

The Claims Conference and German inheritance law

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The heirs of Holocaust victims are still fighting with the Jewish Claims Conference (JCC) about their rights to compensation from the Goodwill Fund. This fund was set up by the JCC for people who failed to submit a claim for restitution before the specified deadline, which was 31 December 1992 for immovable property (real estate), and 30 June 1993 for movable property. These claims had to be sent to the Office for the Settlement of Unresolved Property Issues in Germany. According to § 30a in the German Property Act, claims submitted after the deadlines are ruled out.¹

The Goodwill Fund directives originally stipulated that, if the victim of Nazi persecution is deceased, his or her heirs as defined by German inheritance law would be entitled to claim the assets – providing they submitted an application before the deadline. In other words, anyone who presents a certificate of inheritance would be entitled to claim compensation. Unfortunately, although it was clearly outlined in the 2010 version of the Goodwill Fund directives,² this situation was severely restricted in practice.³ In particular, the victim's great-nieces and great-nephews were excluded, although in some cases, they were the only surviving descendants of the former owner. The following example illustrates a case in point.

Hermann H. owned property in Berlin. His only surviving heir is his great granddaughter, Ruth W. As a result of the JCC directives she is entitled to only one third of the proceeds from the sale of the property (the JCC recovered the property title and subsequently sold it). This is what happened: Hermann H. had three sons, Julius, Alfred and Willy. Alfred and Willy were murdered in concentration camps. Neither of them had any children. Julius and his wife Rosalie died and were succeeded by their daughter Margot, who also inherited the shares of her two uncles. At this point, the entire estate was in the hands of one person, Margot, the granddaughter of Herman H.

¹ Further reading: Expropriation pursuant to § 30a of the Property Act, ZOV 5/2009, p. 219; The Supreme Constitutional Court and § 30a of the Property Act, ZOV 5/2010, p. 212; Restitution bypasses victims Why the German government needs to take immediate action! ZOV 4 / 2010, p. 71

² Goodwill Fund Guidelines as approved by the JCC Board of Directors on 19 July 2000 and incorporating decisions of the Executive Committee from November 2000, the JCC Board of Directors on 19-20 July 2005, the Executive Committee on 2-3 November 2005, the Executive Committee on 7 March 2006, the Board of Directors on 27 April 2006 as forwarded to the Board of Directors on October 9, 2006 and incorporating the decisions of the Executive Committee on 31 March 2009 and the Successor Organization Committee on 5 January 2010. Updated Guidelines as of June 2010.

³ What the guidelines and deadlines of the JCC Goodwill Program are all about, Jüdische Zeitung, 2008, p. 2

Margot later emigrated to Shanghai and continued on to Palestine where her daughter Ruth was born in 1946. But the hardships Margot suffered led to her early death in Jerusalem at the age of 46.

Ruth, who grew up in an orphanage after her father died, knew nothing of the property once owned by her great-grandfather. And she didn't find out about it until after the application deadlines had expired. This is when she submitted a claim to the JCC for compensation from the Goodwill Fund. According to the JCC, Ruth was entitled to the share owned by her grandfather Julius, but not to the shares owned by her great uncles Alfred and Willy who had been murdered by the Nazis.

The expropriation of the property took place in 1938. Had it occurred after the death of brothers Alfred and Willy, when her mother Margot was listed as the sole owner, Ruth would have, according to JCC directives, been entitled to inherit the entire estate.

Another example of the ruling out of a direct descendant is the case of Siegfried J. Prior to World War II, Siegfried J. owned a hat factory in Berlin. After the Nazis started excluding Jews from business life in Germany, his company's income went down and Siegfried J. was forced into bankruptcy.

Overburdened by the pressure, he died in 1940 in Berlin.

His son Harry managed to escape to England where, penniless, he joined the British army to fight against the fascists. Several years later he was involved in a car accident. The resulting injuries caused him endless suffering until his death in April 2003. Harry was survived by his wife Ursula and a daughter, Eva.

After the War, the family sought restitution for their family's lost assets. They received nothing because the business once owned by Siegfried J. was located in East German territory.

Following German reunification in 1990, the family was unaware that they needed to submit a new application for restitution. However, the JCC applied for, and received compensation for the factory. Harry had failed to apply for compensation from the JCC Goodwill Fund before the final deadlines expired in April 2004. In April 2009, the JCC announced an option for survivors to apply for compensation when an entitled person was unable to do so due to medical reasons. The family regained hope and submitted an application for the Goodwill Fund. They included medical reports verifying that, in the years before his death, Harry was unable to manage his personal affairs. According to JCC directives, his death (in April 2003) did not occur in the "period immediately preceding the specified deadline on 31 March 2004."

Harry's wife, Ursula, who had suffered years of deprivation, had also become ill and was in need of medical care. The family submitted a medical certificate for her as well verifying that she was unable to personally submit a claim before the April 2004 deadline. This request was also rejected by the JCC on

the grounds that, although spouses of the original owners are eligible, the spouses of the owner's children are not.

Harry's daughter Eva, the granddaughter of the former owner, is not eligible to submit a claim because she will not become an heir until after the death of her mother. But even then, her claim would be rejected for the reasons described above. Although Eva's parents clearly qualify as medical cases, according to JCC directives, she will get nothing. Eva sees this situation as a terrible injustice and has turned to the Petitions Committee of the German Bundestag (Lower House of German Parliament) for help. She is still waiting for a response.