

The committee for equitable Holocaust property loss compensation from Austria

P.O. Box 3393, Savyon 56540, Israel

austrian.compensation@gmail.com

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Dear distinguished member of the Austrian Parliament,

In 2001 Austria and the United States signed an agreement which included compensation for property losses during the Nazi period (2001 Washington Agreement).

We wish to correct a historical wrong that was created in the 2001 Washington Agreement.

In the 2001 Washington Agreement the parties agreed that Nazi era property loss compensation will amount to \$210 million. When the claims were processed, the claims committee recognized losses amounting to \$1.5 billion, 614% more than the sum allotted. Furthermore, the \$1.5 billion recognized is only a fraction of the real damage inflicted, for reasons which appear in the attached paper.

We wish to note that our research revealed that the sums recognized are 1938 values revalued with no real interest compensation, despite the passage of more than 70 years.

All these arguments are detailed in the attached paper.

Lately the General Settlement Fund began the distribution of the final payments. They amount to 10.6% in the claims based process, 17.2% in the equity based process and 20.7% for insurance policies, 14% on average.

We think that this end result is inequitable and urge you to correct this historical injustice.

We found that the claims committee did a remarkably thorough analysis of the claims submitted, but the \$210 monetary ceiling created an inequitable final outcome.

We believe that the parties to the Washington Agreement were unaware of the scale of the material damage involved. In legal terms we believe that the agreement was reached on erroneous grounds and therefore its validity can be challenged.

A partial payment is paid in legal proceedings only in case of bankruptcy. This is certainly not the case in Austria.

There is also a moral aspect, since the claimants are victims of Nazi persecution who perished in or survived concentration camps, fled Austria (at best) and their heirs. This strengthens the case for full and not partial compensation.

The announcement of the final compensation rates (and especially the 10.6% in the claims based process) has caused outrage among the recipients and is the direct cause of this initiative.

We request compensation for all the recognized damage, plus a symbolic 1% real interest rate. This will raise the sum to \$3 billion, meaning an additional allotment of \$2.8 billion.

We urge you to give serious consideration to this request.

We wish you a happy new year.

Yours sincerely,

Yehudith Huebner - Ambassador (Retired)

Dr. Haim Galon

Yohanan Neeman

Avi Shoket - Ambassador (Retired)

Adv. Doron Weissbrod

Adv. Martha Raviv

Appendix

Doron Weissbrod*

Austrian Compensation – 14% for the Victims, 86% for the Nazis’ Descendants, with 0% Interest

A. Background

The Austrian General Settlement Fund for Victims of National Socialism was established to pay compensation for property losses. These included immovable property, movable property, liquidated businesses, financial assets and occupational and educational losses. The Fund was endowed with \$210 million. Applications were submitted in the years 2002-2003. There were four claims processes:

1. Claims-based process – applicable where credible evidence was available.
2. Equity based process – applicable where the evidence available was scant.
3. Insurance policies.
4. In rem restitution – in limited cases when certain conditions were met.

The fund will complete the payment of compensation in 2010.

B. Partial Compensation

Upon completion of the processing of the 21,000 applications the Fund's Claims Committee received, it turned out that the material damage amounted to \$1.5 billion, way beyond the \$210 million allotted. Therefore the compensation will amount to 10.56% of claims-based losses and 17.16% of equity based losses and 20.74% of insurance policies, 14% on average. In in rem restitution the claimant receives the entire property. Since the claimant could choose the process, with hindsight it was wiser to choose the equity based one (63% more) $(17.16\%/10.56\%-1)$.

C. Partial Compensation and Justice

Since most of the compensation is for material damage, there is no logical reason why it should be partial. If a victim lost his house in 1939, why should he now receive only 14% of its value? If the victims lost \$1.5 billion, there is no reason that they be compensated with only \$210 million. The result is that the victims and their heirs receive compensation equal to 14% of the loss and the descendants of the perpetrators keep the other 86%.

Furthermore, Austria waited for over 60 years before starting the entire process. In the meantime a lot of evidence has disappeared because documents are no longer available, people have died and because the memory of some older victims is failing them due to the passage of time combined with their advanced age. Some property will not be compensated because no heirs have survived, since whole families were annihilated. The property statements submitted by Jews in 1938 did not necessarily disclose their entire wealth. Therefore it is certainly true that the total damage estimate is sharply downward-biased. This means that the \$210 million compensation will comprise far less than 14% of the entire property damage.

D. Transparency and Disclosure

The decisions, which were sent by the fund, seem to have been thoroughly researched and are very detailed. However they provide only the value in current U.S. dollars. There is no hint of the original sums and of the valuation technique. The sums have to be revalued since 71 years have passed. The rate of interest used (if used) is not provided. In the fund's Internet site the valuation guidelines state that every 1RM (Reichsmark) is valued for May 2003 at \$4.913511 and that this is based on "Statistik Austria" data.

E. Some Calculations

As stated above, for every 1RM loss the Committee assigned a current dollar value of 4.913511. Since the exchange rate in 1938 was 2.5RM=\$1, this means that for each 1938 dollar the current value is \$12.28 ($=4.913511 \times 2.5$). In this period the U.S. Consumer Price Index rose 13.01 fold (from 14.1 in July 1938 to 183.5 in May 2003). Therefore in real terms (in constant prices) the calculated loss constitutes 94% ($=12.28/13.01$) of the historical value. Roughly speaking, it seems that the General Fund decided to evaluate the losses at their real value, compensating only for inflation, without interest.

The delay in time warrants a certain compensation for the passage of 65 years (until 2003). It is worth mentioning that other Holocaust era compensation schemes, such as the Swiss Banks, the International Commission on Holocaust Era Insurance Claims (ICHEIC) and the Israeli Holocaust era bank accounts compensation scheme (the Avital Commission) entail interest in the evaluation of the damage caused. The fact that the adjustment is only for the change in price levels, with no real interest, is not mentioned in the material, which I encountered. If I assume a modest real rate of interest of 2% per annum, the resulting multiplier in 65 years amounts to 3.62 ($=1.02^{65}$). Adding inflation results in a multiplier of 47.1 ($=3.62 \times 13.01$). Compare that with the multiplier of 12.28, about a quarter ($12.28/47.1=26\%$).

If the claims compensation rate of 10.56% is applied to the loss plus 2% real interest it shrinks to **2.9%** ($=10.56\%/3.62$) and the equity 17.16% rate to **4.7%** ($=17.16\%/3.62$).

If a 4% real interest rate (like in the Israeli scheme) is used, the multiplier equals 12.80 ($=1.04^{65}$) and the compensation rates shrink to **0.8%** ($=10.56\%/12.80$) (instead of 10.56%) and **1.3%** ($=17.16\%/12.80$) (instead of 17.16%), respectively.

The revaluation ceases in May 2003 and no interest was added since, same as before.

F. Conclusion

In view of these findings, the Austrian General Settlement Fund for Victims of National Socialism should reconsider the compensation offered and at the very least the partiality of payments. The 10.56% and 17.16% should be raised to 200% - meaning a symbolic real interest rate of 1%, which entails an additional allotment of about \$2.8 billion.

As shown here, the compensation offered is a miniscule share of what a fair compensation plan would determine. It compensates 10.56% or 17.16% of the loss without adding any real interest despite the fact that Austria has made use of these resources for the last 71 years.

A partial payment is paid in legal proceedings only in case of bankruptcy. This is certainly not the case in Austria, but the miniscule payments constitute evidence of moral bankruptcy.

*Doron Weissbrod is a lawyer and an economist in Israel.

doron.weissbrod@mailpoalim.co.il