

The Austrian Reconciliation Fund

Voluntary Payments by the Republic of Austria to Former Slave and Forced Labourers of the Nazi Regime on the Territory of Present-Day Austria

Introduction

About one million foreigners were forced by the Nazi regime to work on the territory of present-day Austria. Slave and forced labour were expressions of a cruel disregard of human rights and stood for deportation of people of all ages, their abuse, deprivation of their rights, brutal treatment and in many instances their murder through work. Many of them never recovered from the traumatic experiences of their deportation.

In the inaugural statement of the new Austrian Government, Federal Chancellor Wolfgang Schuessel declared on February 9, 2000:

"In discussing the future of our young people we must equip them with something essential and that is a knowledge of the history of their country. Austria's past demands a particularly critical involvement with this aspect and the necessary sensitivity for the unjust structures and mechanisms of the National Socialist system. It is this knowledge and sensitivity that we must hand on to the future generations as a warning. During the past few years several very important steps have already been taken in this direction.

What has to be done now is, in the light of the preliminary report issued by the Austrian Historians' Commission, for the Federal Government to provide rapid compensation to the victims of forced labour during the Nazi regime by taking into account the responsibility of the enterprises concerned. The new Government will ensure that the former forced labourers, who are now of an age in which they urgently need help, get their rights. (...)

The Federal Government will also strive to seek a solution for the unresolved questions in this connection. While all the facts as to how this Republic dealt with the wealth and treasures misappropriated by the Nazis after the Second World War and to what extent the steps taken were adequate will only come to light once the Historians' Commission has presented its final report, we will make sure that those victims who are still alive - particularly the survivors of the Holocaust - who were insufficiently or not at all indemnified by the measures implemented so far and who today live in difficult conditions quickly receive the necessary help."

Consequently, on February 15, 2000 the new Austrian Federal Government appointed the former President of the Austrian National Bank (Oesterreichische Nationalbank), Dr. Maria Schaumayer, Special Representative of the Austrian Federal Government for the Settlement

of Slave and Forced Labour Related Issues.

Work on a genuinely Austrian solution

In her initial press conference, Dr. Schaumayer stated that she wanted to move rapidly in order to make payments to the elderly victims as soon as possible, preferably by the end of the year 2000. Dr. Schaumayer announced that she would like to find a genuinely Austrian solution which would take into account the specificities of the Austrian situation. She said that it would be her intention to suggest to the Austrian Federal Government and the Austrian Parliament the creation of an Austrian Fund which would make disbursements directly to the victims and to seek to ensure that the payments reach the victims in full. Contributions to the fund should come from the Austrian government as well as Austrian companies. Given the provisions of the Austrian State Treaty of 1955 which relieves Austria of all future reparations and in view of the lack of succession by Austrian companies to the enterprises of the Nazi regime, she also declared that future payments by an Austrian Fund would be made on a voluntary basis.

Dr. Schaumayer immediately went to work and conducted talks with government representatives of the countries from which former slave and forced labourers were deported by the Nazi regime onto the territory of present-day Austria. She also held meetings with historians, representatives of victims' organisations, lawyers, victims and other interested parties.

On March 20, Ms. Schaumayer met for the first time with US Deputy Treasury Secretary Stuart Eizenstat in his capacity as Special Envoy for Holocaust Era Claims. Among the issues discussed was the question of legal closure for the law suits against Austrian companies which are pending before US courts. Deputy Secretary Eizenstat assured Dr. Schaumayer that Austria would be treated equally with Germany and that Austria could obtain a similar Executive Agreement with the United States which would oblige the US Administration in all future potential law suits concerning slave and forced labour to submit a Statement of Interest to the courts, declaring that a dismissal of the claims would be in the foreign policy interest of the United States and that the Austrian Reconciliation Fund would be seen as the only forum and remedy for such claims.

In the weeks which followed this meeting, Dr. Schaumayer and her task force drafted and negotiated six bilateral agreements with Belarus, the Czech Republic, Hungary, Poland, the Russian Federation and the Ukraine. At the same time, the first draft law for the establishment of an Austrian Reconciliation Fund was prepared.

In an international conference at Vienna's Hofburg Palace, which took place from May 16-17, 2000 and which was co-chaired by Deputy Secretary Eizenstat and Dr. Schaumayer, the Central and Eastern European Governments agreed with the principles of the planned Austrian Reconciliation Fund, including the categories of victims, the calculation of the potential number of 150,000 victims, the amounts for each category and the overall capped amount of six billion Austrian shillings.

At a following meeting in Washington, the US Administration also accepted the overall amount of six billion Austrian shillings as fair and reasonable. Shortly thereafter, the US Government forwarded a first proposal for an Executive Agreement and the key elements of a Statement of Interest to the Austrian Government which is currently negotiated between the two sides.

On June 6, 2000 all four parties in the Austrian National Council of the Parliament introduced a proposal for a law establishing an Austrian Reconciliation Fund. The law was submitted to the Constitutional Affairs Committee on June 7, 2000, where it passed by unanimous vote on June 30. On July 7, 2000, less than five months after the appointment of Dr. Schaumayer, the Austrian National Council passed the Austrian Reconciliation Fund Law by unanimous vote of all four parties. Eventually, the Law was adopted by the Austrian Federal Council on July 19, 2000, again by unanimous consent. Since the conditions for the establishment as foreseen in the Austrian Reconciliation Fund Law have been fulfilled, the Austrian Council of Ministers set the law into force to be effective as of November 27, 2000.

The main provisions of the Austrian Reconciliation Fund Law

The disbursements of the Fund will primarily go to those former slave and forced labourers of the Nazi regime who had to endure a particular hardship and a specific discrimination because of the cynical Nazi hierarchy of nationalities. However, all people will be eligible for payments by the Fund who had to suffer a comparable treatment by the Nazi regime. Precondition for eligibility is that the work took place on the territory of present-day Austria.

The Fund will make payments to slave labourers and forced labourers in industry and in agriculture. Eligible are people who had been deported or who, after voluntary arrival, had been denied return to their home countries, and who were subjected to harsh living conditions, and who, in the case of industrial workers, were kept in prison-like accommodations or were subjected to similar restrictions of their freedom of movement, or who in the case of agricultural workers experienced a limitation of their personal rights or had to endure particularly hard disciplinary measures. These conditions are particularly met by former slave and forced labourers from the former Soviet Union ("Ostarbeiter"), Poland, Slovenia, Yugoslavia, the Baltics and the Czech Republic. However, civilian workers from other countries, such as Western European countries, will also be eligible if they were subjected to similar conditions.

In addition, a provision in the Law makes people eligible who are suffering from long-lasting physical or psychological injuries as a result of their being subjected to forced labour (hardship cases).

Austria also assumes responsibility for victims of slave labour who had been forced to work on the territory of present-day Austria and, therefore, includes in the Reconciliation Fund slave labourers and victims who had to work in concentration-like camps and who will not be covered by the German Foundation "Remembrance, Responsibility

and Future." Among these are Hungarian Jews who had been deported in the years 1944 and 1945 from Hungary to concentration camp-like camps in the vicinity of Vienna and were forced to work there and those who were deported to the Southeast of Austria for the construction of the "South-Eastern Defence Wall" and who would also not be covered by the German Foundation. Based on the German legislation of 1956 ("Bundesentschädigungsgesetz"), the German Foundation otherwise includes all victims of slave labour in concentration camps regardless of their geographic location and, therefore, also covers inmates of the concentration camp of Mauthausen and its sub-camps as well as the sub-camps of the concentration camp of Dachau which were located on the territory of today's Austria.

The Austrian Reconciliation Fund will also disburse money to children under the age of 12 who had been deported together with their parents or one parent and to mothers who had to deliver their babies in special clinics for forced labourers, ("Ostarbeiterinnen-Entbindungsheime") which in most cases led to the death of the children, or who were forced to have an abortion.

Payments by the Fund will be made either through partner organisations (i.e. the already existing reconciliation foundations) in Central and Eastern European countries or, in all other cases (category "rest of the world") directly by the Fund in Vienna. Organisations of victims in countries where no partner organisation exists can collect applications and forward them collectively to the Fund. However, disbursements in these cases will go directly to the victims.

Slave labourers will receive a one-time payment of ATS 105,000, industrial workers ATS 35,000, agricultural worker ATS 20,000; children will receive the same amount as their parents and mothers who had to deliver their babies in special clinics for forced labourers or who were forced to have an abortion will receive an additional amount of ATS 5,000. Hardship cases will receive an amount up to the maximum of their respective category. Heirs of victims will receive payments only, if the victims died on or after 15 February 2000.

Applications can be made within two years of the entering into force of the Reconciliation Fund Law. The Fund will operate for a period of three years. Any remaining money of the Fund's overall amount of ATS 6 Billion will be used for payments in connection with other injustices which occurred during the Nazi regime, whereby special attention will be given to heirs of slave and forced labourers who died before 15 February 2000.

In the process of the drafting and the debate of the Austrian Reconciliation Fund Law, suggestions by Central and Eastern European governments from which most victims of slave and forced labour originated, by victims organisations, the United States, Austrian victims representatives and the Austrian Jewish Community as well as by victims, plaintiffs lawyers and company lawyers were taken into account.

After the bilateral agreements with the Central and Eastern European Countries and the Executive Agreement with the United States have been signed and the amount of 6bn Austrian shillings have been made available, the Reconciliation Fund Law entered into force to be effective as of November 27, 2000.

In a festive signing ceremony in the Federal Chancellery in Vienna on October 24, 2000, the bilateral agreements with the Central and Eastern European countries (i.e. Belarus, Poland, the Czech Republic, the Ukraine and Hungary), as well as the Executive Agreement with the United States were signed by the Austrian Federal Chancellor, the Heads of Delegation of the five Central and Eastern European countries and the American Ambassador in Austria. On this occasion, the representatives of the five Central and Eastern European countries, of the United States (Deputy Treasury Secretary Stuart Eizenstat), of Austria (Special Representative of the Austrian Government Dr. Maria Schaumayer), the Austrian business representative (Dr. Heinz Kessler as chairman of the platform "Humanitarian Action") and the plaintiff counsels signed a Joint Statement, which includes the obligation of the plaintiff counsels to dismiss with prejudice all pending claims. Due to technical difficulties in reaching the necessary decisions by the Russian Government, the Russian Federation did not sign the agreement earlier than on November 27, 2000.

After the conditions of the law for the establishment of the Fund had been fulfilled and the bilateral agreements had entered into force, the Fund and its organs could be constituted. On the invitation of the Austrian Federal Chancellor Dr. Wolfgang Schüssel as chairman of the Board of Trustees of the Fund, the inaugural meeting of the Board of Trustees of the Austrian Reconciliation Fund took place in Vienna on December 20, 2000.

At the inaugural meeting of the Board of Trustees, Ambassador Dr. Ludwig Steiner was appointed Chair of the five-member Committee, which acts as the decision-making body for those Fund affairs delegated to it by the Board of Trustees. Ambassador Dr. Richard Wotava was appointed General Secretary, who as the Fund's executive officer will work full-time to support the Chair of the Board of Trustees in the management of the Fund, and prepare and implement the resolutions and decisions made by the Board of Trustees and the Committee.

Start of payments

According to the Joint Statement of October 24, 2000, payments should only be distributed once all pending claims had been dismissed with prejudice.

The dismissal of the last two remaining lawsuits against Austria and Austrian companies in connection with claims filed by former slave and forced laborers of the NS regime by US judge Shirley W. Kram on 25 July 2001 in New York finally paved the way for the start of compensation payments to former NS forced laborers.

Following this decision, Austrian Federal Chancellor Dr. Wolfgang Schüssel informed the bodies of the Austrian Reconciliation Fund that by obtaining legal closure the preconditions for the start of the payments had been fulfilled. Given the excellent progress made with the preparatory work of the Fund, payments could thus begin immediately.

Since the constitution of the Fund, intensive work had gone into setting up its office and thus, early in August, the Austrian Reconciliation Fund was already in the encouraging position of being able to make payments to 20,398 former slave and forced laborers.

Conclusion

The Austrian Federal Government and the Austrian Parliament recognize that the sufferings of the victims of the Nazi regime, among them concentration camp inmates who were forced to work (slave laborers) and civilian workers who were deported onto the territory of present-day Austria (forced laborers), are irreparable and cannot be compensated by any amount of money.

Austria acknowledges with the voluntary payments based on the Reconciliation Fund Law the contributions of the victims of slave and forced labor to the economy of that period which, in some instances, is still recognizable today. For the victims the location to which they were deported was Austria, even if Austria did not exist at the time.

Dr. Martin Eichtinger

Eligibility**Payments by the Austrian Reconciliation Fund
to Former Slave Laborers and Forced Laborers of the National
Socialist Regime****1. Eligibility**

The **Austrian** Reconciliation Fund Law envisages payments to the following persons:

1. Forced Laborers in Industry and Agriculture

i.e. persons,

I. who were transported by force or by deception into work on the territory of the present day Republic of Austria, or who after a voluntary stay on the territory of present day Republic of Austria were prevented from returning home, ,

II. were forced to work here,

III. were subjected to particularly bad living conditions and

IV. either

- a) were subject to confinement or some other significant limitation of freedom, or
- b) were deprived of their personal rights or subjected to particularly severe disciplinary measures

2. Slave Laborers

i.e. persons,

I. who were forced while under detention to do slave labor in a concentration camp or in a similar place of confinement under inhumane conditions on the present day territory of the Republic of Austria,

II. whereby those victims are excluded who are eligible vis-a-vis the Foundation "Remembrance, Responsibility and Future" of the Federal Republic of Germany (among those are inmates of the concentration camps of Mauthausen and its subcamps, as well as the subcamps of the Dachau concentration camp which were located on the territory of present day Austria, see below).

**3. Forced Laborers Who Were Persecuted for Political Reasons,
Ancestry or Other Reasons**

i.e. persons,

I. who, because of political motives, reasons of ancestry, religion, nationality, sexual orientation, physical or mental handicap, accusation of supposed anti-social behavior or in connection with medical experiments were coerced by the National Socialist regime to work on the territory of present day Austria, and

II. who were then residents of the territory of present day Austria, and

III. who either

- a) were subject to confinement or some other significant limitation of freedom, or

- b) were deprived of their personal rights or subjected to particularly severe disciplinary measures

4. Particular Hardship Cases

i.e. persons, who might not meet all criteria of eligibility as a forced or slave laborer according to the Austrian Reconciliation Fund Law (described under section 2), but suffered demonstrably severe and lasting physical or psychological damage due to work they had to do.

5. Children and Minors

who were transported as children or as minors under the age of 12 with one or both parents, who were forced laborers, into the territory of present day Austria or who were born here during the mother's period of forced labor.

6. Women

who during their time as forced laborers gave birth to a child or who were forced to undergo abortions.

Payments are **not** to be made to former **prisoners of war** and military internees .

Eligibility vis-a-vis the German Foundation "Remembrance, Responsibility and Future":

I. Those victims who were held in a **concentration camp** as defined in Section 42, Paragraph 2 of the German Indemnification Law (among those are the concentration camps of Mauthausen and its subcamps, as well as the subcamps of the Dachau concentration camp which were located on the territory of present day Austria) or in a ghetto under comparable conditions and were subjected to forced labor, are covered by the German Law on the Creation of a Foundation "Remembrance, Responsibility and Future" (Markgrafenstrasse 12- 14, D - 10969 Berlin (Tel: 0049/ 30/ 25 92 970, Fax: 0049/ 30/ 25 92 970-11, Mail-Adress: info@stiftung-evz.de).

II. Forced Laborers receive their payments according to the **preponderance of their period of labor** from either the Austrian Reconciliation Fund or the German Foundation "Remembrance, Responsibility and Future."

2. Amount of payments

The payments in each individual category are fixed amounts. The duration of the forced or slave labor is not relevant for the amount to be awarded. The amounts to be paid by the Reconciliation Fund are as follows:

- (1)** ATS 105,000 (7.630,65 €) to persons who were forced by the

National Socialist regime to work under inhumane conditions while under detention in a concentration camp or in a similar place of confinement on the territory of present-day Austria (**slave laborers or slave labor**, as the case may be).

(2) ATS 35,000 (2.543,55 €) to persons who had to provide their forced labor in industry, business, construction, electric power enterprises and in other business enterprises, in public institutions, at the railroads ("Reichsbahn") or postal services ("Reichspost") (**forced laborers or forced labor**, as the case may be).

(3) ATS 20,000 (1.453,46 €) to persons who had to provide their forced labor exclusively in agriculture and forestry or in the form of personal services (households, hotels, etc.) (**forced laborers or forced labor**, as the case may be).

(4) ATS 105,000 (7.630,65 €) , ATS 35,000 (2.543,55 €) or ATS 20,000 (1.453,46 €) to children and minors below the age of 12, who were transported together with one or both parents to the territory of the present-day Republic of Austria or who were born here during their mother's period of forced labor. They are to receive the amount to which the parent is or would be eligible. In case of deportations with both parents who are or would be eligible to different amounts, the higher amount applies.

(5) ATS 5,000 (363,36 €) to women who during their time as forced laborers gave birth to a child, or who were forced to undergo abortions. This is a supplementary payment to the payment to which they are eligible on account of their categorization as former forced laborers.

(6) Up to a maximum of either ATS 35,000 (up to 2.543,55 €) or ATS 20,000 (up to 1.453,46 €) to the hardship cases mentioned above.

Persons who meet the conditions of several categories are to receive the highest amount applicable.

3. Heirs of Victims

If the eligible person has **died on or after February 15, 2000**, then the heirs according to the national law of the person in question shall succeed. This date set coincides with the date at which the Special Representative for negotiations concerning the settlement of payments to former forced and slave laborers of the Nazi Regime on the territory of the present-day Republic of Austria, Dr. Maria Schaumayer, was appointed.

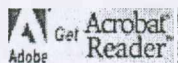
The national inheritance law applying to the eligible person in question is to govern succession (succession by last will and testament or by

inheritance law). Any payment may only be awarded if a non-appealable and legally effective court decision to this effect or another official certification is available.

If the person eligible for a payment died **before 15.02.2000** (deadline according to the Austrian Reconciliation Fund Law, at which time the right to make a claim may be inherited), **but after 15.02.1999** (deadline according to the **German Foundation Law**, at which time the right to make a claim may be inherited), the heirs can receive a payment from the German Foundation "Remembrance, Responsibility and Future" (contact see above), even though the forced labor was performed exclusively on the territory of the present-day Republic of Austria.

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Procedure

Payments by the Austrian Reconciliation Fund to Former Slave Laborers and Forced Laborers of the National Socialist Regime

4. Procedure for Application

A. Partner Organizations

The Austrian Reconciliation Fund Law lists partner organizations which review the applications and make disbursements:

I. Applicants with residence in Belarus, Poland, the Russian Federation, the Czech Republic or Ukraine should apply to the Foundation "Mutual Understanding and Reconciliation" in their country or, in the case of the Czech Republic, to the "Czech Council for Victims of National Socialism - Office for Payments according to the Austrian Reconciliation Fund Law."

II. The Foundation "Jewish Legacy in Hungary" is responsible for payments to Jewish applicants and Roma and Sinti who reside in the Republic of Hungary.

III. Applicants with residence in other former Republics of the Soviet Union (except for those mentioned above), will be the responsibility of partner organizations which cover those territories from which the deportation occurred at the time, those with residence in Estonia will be dealt with by the Foundation in Belarus, those with residence in Latvia and Lithuania by the Russian Foundation, those with residence in Moldova by the Ukrainian Foundation, because their data should be registered in the databases of these foundations.

B. The Austrian Reconciliation Fund

All other applicants should apply directly to the office of the Austrian Reconciliation Fund in Vienna.

For applications submitted directly to the Austrian Reconciliation Fund please fill in the QUESTIONNAIRE in as much detail as possible. The questionnaire has been worked out in order to be able to process your application expeditiously.

5. Free application procedure

Applications are free of any charge. Partner organizations are not permitted to charge any fees. There is no obligation to be represented

by counsel. The Austrian Federal Government has not employed any commercial agent or authorized any commercial activities in this respect.

6. Establishing a credible case

Please, enclose copies of any documents, if available, which could serve as a proof of your forced labor. Applicants have to make a credible claim to fulfillment of the conditions by enclosing copies of the work book, work card, reference of the former employer, documents of the registration office, etc. The staff of the office of the Austrian Reconciliation Fund provides assistance to all applicants in the search for relevant documents in any case. Please note that applications which are fully documented already at their filing can be processed in a speedy way.

7. Time-limit for the filing of applications

Applications can only be considered if they are received within two years from the effective date of the Reconciliation Fund Law (27 November 2000). The time-limit for the filing of applications is November 27, 2002.

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