

Hardship Fund, Article 2 Fund,  
Central and Eastern European Fund, and Child Survivor Fund

Public Guidelines for Decisions of the Appeals Authority (“Guidelines”) of  
the Conference on Jewish Material Claims Against Germany (May 13, 2016)

Preamble

In order to implement the eligibility criteria established by the government of the Federal Republic of Germany (“FRG” or the “German Government”) on the applications of Jewish victims of Nazi persecution in individual cases of hardship pursuant to (1) the framework of compensation, dated 3 October 1980 (Federal Gazette No.192, dated 14 October 1980) (“Hardship Fund Criteria”); (2) the agreement between the Conference on Jewish Material Claims Against Germany (“Claims Conference”) and the Federal Ministry of Finance, dated 15 November 2012 (the “Art. 2 Agreement”); (3) the agreement between the Claims Conference and the Federal Ministry of Finance, dated June 1999 (hereinafter the “CEEF Agreement”); and (4) the agreement between the Claims Conference and the Federal Ministry of Finance dated 10 December 2014 (the “CSF Agreement”), the Claims Conference shall establish an Appeals Authority (“Appeals Authority”) to decide appeals from initial decisions of the Claims Conference.

1. Scope of the Guidelines

These Guidelines govern the appointment, removal, authority, and procedures for decisions on appeals submitted to the Appeals Authority by persons (hereinafter “appellant”) who believe they were wrongfully denied a claim for compensation, wrongfully decided to be currently not eligible (“CNE”) or, after additional investigation, or wrongfully had their ongoing payment suspended under the terms of:

- a) the Hardship Fund Criteria and its supplementary agreements; or
- b) the Art. 2 Agreement and its supplementary agreements; or
- c) the CEEF Agreement and its supplementary agreements; or
- d) the CSF Agreement, or

any processing rules agreed between the Claims Conference and the German Government for the implementation of the above agreements.

2. Appointment and Removal of the Members of the Appeals Authority

- 2.1 The President of the Board of Directors of the Claims Conference (“President”) will appoint a pool of three or more distinguished retired jurists to serve as members of the Appeals Authority. The Claims Conference will provide to the German Government 30 days' written notice of such appointments. The Claims Conference may remove any of the members of the Appeals Authority upon 30 days' written notice to such member. Members of the Appeals Authority are removable at the sole discretion of the Claims Conference, with or without cause.
- 2.2 In cases of serious violation of duty, the President shall be authorized to remove any of the members of the Appeals Authority from office immediately with a subsequent confirming written notice.
- 2.3 The members of the Appeals Authority cannot be on the staff of the Claims Conference, be members of the Board of Directors of the Claims Conference, or be members of any Claims Conference committee.

- 2.4 The members of the Appeals Authority shall have no financial or other material interest or prior connection to the individual appellants or the subject matter of the appeal and shall be impartial.
- 2.5 On taking office, the members of the Appeals Authority will expressly declare that they will carry out their task as members of the Appeals Authority impartially and objectively and will treat all information received in connection with any appeals or the deliberations of the Appeals Authority as absolutely confidential.
3. Submitting and Accepting Appeals
- 3.1 The appellant may submit an appeal within one year from the date of the decision of the Claims Conference. The one-year period begins with the date of mailing or other transmission of the decision of the Claims Conference to the appellant.
- 3.2 When notifying the appellant of the decision of the Claims Conference, the Claims Conference will:
- Provide a copy of the text of the decision (including any statement of reasons);
  - Provide appropriate instructions concerning his/her right to appeal including a copy of these Guidelines;
  - Indicate the deadline for submitting any appeal; and
  - Inform the appellant of the opportunity to submit additional information or evidence in support of an appeal.
- 3.3 Any appeal must be sent to the Appeals Authority. The contact information for the Appeals Authority shall be included in the notice of decision sent to the applicant.
- 3.4 The appeal must be signed by the appellant or her/his legal representative. The appellant should give his/her reasons for believing the decision of the Claims Conference was in error and should include any additional evidence or other information supporting the appeal not previously submitted to the Claims Conference.
- 3.5 The role of the Appeals Authority is to engage in a fresh review of the decision of the Claims Conference in light of the grounds and evidence supplied by the appellant for believing that decision was in error. The Appeals Authority is to decide the appeal in accordance with the criteria and agreements listed in Section 1 and the burden of proof described in Section 7.
4. Competence and Jurisdiction
- 4.1 The Appeals Authority is competent and has jurisdiction to hear and decide all appeals concerning the following relevant funds (hereinafter “Relevant Fund”):
- a) a decision on entitlement to one-time assistance from the Hardship Fund;
  - b) a decision on entitlement to monthly lifetime assistance from the Art.2 Fund;
  - c) a decision on entitlement to monthly lifetime assistance from the CEE Fund; and
  - d) a decision on entitlement to one-time assistance from the Child Survivor Fund.
- 4.2 The Appeals Authority functions in an independent capacity. The Appeals Authority may request that a Claims Conference staff member involved in the case provide an explanation/information as to the reason why a particular step, action, conclusion, or omission was taken, reached, or occurred.

4.3 The Appeals Authority will examine whether the appeal is admissible. An appeal is admissible if:

- a) the appellant was alive at the time the application to the Relevant Fund was received by the Claims Conference and the appellant either personally or through his/her legal representative applied to the Relevant Fund in a timely manner; and
- b) the appellant's claim is within the scope of claims to be administered by the Claims Conference according to the criteria and agreements listed in Section 1.

Notwithstanding the preceding, the Appeals Authority is authorized to hear an appeal that involves a disputed question pertaining to one of the elements listed under a) and b).

#### 5. Selection of the Arbiter

Upon receipt of a timely and duly filed appeal, a member of the Appeals Authority shall be selected in a random manner by the appeals staff from the roster of members (described in Section 2.1) to serve as the arbiter of the appeal ("Arbiter"). The Arbiter acts on behalf of the Appellate Authority when rendering a decision on an appeal. In the event the Arbiter believes he/she cannot be impartial in the particular matter, he/she shall inform the appeals staff who shall in a random manner pick a new Arbiter from the roster.

#### 6. Evidence

In addition to the evidence presented by the appellant the Claims Conference staff will provide the Appeals Authority with the information and/or documentation relied upon by the Claims Conference in its initial decision. See also Section 7.

#### 7. Burden of Proof/Assessing Evidence

7.1 The Appeals Authority is not confined to the materials submitted by the appellant or which were previously considered by the Claims Conference and may, in appropriate cases, consider other publicly accessible materials, including archival records, or obtain expert advice or opinion, provided (as set forth in Section 8.2) that as part of the appeal process the appellant is given an opportunity to comment on such material prior to the decision on the appeal. A decision dismissing an appeal will indicate whether such additional materials were considered.

7.2 At all times, the appellant has the burden of persuading the Appeals Authority that the decision of the Claims Conference was in error. In general, contemporaneous archival evidence and evidence predating the establishment of the relevant Fund shall, in accordance with German law, be accorded greater weight than testimony of the applicant.

#### 8. Requesting Additional Evidence

8.1 The Appeals Authority is authorized to request further evidence or information from the Claims Conference or any other source, including the appellant or his/her representative, that the Authority deems necessary and proper to justly rule on the case.

8.2 Where the Appeals Authority intends to rely on additional evidence or information that was not submitted by the appellant or previously considered by the Claims Conference in support of a dismissal of the appeal, it will provide the appellant and the Claims Conference with opportunity to comment in writing on such additional

evidence or information.

- 8.3 In exceptional circumstances, the Appeals Authority shall have the authority to waive any deadlines set forth in these rules.

9. Decision

- 9.1 The decision of the Appeals Authority will be in writing and state the reasons for its determination. The decision must be signed (or include the electronic or digital equivalent of a signature) by the Arbitrator.

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

- 9.3 The Appeals Authority shall undertake its best efforts to ensure that the appeal is decided within 150 days of the submission of a complete application for appeal.10. Finality

10. Decision

- 10.1 Subject only to Section 10.2 below, the decision of the Appeals Authority is final and binding on all parties thereto.

- 10.2 Where the decision is to dismiss the appeal, if the appellant obtains new evidence not previously submitted by any party, the appellant has three months from the date of the decision on the appeal to contact the Appeals Authority and request another review in consideration of such new evidence. Upon the expiration of the 3-month time limit, the matter shall be closed.

11. Reporting

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

12. Administration

- 12.1 All administrative decisions regarding the functioning of the Appeals Authority shall be taken by the Claims Conference.

- 12.2 The official seat of the Appeals Authority shall be Frankfurt am Main, Germany.

13. Effective Date

- 13.1 These Guidelines shall become effective with respect to appeals filed with the Claims Conference at the time of promulgation (but not yet decided) or filed thereafter.