal legal fees.

Organs of the Fund

§ 3. (constitutional provision) The organs of the Fund shall be the organs of the National Fund of the Republic of Austria for Victims of National Socialism, Federal Law Gazette I, No. 432/1995, as amended, that is, the Board of Trustees and the Secretary General. The Claims Committee specified in § 4 shall take the place of the Committee. Unless the present Federal Law provides otherwise, the administrative tasks of the Fund and its external representation shall be carried out in accordance with the principles of the Federal Law on the National Fund of the Republic of Austria for Victims of National Socialism, Federal Law Gazette No. 432/1995, as amended.

§ 3a. The Fund and the National Fund of the Republic of Austria for Victims of National Socialism as well as their organs shall not be liable for claims for compensation arising from the execution of tasks in accordance with the Federal Laws which establish these Funds.³

Claims Committee

§ 4. (1) An independent Claims Committee shall be set up to decide on claims for payments from the Fund. The Claims Committee shall take its decisions by a majority vote, unless unanimity is specifically prescribed.

(2) **(constitutional provision)** Members of the Claims Committee shall be:

1. one member to be appointed by the Government of the United States of America;
2. one member to be appointed by the Austrian Federal Government;
3. one member to be appointed by the above members as chairperson.

(3) In the event that the members appointed according to items 1 and 2 are unable to agree upon the chairperson within 60 days after the entry into force of the present Federal Law, the Government of the United States of America and the Federal Government [of Austria] will enter into consultations to name a chairperson.

(4) The members of the Claims Committee shall serve in an honorary capacity.

(5) The National Fund shall provide technical and administrative support to the Claims Committee, making use to the greatest extent possible of its administrative infrastructure. The National Fund shall be reimbursed for the resulting additional costs in accordance with the first sentence of § 2 (3).

³ § 3a was inserted by the amendment to the GSF Law, Federal Law Gazette I no. 40/2001.

Title 2

General Provisions

Distribution of Funds

§ 5. (1) *For losses and damages on which a first decision had been reached by the Claims Committee by 1 July 2009, one half of the available means shall be reserved for payments in the claims-based process, and one half for payments in the equity-based process.*⁴

(2) Of the funds available for payments to entitled persons, the equivalent in Schillings of 25 million US Dollars shall be allocated for payments for insurance policies. In the event that this amount is exhausted, and this is certified by the Claims Committee, in consultation with representatives of the plaintiffs' attorneys recommended by the Government of the United States, an amount of up to 5 million US Dollars from the amount allocated to the claims-based process may be used to pay insurance claims.

(3) *After 1 July 2009, the Board of Trustees shall, following consultation with the Claims Committee, calculate the total amount of funds available for payments for losses and damages on which a first decision had been reached by the Claims Committee by 1 July 2009, after deduction of the Fund's expenditures. The Board of Trustees shall, following consultation with the Claims Committee, determine the payment quotas for the claims-based process, for the equity-based process and for insurance policies. The determination of the three payment quotas shall be carried out by calculating the ratio of the respective available means to the sum of the claimed amounts for insurance policies, to the sum of the claimed amounts for the other categories of property in the claims-based process or to the sum or recognized losses in the equity-based process of all applicants on whose applications a first decision had been reached by 1 July 2009.*⁵

(3a) *The payment quotas calculated pursuant to paragraph (3) shall also apply for all payments determined by the Claims Committee after 1 July 2009.*

(3b) *More detailed regulations on paragraphs (1) and (3) shall be laid down by the Claims Committee in the rules of procedure and by-laws.*⁶

(4) After completion of the tasks of the Fund, any remaining funds shall be transferred to the National Fund of the Republic of Austria for Victims of National Socialism. These funds shall be used for programs to benefit victims of National Socialism, including members of the Roma community.

⁴ § 5 (1) was changed by the amendment to the GSF Law, Federal Law Gazette I no. 54/2009.

⁵ § 5 (3) was changed by the amendment to the GSF Law, Federal Law Gazette I no. 54/2009.

⁶ § 5 (3a) and (3b) were inserted by the amendment to the GSF Law, Federal Law Gazette I no. 54/2009.

Eligibility

§ 6. (1) Persons (in the claims-based process also associations), who/ which were persecuted by the National Socialist regime on political grounds, on grounds of origin, religion, nationality, sexual orientation, or of physical or mental handicap or of accusations of so-called asociality, or who left the country to escape such persecution, and who suffered losses or damages as a result of or in connection with events having occurred on the territory of the present-day Republic of Austria during the National Socialist era shall be eligible to file an application.

(2) In addition, applying mutatis mutandis the provisions of the [Austrian] General Civil Code, heirs of eligible claimants as defined in (1) shall also be eligible to file an application. In case of a defunct association, an association which the Claims Committee regards as the legal successor shall be entitled to file an application as well.

General Conditions for Payments

§ 7. The payments shall be awarded as a final compensation for losses and damages as a result of or in connection with events having occurred on the territory of the present-day Republic of Austria during the National Socialist era. There shall be no legal right to these payments.

Filing Period

§ 8. Applications for payments are to be filed in writing no later than 24 months after the entry into force of the present Federal Law.

Multiple Applications

§ 9. Applications for compensation for damages and losses as defined in § 7 may be filed either under the claims-based or the equity-based process. In the respective processes, only one application may be filed, which may include losses and damages in multiple categories (§§ 14 and 19). Simultaneous applications in both processes based on the same loss or damage are, however, inadmissible. If an application is entirely and finally rejected under the claims-based process, the Claims Committee shall consider the application under the equity-based process.

Consideration of Prior Restitution Measures

§ 10. (1) Unless the present Federal Law provides otherwise, no payments shall be made for claims regarding losses and damages which have been finally decided by an Austrian court or administrative body or which have been settled by agreement.

(2) In the exceptional circumstances where the Claims Committee unanimously determines that such decision or settlement constituted an extreme injustice, a payment may exceptionally be awarded. (§ 15 (1) item 2).

(3) *Where a piece of art shall be restituted to a claimant pursuant to the provisions of the Federation [Bund], the provinces and the municipalities regarding the restitution of publicly-owned property pursuant to Part 2 of this Federal Law and where the claimant is already in receipt of a payment for this property pursuant to § 11a, § 16 or § 20, the claimant shall repay this payment to the General Settlement Fund. Such reversal shall be performed concurrently.*⁷

Waiver

§ 11. (1) The condition for a payment from the Fund shall be a statement to be made by the recipient of the payment that upon receipt of a payment he or she will, for him/herself and his/her heirs, waive any and all claims against Austria and/or Austrian companies arising out of or related the National Socialist era or World War II.

(2) Such a waiver shall not preclude the claimant from bringing an action against Austria and/or Austrian companies for in rem restitution of a specifically identified piece of art or an action for in rem restitution against provinces or municipalities, unless or until the latter have availed themselves of the option under § 38. Such a statement shall not include a waiver of any right in any prior settlement reached in courts in the United States of America.

Initial Payments

§ 11a. (1) *The Board of Trustees by consent of the Claims Committee shall be authorized to determine the disbursement of initial payments to an eligible person.*

(2) *Initial payments shall only be made by the Claims Committee where the requirement of § 44 (1) is satisfied and shall exclusively be made to eligible persons whose claim – with the exception of insurance claims – has been decided and where any filing period for the reopening of the matter has expired.*

(3) *Guidelines for the disbursement of initial payments shall be issued by the Board of Trustees requiring that initial payments are determined so as not to exceed the estimated total amount payable to the claimant according to this Federal Law. The Board of Trustees may state in these guidelines that a initial payment shall only be disbursed if its determination according to the guidelines meets or exceeds a minimum amount.*⁸

⁷ § 10 (3) was inserted by the amendment to the GSF Law, Federal Law Gazette I no. 20/2007.

⁸ § 11a was inserted by the amendment to the GSF Law, Federal Law Gazette I no. 142/2005.

Rules of Procedure and By-Laws

§ 12. The Claims Committee shall issue and publish rules of procedure and by-laws, in particular regarding:

1. relaxed standards of proof;
2. a simplified and expedited internal appellate procedure in the claims-based process;
3. the attendance of observers at individual procedural stages of the claims-based process under strict rules of confidentiality.

Taxes, Fees and Social Benefits

§ 13. (1) Applications to, and payments from, the Fund shall be exempt from all federal taxes and fees.

(2) **(constitutional provision)** Payments from the Fund shall not affect the recipient's claims to any Austrian social benefits.

Title 3

Claims-Based Process

Categories of Property

§ 14. In the claims-based process, applications may be filed for awarding payments for losses or damages in the following categories of property:

1. liquidated businesses, including licenses and other business assets;
2. real property, unless in rem restitution pursuant to Part 2 of the present Federal Law has been granted;
3. bank accounts, stocks, bonds, mortgages;
4. movable property, unless such property losses have been compensated by payments based on the Federal Law amending the Federal Law to Establish the National Fund of the Republic of Austria for Victims of National Socialism, Federal Law Gazette I, No. 11/2001;
5. insurance policies.

Conditions for Claims and Standards of Proof

§ 15. (1) The claimant must show, under relaxed standards of proof according to (2) proof or convincing evidence of ownership of property in one of the categories listed in § 14 or entitlement based on insurance policies at the time of confiscation/Aryanization/liquidation as a result of or in connection with events having occurred on the territory of the present-day Republic of Austria during the National Socialist era, and that

1. such property claim was never previously finally decided by Austrian courts or administrative bodies, or settled by agreement, or
2. such a decision or settlement by agreement constituted an extreme injustice, or

3. such property claim was denied by Austrian courts or administrative bodies because of failure to produce required evidence, where such evidence was inaccessible to the claimant at that time, but has since become available.

(2) The Claims Committee shall review all applications using relaxed standards of proof. In the claims-based process, claimants must as a rule produce supporting evidence to establish eligibility. If no relevant evidence is available, eligibility for payments may also be made credible in some other way. In cases relating to (1) items 1 and 3, if no contradictory evidence is presented, an affidavit, including a plausible explanation for why this claim was never decided or settled, or why the necessary evidence was inaccessible to the claimant, shall be deemed sufficient.

Decisions of the Claims Committee

§ 16. (1) *If the Claims Committee determines – in case of § 15 (1) item 2 unanimously – that the claimant satisfies the evidentiary requirements mentioned in § 15, the Claims Committee shall establish the total amount of all of the claimant's approved claims (claimed amount). The claimant shall be notified of the claimed amount. The Claims Committee may notify separately the part of the claimed amount regarding insurance claims and the part of the claimed amount regarding all other claims. After the expiration of the filing period according to § 8 and after the calculation of the payment quotas according to § 5 (3), the Claims Committee shall award each claimant a proportionately reduced amount (pro rata) on the basis of the established claimed amounts and according to the funds allocated for the claims-based process pursuant to § 5 (awarded amount). The amount awarded for each application may not exceed 2 million US Dollars. More detailed regulations shall be laid down in the by-laws and rules of procedure.*⁹

(2) In order to ensure that no claimant shall receive payments for those losses or damages for which compensation has been paid on the basis of other measures, the Claims Committee, when establishing the claimed amount, shall take particularly into account the following restitution and compensation measures:

1. Payments based on the Federal Law amending the Federal Law to Establish the National Fund of the Republic of Austria for Victims of National Socialism, Federal Law Gazette I, No. 11/2001;

2. Payments and measures of the German Foundation “Remembrance, Responsibility and Future”, German Federal Law Gazette I, No. 38/2000;

3. Settlement of claims under the Insurance Reconstruction Act, Federal Law Gazette No. 185/1955, the Insurance Indemnification Act, Federal Law Gazette No. 130/1958, or on the basis of claims settlement procedures of the “International Commission on Holocaust Era Insurance Claims” (ICHEIC); or

4. Settlement of claims on the basis of the Bank Austria Settlement.

Appeal for a New Decision

⁹ § 16 (1) was changed by the amendments to the GSF Law, Federal Law Gazette I no. 142/2005 and Federal Law Gazette I no. 54/2009.

§ 17. In the event of a negative decision by the Claims Committee on the claimed amount *or a part thereof*¹⁰, the claimant may file an appeal for a new decision. Such an appeal shall specify the reasons why a revised decision would be justified. In particular, such reasons may include references to new circumstances or errors in fact or in law in the decision of the Claims Committee. More detailed regulations shall be laid down in the by-laws and rules of procedure.

Insurance Claims

§ 18. (1) Within the framework of the claims-based process, the Claims Committee shall decide on all insurance claims (§ 14 item 5) against Austrian companies, unless these claims are directed at companies which

1. are considered “German companies” under the German Law for the Establishment of the Foundation “Remembrance, Responsibility and Future”, German Federal Law Gazette I No. 38/2000; or
2. are already covered by ICHEIC.

(2) In taking decisions on insurance policies (§ 14 item 5), the Claims Committee shall apply *mutatis mutandis* the ICHEIC claims-handling procedures, including those pertaining to valuation, standards of proof, and relevant decisions by the chairperson. In doing so, particularly prior compensation measures shall be taken into account according to § 16 (2).

(3) If the Claims Committee determines that all conditions for the approval of an insurance claim are met, it shall authorize in accordance with the principles of § 16 (1) the disbursement of a payment from the capital of the Fund allocated pursuant to § 5 (2), (3) *and (3a)*¹¹. All funds used to pay approved insurance claims shall be distributed on a pro rata basis.

(4) The Austrian Insurance Association shall, to the extent available, make the lists of policyholders who are possible victims of National Socialism as defined in § 6 (1) publicly accessible.

Title 4

Equity-Based Process

Categories

§ 19. In case the claimant is not able, under the standards of proof of the claims-based process, to document specific claims or make them credible, applications may be submitted to the Claims Committee in the equity-based process for awarding payments for losses or damages in the following categories:

¹⁰ These words were inserted by the amendment to the GSF Law, Federal Law Gazette I no. 142/2005.

¹¹ In § 18 (3) the phrase “§ 5 (2) was replaced by the phrase “§ 5 (2), (3) and (3a)” by the amendment to the GSF Law, Federal Law Gazette I no. 54/2009.

1. for any of the categories of property mentioned above in § 14;
2. for occupational or educational losses as a result of or in connection with events having occurred on the territory of the present-day Republic of Austria during the National Socialist era; or
3. for any other claims for losses or damages arising as a result of or in connection with events having occurred on the territory of the present-day Republic of Austria during the National-Socialist era, unless those claims are covered by the Federal Law concerning the Fund for Voluntary Payments by the Republic of Austria to Former Slave Laborers and Forced Laborers of the National Socialist Regime, Federal Law Gazette I No. 74/2000, or by the provisions on in rem restitution of publicly-owned property pursuant to Part 2 of the present Federal Law.

Special Conditions for Payments

- § 20.** If the Claims Committee has reason to believe that
1. there is a valid case of loss of property in any of the categories of property listed in § 14, or – where such claim was finally decided by Austrian courts or administrative bodies, or settled by agreement – that such a decision or settlement was inadequate;
 2. the claimant was not adequately compensated for losses as defined in § 19 item 2; or
 3. a claim raised pursuant to § 19 item 3 is justified, the Claims Committee may award an equity-based payment.

Payment per Household

§ 21. *(note: repealed by Federal Law Gazette I No. 142/2005)*

Exclusion of Appeal

§ 22. Decisions made by the Claims Committee under the equity-based process cannot be appealed.

Part 2

***In Rem* Restitution**

Title 1

Arbitration Panel for *In Rem* Restitution

Establishment of the Arbitration Panel

- § 23.** (1) An Arbitration Panel for the examination of applications for *in rem* restitution of publicly-owned property shall be established with the Fund.
(2) **(constitutional provision)** Members of the Arbitration Panel shall be:

1. one member to be appointed by the Government of the United States of America;

2. one member to be appointed by the Austrian Federal Government;

3. one member to be appointed by the above members as chairperson.

(3) The members should be familiar with the relevant rules and provisions of Austrian and international law, in particular with the European Convention for the Protection of Human Rights and Fundamental Freedoms.

(4) In the event that the members appointed according to (2) items 1 and 2 are unable to agree upon the chairperson within 60 days after the entry into force of the present Federal Law, the Government of the United States of America and the Federal Government [of Austria] will enter into consultations to name a chairperson.

(5) The members of the Arbitration Panel shall serve in an honorary capacity. Any expenses incurred by the members as well as the necessary costs for personnel and material shall be borne by the Federation [Bund], making use to the greatest extent possible of the administrative infrastructure of the Fund.

By-Laws and Rules of Procedure

§ 24. The Arbitration Panel shall establish and publish by-laws and rules of procedure, in particular about requirements for applicants regarding burden of proof and rules of evidence.

Liaison with the Historical Commission

§ 25. The chairperson of the Austrian Historical Commission shall appoint a liaison person to the Arbitration Panel.

Title 2

Settlement of Claims

Case-by-Case Examination

§ 26. The Arbitration Panel shall examine applications for *in rem* restitution of publicly-owned property on a case-by-case basis.

Eligibility

§ 27. (1) Persons and associations who/which were persecuted by the National Socialist regime on political grounds, on grounds of origin, religion, nationality, sexual orientation, or of physical or mental handicap, or of accusations of so-called asociality, or who left the country to escape such persecution, and who suffered losses or damages as a result of or in connection with events having occurred on the territory of the present-day Republic of Austria during the National Socialist era shall be eligible to file an application.

(2) In addition, applying *mutatis mutandis* the provisions of the [Austrian] General Civil Code, heirs of eligible claimants as defined in (1) shall also be eligible to file an application. In case of a defunct association, an association which the Arbitration Panel regards as the legal successor shall be entitled to file an application as well.

Publicly-Owned Property

§ 28. (1) For the purposes of *in rem* restitution, the notion of “publicly-owned property” shall cover exclusively real estate (land) and buildings (superstructures) which

1. between March 12, 1938 and May 9, 1945, were taken from the previous owners whether without authorization or on the basis of laws or other orders, on political grounds, on grounds of origin, religion, nationality, sexual orientation, or of physical or mental handicap, or of accusations of so-called asociality, in connection with events having occurred on the territory of the present-day Republic of Austria during the National Socialist era; and

2. were never the subject of a claim that was previously decided by an Austrian court or administrative body, or settled by agreement, and for which the claimant or a relative has never otherwise received compensation or other consideration; except in exceptional circumstances where the Arbitration Panel unanimously determines that such a decision or settlement constituted an extreme injustice; and which

3. on January 17, 2001 were exclusively and directly owned by the Federation [Bund], or any legal person under public or private law wholly-owned, directly or indirectly, by the Federation.

(2) For the purposes of *in rem* restitution to Jewish communal organizations, the notion of “publicly-owned property” shall furthermore cover tangible movable property, particularly cultural and religious items, which

1. between March 12, 1938 and May 9, 1945, was taken from the previous owners whether without authorization or on the basis of laws or other orders, on political grounds, on grounds of origin, religion, nationality, sexual orientation, or of physical or mental handicap, or of accusations of so-called asociality, in connection with events having occurred on the territory of the present-day Republic of Austria during the National Socialist era; and

2. was never the subject of a claim that was previously decided by an Austrian court or administrative body, or settled by agreement, and for which the claimant or a relative has never otherwise received compensation or other consideration; except in exceptional circumstances where the Arbitration Panel unanimously determines that such a decision or settlement constituted an extreme injustice; and which

3. on January 17, 2001 was exclusively and directly owned by the Federation [Bund], or any legal person under public or private law wholly-owned, directly or indirectly, by the Federation.

Filing Period

§ 29. Applications to the Arbitration Panel are to be filed in writing with the Fund no later than 31 December 2007.¹²

Basis of Examination

§ 30. The Arbitration Panel shall make recommendations on the basis of evidence submitted by the claimant and submissions of the Austrian Federal Government, as well as any relevant findings of the Austrian Historical Commission.

Status of Ownership

§ 31. If the claimant asserts that a property is publicly-owned, the Arbitration Panel shall verify in cooperation with the Federal Government whether this is the case.

Prior Measures

§ 32. (1) As a matter of principle, the Arbitration Panel shall not have the authority to reopen or reconsider cases that were previously decided by Austrian courts or administrative bodies, or settled by agreement. Neither the claimant nor a relative (in the case of an association also its legal predecessor) must have otherwise received compensation or other consideration for the property in question.

(2) Excepted therefrom are only cases where

1. the Arbitration Panel unanimously determines that a prior settlement constituted an extreme injustice; or
2. the claim was denied because of failure to produce required evidence, where such evidence was inaccessible to the claimant at the time but has since become accessible.

Examination Period

§ 33. The Arbitration Panel shall issue recommendations and rejections within 6 months of the Fund's receiving an application.

Recommendations and Rejections

§ 34. After examination of the application, the Arbitration Panel shall make a recommendation for *in rem* restitution to the competent Austrian Federal Minister, or reject the claim. Where *in rem* restitution, although merited, is not practical or feasible, the Arbitration Panel may recommend, in consultation with the competent Austrian Federal Minister, that the claimant be awarded a comparable property.

¹² § 29 was changed by the amendment to the GSF Law, Federal Law Gazette I no. 20/2007.

Taxes and Fees

§ 35. Applications to the Arbitration Panel and awards based on its recommendations shall be exempt from all federal taxes and fees.

Obligation to Publish Recommendations

§ 36. Recommendations by the Arbitration Panel shall be published.

Disposition of Federal Property

§ 37. (1) If the Arbitration Panel recommends *in rem* restitution or the conveyance of a comparable property, the Federal Minister of Finance shall be authorized, to the extent of the recommendation, to dispose of parts of the immovable or movable federal property irrespective of the estimated value by voluntary conveyance.

(2) If a property is exclusively and directly owned by a legal person under public or private law wholly-owned, directly or indirectly, by the Federation (§ 28 (1) item 3 and (2) item 3), the executive bodies of such a legal person have to comply with the proprietary instructions of the respective competent Federal Minister, in concert with the Federal Minister of Finance, regarding the voluntary conveyance of such property.

(3) *(note: repealed by Federal Law Gazette I no. 142/2005)*

Provinces and Municipalities

§ 38. (1) If and as far as provinces or municipalities provide for *in rem* restitution of publicly-owned property, they may provide for the Arbitration Panel – *after 31 December 2009 with its consent* – to examine applications for *in rem* restitution, applying *mutatis mutandis* the above provisions. The costs incurred therefrom shall be borne by the respective province or the respective municipality.

(2) *Notwithstanding Sec. 29, the filing period for cases specified in paragraph (1) shall end on 31 December 2009, however, not earlier than the end of the 24th month after the province or municipality availed itself of the option under paragraph (1). The General Settlement Fund shall appropriately announce these filing periods.*¹³

Part 3

Entry into Force and Final Provisions

Publicity Measures

¹³ § 38 was changed by the amendment to the GSF Law, Federal Law Gazette I no. 89/2008.

§ 39. Within two months of entry into force of the present Federal Law, the Fund shall assure adequate worldwide publicity of the payments that may be made pursuant to the present Federal Law. Such publication shall, in particular, include information about the Fund, the conditions for payments, filing periods and the necessary examination of data.

Provision of Information

§ 40. (1) The Fund and its organs established according to the present Federal Law shall be authorized to obtain from public authorities and other public institutions all information necessary to fulfill its tasks. Information may only be withheld if prohibited by specific statutory provisions or if the protected interest for secrecy of the affected person outweighs the legitimate interest for information of the Fund and its organs.

(2) (note: repealed by Federal Law Gazette I No. 20/2007)

Data Protection

§ 40a. *The Fund shall be authorized to use personal data including sensitive data as defined in § 4 item 2 of the Data Protection Act 2000 to fulfill its tasks prescribed by this Federal Law. In addition, it is legal to provide this data only to the National Fund of the Republic of Austria for Victims of National Socialism to fulfill the tasks assigned to the National Fund. Any use of sensitive data shall be recorded and documented in accordance with § 14 (2) items 7 and 8 of the data Protection Act 2000. The Data Protection Act 2000, Federal Law Gazette I No. 165/1999, as amended, is applicable.*¹⁴

Gender-Related Terms

§ 41. The terms used in the present Federal law relating to individuals apply equally to women and men, wherever this is relevant.

International Agreements

§ 42. International Agreements dealing with the consequences of the National Socialist era or World War II, in particular the State Treaty for the Re-establishment of an Independent and Democratic Austria, Federal Law Gazette No. 152/1955, as well as the Exchange of Notes of 1959 between the United States of America and Austria relating to the Settlement of Certain Claims under Article 26 of the Austrian State Treaty, shall not be affected by the present Federal Law. Thus, there shall be no legal right to payments or awards under the present Federal Law.

Entry into Force

¹⁴ § 40a was inserted by the amendment to the GSF Law, Federal Law Gazette I no. 20/2007.

§ 43. (note: not applicable according to Federal Law Gazette I No. 2/2008)

Dismissal of Claims

§ 44. (1) Payments and awards under the present Federal law may be made only after all claims under § 2 (1) have been dismissed. The Federal Government shall announce that day in the Federal Law Gazette I.¹⁵

(2) The expression “Austrian companies”, as used in the present Federal Law, is defined in the **Annex** to this Federal Law.

Enactment

§ 45. § 2 (1), § 5 (1), § 5 (3), (3a) and (3b), § 16 (1) and § 18 (3), each as amended by the Federal Law Gazette I no. 54/2009, shall enter into force on 1 July 2009.¹⁶

Annex

Definition of the Expression “Austrian Companies”

The expression “Austrian companies”, as used in the present Federal Law, is defined as follows:

1. Enterprises that, at any given time, had or have their headquarters within the borders of the present-day Republic of Austria as well as their parent companies (past or present, direct or indirect), even when the latter had or have their headquarters abroad.
2. Enterprises situated outside the borders of the present-day Republic of Austria in which Austrian enterprises as described in Sentence (1), at any given time, had or have a direct or indirect financial participation of at least 25 percent.
3. a. An “enterprise” or “company” means any entity, whether organized under public or private law as a corporation, partnership, sole proprietorship, association of business entities, society, community, cooperative, non-profit organization or otherwise as well as any municipality, private or other public law entity. Any enterprise (in the above meaning) incorporated or otherwise organized under Austrian law shall be deemed for all purposes of this definition to have its headquarters in Austria. An company (in the above meaning) includes its successors, predecessors, former parents, assigns, officers, directors, employees, agents attorneys, heirs, executors, administrators, personal representatives, and current or former shareholders. Any branch office, place of business, establishment or place of work of a non-Austrian company or company (in the above meaning) located within the borders of the present-day Republic of Austria shall be deemed to be a company or enterprise (in the above meaning) that had or has its headquarters in Austria, and any such non-Austrian company or enterprise (in the above meaning) shall be deemed to be a parent or former

¹⁵ The Proclamation of Legal Closure by the Federal Government took place in Federal Law Gazette II No. 414/2005.

¹⁶ § 45 was inserted by the amendment to the GSF Law, Federal Law Gazette I no. 54/2009.

parent as the case may be, with respect to actions or inactions of such branch or place of business.

b. A “parent company” means any company that owns or owned a direct or indirect participation of at least 25 percent in any enterprise that had or has its headquarters in the present-day Republic of Austria.

The definition of “Austrian companies” does not include foreign parent companies with headquarters outside the present-day territory of the Republic of Austria in which the sole alleged claim arising from National Socialist injustice or World War II has no connection with the Austrian affiliate and the latter's involvement in National Socialist injustice, unless there is a pending discovery request by plaintiff(s), of which the United States is provided by the defendant with copy to plaintiff(s), seeking discovery from or concerning National Socialist or World War II actions of the Austrian affiliate.