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“That’s not fair, Daddy”

On Being a Second and Third-Generation Applicant to the Austrian General Settlement Fund¹

Abstract

Since the 1950s, the Republic of Austria insisted it had settled all the claims of its Jewish citizens regarding their properties stolen under the Nazi regime. From the late 1980s, with the help of personal recollections and case studies, it became ever clearer that this was often not the case, and that the Austrian authorities had in many instances – often deliberately – handled matters of restitution carelessly. Many losses were not addressed in Austrian restitution and compensation measures. In the course of the re-evaluation of the role of Austrian citizens in the Nazi era which took place in the 1990s, and in the wake of the Washington Agreement of 2001, a General Settlement Fund for Victims of National Socialism was established. Its purpose was to bring about a comprehensive resolution to open questions of compensation and to acknowledge Austria’s moral responsibility for losses of assets suffered by the victims of the Nazi regime in Austria between 1938 and 1945 in the form of voluntary payments. This article describes the inconsistencies and ordeals an applicant is confronted with in the course of a justified claim for restitution, based on personal experiences, but presented in a scholarly framework.

In 2003, I filled out a succession of forms for the Austrian Allgemeiner Entschädigungsfonds für Opfer des Nationalsozialismus, the General Settlement Fund for Victims of National Socialism (GSF) with a sense of optimism. While not the first compensation scheme in post-war Austria, this scheme was to deal with large areas of injustice so far not addressed, especially for those stripped of assets as part of the intense persecution in post-*Anschluss* Vienna. How the scheme was administered provides an opportunity to reflect on present-day attitudes to the Nazi past: the GSF was intended to project an image of a nation taking responsibility for the injustices of National Socialism, not just on the national but also on the personal level; it was to acknowledge the past not in terms of generalities; it was to reach out not only to survivors but also – at this late stage, as heirs to material losses – to their children and grandchildren; thus, the GSF was to be an opportunity for a morally conscious state to offer sympathetic reconciliation. The avalanche of injustice triggered by the *Anschluss* and the Holocaust engulfed individuals in manifold ways, at different stages of their life, and in varying circumstances. The next generation has had to deal with a range of issues arising from matters left unresolved after the war. A sensitively administered scheme could identify injuries and injustice on an individual level; this was a unique opportunity to genuinely make up for some of the damage inflicted in the past.

However, there were fundamental problems of design from the outset. The GSF is a modern scheme: it sets an overall sum to be shared between applicants. For an ap-

¹ I would like to thank the anonymous referee for helping me to disentangle the Nationalfonds from the GSF, and for expert comment on other issues; and Tim Cole for helpful historical and textual clarifications. I am grateful to the Vienna Wiesenthal Institute for this opportunity to historicise personal experience.

plicant to receive a massively scaled-down amount, he or she is required to sign a *Verzichtserklärung*, a waiver, giving up the totality of rights in lost assets. This model of a set amount conditional on a global waiver was first devised in a compensation scheme for thalidomide, the so-called Contergan victims in Germany in 1970. The procedure suits the transgressor in that it can point to the aggregate global sum which might seem generous, while in practice such fixed-amount schemes have the moral defect that the past loss and the numbers involved are invariably far greater than the fixed sum allows. I thought that the GSF could potentially temper this by showing historical sympathy in its administration and delivery. For without compassion and empathy, any scheme becomes a legalistic and administrative quagmire leaving the claimant in a Kafkaesque situation of irresolution due to the twists and turns of bureaucratic procedures (remember, Kafka worked in accident insurance for the Arbeiter-Unfallversicherungs-Anstalt für das Königreich Böhmen in Prag). It is made clear from the outset that the applicant has no rights: the GSF states that all payments, if the applicant even gets that far, are discretionary and are given as a gesture by the Republic of Austria rather than as any entitlement. The promise was of a light touch in terms of proof and procedure, avoiding having to have documents validated by notaries, and costs in obtaining documents.² Surely, I thought, modern Austria could be expected to refrain from letting the lawyers and bureaucrats run amok in terms of having to prove persecution, loss and injury? While the sums were to be heavily scaled down, they could still have a symbolic value, and might represent closure for victims and their descendants. Austria could take this opportunity to acknowledge that past persecution involved systematic pauperisation of its former residents as a preliminary step to either their forced departure or their total destruction. This endeavour would require a sustained effort from start to finish, and more than just an impersonal note of apology at the end. In short, I expected the administration to be fair and equitable, prioritising restorative justice over administrative expediency. In delivering a symbolic gesture (that phrase has been increasingly used by the GSF and Nationalfonds) with “gesture payments” to the applicants the Austrian state, and its institutions and agencies, now had a chance to demonstrate their recognition of past injustice in their dealings with the persons affected and their heirs. I hoped that the GSF would be claimant-oriented rather than adversarial. The scaled-down amounts would be symbolic but, if correctly and sympathetically administered, they would yield recognition, some rectification of earlier injustice, and closure. So I entered into the experience with much good will and optimism. Like K., the protagonist in *Der Prozeß*, Kafka’s novel about impenetrable bureaucracy, I entered the system with genuine optimism.

What follows is a narrative of my experience as an applicant. While these are my recollections, my experiences can be verified with documents, both in family files (which I would gladly open to scrutiny) and in the files of compensation agencies. To date, the GSF has not inquired about the experiences of the claimants: was the experience one that was positive in terms of a gesture of reconciliation? Or are there residual problems or misunderstandings that might still be resolved? Rather than actually ascertaining whether it has delivered on its aims, the GSF is in closure mode.

² <http://www.state.gov/documents/organization/129563.pdf>. Agreement Between the UNITED STATES OF AMERICA and AUSTRIA. Relating to the Agreement of October 24, 2000. Effected by Exchange of Notes. Dated at Vienna January 23, 2001 with Attachment, (15 October 2016) gave the undertaking of ‘relaxed standards’ of documentation and proof.

Old Forms, and the New Form

As the historian in the family, I became the custodian of documents listing war losses and assets for the most part never recovered. I heard about the Nationalfonds, the National Fund of the Republic of Austria for Victims of National Socialism and its payments for surviving former refugees from Paul Samet, the son of Freud's cardiologist Bernhard Samet, whom I interviewed for my historical project on refugee doctors. My mother had received a "gesture payment" of 70,000 Schillings (5,087.10 Euros) from the Nationalfonds in June 1997. The second payment required a more legalistic approach: by adding a waiver, the "gesture payment" became a conditional payment in return for giving up the right to further claims. The problem was two-fold: first, the failure to draw a clear distinction between a payment as a truly magnanimous gesture and a payment conditional upon renouncing rights, and second, the dismal efforts at contacting potential claimants (at least in the UK, which took in almost 31,000 Austrian refugees, many of whom remained).

The Nationalfonds did not manage to send the form for the second personal payment to my mother, Erica Gut(t)man(n) (originally Erika Maria; the family name was spelt in every variant on official records). Erica was born in Vienna in 1921. She was fortunate in being able to leave Vienna on a *Kindertransport* to London, travelling from 10 to 12 January 1939 with a small suitcase and ten shillings (sterling), but without the files of documents that Austrian compensation authorities would require later in her life.³ My mother had lived at the same London address since my birth in 1953. There must have been some aged former refugees who had retired, as my mother had from the surgery address where my father had established his practice in 1941, and which my parents then ran for over fifty years, or who had moved to care homes. So I called one afternoon at the office of the Nationalfonds in Vienna to inquire about my mother not receiving the forms. A visit from someone from abroad with limited time in Vienna on behalf of an aged and ailing victim of persecution was an irritating intrusion. I would not have needed to call on behalf of my mother had the Nationalfonds been proactive and kept in touch with its aging charges. As a result of my visit to the Nationalfonds in Vienna, my mother was duly reinstated – but the staff made it clear that, in their eyes, my aged mother was at fault. Given that my mother had retired from dentistry due to macular degeneration, the Nationalfonds could have given some thought to whether aging recipients could actually read and fill out their forms.

I obtained claims forms from the Nationalfonds on behalf of my mother, and subsequently from the GSF for my mother, father, and maternal grandfather, after my Israeli relative Benjamin Doron – whose grandparents Dr. Caecilia Lilienthal, born Rosenthal, and Dr. Josef Lilienthal perished in the *Shoah*, leaving behind considerable restitution issues concerning looted art which ran to the third generation – spoke optimistically about the GSF scheme.⁴ However, it is questionable to what extent the GSF has been a proactive organisation, keen to reach out to *all* potential claimants. The difficulty faced by the GSF has been that no systematic effort was ever made to trace all those who had escaped Nazi Austria, most of whom lost their Austrian citizenship in 1938 but which was not restored after the war. Here was an opportunity not just to document and provide compensation but for the GSF to estab-

3 Erika Gutmann appears in the IKG archival listing for the *Kindertransport* on 10-12 January 1939. My thanks to the IKG archives for this listing.

4 The GSF forms were dated August 2002 hml/mars.sys/se Hannah Lessing to author.

lish positive relations with an Austrian diaspora of former refugees and their families, many still with cultural links to Austria. Commendable efforts have been made in Austria with the compilation of a memorial list of all those killed in the Holocaust, but even here significant categories of those persecuted have been overlooked. For example, I am compiling a record of all the Austrian victims of coerced medical experiments – a group being compensated in Germany since 1951, compensated again under the forced labour scheme from 1998 to 2004, but this was not a victim category that Austria has ever recognised adequately, although plenty of Austrian physicians were involved in subjecting people to disabling if not deadly experiments. One lesson from any fixed-sum compensation scheme is that such a scheme is only viable if the numbers of potential claimants are reliably researched in advance. The GSF should have undertaken due diligence in terms of ascertaining all survivors and descendants to provide an evidence-base for the potential number of applicants in order to be able to deliver whatever scaled-down percentage was intended. Given that two schemes were involved, namely the personal payments conditional on waivers (delivered through the Nationalfonds but with implications for the GSF), and applications for losses of various types, the GSF additionally needed to reach out to later generations, not least for those survivors who were frail. Its failure to deliver documents to my mother indicates that its approach was too impersonal: with macular degeneration, my mother could never have read about the second payment, and how should anyone younger know about them if they were not actively involved in these historical matters? Not surprisingly, many eligible persons never knew about the scheme, and never applied. One wonders also how many fell by the wayside (as my mother nearly did) between the successive Nationalfonds personal payments.

It certainly felt odd as a historian being drawn into these proceedings, albeit at first only to intercede on behalf of an aged parent. The number of aging former Austrians is dwindling, but no-one thought of asking about my mother's well-being during the whole process (in fact her health was rapidly deteriorating). Nor was there any encouragement to provide names of other eligible persons: the "snowball" method of contact was not employed. Thus, the opportunity of cultivating links to an extended network of survivors composing a wider Austrian diaspora was one that the GSF should have taken with proactive commitment. Given the subsequent global dispersal of the forced migrants, notification to all those eligible for compensation was clearly going to require a major effort. The GSF perhaps received more applications than expected, but far fewer than should have been received following a sincere effort to embrace all entitled survivors and their descendants. This shows that the initial estimates and calculations were flawed – a serious fault that affected the proportional scaling-down of the overall sum allocated.

In the end, my mother was to be awarded two personal payments due to her and a final payment due to the GSF's procedural delay because of its obdurate position on US class actions: She signed the form for the second personal payment amidst much distress shortly before she died on 7 November 2002 (her doctor providing the all-important "certificate of life" while my mother was close to death). Otherwise, she received nothing from Austria, apart from finally becoming an Austrian citizen in 1975 (although born in Vienna she did not hold Austrian citizenship until then). The personal payments to my mother demonstrated poor communications with elderly survivors. The compensation was not a gesture given freely, but came at a cost. The second payment was conditional on a waiver that was stretched to multiple ransacked households and persecuted persons. A situation arose that multiple households – namely my father's and that of my mother's parents – were deemed somehow

‘inherited’ by my mother, even though my father’s was entirely disconnected from her’s at the time. Here, the GSF secured a bargain: two (one covering maternal grandparents and my mother, and the other my father) for the price of one.

Filling out Forms

When it came to compensation for the loss of property, the banal situation arose that I – as a post-war baby – assumed the task of filling out forms for my mother, for my father (who was born in Czernowitz in 1906, and was a resident of Vienna from 1914 until his flight in mid-October 1938), and for my maternal grandfather (who was born in 1888, and was a resident of Vienna since 1919). I did so in 2003, 65 years after the *Anschluss*. Many, – and possibly most, survivors, did not receive compensation – or even a simple apology – in their lifetimes. The terror and violence of events like the November Pogrom or a night-time visit by the SA were not compensated: my maternal grandfather promptly left Vienna after the November Pogrom for Berlin, where he experienced the antisemitism on the streets as far less vicious than in Vienna. The GSF procedures focussed on ‘aryanised’, meaning stolen, possessions. Nor was there recognition of the fact that whatever restitution had been achieved in the past was usually due to successful representation by an Austrian lawyer, not least of all because the claimants were expatriates, and the local lawyers could opportunistically charge immense fees.⁵

Opa, actually Itic/Isidor and from 1940 the more Germanic Sidor Gutman (various spellings!), had used a front a company called Teutonia in order to sell his assets, giving him the means to survive, helped also by a Romanian passport with forged stamps and Berliners willing to provide shelter. After 1945, he managed to secure only a partial restitution for what he had owned in Austria or what was thereafter located in a divided Berlin. He had survived imprisonment at the Alexanderplatz police precinct and then by the Gestapo in Moabit from 11 August until mid-October 1942 – he gave his winter-coat to a cell mate (Ernst Shampanier, later Ernest Mitchell), which helped him survive the freezing cattle truck to Riga to where the Jews in the cell were deported.⁶

My father’s papers include receipts for all sorts of costs involved in forced migration such as import of dental equipment, and for post-war restitution involving a high lawyer’s fee in Austria. None were allowable when I inquired with the GSF for restitution. So if the GSF was not compensating murder and trauma, it was also not compensating the costs of forced migration, nor the flaws in post-1945 restitution. My parents remained ever grateful to the UK guarantors for their life-saving generosity, in my mother’s case the philanthropic Margaret Hill and A.V. Hill (a Nobel laureate and co-founder of the Academic Assistance Council for persecuted academics), and in my father’s case to Marjorie Raphael, from a family of well-connected Anglo-Jewish philanthropists.⁷

5 The correspondence between Emmerich Weindling and John Blair (also known as Hans Blau) on property restitution and the high lawyer’s costs is in my possession. I deposited the bulk of the Blair/Blau papers with the Dokumentationsarchiv des Österreichischen Widerstandes (DÖW).

6 Landesarchiv Berlin, Reg. Nr. 5778, Isidor Gutmann prison file. His passport in part with forged visas, as well as the passport on which my mother travelled from Vienna is among my family papers. Ernest Mitchell, personal communication to author.

7 Paul Weindling, *From Refugee Assistance to Freedom of Learning. The Strategic Vision of A.V. Hill*, in: Shula Marks/Paul Weindling/Laura Wintour (ed.), *In Defence of Learning. The Plight, Persecution, and Placement of Academic Refugees, 1933–1980s*, Oxford 2011, 59–76.

Persecution causes stress, and damages overall health – I have found that so many of the refugees' lives were cut short by heart attacks when they were just in their forties, fifties, and early sixties. The payments allowed by the GSF for severe invalidity came too late for my mother; a psycho-geriatrician raised the issue of how her experiences of persecution could be contributing to her deteriorating mental state, and she died physically and psychologically severely incapacitated. It was in the few months after her death that I had to prepare the GSF application, filling out property details in multiple – I think six – copies. The GSF focussed not so much on the costs of persecution but to a large extent on property expropriation – this could be seen as an effort to put a nation's property registers in order against future claims, and the alchemy of scaling down meant this has been at a bargain price.

My mother had a poor track record of obtaining any kind of restorative justice from post-war Austria, where she returned frequently: she tried unsuccessfully to pursue claims for her interrupted education and consequent access to a pension with the Hilfsfonds for politically persecuted expatriates in 1966.⁸ She re-applied for a pension in 1987 (one can understand how, aged 66, it would have been pleasant to retire rather than to have to go on working as she did until 1998), but again her application to the Pensionsversicherungsanstalt, the Austrian Pension Fund to pay in for the missing years on a concessionary basis was rejected. The Pensionsversicherungsanstalt maintained that she had left school voluntarily (of course – Jewish children all left school 'voluntarily' after March 1938) and that she should then have paid social security contributions – despite the *Anschluss* and a failed attempt to leave Vienna that ended in a traumatic period in the summer of 1938 in a vermin-infested prison on the Romanian border.⁹ The verdict of the Pensionsversicherungsanstalt did not take into account the fact that my mother, on arriving in the UK, determinedly completed her schooling in an unfamiliar language and, despite war and childbirth, completed her university degree thereafter. The authorities argued that, because she had left school 'voluntarily' and because she should have paid social security after the *Anschluss*, she owed money to the Austrian authorities, not the other way around, and that she was at fault for not having emigrated with full documentation on the schools which kicked her out, even though the *Kindertransport* strictly limited the size of luggage. My mother was in fact expelled for being Jewish from two schools, first the Mittelschule Wien 19 in the Gymnasiumstrasse and then her loathed convent Notre Dame de Sion in the Burggasse, where the other girls complained about having to sit near a Jew. She came to the UK with the intention of completing her education and studying – which she did at University College London, qualifying as a dental surgeon. But no, the pensions authorities and, on appeal, a judicial tribunal both steadfastly insisted that she had left school voluntarily.

The issue of pension rights is unjust on a general level, because Austrian pension funds benefitted massively from the contributions of Austria's murdered Jews. The 64,000 Austrians who were murdered in the Holocaust¹⁰ represented an enormous saving for Austrian post-war social security systems as many of the insured persons had paid their contributions but never lived to draw their pensions. Similarly, there was a considerable saving on medical costs for the elderly and Jewish patients mur-

8 Erica Weindling papers (with author): Fonds zur Hilfeleistung an politisch Verfolgte, die ihren Wohnsitz und ständigen Aufenthalt im Ausland haben, Antrag No. S 30.138/3, Entscheidung 8. November 1967, and associated correspondence regarding the rejection of the claim for interrupted education.

9 Pensionsversicherungsanstalt, Zeichen Va I/Ri/Fu VSNR: 3468 29 07 21. Begünstigung gemäss §500 ff ASVG.

10 The number is compiled by the Dokumentationsarchiv des österreichischen Widerstandes (DÖW), the Documentation Archive of the Austrian Resistance in association with Yad Vashem.

dered in the Nazi ‘euthanasia’ programme. The Pensionsversicherungsanstalt complained that my mother did not pay her social security contributions – of course she should have, while having to avoid *Reibparteien* (when Jews in Vienna were forced to scrub the streets while being taunted and abused by their neighbours after the *Anschluss*– after asking my mother on her arrival about conditions in Vienna, her guarantor the Nobel laureate A.V. Hill reflected that the persecution was really far worse than he had thought) or previously held in prison on her earlier failed attempt to leave.¹¹ She nevertheless went regularly to pay local taxes on behalf of her father, thereby putting herself in some danger. The question arises whether the sum allocated to the GSF by the Austrian government amounted to less than the savings that the Holocaust represented in terms of unpaid pensions and unpaid benefits to the murdered. The only claim permitted by the GSF was for private insurance policies.

The GSF received 20,702 applications by the time the scheme closed on 28 May 2003, each application submitted on average on behalf of three persons (often murdered parents or grandparents) – making the original claim I prepared for my mother, father, and grandfather typical, although an aunt who committed suicide after the war was later added. Overall, claims for losses for 52,236 victims were submitted, and for each person there were multiple losses.¹² However, this represents only about a quarter of the approximately 200,000 persecuted Austrian Jews or people persecuted under the Nuremberg Laws as Jews, let alone the other politically and racially persecuted persons. Two matters arise. First, and most importantly, the overall sum of 24 million dollars funding the GSF received is woefully inadequate. The negotiators on the part of the USA should never have agreed to such an inadequately funded scheme, exacerbated by Austria’s conditional insistence on the cessation of US class actions – resulting in the GSF holding up of payments to aging claimants due to “the absence of legal closure” with class actions running in the USA.¹³ The US negotiator Stuart Eizenstat admitted that the GSF scheme was rushed, ill-conceived, and chronically under-financed.¹⁴ The GSF dealt with claims for (in its estimation) 1.4 billion Dollars, so that the scaling-down represents a bargain in terms of legitimating criminally obtained assets: as an asset-laundering exercise, the GSF represents an excellent deal for Austria. So excellent, in fact, that the GSF’s efforts to correct glitches that arose in the course of its operations should have been met by a less aggressively legalistic response.

Second, it should have been relatively straightforward to deliver on 20,702 claims. My own research on the victims of Nazi medical experiments – carried out on a shoestring with a postdoc and two PhD students – has reconstructed, in considerable detail, the life histories of some 28,000 victims of Nazi-coerced research. The GSF had far greater resources and privileged access to records. Its administrative resources mean that it could have helpfully worked with applicants, rather than taking an adversarial position on applications.

The GSF has never attempted to assess what its delivery was like for its individual claimants – by contrast to the German Foundation Erinnerung, Verantwortung, Zukunft/Remembrance, Responsibility and Future, which bravely commissioned a

11 Imperial War Museum Sound Archive, Weindling, Erica (Oral history) (sound) Made by: Wood, Conrad (recorder) 1996-04-14, 16619.

12 <https://entschaedigungsfonds.org/statistics.html> (4 June 2016).

13 GSF to the author, 15 October 2004. Michael Newman, The General Settlement Fund. Waiting for an End to Litigation, in: AJR [Association of Jewish Refugees] Journal (June 2005).

14 Stuart E. Eizenstat, Imperfect Justice. Looted Assets, Slave Labor, and the Unfinished Business of World War II, New York 2003, 302-305.

team of independent historians to assess its delivery on a major scheme to compensate forced labour and “other personal injuries”.¹⁵ Although they differ in what was being compensated, both the GSF and the German foundation delivered compensation against waivers to aged claimants. The Trustees of the Nationalfonds lack a historian. Even the Advisory Commission includes no historian with relevant expertise. International historical expertise on the complex of issues – important in securing impartiality – is wholly lacking. That lawyers predominate is indicative of the priorities set.

The oral historian Nicole Immler, who formerly worked for the GSF, has assessed some experiences of GSF claimants. She suggests a “familial trope” with children and grandchildren having exaggerated expectations of loss.¹⁶ This does not convey my family’s situation: despite my mother irresponsibly emigrating without documents on her lack of schooling, my grandfather certainly clung onto his poorly-forged identity papers and various other documents, illegally in Berlin with a more oppositional population until the war’s end, which in his view was safer than Vienna with its enthusiastic Nazis. After the war, he drew up a list of assets which he felt should be restituted in Austria.¹⁷ Regarding the GSF, the expectations of my family were therefore realistic: here was a chance to recognise itemised losses, and receive some nominal acknowledgement. I naively expected that the amount awarded after scaling down would actually be paid out, and that the GSF would prioritise delivery on its awards rather than be legalistically obstructive. Where I agree with Immler is the sheer difficulty of extracting from the GSF information that they clearly hold or readily had access to as a basis for their decisions. What has also been dispiriting is the condescending and indeed wearied view displayed towards applicants. The legalistically hamstrung GSF has not been prepared to stand up against post-war judicial decisions regarding property restitution and other lost claims, and has instead effectively legitimated wartime and immediate post-war losses by accepting their legitimacy. I wonder how thorough the scrutiny of foreign representatives was. The UK-based Chairman Sir Franklin Berman has acknowledged the structural injustice of the whole operation.¹⁸ With the head of the whole operation taking such a pessimistic view of the overall situation, the performance of the GSF in dealing with individual claimants was going to require dedication to deliver the best possible outcomes. Immler describes a situation of frustration shared by interviewees. An agency designed to secure reconciliation appears to have systematically aggravated a significant proportion of the group for whom it was intended to achieve a comprehensive resolution for losses under National Socialism. Here is an agency falling far short

15 Constantin Goschler (ed.), *Die Entschädigung von NS-Zwangsarbeit am Anfang des 21. Jahrhunderts*, Göttingen 2012, 4 volumes. I assessed the “other personal injuries” component in Paul Weindling, *Sonstige Personenschäden. Die Entschädigungspraxis der Stiftung “Erinnerung, Verantwortung und Zukunft”*, in: Goschler (ed.), *Entschädigung*, Volume 2, 197-225.

16 Nicole Immler, *Individual Desire or Social Duty? The Role of Testimony in a Restitution Procedure. An Inquiry into Social Practice*, in: Nanci Adler/Selma Leydesdorff (ed.), *Tapestry of Memory. Evidence and Testimony in Life Story Narratives*, New Brunswick 2013, 219-236; Nicole Immler, “The history, the papers, let me see it!”. *Compensation Processes. The Second Generation between Archive Truth and Family Speculations*, in: Marie Louise Seeberg/Irene Levin/Claudia Lenz (ed.), *Holocaust as Active Memory. The Past in the Present*, Aldershot 2013, 113-137; Nicole Immler, *Compensation Practices and the Dynamics of Memory. A Trans-Generational Approach*, in: Anja Mihr (ed.), *Transitional Justice. Between Criminal Justice, Atonement and Democracy (=SIM Special, 37)*, Utrecht 2012, 154-183.

17 Isidor Gutmann papers (with author). These cover his post-war claims and his war-time identity papers with forged visas etc.

18 For example in <http://www.timesofisrael.com/austria-can-prepare-to-close-its-fund-for-victims-of-the-nazis/> (22 October 2016).

of its statutory aims of “comprehensive resolution” as a “moral responsibility”.¹⁹ Had the GSF been administered in a less adversarial legalistic manner, and had it been able to facilitate in its ethos, the sense of renewed injustice arising from the structural deficiencies could have been avoided.

I had to somehow translate the experiences of my family into the categories of the GSF’s forms. The forms are written in a strange language that is certainly not English but a legalistic mishmash of English with Latin expressions such as “in rem”, with English words placed in a Germanic sentence structure. The GSF’s system was never intelligibly explained: guidance on claimable items was lacking (this would have saved both myself and the GSF much time, albeit raising the question why an agency designed to comprehensively compensate losses became fixated on a fixed menu), and its communications had a legalistic, obfuscating tone. How does one decide between a “claims-based” and an “equity-based process”? A single, clearly explained system, without these two banal categories, promptly delivered, would have been far better. Nor were “heirs” provided with adequate guidance, as the forms were designed the victim of persecution. Consequently, I misunderstood the system in submitting one claim (six copies with six sets of documents per claim) for each family member who suffered loss and persecution (those being my mother, father, and paternal grandfather) and on the forms providing details of heirs, rather than submitting forms for each heir. This requirement for multiple forms from heirs for each person suffering loss was never clearly explained. That would have meant my filling out not eighteen forms – each with supporting documents, but a set for at least each of my two brothers, making fifty-four forms with documents. There needed to be clear guidelines for heirs, as opposed to direct victims. There certainly should have been better guidance for what one might have claimed in terms of income, residence, and confiscated investments. Austrian embassies should have operated a properly advertised claims advice surgery, and guidance notes would certainly have helped. Finally, there was a complete absence of being able to claim for non-material items such as professional memberships (in my father’s case the Wiener Ärztekammer, the Viennese Medical Association, who informed him that his membership lapsed due to non-payment of subscriptions during the war) and loss of Austrian nationality, matters on which my father set greater store than anything material.

Meeting the Deadline

The forms were challenging in terms of the documentation required. I was working on the forms at the time of my mother’s death and its administrative aftermath, so that I came close to the deadline for submission is understandable. In order to document the confiscation of my father’s assets, I wrote to the Magistratsabteilung 61, the Municipal Office for Citizenship and Matters of Marital Status, which had dealt with the restitution of citizenship to my father on 30 October 1975, giving the precise reference to my father’s file.²⁰ The demeaning conduct of officials on this occasion (particularly in their comments on my mother’s professional qualifications from University College London) had distressed my father.²¹ I was surprised to be contacted by the Austrian Embassy on 23 December 2002 (reference SB: VA Grog-

¹⁹ <https://entschaedigungsfonds.org/home.html> (23 October 2016).

²⁰ Letter of 16 October 2002 to Magistratsabteilung 61, citing reference number MA 61/IV-W37/74. The letter stated the purpose of the preparation of a compensation application for the GSF.

²¹ My father died shortly afterwards on 12 November 1975 from a heart attack on the nearby Rooseveltplatz.

ger, in the name of the Consul General Stefan Bagura). The Embassy requested payment for release of a document from the Magistratsabteilung. This document described the Nazi ransacking of my father's apartment, and the theft of his mother's jewellery, of a gold watch, and of his car. I pointed out to the Embassy that the document was for a compensation claim to the GSF, but the Embassy insisted that I pay the fee for the document, clearly levied by the Magistratsabteilung (although the purpose was clear to them, too). It was not a matter that the Embassy wished to rectify. The irony was that the document outlined extensive looting of possessions. So much for the public assurance that Austrian offices were not to charge for providing documents for claims made to the GSF.²² Once again, one detects a discord between the generous-sounding public pronouncements of the Austrian state and the mean handling of individual cases.

Next came the filling out of forms. This was complicated – I worked from listings compiled by my grandfather of assets still to be restituted, and tried to find confirming documentation. Even though I am a historian with archival experience, finding documents was complicated. Of course there were property declarations, and I consulted a valuation register from the time.²³ If an academic found it hard, how could aged survivors or younger heirs abroad be expected to manage?

Then there had to be multiple copies. So, in filling out forms for my mother, father, and grandfather, this amounted to quite a job. I had to fill out responses to the same questions time and again, and for each form a set of photocopies of documents like the Nazi property declarations or inheritance had to be attached. The forms required personal details covering three generations (rather like the Nuremberg Laws): but the form did not allow for spouses dying (as did my maternal grandfather's first wife, from tuberculosis) or marriages breaking down (as did my father's with his first wife), explaining why it seemed so odd for my mother's personal payment to have covered losses from a household that had nothing to do with her. I scrupulously followed the legally established line of inheritance through the generations, as established by court rulings on my maternal grandfather's will (one of the documents submitted).

Why did the GSF want so many handwritten copies? Maybe having to fill out the same information multiple times was a special penalty for claiming. Did the Austrians not have photocopiers or scanners? Had internet and computers not reached Austria? To whom would these multiple copies go? Had I filled out forms for each claimant there would have been – given that I have two brothers – three times as many forms in the required multiples: so not the 18 forms submitted, but 54 application forms, each requiring a new set of documents. There simply was insufficient guidance. The culture of making applicants do supplementary work has deeply disturbing resonances if one thinks back to the procedures of the "Vienna model" at the time of persecution.

The result of this form-filling marathon was that I only finished the forms and attaching the documents on 27 May 2003, with one day to spare. Nevertheless, I could – and did – send the package to the GSF under their stated address at the Austrian Parliament. I placed my confidence (and a hefty amount in payment) in "Royal Mail Guaranteed Next Day Delivery". So off the package went, and I was still hopeful as to the outcome.

²² The document can now be viewed under: [https://gedenkbuch.univie.ac.at/index.php?eID=tx_cms_showpic&file=uploads%2Ftx_uniwiengedenkbuch%2F40727_Weindling_Emerich_Staatsbuergerschaftsantrag.jpg&md5=bc2fed475b283c4d347e5093defe79a89f52d05b¶meters\[0\]=Y_TowOnt9](https://gedenkbuch.univie.ac.at/index.php?eID=tx_cms_showpic&file=uploads%2Ftx_uniwiengedenkbuch%2F40727_Weindling_Emerich_Staatsbuergerschaftsantrag.jpg&md5=bc2fed475b283c4d347e5093defe79a89f52d05b¶meters[0]=Y_TowOnt9) (20 October 2016).

²³ J. Wolfgang Salzberg, Häuser-Kataster der Bundeshauptstadt Wien, Wien 1927–1930, various volumes.

I received no confirmation of receipt. “Papier ist geduldig” – “paper is patient” – was a phrase that mother would say to describe the Austrian bureaucracy. So, after several weeks and no acknowledgement, and since I was in Vienna anyway, I made an appointment at the GSF office. “Did you receive the forms?”, I asked. “Yes, we did”, said the polite young official, eager to be positive. I then asked how things stood. “Unfortunately, your claim is not valid”, he sheepishly admitted. Yes, the bulky package with all the forms was posted in time and yes, it reached the GSF, but it arrived two days too late. For the GSF, the date of arrival mattered, not the date of postage.

The official advised me to write a letter of appeal. I duly did so. Had I not called in person, it would have taken far longer to have established that the claim was deemed invalid. Fortunately, I could still track the document online (something that one can only do within a limited time-frame). I was able to establish that the package arrived at Schwechat Airport at 15:41 on 28 May (so it could have been delivered on time) but that the “guaranteed next day” package posted on 27 May then took two more days to make the journey from Schwechat to the Parliament, finally arriving on 30 May. How many other packages with GSF claims forms were similarly delayed?

I wrote a letter of appeal for reinstatement of the application. The GSF Director, Frau Magister Hannah Lessing, responded on 3 November 2003 to confirm that the application was received: but she ruled that my family’s application remained invalid. Frau Magister Lessing indicated that I was at fault as I could have delivered the applications to the London Embassy. Well, had the GSF contacted UK applicants to offer this arrangement, I would have. I had paid the London Embassy a fee for a document to be included in the application, so they too might have added me to a contact list to inform me of this option, but neither the Embassy nor the GSF ever followed up to inform me that I could deliver the forms there. The GSF was consistently poor in acknowledging correspondence and disseminating information about procedures that, if not followed, meant that an applicant was disqualified.

After sending documentation to prove again that the package was posted on time, a further year passed with no reply. In March 2004, I contacted the Board of Deputies of British Jews and then, on their advice, the Central Office for Holocaust Claims at the Association of Jewish Refugees in London to take up the matter of the “invalid” claim, and to press for its reinstatement.²⁴ The GSF reported that 241 forms arrived after the specified date, although it is not clear how many claims were posted on time but were delayed by the Austrian postal services or customs, and whether the figure includes applications eventually reinstated.²⁵ Judging by the sustained effort which I had to make to secure reinstatement of my family’s claims, I expect that hardly any were reinstated. However, this is where transparency – never a strength of the GSF – ended.

After nearly three years, on the recommendation of the UK Chair of the GSF, my family’s claim was finally reinstated as an “exceptional case” on 15 October 2004.²⁶ Clearly, one had to be tenacious to get anywhere.

In the meantime the GSF chose not to process all claims while class actions were in progress in the USA for property and labour claims. The GSF began a succession of missives to all applicants. First, the GSF blamed US class actions for delaying compensation claims processing; then that there were more applicants than expected (had the GSF and its progenitors exercised due diligence, these would have been ex-

²⁴ Michael Newman to the author, 17 March 2004.

²⁵ https://nationalfonds.org/files/content/documents/nf/10_nf_info_en.pdf, 113, (20 October 2016).

²⁶ Hannah Lessing to the author, 15 October 2004.

pected). The inconvenience of this would mean extra work and more delays, the implication being that claimants should show understanding for all the work they are causing for the hard-pressed GSF. Here, another Austrian phrase came to mind: “Seine Sorgen möcht’ ich haben” – I wish I had his worries.

Processing

The fixed-sum basis meant that the greater the number of applications, the greater the scaling-back of amounts. The GSF did not seek to use interest on its allocated funds for the benefit of claimants – as did the similarly over-stretched German Foundation Erinnerung, Verantwortung, Zukunft in 2004. Did the GSF ever seek additional funds for what was an evident shortfall revealed by the avalanche of claims concerning the under-estimated extent of ‘Aryanisation’ and other losses?

In the intervening period, I unexpectedly found a Vienna property declaration made by my aunt, Lydia Wittner:²⁷ she had fled Austria in 1939 and survived the Jassy pogrom of 29 June 1941. She committed suicide in Bogota after the war. At least there might be symbolic recognition for her: pleasingly, this additional document was accepted, and importantly contained a valuation of 18,000 Marks in July 1938 for a café which was part of the Hotel National in the Taborstraße: I naively thought that this valuation strengthened the claim for my grandfather’s loss of the associated hotel.

In January 2006, the GSF declared that the US class actions had ceased, and that the GSF would therefore process claims. However, I then again heard nothing. I visited the GSF to ask how matters were going. I asked about the form that I submitted on behalf of my mother. “No, we cannot tell you anything about that because of data protection.” “Why not?” I asked. “Because the form was issued to your brother”, replied the official. Why the forms for my mother were issued to my younger brother, and forms for my father and grandfather were issued to me, was an arbitrary piece of bureaucracy – what the GSF guidance should have stated clearly was that every family member needed to submit forms. “But I am my mother’s son”, I objected. “That makes no difference”, said the official, “we must observe data protection.” “But I compiled the claim and the forms are in my handwriting – multiple times”, I said. On looking at a photocopy I made before the initial mailing, my younger brother and I both signed all forms. The GSF appears arbitrarily to have ascribed forms to one or another family member – so acting divisively.²⁸ The official was unmoved – data protection was sacrosanct: it meant that a son could not ask about the claim that he had submitted on behalf of his deceased mother! The staff appeared jaded and weary – obviously they had heard claimants’ concerns about this or that banal procedure before, and probably also the astonishment that although a son or daughter had filled out a form for his/her deceased mother but was not deemed to be the official claimant. Really speaking, a claimant was an inconvenience, and certainly this one was under the misapprehension that signing all forms and sending them in might mean that he was a fit person to communicate with. I finally got the message: a visit by a claimant was unwelcome, having the effect “die Sache in die Länge zu ziehen”: to drag the matter out, as was infamously proposed as state policy regarding restitution

²⁷ Vermögensverzeichnis Nr 32590.

²⁸ I had informed the Nationalfonds that my younger brother lived at the same address as my ailing mother. The forms submitted to the GSF as heirs were jointly signed.

by a senior government minister in 1948.²⁹ However, resolution of the claims – or indeed understanding why they could not be sustained – could have been facilitated by a matter-of-fact discussion. The GSF's communications and procedures remained for the most part sporadic and often unintelligible.

Then there followed a few more years' silence. Finally, in February 2009 a decision was made on the claims – which was then sent to me, further underlining the nonsense of the data protection issue.

In my father's case, the claim for lost household property was rejected. The GSF stated that my mother had received a second personal payment from the Nationalfonds, thereby losing the right to any further claim on behalf of my father. As my mother was heir to my father (who had never received any such compensation), this invalidated any claim for the losses of my father from his household.

What puzzled me was that my mother was not married to my father until 1946: in March 1938, at age sixteen, she had lived with her parents, and had her own experience of Nazis ransacking their household. So here the GSF secured a bargain in that the advance payment cancelled a claim for a household visited separately by the SA, or some other marauding Nazi group, that my mother had nothing to do with. Clearly, marriage meant not the sharing of wealth but the sharing of loss. Upon leaving Austria, Sigmund Freud signed a declaration that he would highly recommend the Gestapo, and I would similarly commend the GSF for its astuteness in rolling together multiple claims, and saving the Austrian Republic further effort in the scaling-down procedures. It meant that I had wasted time and money (well, only the 8.50 Pounds levied by the London Embassy) in documenting an obviously extensive loss.

The claim for the loss of my grandfather's hotel business was rejected. The GSF stated that the Hotel National (with 220 rooms and 400 beds) at Taborstraße 18, built originally to rational design criteria for the World Exhibition in 1873, was worthless as a business in 1938; it alleged that the business had failed in 1936. In any case, the building had been restituted – but as a wreck, and the valuable hotel concession was lost. Paradoxically, the GSF recognised a value to the café – but it overlooked this loss, as my deceased aunt's property declaration specified the high amount originally paid in 1935 and again the valuation in July 1938 indicating the commercial value of the business.

Looking into the matter, I found that the *Jüdische Presse* throughout 1938 indicated that meetings and other functions were still being held at the Hotel National. So even if the business was struggling (I accept that), the hotel was still operating in some form at the time of the *Anschluß* and a small loss of rental income was recognised. The hotel became *deutsches Eigentum* (German property), subject to a forced purchase by the police, who wrecked much of the extensive building. When my grandfather attempted to have the building restituted after the war (made harder by the Soviet zonal administration also claiming the building), the *Bundespolizeidirektion* claimed 513,000 Schillings for its "care" of the building, while itself having profitably rented out the building for a period of eleven years. The *Finanzlandesdirektion* ruled in 1953 that the police acquisition – I believe it was the *Gestapo* – on 25 October 1939 was a *Rechtsgeschäft*, a legal transaction, rather than in any way coerced, and so not subject to restitution. The Kurator for the "Deutsches Reich (Polizeiverwaltung)" in 1953 defended its right to the hotel. Only on 28 July 1956 did the *Rückstellungskommission* finally rule against the Austrian state as successor to the Reich in

²⁹ Robert Knight, "Ich bin dafür, die Sache in die Länge zu ziehen". Wortprotokolle der österreichischen Bundesregierung von 1945–52 über die Entschädigung der Juden, Frankfurt am Main 1988.

defending its possession, and restore ownership to my grandfather.³⁰ Opa wanted to restore the hotel and restaurant business, but – after his death in 1957 due to his weak heart after his perilous survival – his daughters lost a “monster court case” for the restoration of the hotel business in 1958.³¹ The GSF’s rejection of my family’s claim by ruling that the hotel was valueless legitimated a Nazi expropriation of a business that had possessed potential in post-war Austria.

Given that my family’s claims were late in being decided on, there were only a few weeks to lodge an appeal. Again, I had the temerity to challenge the GSF. The ruling of the GSF on 19 February 2009 on the initial application was that, yes, the hotel business still existed in March 1938 and, yes, Isidor Gutmann would have had a share of the income, but no compensation was payable as the value (of what was evidently a substantial asset) was “incalculable”. The GSF ignored the fact that the café business had been bought by my aunt at a considerable cost in 1935 and the valuation remained substantial in 1938, as the property declaration of my aunt showed. The decision was neither accurate, nor showed any spirit of sympathy in the reconciliation of claims at a low and symbolic amount. At this late stage – my family’s claims were clearly at the bottom of the heap, in having been reinstated at a late stage – the GSF did not want its final figures altered.

The GSF also dismissed the claim for my grandfather’s properties Birkenhof and Hubertushof at Bad Gleichenberg in Styria. These appear in Gestapo records as Jewish assets to be seized in 1939.³² My grandfather’s list of lost assets referred to a forced sale on unfair terms in December 1940. The GSF argued that the wartime ‘sale’ of the Bad Gleichenberg properties was legitimate. In 1952, Opa lost a court case for the return of these properties, but some illegality in the 1940 ‘sale’ was recognised in that he received an additional monetary amount, albeit far less than he had claimed. The GSF was effectively not compensating for lost assets but legitimating their expropriation. The GSF stated that it could not fix a value to know whether the few thousand additional Schillings received were a just amount. However, the valuation data does exist: it was not that the GSF could not value the lost asset, but it decided to endorse the expropriation. My letter of appeal of 7 April 2009 suggested splitting the difference between what my grandfather had claimed (80,000 Schillings) and the 25,000 Schillings received in 1952, but the GSF rejected the claim – administratively the easiest solution.

Another claim, for a villa at Hasenauerstraße 24 and 26 where my grandparents had lived, was rejected. When I asked for a sheet from the land registry to prove that my grandfather was not the owner, the GSF sent an illegible print out. I was in fact looking to see if the apparent sale was a transfer to his company, Teutonia. So much for transparency and verification, matters which also frustrated Immler’s interviewees. The GSF expected claimants to submit proof for a claim; but when it rejected claims, it never offered legible documentation to prove the justice of its decision. Indeed, as it constantly made clear, applicants had no rights under Austrian law, and the whole procedure was discretionary. When it so chooses, the GSF cites obligations under regulative laws: so the GSF can be discretionary or declare it acts under obligation as the occasion best suits it. I wrote in the 2009 appeal document: “that the expropriations were accompanied by terror and even items of low value were precious in terms of associations with close relatives is not recognised in this procedure.” I

30 Wiener Stadt- und Landesarchiv, M Abt 119 K5 VEAV – Geschädigter und Entzieher: Isidor Gutmann Sig 215: 2. Bezirk.

31 Family papers, newspaper cutting dated 22 May 1958.

32 DÖW, 19400/170.

therefore asked for transparency in terms of providing documentation. After all, I submitted documents in good faith from the family side, and it seemed reasonable to expect that the GSF should offer the equivalent. The GSF could, however, have done far more – it could have proactively contacted potential claimants, asking them if they had any documents as well as proactively providing them with documentation. This would have transformed an adversarial approach into one which was collaborative – surely more appropriate for achieving the deeper aim of a late reconciliation, seventy years after the traumatic events at issue.

Delivering Compensation

The GSF gave the option to collect signed waivers from all family members. The principle is that the GSF pays its scaled-down amounts once a waiver is signed giving up the right to further claims. This is what Constantin Goschler, the historian of compensation, has called “the unfair transaction” underlying the model of compensation based on scaled-back amounts – albeit writing about the payments for forced labour, but the GSF had similar procedures as a waiver-collecting agency.³³ This German compensation scheme was so overwhelmed with applications, it was unable to stretch compensation to damage to health; similarly, the GSF’s scaling down of valuations of properties (often of considerable value seventy years on) because of large numbers of claimants constituted a renewed injustice.

Why was the GSF placing the burden on its claimants? I was struck by historical resonances with a tragic past which informed the issues being compensated, when burden after burden was part of the system of expropriation. The GSF now expected its claimants to copy multiple forms, to provide documents, and to obtain the waivers from other family members: all this meant making claimants do tasks that could be construed as having prejudicial implications. I reflected on the fact that if the GSF expected waivers giving one hundred per cent immunity from further claims on an asset for which it offered only a token amount or even nothing (its refusals were hurtful), then it really should have contacted the persons for whom I had supplied contact details. I would make the decision for myself, submit claims and the appeal, and resign myself to signing the waiver, but now I was expected to be complicit in collecting these fundamentally unfair waivers from other family members, saving the GSF from a task that it might well have carried out given that the forms indicated current addresses. Instead, I sent in documents from my family detailing agreements over the inheritance from my grandfather Isidor Gutmann, indicating the legal succession of inheritance, and my family’s rights to the assets. The documentation was sent prior to the specified date of 31 December 2014, and yet was steadfastly brushed aside. According to a recent additional ‘law’, the GSF claims that it is now unable to discuss individual cases – so much for accountability to individual claimants. This means that efforts to resolve non-payment cannot be questioned.

The GSF’s procedures in 2009 hindered the claiming of awarded payments, as the GSF did not adhere to its own timescales in that it adjudicated on appeals only *after* it brought down a guillotine on claiming for co-heirs. Given that, in order to secure

³³ Constantin Goschler (ed.), *Vom asymmetrischen Tauschhandel zur humanitären Geste. Die moralische Ökonomie des Auszahlungsprogramms der Stiftung “Erinnerung, Verantwortung und Zukunft”*, in: Constantin Goschler (ed.) in cooperation with José Brunner, Philipp Ther and Krzysztof Ruchniewicz: *Die Entschädigung von NS-Zwangsarbeit am Anfang des 21. Jahrhunderts*, Volume 1: *Die Stiftung. Der Abschluss der Wiedergutmachung?* Göttingen 2012, 15-46.

any pay-out, the waiver requires one to renounce “all claims against the Republic of Austria and/or against Austrian companies arising out of or in connection with the National Socialist era or World War II”,³⁴ this all-encompassing waiver, which went beyond the assets in question, would have effectively nullified the appeal. The response to my appeal concerning the award of 19 February 2009 (which, due to the complexity of the issues, was only placed on 7 April 2009, but still within the specified timeframe) came on 31 July 2009. What the GSF should have informed me and my family about clearly was that there was only a relatively short time window from the receipt of the letter of 19 February until 24 May 2009 to include my elder brother (Alan) Michael as co-heir. In fact, the GSF waited until 19 May 2009 to even acknowledge the letter of appeal. It makes no sense to sign forms and the all-important waiver concerning the payment of the final award before the appeals process was completed, and indeed before a letter of award was issued! Should not the GSF have completed its procedures before 24 May 2009 to allow submission of the relevant documents by the time of the arbitrary deadline of 24 May 2009? By waiting for the appeals procedure to be completed in July 2009, members of my family lost payments that they might otherwise have received. How could I have been arranging payments in May 2009 prior to the ending of the appeals process? There has been a total obstructiveness: the GSF obdurately refuses to consider the documents sent in regarding the legal agreement reached with my cousin regarding compensation claims payments.³⁵

What the GSF believes I should have done would be the equivalent of a person whose case is being considered by a court of appeal asking to be locked up in prison before the final verdict on their case. It makes absolutely no sense. How could I sign a waiver for specific assets and request family members sign a waiver for a scaled down payment when the amount was still under review? Little effort was made to communicate the importance of this date of 24 May 2009. Waiting for the final adjudication meant that a substantial proportion of the amounts awarded could never be claimed in my family’s case, and this remains the case. This amounts to confiscation of an award made to rectify confiscation.³⁶

The GSF’s statutes state:

“Pursuant to the General Settlement Fund Law amendment (Federal Law Gazette I 9/2013), the following provision stipulated a time limit for collecting the payments: the entitled beneficiaries will be able to claim the amounts awarded within a period of five years after the service of the decision; this period will expire however no earlier than 31 December 2017.”

But having saved the GSF paperwork by including beneficiaries on a single form and also having provided details of an internal legal agreement within my family concerning compensation, the GSF steadfastly refuses to pay the scaled-down amounts in full. Once again, I am apparently at fault for not following procedures that are arbitrary and difficult to understand, especially when the appeals process and the deadline for recognition of heirs were out of step.

Viewed more generally, the Austrian state was laundering the nation’s assets to free them from the taint of having been owned by its former Jewish citizens and residents. Much of the documentation was done by claimants. Small payments were

³⁴ https://nationalfonds.org/files/content/documents/gsf/EF-G_NON-BINDING_translation.pdf (15 October 2016).

³⁵ This legal agreement between the US and UK branches of our family signed on 20 December 2000 regulated compensation payments for our grandfather.

³⁶ The final award letter came only on 19 March 2010.

made against really valuable assets. Or, as with the Hotel National business or the properties at Bad Gleichenberg, the GSF legitimated earlier expropriations. I appreciate the symbolic recognition of my mother's interrupted education, but here intercession with the Pensionsversicherungsanstalt might have been a better outcome, as the compensation was minuscule in proportion to the earlier rejected pension claims for her interrupted education concluding with her qualification as a dental surgeon: a pension (in her case by buying lost years at a concessionary rate) would have been far more valuable in supporting her retirement with extensive costs of care.

The standard letter from the Bundeskanzleramt, the Federal Chancellery, in the name of Barbara Prammer as chair of the Trustees, the Federal Minister of Finance, and the Chancellor, was hopeful on their part– it apologised for the suffering inflicted at the time and the lateness of the settlement. Well, my maternal grandparents, my aunt who committed suicide in Bogota after the war, and my parents were all deceased. It was not that the settlement was late, but the procedures were demanding, and often fundamentally unfair. Applicants were subjected to a protracted form of bureaucratic torment for over a decade to obtain the precisely calculated but trifling (or in GSF-speak 'symbolic') allocated amount. The GSF prioritised obtaining the waivers not just for specific assets but for the totality of loss, rather than establishing any sense of restorative justice to its Austrian diaspora.

In my family's case, the GSF has retained a substantial proportion of the overall amount allocated – effectively a renewed confiscation. The GSF refers to symbolic compensation: but what my family has experienced is symbolic confiscation. Of course, there is no comparison between the terror of the Nazi era and the administrative obstructiveness of the GSF. However, the GSF has been appalling in its delivery of the allocated compensation, failing fundamentally in its very rationale. Thus we arrive in the Kafkaesque realm in which the legalistic bureaucracy creates more injury than redress.

The GSF cites time and time again the aggregate amounts which it has disbursed – but what is important is delivery in terms of assessment and actual payment to individuals, and moreover the quality of its delivery. Exactly how much of the sums that were allocated but – because of its protracted and at times obtuse procedures – ultimately remains with the GSF, and which it steadfastly refuses to pay out, is unclear. The sole group acknowledged are persons who were awarded compensation but have died with no apparent heirs.

I am too young to have experienced the mass confiscations after the *Anschluss*, so here was my family's chance to experience "symbolically" the confiscation of the minuscule amounts awarded by the Austrian state. As a historian who consults compensation forms, the experience – from filling out the form to final payment (or more often non-payment) – is especially instructive in terms of procedure. The amounts themselves are low, and oddly all sorts of items (five in my case, before the massive scaling-down) came out at an arbitrary but similar amount, and in the end the claims-based, equity based procedures and an insurance policy when added up and scaled down and divided between family members amounted to slightly less than an individual 'gesture payment' to a direct victim.

Having had Frau Magister Lessing declare that the initial application was invalid, then experiencing the extended amount of time in delaying payment, then the bringing down of a guillotine to prevent full distribution before reaching a decision on appeal, and finally the refusal to consider legal agreements within my family, makes the GSF a minefield in which each step by a claimant results in renewed loss. This is hardly the compassionate and sympathetic administration promised at the outset.

The GSF arbitrarily decided not to ‘reopen’ any file after declaring closure. ‘Re-opening’ includes not considering the legal agreement with my cousin that I submitted on 5 April 2014 concerning compensation payments in an effort to resolve an evident logjam. Instead, the GSF simply will not pay out the full amount that it has calculated is due, and not a cent to my elder brother although he has an equal entitlement to his brothers Paul and Oliver, who both received proportional amounts but not the amount they should have had the legal agreements with our cousin been respected. So the achievement of the GSF is to give the post-war generation the chance to feel what it is like to experience expropriation by the Austrian state. One wonders overall how much has been awarded but never paid to recipients.³⁷ There is a mismatch between the statutory basis of the aims of the GSF, its public statements, and actual processing at an individual level. Image and practice do not match up.

One positive is that for those survivors of Nazi persecution who survived long enough (my mother included), the Nationalfonds made ‘gesture payments’ that were indeed appreciated. The GSF interpretation of the waiver was unfair in its coverage of multiple households and, if an elderly person retired or moved, the GSF lost touch, and there is the tragic situation of claimants dying without known heirs. But let’s be positive.

The GSF prioritised its waiver-collecting function, legitimating the acceptance of expropriations between 1938 and 1945 – restitution could take as much as eleven years after the war, as in the case of Taborstraße 18. As a historian dealing with compensation, it is disappointing to see such procedures, when the effort should have been directed towards delivering what was due within the initial terms on offer. The GSF should have been transparent in its calculations and proactive in its distribution, and altogether making the process less adversarial and more collaborative. These are symbolic amounts downscaled to a trivial level. Rather than giving later generations a sense of a state and society that wishes to make symbolic reparation, the GSF has achieved the reverse in withholding trivial amounts that it allocated for those who had moral qualms in carrying out administrative work in collecting waivers. Looking more widely, the roughly 20,700 claims submitted is far too low, even if representing the losses of some 60,000 persons. Here, the GSF reached out to only a third of the victims. Of course, some may have decided that filling out multiple forms and assembling heaps of documents was more trouble than it was worth, especially regarding the morally problematic aspects. I can certainly agree!

Inter-Generational Injustice

In order to be paid the share allocated, I had to obtain the “certificate of life”³⁸ and resign myself to signing the all-important waiver. I duly prepared my papers before visiting the Oxford police station on St Aldate’s. I found police officers who are familiar with certifying aged Austrians. Looking me up and down, the police officers

³⁷ I requested this information in February 2016 from the GSF secretariat, in a letter addressed to Frau Magister Lessing. In response, I received confirmation on the unpaid proportion of my family’s claim, and that the deadline for payments to family members was past the date of the final award. Frau Mag. Lessing and Catherine Friedmann reply to the author, 8 April 2016.

³⁸ <https://www.bmeia.gv.at/en/embassy/london/practical-advice/consular-services/life-certificate.html> (15 October 2016). The certificate is a standard Austrian requirement for pension recipients, and has meant that Austrian embassies also have regular visits from former refugees.

shook their heads: surely I was too young for one of these Austrian payments? Nevertheless, they graciously stamped the certificate.

That was on 30 March 2010, when my elder daughter, Silvia, observed me getting together a file of documents. What was it for, she asked. I explained that we had applied for compensation for some of what the family had once owned in Austria, that the assets had been valued, and that the family would receive a scaled-back amount of between roughly ten and 17 per cent of their worth: I did not mention the rejected items and arising complexities. “But that’s not fair, Daddy”, came the quick-witted remark. What the GSF achieved was not inter-generational reconciliation, but the passing on of a sense of injustice to the next generation.

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Quotation: Paul Weindling, "That's not fair, Daddy". On Being a Second and Third-Generation Applicant to the Austrian General Settlement Fund, in: S.I.M.O.N. – Shoah: Intervention. Methods. Documentation 3 (2016) 2, 83-102.

http://simon.vwi.ac.at/images/Documents/Coming-to-Terms/2016-2/2016-2_Coming-to-Terms_Weindling/CTT_Weindling01.pdf

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