

## ***Hardship Fund, Article 2 Fund, Central and Eastern European Fund***

### **Guidelines for decisions of the Appeals Authority of the Conference on Jewish Material Claims Against Germany (Claims Conference) adopted September, 2006**

#### Preamble

In order to implement the guidelines of the government of the FRG on allocation of resources to Jewish victims to relieve individual cases of hardship pursuant to the framework of compensation, dated October 3, 1980 (Federal Gazette No.192, dated October 14, 1980), hereinafter “Hardship Fund Guidelines”), the agreement between the Claims Conference and the Federal Ministry of Finance, dated October 29, 1992, (hereinafter the “Art.2 Agreement”), and the agreement between the Claims Conference and the Federal Ministry of Finance, dated June 1999, (hereinafter the “CEEF Agreement”), the Claims Conference shall establish an independent Appeals Commission.

#### 1. Scope of the appeals

These guidelines regulate decisions on the appeals submitted to the Appeals Commission by persons who consider they were wrongfully or erroneously rejected for payment according to

- a) the Hardship Fund Guidelines and its supplementary agreements; or
- b) the Art.2 Agreement and its supplementary agreements; or
- c) the CEEF Agreement and its supplementary agreements.

#### 2. Submitting and accepting appeals

- 2.1 The appellant may submit an appeal within one year from the date of the negative decision by the Claims Conference denying appellant’s claim. The date for determining the one-year period for filing an appeal shall be the date of dispatch of the appeal. The date of the postmark on the letter of appeal to the Appeals Commission is deemed the date of dispatch.
- 2.2 The Claims Conference will furnish the claimant with appropriate instructions concerning his/her right to appeal in its decision notifying the applicant of the rejection. The Claims Conference will inform the applicant of the reason for the decision and her/his right to submit additional evidence in support of the appeal. The deadline for submitting the appeal is to be provided in the decision to the applicant.
- 2.3 The appeal is required to be sent to the Appeals Commission. The name and address of the Appeals Commission shall be included in the decision sent to the applicant.

2.4 The appeal must be signed by the appellant or her/his legal representative, should give the reasons and grounds of the appeal, and include any additional information, affidavits and /or other evidence the claimant deems relevant supporting the application which has not been previously submitted to the Claims Conference.

3. Appointment and Removal of the Members of the Appeals Commission

3.1 The Chairman of the Board of Directors, will appoint one or more member(s) of the Appeals Commission. The Claims Conference may remove the member(s) of the Appeals Commission upon 30 days written notice to such members at the sole discretion of the Claims Conference, with or without cause.

3.2 In cases of serious violation(s) of duty, the Chairman shall be authorized to remove the members(s) of the Appeals Commission from office immediately with subsequent confirming written notice.

3.3 The members of the Appeals Commission are required to be impartial and independent of the Claims Conference. The members of the Appeals Commission cannot belong to the Board of the Claims Conference nor can they be a member of any Claims Conference committee.

3.4 The members of the Appeals Commission shall have no interest or connection to the individual appellants or the subject matter of the appeal and shall be impartial. In the event that any member is not impartial, he/she shall inform the Claims Conference. In such instance, the Claims Conference shall replace the disqualified person with an impartial substitute, solely for the purpose of determining the case in question.

3.6 On taking office, the members of the Appeals Commission will expressly declare that they undertake to carry out their task as members of the Appeals Commission independently and objectively and to treat all information in this connection as confidential.

4. Competence and jurisdiction.

4.1 The Appeals Commission is competent and has jurisdiction to hear and decide all appeals concerning:

- a) a decision on entitlement to one-time assistance from the Hardship Fund;
- b) a decision on entitlement to monthly assistance from the Art.2 Fund; and
- c) a decision on entitlement to monthly assistance from the CEE Fund.

4.2 The Appeals Commission will examine whether the appeal is admissible. An appeal is admissible if:

- a) the entitled persecutee was alive at the time the application to the relevant Fund was made; and

- b) the persecutee either personally or through his/her legal representative applied to the relevant Fund; and
- c) the application is within the scope of applications to be administered by the Claims Conference according to the Hardship Fund guidelines, the Art.2 Agreement or the CEEF Agreement.

Notwithstanding the preceding, the Appeals Commission is nevertheless competent to hear an appeal if the dispute (refers) involves a disputed question pertaining to one of the points listed under a) to c).

5. Evidence

In addition to the evidence presented by the appellant, the Claims Conference will provide the Appeals Commission with all information and/or documentation (including any substantiation available), which formed the basis of the Claims Conference's initial decision.

6. Assessing evidence

As far as possible, decisions will be made solely on the basis of the documents available to the Appeals Commission.

7. Authority of the Appeals Commission

7.1 The Appeals Commission is authorized to request such further evidence or information from the Claims Conference or any other source it deems necessary and proper to justly rule on the case.

7.2 If the Appeals Commission requires additional information for its decision, not in the records of the Claims Conference it may grant the appellant an extension of two months and seven days, commencing with the date of the notification letter to the appellant, requesting the submission of substantiating evidence.

7.3 In exceptional circumstances, the Appeals Commission shall have the authority to waive procedural requirements set forth in these rules.

8. Decision

8.1 The decision of the Appeals Commission must be set forth in writing and state the reasons for the decision by the Appeals Commission. The decision must be signed (or include the electronic or digital equivalent of a signature).

8.2 The decision must be sent to both the appellant and the relevant office of the Claims Conference.

8.3 The Appeals Commission shall undertake its best efforts to ensure that the appeal is decided within 90 days.

8.4 Upon notifying the Claims Conference of the decision by the Appeals Commission, if the appeal so requires, the Claims Conference will take all necessary steps to continue

to process the case according to the guidelines of the Hardship Fund, the Article 2 Agreement or the CEEF Agreement.

9. Finality

- 9.1 Subject only to 9.2 below, the decision of the Appeals Commission is final and binding on all parties thereto.
- 9.2 If the appellant obtains new evidence never previously submitted by any party within three months and seven days of the decision on the appeal, the appellant has the right to contact the Appeals Commission and request another review in consideration of such new evidence. Upon the expiration of that time limit, the matter shall be closed.
- 9.3 By submitting to this appeals process, as herein provided, appellant waives all proceedings in the regular courts, arbitral bodies, or other judicial or quasi-judicial authorities in any jurisdiction worldwide, and submits to the sole jurisdiction and competence of the Appeals Commission.

10. Reporting

The Appeals Commission shall provide the Claims Conference with a quarterly report, with such statistics and information as requested by the Claims Conference.

11. Administration

- 11.1 All administrative decisions regarding the functioning of the Appeals Commission shall be taken by the Claims Conference.
- 11.2 The official seat of the Appeals Commission shall be Frankfurt am Main, Germany.

These Guidelines shall become effective upon their promulgation.