

HOLOCAUST ERA ASSETS CONFERENCE

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Holocaust-Era Confiscated Communal and Private Immovable Property: Central and East Europe

Presented by the Conference on Jewish Material Claims Against Germany (Claims Conference) and the World Jewish Restitution Organization (WJRO)

The following is an overview based on preliminary data. It represents the results of the current best efforts research of the Conference on Jewish Material Claims Against Germany (“Claims Conference”) and the World Jewish Restitution Organization (“WJRO”) and is based upon information obtained by the Claim Conference/WJRO to date. It may contain factual or other errors. Governments, non-government organizations, and individual experts are invited to make corrections and comments on the website of the Claims Conference at www.claimscon.org.

The murderous assault on European Jewry during the Holocaust included robbery on a massive scale. The seizure of Jewish property and the property of other victims by the Nazis and their allies was not an ephemeral, coincidental aspect of the Holocaust, but part of its essential driving force.¹ While there have been positive steps relating to the restitution of immovable (or real) private and communal property seized from the Jews, progress in certain areas, for the most part, has been slow at best. A substantial number of formerly Jewish-owned, real properties confiscated during the Holocaust era, especially in the countries of Central and East Europe – which are the focus of this report – have not been returned, nor has compensation been paid, to their rightful owners. Indeed, well over six decades after the end of World War II and almost twenty years after the collapse of the Iron Curtain, an overwhelming portion of such confiscated property remains in the hands of governments (at some level) or local populations, protected by prevailing (or the absence of pertinent) national laws.

The process of seizing Jewish assets may have varied from country to country, but the objective in all areas under Nazi influence was the same: to expropriate Jewish property, whether owned by religious groups, communities or individuals, as comprehensively as possible.² This goal, in turn, required that certain Jewish property be identified and led, in some countries, to its

¹ M.Dean, C.Goschler and P.Ther, Robbery and Restitution: The Conflict Over Jewish Property in Europe (New York, 2007), 9.

² C.Goschler and P.Ther, *A History Without Boundaries: The Robbery and Restitution of Jewish Property in Europe*, in M.Dean, Robbery and Restitution: The Conflict Over Jewish Property in Europe, 11.

registration and seizure in close conjunction with measures related to the deportation and destruction of the Jewish people. Property seizures, in other words, became part of the process of annihilation.³

Jewish property was attacked in a series of steps: first in Austria, following the *Anschluss*; then to the border areas of Czechoslovakia; and, finally, to all regions that fell, directly or indirectly, under the sway of the Nazis during World War II. It is a reflection of how thorough the Nazis and their allies were that, by the spring of 1943, hardly any of the Jewish victims remained alive in Poland and the countries of the Soviet Union. By that same time, there was almost no property remaining in Jewish hands in occupied East Europe.⁴ Before the Holocaust, in nearly every city or town of Central and East Europe, there were properties owned by Jewish communal or religious entities which were used by local Jews, for whom the institutions they housed were an integral part of daily life. Virtually all of these buildings or sites were looted, confiscated or destroyed by the Germans or their allied regimes during World War II.⁵

Soon after the conclusion of the war, a number of European countries implemented measures for the restitution of or compensation for Jewish property. From 1947-1949, for example, the Allied military authorities, in their zones of occupation in Germany, issued laws supporting the return of, among other assets, immovable property seized during World War II.⁶ Realizing that, in many cases, no heirs remained to claim ownership – as entire families had been murdered during the Holocaust – these post-war restitution efforts did not just encompass property reclamation for surviving former owners, but also included heirless property. Subsequently, after the Allied occupation ended, the Federal Republic of Germany continued the effort to try to satisfy the restitution claims arising from the Third Reich. Once the Berlin Wall fell and the two Germanies were joined, indeed, as part of the reunification agreement, a commitment was made and implemented regarding the former East Germany. Specifically, restitution regarding East Germany involved the return of property taken (or related compensation) to former property owners or heirs of owners, or to a successor organization (designated by Germany to be the Claims Conference).

While Germany, understandably, implemented the most far-reaching restitution (and compensation) programs for victims of Nazi persecution, other countries in the years following the war also provided restitution of (or compensation for) immovable property. Indeed, within years after liberation, much of the property confiscated in Western Europe had been returned or

³ M.Dean, *The Seizure of Jewish Property in Europe*, in M.Dean, *Robbery and Restitution: The Conflict Over Jewish Property in Europe*, 25.

⁴ D.Pohl, *The Robbery of Jewish Property in Eastern Europe Under Jewish Occupation, 1939-42*, in M.Dean, *Robbery and Restitution: The Conflict Over Jewish Property in Europe*, 77.

⁵ **See** H. Block, *The Restitution of Holocaust-Era Jewish Communal Property: An Unfinished Item on the Jewish Diplomatic Agenda*, in *Israel Journal of Foreign Affairs* III:1 (2009) and http://www.israelcfr.com/documents/issue7_block/pdf

⁶ In the Soviet-controlled zone, which became the German Democratic Republic, as well as other countries where communist regimes took control after the war, there would be no such restitution until, at the earliest, the 1990s.

partially paid for or, at least, the process for such restitution had begun. However, even in those countries, surviving Jews often faced uncompromising dilemmas in trying to recover their property: there were no universally accepted principles governing property restitution; property ownership records were inadequate; complexities arose related to multiple changes in ownership, there were overlapping ownership claims; and many properties had been renovated, rebuilt, otherwise altered or demolished.⁷

In spite of these and many other problems which plagued efforts to achieve restitution – and the fact that such efforts often were not resolved without a second look, years later, sometimes involving the establishment of historical commissions and supplemental programs – Western European countries in the post-war period, for the most part, committed themselves to giving back, or paying for, what had been taken.⁸ Moreover, the restitution efforts extended to unclaimed and heirless property as well. Greece, in 1946, for example, became the first country to enact a restitution law which – in addition to providing for the return of confiscated properties to their former Jewish owners – waived its right to inherit heirless property.⁹

In contrast, immediately after the war, Central and East European countries typically failed to take action to restitute immovable property taken from the Jews and other Nazi victims. By the end of the 1940s, the very basis of property ownership in a number of Central and East European countries had been shattered by the nationalization campaigns of Communist regimes, which had a critically detrimental impact on the effort to return stolen property to its rightful owners. The establishment of primarily socialist economic systems – not based on the principle of private property – blocked (in most East European countries) or certainly slowed down demands for the process of restitution. In addition to refusing to restitute property, these governments typically were determined to suppress memory, making it difficult to access relevant archives that would reveal how the Jews were robbed and who benefited.¹⁰ These regimes never confronted the damage done to the Jewish world nor considered the restitution of its property. Any realistic chance for property restitution in Eastern Europe had to await the fall of Communist regimes. This, of course, meant the passing of many more property owners and their heirs, the development of even murkier legal situations, and the loss or destruction of additional property records.

However, even well after the demise of the Communist regimes, restitution work has proceeded slowly. Poland, for example, was home to the largest pre-war Jewish population in Europe. It is a member of the European Union and of the Organization for Security and Cooperation in

⁷ **See, e.g.,** M.Henry, The Restitution of Jewish Properties in Central and Eastern Europe, (New York, 1997), 25.

⁸ **See, e.g.,** G.Feldman, *Reflections on the Restitution and Compensation of Holocaust Theft: Past, Present and Future*, in M.Dean, Robbery and Restitution: The Conflict Over Jewish Property in Europe, 264, and C.Andrieu, *Two Approaches to Compensation in France: Restitution and Reparation*, in M.Dean, Robbery and Restitution: The Conflict Over Jewish Property in Europe, 136, 138.

⁹ **See** http://www.house.gov/international_relations/crs/measures/greece.htm, at 1.

¹⁰ G.Feldman, *Reflections on the Restitution and Compensation of Holocaust Theft: Past, Present and Future*, in M.Dean, Robbery and Restitution: The Conflict Over Jewish Property in Europe, 266-267.

Europe, both entities which stress the importance of property rights and the rule of law as pillars of democracy. Yet Poland to this day has been conspicuous in its failure to enact any legislation regarding the return of or compensation for the private property which was seized during the Holocaust era and/or subsequently nationalized by its Communist regime. In addition, in Lithuania, a substantial number of Jewish communal properties were seized by the Nazis during World War II and subsequently nationalized by the Communist regime. Notwithstanding numerous government commitments, Lithuania has failed to enact restitution legislation which comprehensively addresses such confiscated property. Other countries, even many of those that may have taken some steps to address the unjust taking of communal and private immovable property by the Nazis, still have restitution laws which – in terms of what property is covered, what property has been returned, what has been paid, who can claim, and the transparency and accessibility of the process – leave much to be desired.

To be sure, even the best of laws – and rare is the country which has fully, or even come close to fully returning or fairly paying for all that was seized and destroyed – would still make restitution a complex and difficult undertaking. Many of the dispossessed Jews, and their family members, were murdered. Thus, heirless Jewish property – most of which has been kept by the State, local municipalities, or members of the local non-Jewish populations – remains a significant issue in Central and Eastern Europe that, conspicuously, has not been satisfactorily addressed. Further, many of the Jews that survived the war were forced to leave – or otherwise left – their home countries, becoming citizens elsewhere. Yet, throughout Europe, a number of countries adopted the principle that only citizens or residents could make restitution claims. Moreover, some countries after the war coerced those citizens who wanted to leave, to renounce their citizenship and forfeit their property to the State, as prerequisites for leaving their home country. The systematic murder of the Jewish population combined with the daunting challenge of returning to places which had been devastated and housed such dark, fresh memories resulted in a post-war Jewish population in Central and Eastern Europe that was but a fraction of what had existed before the Holocaust. Under such circumstances, although perhaps unintentionally, restitution laws which required claimants to be citizens, added yet another outrageous affront to the profound injuries already perpetrated.

Since the collapse of Communist regimes in Central and East European countries, there have been efforts by the local Jewish communities, together with certain Jewish groups, led by the WJRO, to press countries to enact meaningful restitution legislation, establish or improve existing claims processes, as well as bring increased attention to the issue of restitution.¹¹ It has been a complex undertaking, for a variety of reasons: circumstances faced by different countries vary greatly; significant differences exist among the countries' historical experiences and legal systems; there are problems related to data protection laws, detrimentally affecting research of the ownership records which do exist; many former property owners are elderly, live in foreign countries and have forgotten much critical information; potential claimants are often of modest

¹¹ The WJRO consists of the following member organizations: Agudath Israel World Organization; the American Gathering of Jewish Holocaust Survivors and Their Descendants; the American Jewish Joint Distribution Committee; B'nai B'rith International; the Centre of Organizations of Holocaust Survivors in Israel; the Conference on Jewish Material Claims Against Germany; the European Jewish Congress/European Council of Jewish Communities—Joint Delegation; the Jewish Agency for Israel, the World Jewish Congress; and the World Zionist Organization.

means, which makes pursuing what is rightfully theirs a more difficult and expensive task; and governmental resistance and lack of political will.

Whatever the complexities or fragile states of economies that have inhibited restitution, it is troubling to realize that, as of this late date, the following circumstances prevail:

- a substantial amount of property, unjustly taken decades ago from Jewish individuals and communities, has not been given back, nor has compensation been paid for it;
- relatively few former Jewish property owners have recovered the actual homes, buildings and land stolen from them;
- the compensation which has been paid to former Jewish property owners, in lieu of returning property, has typically been, by any reasonable standard, symbolic or a minimal percentage of the property's actual value; and
- most Eastern European countries have not addressed the issue of formerly Jewish-owned property, expropriated during the Holocaust era, that is now heirless, due primarily to the murder of former Jewish owners and their heirs during the Holocaust, as well as the passage of time.

While meaningful generalizations about the state of restitution processes may be difficult to make, a report such as this one, briefly summarizing the current state of immovable property restitution in certain Central and East European countries, may prove a useful launching point for further and necessary in-depth discussions and engagement.

SUMMARIES BY COUNTRY

Country Name: BELARUS

There are no laws in Belarus which deal with the restitution of either immovable communal or private property expropriated during the Holocaust era.¹² A few synagogue buildings, as well as the Volozhin yeshiva, have been transferred by the government to the Jewish community, but most properties are in a state of disrepair.

¹² “Belarus,” http://www.house.gov/international_relations/crs/belarus.htm

Country Name: BOSNIA-HERZEGOVINA

Bosnia-Herzegovina has no law for the restitution of immovable communal or private property confiscated during the Holocaust era.

In the absence of legislation dealing with the restitution of communal property, the return of religious property has been handled on an ad hoc basis, often at the discretion of local authorities.¹³ The Jewish Community has identified 130 formerly Jewish-owned communal properties and has signed an agreement with the WJRO to establish a foundation which will receive and manage any restituted communal property.¹⁴ In 2005, the government's Council of Ministers established a Commission for the Restitution of Bosnia and Herzegovina to consider various approaches to the restitution of property confiscated during and after World War II. Based on the Commission's research, draft restitution legislation – the "Law on Denationalization" – was prepared, but has made no significant progress. The draft legislation is due to be submitted to Parliament in September 2009.¹⁵

Bosnia-Herzegovina has no law for the restitution of confiscated, heirless property.

¹³ The Jewish community has not benefited from this "ad hoc system" due, in part, to its small population. Since 1995, the date of the establishment of the current system of government in Bosnia, the Jewish community has not received a single confiscated communal property back.

¹⁴ 28 cemeteries and 102 other communal properties have been identified as belonging to the Jewish community, prior to World War II, in the area that became Bosnia-Herzegovina.

¹⁵ There is also an issue related to nationalized apartments (that is, apartments nationalized by the former Yugoslav Republic, in or after 1948). In October 2008, the Federation Parliament passed the Law on Privatization of Nationalized Apartments, allowing current tenants to purchase the nationalized apartments in which they reside. Under the law, original owners of such apartments may apply for compensatory apartments. The Jewish community has submitted requests for 67 compensatory apartments.

Country Name: BULGARIA

Communal Property:

Bulgarian laws provide for the return of immovable communal property – confiscated between September 1944-1948, and then through November 1989 – which was held by the State, and for payment of fair compensation when the actual property cannot be returned. Restituted communal property, or related compensation, is transferred to Shalom, the organization representing the Bulgarian Jewish community.¹⁶ While most confiscated communal property which was Jewish-owned has been returned, several valuable properties in Varna and Sofia remain in dispute.¹⁷

Private Property:

The private property claims process provided for the following:

- property confiscated during the Nazi and Communist eras was included;
- government bonds would be offered when in rem restitution or the return of substitute property was not possible; and
- claimants did not have to be Bulgarian citizens, but eligible non-citizen claimants were required to sell any restituted property.¹⁸

The claims deadline expired in November 2007 and most private property claims have been settled.

Bulgaria has no restitution legislation for confiscated heirless property, but is a party to the Paris Peace Treaty of 1947, which calls for the return of unclaimed and heirless Jewish property to the local Jewish community.

¹⁶ 20 cemeteries and sixty other communal properties have been identified as belonging to the Jewish community of Bulgaria prior to World War II. Of the sixty communal property claims that have been filed for such property, fifty properties (not including cemeteries) have been restituted.

¹⁷ The Rila Hotel property, the most significant real estate dispute, has been pending for fifteen years. The other major dispute concerns the Jewish Hospital in Sofia. The building was confiscated by the government in 1940, nationalized in 1959 and, from 1959-1997, was occupied by the State University Endocrinology, Nephrology and Gerontology Hospital (“the State Hospital”). Over ten years ago, a court decision directed the facility to be transferred to Shalom, which then leased the building back to the State Hospital. The hospital refused to pay the rent agreed to while still occupying the building, which it finally vacated in May 2009. In addition, there are several other, unresolved property cases, with an estimated value of 4-5 million Euros, that also remain pending.

¹⁸ The claims deadline expired in 2007 and most private property claims apparently have been settled.

Country Name: CROATIA

In 1996, Croatia passed the *Law on Restitution/Compensation of Property Appropriated During Yugoslav Communist Rule* (amended in 2002) to address the restitution of immovable communal and private property.

Communal Property:

While the filing deadline for communal property claims expired years ago, many claims remain unresolved.¹⁹ In addition, some communal property has been returned outside of the restitution law, through discrete agreements between the government and individual religious communities. However, no such agreement exists with the Jewish community of Croatia.²⁰

Private Property:

The private property restitution process suffers from a number of problems, including the following:

- only property confiscated beginning in May 1945 was included;²¹
- partial compensation provided (in inverse proportion to the value of the property) – in 20-year government bonds – and no payment for demolished buildings;
- claimants had to be Croatian citizens or citizens of a country with a bilateral treaty with Croatia;²²
- heirs had to be direct descendants and Croatian citizens when the law passed;
- a decentralized claims process throughout the country proved complex and deterred potential claimants;

¹⁹ 67 cemeteries and 126 other Jewish communal properties in the country have been identified as having belonged to the Jewish community, prior to World War II, in the area that became Croatia. Of the 135 claims for communal buildings and land submitted by the Jewish Communities of the Republic of Croatia, the government has returned 15 properties (not including cemeteries), but virtually no property since 2000.

²⁰ While there are problems between the two Jewish organizations in the Zagreb Jewish community, the government stopped returning any Jewish communal property years before the establishment of the second Jewish community.

²¹ It has been estimated – since most, if not all, Jewish property had been seized prior to 1945, and few Jews remained Croatian citizens – that only 3-4% of formerly Jewish-owned private property has been returned, according to the Croatian organization Cedek. However, the Justice Ministry has maintained that properties confiscated during the Nazi-allied Ustashe regime, from 1941-1945, already are covered by the restitution law, based on a Constitutional Court decision.

²² A proposed amendment to the restitution law, drafted in 2006, would have eliminated the citizenship requirement and, thus, the need for bilateral or international treaties to allow foreign nationals to reclaim their confiscated property. It was not submitted to Parliament. Moreover, as a result of an administrative law court decision in 2008 – in which the court ordered the restitution of property confiscated during World War II to a foreign national – the government currently refuses to act regarding the amendment until the appeal of the administrative case is resolved. The case is notable in several respects: (i) claimant is not a Croatian citizen, but a citizen of Brazil, which has no treaty with Croatia; and (ii) the property in issue was seized in 1942 while, by its terms, the restitution law only covers property taken after 1945. As of the summer of 2009, the appeal of the administrative court decision to the Constitutional Court by the State Prosecutor is still pending.

- positive (municipal level) decisions in favor of claimants have often been reversed by a higher (Ministry of Justice) tribunal, without a clear basis provided for decision; and
- many claims remain unresolved.²³

Croatia has no legislation for the restitution of confiscated heirless property.

²³ Government statistics indicate that approximately 47,000 private property claims were filed, but only some 20% of them have been resolved. In addition, it has not been unusual for the process to take ten or more years to resolve a private property claim.

Country Name: CZECH REPUBLIC

The Czech Republic has returned a number of Jewish communal properties and there has been a private property claims process with limitations.

Communal Property:

A number of government decrees in the 1990s resulted in the return of certain state-held confiscated property to various Jewish communities. In addition, in 1998, a government commission – the Mixed Working Commission Involved in Mitigating Some Property Injustices Incurred by the Victims of the Holocaust – headed by Deputy Prime Minister Pavel Rychetsky (“Rychetsky Commission”) – gathered “facts and documentation [about] Jewish property confiscated by the German occupation organs.” The Rychetsky Commission’s recommendations led – among other conclusions – to the enactment of Law No. 212, *On Alleviating Some Property Injustices Incurred by the Holocaust* (2000). Pursuant to this law, the Federation of Jewish Communities presented a list of formerly Jewish-owned communal properties to the government.²⁴ The properties under this model have been returned based on the Government’s decision. Currently, there still are three key assets that have not been returned: two in the town of Brno (police tennis courts and a house on Koliste Street), and one in Trutnov (a former B’nai B’rith building). The unwillingness to resolve these matters has resulted in court proceedings.

Neither Law No. 212/2000, nor any other previously adopted restitution law, however, authorizes the national government to compel municipalities to adhere to national policy and return confiscated communal property to former owners. This has proven to be a major obstacle to the recovery of many communal properties (for example, the Kolin synagogue).

²⁴ 419 cemeteries and 600 other Jewish communal properties have been identified as having belonged to the Jewish community, prior to World War II, in the region that became the Czech Republic. The Federation of Jewish Communities submitted 202 claims for the return of communal property, of which 100 properties (not including cemeteries) have, thus far, been returned.

Private Property:

The first, post-war Czech restitution law covering private property was passed in 1991 (Law No. 229), amended in 1994 (Law No. 116), and included farmland and artworks confiscated between 1938-1945 and between 1948-1989.²⁵ The law initially required both Czech citizenship and permanent residence,²⁶ but those restrictions were eliminated in 1994. When restitution in rem was not possible, compensation was to be offered.²⁷

Pursuant to a recommendation of the Federation of Jewish Communities and the government, in 2001, the Endowment Fund for Victims of the Holocaust (“the Foundation”) was established “to raise funds and provide the Foundation’s contributions from those funds to mitigate certain property wrongs” committed during the Nazi occupation.²⁸

The government allocated 300 million Czech Korunas (approximately \$10 million) from its National Property Fund (established to support restitution claims) to the Foundation to alleviate some of the property injustices incurred by victims of the Holocaust: (i) one-third of the fund was used to pay “symbolic” compensation to “individuals who were deprived of their ownership title to...property...due to racial persecution between September 29, 1938 and May 8, 1945”;²⁹ and (ii) two-thirds of the fund was dedicated to social service, health and home care for local, elderly Holocaust survivors, as well as for the maintenance of Jewish communal properties, such as the renovation of sacred sites and cemetery maintenance.

²⁵ Previously, Czechoslovakia had passed the Restitution Law of 1946, which provided for the restitution of property seized 1938-1945. However, this restitution process ceased in 1948 – after the Communist regime, which nationalized most private property, took power – and did not continue again until after the collapse of Communism.

²⁶ In addition, beginning in 1948, Czechoslovakia required Jews who wanted to immigrate to Israel to submit a declaration surrendering their property “in favor of the Czechoslovak state” – which cancelled all restitution inheritance claims – and to renounce their Czech citizenship.

²⁷ The Czech Republic maintains that approximately 97% of private property claims have been resolved. Yet, there have been numerous complaints that the process was slow and often arbitrary. For example, the law’s citizenship requirement has prevented property claims by Czechs who became US citizens, since a 1928 US/Czech treaty banned dual citizenship. By the time the treaty was abrogated, in 1997, and dual (Czech/US) citizenship permitted (as a new Czech law ended the ban on dual citizenship for Czech-Americans in 1999), the deadline for Czech restitution claims had expired.

²⁸ Foundation members include individuals from the local Jewish community and the WJRO.

²⁹ This served, in effect, as a compensation program for foreign nationals who had their property confiscated during World War II, but were not able to recover under the regular restitution laws, which required Czech citizenship and residence. The claims deadline was 2003 and of the more than 1,200 requests for compensation, the Foundation announced, in March 2006, that it had concluded all payments for unrestituted properties, totaling \$4.4 million, to 516 beneficiaries, in 27 countries.

Country Name: ESTONIA

Property restitution in Estonia began in the 1990s. There were only a few pre-war Jewish religious or communal properties (which were primarily leased), some of which have been returned, including the former Jewish school in Tallin, which is now serving, among other functions, as the community headquarters and synagogue. The law for the restitution of private property, the Principles of Ownership Reform Act (1991), does not have a citizenship or residence requirement, includes both Nazi and Communist expropriations, and private property restitution has, apparently, been largely completed.³⁰

³⁰ “Estonia,” in *Property Restitution in Central and Eastern Europe*, Bureau of European and Eurasian Affairs (Washington DC: October 3, 2007); Estonia,” http://www.house.gov/international_relations/crs/estonia.htm, at 1.

Country Name: HUNGARY

Communal Property:

Act XXXII on Settlement of Ownership of Former Real Properties of the Churches (“1991 Act”) allowed religious organizations to claim religious properties – which were taken after January 1946 – that were necessary to meet religious needs. Subsequently, a 1997 amendment gave religious groups the option to apply for government-funded annuities representing the monetary value of their unrestituted communal property.

In addition to obtaining a number of buildings under the 1991 Act, in 1998, the Federation of Hungarian Jewish Communities (“MAZSIHISZ”) concluded an agreement pursuant to the 1997 amendment. Under this agreement with the government, MAZSIHISZ waived its right to 152 formerly Jewish-owned communal properties, in exchange for a government bond annuity of approximately \$ 75 million.³¹ The government annuity provides approximately \$5 million annually to the community.

Private Property:

Hungary’s property compensation laws, Act No. XXV of 1991 and Act No. XXIV of 1992, cover property illegally seized between May 1, 1939 and July 1987.

The process generated a number of complaints, including the following:

- no in rem restitution;
- severely restricted compensation reflecting a small percentage of the property’s market value (using a sliding scale: the more valuable the property, the smaller the percentage of compensation), with a ceiling of approximately \$21,000;
- payments in government vouchers or an annuity;
- only Hungarian citizens – at the time of confiscation or of Act No. XXV’s enactment – or non-citizens with a primary Hungarian residence in December 1990 were eligible for compensation;
- heirs limited to spouses and direct descendants;
- data privacy laws and limited archival access made property ownership records difficult to obtain; and
- limited worldwide notification.³²

In 1993, the Hungarian Constitutional Court directed the government to implement the Paris Treaty of 1947, which required Jewish heirless and otherwise unclaimed property to be returned to the Jewish community for the “relief and rehabilitation” of Holocaust survivors and the

³¹ Approximately 1,200 cemeteries and 2,600 other communal properties have been identified as belonging to the Jewish community in Hungary prior to World War II.

³² Of 1,431,740 claims filed: 1,263,033 claims were approved for payment, with HUF 81.02 billion total compensation paid, in the form of government vouchers.

community. Subsequent negotiations between the government, MAZSIHISZ and the WJRO led to the establishment of a foundation, the Jewish Heritage of Public Endowment (“MAZSOK”), to implement the Paris Treaty obligations. The government transferred the following “initial assets” to MAZSOK: a HUF 4 billion (\$15-20 million) bond – used for modest pension supplements to Holocaust survivors (now numbering about 14,000 people); and several properties and paintings – used to generate income for grants to local Jewish institutions.³³

In November 2007, the government approved of a special joint committee – consisting of government officials, and local and international Jewish representatives – to address remaining property restitution issues, including heirless Jewish property, looted art, insurance, bank accounts and other business interests. However, the committee, as of June 2009, had not met. Further, as a result of negotiations with the WJRO regarding the joint committee, the government agreed to the WJRO request of a \$21 million down payment for heirless property, in light of the advanced age and urgent needs of Hungarian Holocaust survivors, some of which already has been transferred.

³³ Estimates of the value of heirless Jewish property in Hungary range from \$2 billion to \$16 billion which, of course, far exceed the government fund transfer to MAZSOK.

Country Name: LATVIA

Latvia has established limited programs for the restitution of confiscated private property and certain communal property.

Communal Property:

The *Law on the Restitution of Property to Religious Organizations*, enacted in 1992, provides for the return of “religious” property – primarily houses of worship and related property – confiscated 1940-1992, to registered “religious” organizations. Pursuant to this law, the government returned some properties (mostly synagogues) and paid compensation for several others to the small, observant Jewish community.³⁴

Beginning in 2003, the Latvian Council of Jewish Communities (“LCJC”) has sought to supplement the restitution law to encompass communal property, other than synagogues and related property, which had been seized. Eventually, a special government/Jewish working group drafted supplemental communal property legislation, agreed to both by the government and the Jewish community.³⁵ The Parliament refused to pass the draft on for examination to the proper committee, effectively blocking any further progress. Subsequently, in September 2009, the WJRO requested, and the government established, a new working group to evaluate the communal restitution situation. A working group report is pending, but has not been issued as of early June 2009.

Private Property:

Latvia passed several laws in 1991-1992 dealing with the restitution of private property confiscated beginning in 1940. The laws provide for the return of property to owners or their heirs, regardless of current citizenship or residence. Municipal authorities, typically the final claims arbiters, were to provide substitute property or government vouchers, if the property in issue was not available. Among other problems, claimants were often reluctant to accept the alternative property offered since it rarely possessed a value comparable to their original property, and there was a short claims filing period which was never extended or reopened, which prevented many former property owners from submitting claims.

Latvia has no law for the restitution of confiscated heirless property.

³⁴ 52 cemeteries and 263 other communal properties have been identified as belonging to the Jewish community in Latvia prior to World War II. The government returned all of the twenty properties claimed under the limited 1992 law. However, as noted, well over 200 pre-war communal properties (other than cemeteries) have been identified by the Jewish community (though many are in disrepair, and some located in remote areas).

³⁵ The bill would have provided a combination of restitution (of fourteen formerly Jewish-owned communal buildings) and compensation (of 32 million lats/\$57 million) to the local Jewish community for the confiscated communal property. While not specifically mentioned in the final draft legislation, debates over the return of heirless private property were part of the background discussions. The bill itself stated that: “[t]he aim of the Law is to provide financial support to the Jewish communities in Latvia (thereafter – “the Jewish Community”) in order to eliminate the historically unjust consequences in relation to the Jewish Community on the Latvian Republic territory as a result of the Holocaust regime in the period of Nazi Germany and Soviet occupation.”

Country Name: LITHUANIA

Lithuania has implemented restitution programs for confiscated private, as well as for certain confiscated communal property, which are beset with numerous problems.

Communal Property:

The *Law on the Procedure for the Restoration of the Rights of Ownership of Religious Associations to Existing Real Property* (1995) provided a one-year period for religious groups to claim “religious” property – almost exclusively houses of worship – confiscated after July 1940. Only the small Jewish religious community was permitted to reclaim such property.

While the government returned 20 buildings – 3 in Vilnius, 5 in Kaunas, and the rest in small towns – to the religious community, the 1995 law was drafted in such a way as to cause an undue and adverse impact on Jewish claims. In an attempt to rectify the defects of the 1995 law, the government established a joint commission, in June 2002, to consider the restitution of Jewish communal property which is not considered “religious.”

For the last seven years, government officials have continued to promise but consistently failed to resolve the matter of restituting the remaining Jewish communal property.³⁶ Indeed, in January 2006, the Lithuanian Jewish Community agreed to the substance of a draft proposed amendment to the 1995 restitution law prepared by the Justice Ministry.³⁷ The draft was never submitted to Parliament and, since that time, the government continues to propose drafts unacceptable to the Jewish community.

³⁶ During the same period, the Jewish community prepared an inventory of confiscated communal properties, identifying 174 cemeteries and 438 other communal properties as having been Jewish-owned prior to World War II, and submitted the list of 438 properties to the government. (The list did not include hundreds of formerly Jewish-owned properties which had been demolished or otherwise could not be claimed the anticipated supplemental restitution law.) Ultimately, the government and Jewish community deemed 146 communal properties to have been owned by the Jewish community; 36 properties likely to have been Jewish owned; and 89 properties to have some basis to suggest Jewish communal ownership.

³⁷ Around that time, the Lithuanian Jewish Community and WJRO signed a cooperation agreement to establish a joint foundation – the Lithuanian Foundation for the Preservation of Jewish Heritage – which was registered and was to be the successor to ownership rights to former communal Jewish property, and receive and manage any restituted property or related compensation.

Private Property:

In 1997, Lithuania enacted the *Law On Restoration of the Rights of Ownership of Citizens to Existing Real Property* (amended in 2002), which provided that former owners, and their heirs, were eligible to recover property seized under the laws of the USSR or otherwise unlawfully nationalized, so long as claimants were Lithuanian resident citizens, and that compensation – when the property could not be returned in rem – would be in form of shares in State owned companies.³⁸

The restitution process raised multiple concerns, including that “repatriated” persons were precluded from recovering their property, and a lack of sufficient substitute properties.³⁹ Restitution or compensation for the remaining claims that have determined to be eligible will require substitute property or compensation with a value of approximately \$500 million.⁴⁰

Lithuania has no law for the restitution of heirless private property.

³⁸ By the claims deadline of December 31, 2001, approximately 9,500 claims for private houses and over 57,000 claims for land had been filed.

³⁹ The law prohibited many foreigners of Lithuanian origin from recovering their property. For example, Jewish individuals who sought to immigrate to – and become citizens of – Israel after World War II were not allowed to do so unless they renounced their Lithuanian citizenship and rights to Lithuanian property. While the Constitutional Court of Lithuania (in 2006) stated that the citizenship condition for reclaiming property was unconstitutional, the claims deadline for private property claims had passed. Moreover, while the restitution law permits the courts to extend the claims deadline, it has been the practice of the courts to continue to deem individuals who were “repatriated” ineligible to reclaim their confiscated property.

⁴⁰ The government deadline to compensate former owners of private property, including land, forest and bodies of water, is 2009, while the deadline for the government to restore ownership rights to, or pay, owners of confiscated houses or buildings is 2011.

Country Name: MACEDONIA

Macedonia's *Law on Denationalization*, enacted in 2000, addresses the restitution of confiscated immovable private and communal property.

Communal Property:

The *Law on Denationalization* (2000) covers communal property seized beginning in August 1944 and provides for the return of property in rem when possible. In 1997, the Jewish Community of Macedonia presented the government with a list of 40 communal properties, which led to the eventual settlement of all communal property claims (in 2002).⁴¹

In exchange for relinquishing all remaining communal property claims, the settlement provided the Jewish community with the following: (i) four properties – a dilapidated building and two small shops in Bitola, as well as a plot of land in Skopje, none of which yield much income; and (ii) a government bond, to be paid over 10 years (2004 - 2013), for general community needs.⁴²

Private Property:

The *Law on Denationalization* also provided, regarding private property, the following: property confiscated after August 1944 was covered; claimants had to be Macedonian citizens on the date of the law's enactment; and compensation by government bonds, equal to the

⁴¹ Approximately 2 cemeteries, as well as 40 other communal properties have been identified as belonging to the Jewish community in Macedonia prior to World War II. Research, however, was extremely difficult (for communal and private property claims), as a number of archives were destroyed or lost when the country was occupied, as well as due to a catastrophic flood and earthquake in Skopje.

⁴² The Jewish community is deeply concerned that the government will not be able to support all ten payments. Thus far, the community has reported that it has received 1.76 million Euros from the government and is scheduled to receive another approximately 1.13 million Euros through June 2013.

value of the property, when restitution in rem was not possible.⁴³

The claims program proceeded extremely slowly (the deadline for claims was 2004) and has been complicated by the extensive property ownership documentation required, the fact that the properties had changed hands multiple times (or were developed or renovated since the time of seizure), by lengthy bureaucratic procedures, and by various political influences.

In 2002, pursuant to the *Law on Denationalization*, the government set up a Holocaust Fund. The fund is responsible for managing formerly Jewish-owned heirless property (or related compensation), creating a Holocaust Museum and Education Center – which is in the final stage of construction – maintaining Jewish heritage sites (including cemeteries), and sponsoring Holocaust-related education programs.⁴⁴

⁴³ Of the 4,540 private property claims submitted over the course of the four-year filing period, 3,359 were resolved by the summer of 2006. Approximately 400 claimants, out of the 2,068 claims deemed eligible, recovered their property, while the rest received government bonds amounting, collectively, to about \$5 million. Payments to eligible claimants ranged from 500 Euros to 7 million Euros (although the value of the bonds received by eligible claimants had, as of 2008, declined to less than 50% of their face value).

⁴⁴ The Jewish community of Macedonia identified 1,700 formerly Jewish-owned properties it claims are without heirs. Based on claims related to 450 of the heirless property cases, the government transferred an initial payment of 500,000 Euros and 35 plots of land to the Holocaust Fund. In December 2007, the government concluded an agreement with the Jewish community regarding the remaining approximately 1,250 heirless properties, which purported to resolve all outstanding heirless property claims. Pursuant to the agreement, Macedonia allocated 17 million Euros (about \$25 million) for the completion and initial operation of a Holocaust Museum Memorial Center which was to be built by the Holocaust Fund on some of the transferred land. The Association of Macedonian Jews in Israel, however, maintains that among its members are former owners of Macedonian property and/or heirs of former owners who could rightfully claim a number of the properties that have been identified as heirless.

Country Name: POLAND

Poland has a program for the restitution of communal property which has proceeded slowly, and has no legislation for the restitution of confiscated or nationalized private immovable property.⁴⁵

Communal Property:

The Act of February 20, 1997 governs the restitution of Jewish communal properties – including cemeteries, synagogues and existing buildings – which belonged to Jewish religious groups and were confiscated beginning September 1939.⁴⁶ The law provides for the return of actual property when possible, otherwise, substitute property or compensation is offered.

In 2000, the Polish Jewish community (represented by the Union of Religious Jewish Communities – JRCP), together with the WJRO, established the Foundation for the Preservation of Jewish Heritage (“Foundation”). Pursuant to an agreement between the JRCP and the Foundation, the Foundation is authorized to submit claims for properties located in areas of Poland without an active Jewish presence, while various local Jewish communities are authorized to submit claims for formerly Jewish-owned property located in their cities and regions.⁴⁷

By the May 2002 claims deadline, the Foundation had filed approximately 3,500 claims (including 600 cemeteries), while the various local Jewish communities filed over 2,000 claims (which included several hundred cemeteries). As of May 2009, of the total of approximately 5,500 communal property claims filed, the government had adjudicated only 1,625 claims (29%), of which about 700 were positive decisions or settled by agreement.⁴⁸ In other words, over five

⁴⁵ The “Eastern Territories (Bug River) Law,” effective October 2006, established a claims process providing severely limited compensation for the loss of private property in what had – before World War II – constituted the eastern region of Poland, but is now outside of its borders. That law required current Polish citizenship (for the former owners of the property, or their heirs), offered 20% compensation of a property’s current market value, which was to be paid in four installments, starting in 2009. In addition, pursuant to a 1960 treaty between Poland and the United States, Poland agreed to pay \$40 million, over a 20-year period, for claims by U.S. citizens related to the loss of confiscated commercial and personal property. Ultimately, awards were paid to 5,022 claimants.

⁴⁶ Poland passed legislation in the 1990s providing for the establishment of five commissions, each to consist of representatives from the government and the pertinent religious community, to process communal property restitution claims.

⁴⁷ Approximately 1,200 cemeteries, as well as about 4,800 other communal properties have been identified as belonging to the Jewish community in Poland prior to World War II.

⁴⁸ Positive decisions have resulted in the return of 52 cemeteries, in addition to 153 other properties, consisting mostly of less valuable properties. Resolution of claims for the more valuable properties has often been delayed pending more detailed evidence, often impossible to obtain. In contrast, by the end of 2006, approximately 2,959 of the 3,063 restitution claims filed by the Catholic Church had been concluded: 1,420 claims were settled by agreement between the Church and current possessor of the property (often, the government); 932 properties were returned through the decisions of the restitution commission; and 32 claims were rejected by the commission.

years after the claims filing deadline, the government Regulatory Commission established to adjudicate communal property claims has resolved fewer than one-third of the submitted cases.

Private Property:

Various restitution or compensation bills for nationalized immovable private property have been proposed in recent years, but none enacted.⁴⁹ The most recent draft legislation, published in May 2009 by the Polish Treasury Ministry, suffers from a number of problems:

- no in rem restitution;
- unclear whether property confiscated prior to 1944 included;
- Warsaw property is not included;
- severely limited and unspecified compensation (rumored to be between 10-20% of a property's current value);
- compensation to be paid in installments, over a fifteen year period; and
- a burdensome and costly claims process which will make it difficult for elderly and foreign claimants to file successful claims.

As of June 2009, there is no Polish legislation enabling Polish (or former Polish) citizens to recover property which was taken from them during the Holocaust era.⁵⁰

Poland has no legislation for the restitution of confiscated heirless confiscated property.

⁴⁹ In 2001, for example, the Sejm (Parliament) passed draft legislation which provided 50% compensation for confiscated property, but required claimants to be Polish citizens. Then President Kwasniewski vetoed the bill. Subsequently, during the Belka and Kaczynski governments, legislation was proposed (but not voted on by Parliament) which did not impose a Polish citizenship condition, but provided for no in rem restitution and severely limited compensation. Over the past year or so, during the Tusk government, several versions of the same bill have been prepared. The most recent draft legislation appeared on a government website in late May 2009 and had not, as of early June 2009, been considered by the Council of Ministers.

⁵⁰ In addition, the U.S. Court of Appeals for the Second Circuit, in **Garb v. Poland**, held that the Foreign Sovereign Immunity Act provided the Government of Poland with immunity against lawsuits in U.S. courts to recover property seized by the communist regime in Poland after World War II.

Country Name: ROMANIA

Romania has passed a series of laws dealing with the restitution of confiscated communal and private property, but their implementation has proceeded exceedingly slowly and concerns persist related to the payment mechanism.

Communal Property:

The Government issued a number of laws and decrees relating to the restitution of communal property, formerly owned by religious groups, which provide for compensation when in rem restitution is not possible.⁵¹ In 1997, the Federation of Jewish Communities in Romania (“FEDROM”) and the WJRO established the Caritatea Foundation, which assumed responsibility for submitting communal claims and managing any restituted properties. Of the 1,980 claims the Foundation submitted to the National Authority for Property Restitution (“ANRP”), only approximately 300 have been adjudicated, and only about half of those have been resolved positively.⁵² The Foundation maintains that there are a number of problems with the process, some involving legislative deficiencies – including that no compensation is provided for demolished buildings or for buildings with certain modifications – others having to do with why the process moves so slowly – in large part, due to difficulties involved in obtaining relevant documentation, having to do with limited access to relevant archives, and to the high level of proof required.

Private Property:

Law No. 10, passed in 2001,⁵³ established a claims process for the return of real private property, confiscated between 1945-1989, which proved to be complex and burdensome.⁵⁴

⁵¹ There are approximately twenty applicable laws, government orders, emergency orders and decisions which govern and serve as the basis for the restitution of real estate assets which were abusively taken over and were formerly owned by Jewish communities or national minority organizations or institutions.

⁵² Approximately 807 cemeteries, as well as 2,600 other communal properties have been identified as belonging to the Jewish community in Romania prior to World War II.

⁵³ Previous laws, enacted in 1991 and 2000, focused on the restitution of farm and forest properties.

⁵⁴ Among other conditions, the claims program provided that: claims were to be submitted to the local council where the property was located; compensation to be paid when in rem restitution was not possible; and property would be returned or compensation paid divided equally among all heirs that applied. However, claimants faced a number of problems: initially, no notice of the claims program was published outside of the country; no compensation was provided for demolished buildings; property ownership documents were difficult to obtain, as government archives proved uncooperative; and the law did not establish a payment mechanism in circumstances when it was not possible to return property in kind. In many cases, the law required Romanian citizenship to recover actual property.

Approximately 250,000 private property claims were submitted by the July 2003 deadline. Few properties have been returned in rem and less than 100,000 claims had been resolved as of mid-2007, over four years after the filing deadline. The National Authority for Property Restitution – which assesses the value of properties and

In 2005, Romania enacted Law No. 247, which amended all existing restitution laws and sought to remedy some of the inadequacies and simplify the procedures of the existing claims program, as well as to provide an effective restitution payment mechanism. Among other matters, Law No. 247/2005 (amended May 23, 2008) provided for the following:

- as with Law No. 10, property confiscated beginning in 1945 was included;⁵⁵
- “just and equitable” compensation when property cannot be returned;⁵⁶
- shift in the presumption of ownership from the State to the former claimant-owner;⁵⁷
- claims deadline extended for six months; and
- disciplinary sanctions.⁵⁸

issues compensation awards – estimates that some 100,000 to 120,000 of the claims submitted are for compensation. However, apparently very few of the claims have been properly documented.

⁵⁵ Although both Law Nos. 10/2001 and 247/2005 refer only to property confiscated beginning in 1945, Law No. 641 (December 19, 1944) abolished all laws and decrees – including the anti-Jewish Decrees of the Antonescu regime – issued from 1941-1944 and, in effect, returned all confiscated Jewish properties to their former owners, prior to the subsequent Communist nationalization. In addition, the Romanian government issued Ordinance No. 83 (1999), which stated that citizens whose property was affected by racial persecution between September 6, 1940 and March 6, 1945 have the right to submit restitution claims. And, yet, the situation is not entirely clear, as Zeev Schwartz, Chairman of the Romanian Jewish Emigrants’ Association in Israel, and Haim Ianai, Secretary of the Foundation for the Restitution of Jewish Properties in Romania, have maintained to the Committee of Ministers of the Council of Europe (in December 2005) that properties of Jewish citizens seized during the time of Antonescu’s regime during World War II are still registered as State properties.

⁵⁶ Law No. 247/2005 requires that compensation reflect the market value of property as established by professional appraisers, in conformity with international evaluation standards. There are reports, however, that this guideline is not typically followed.

⁵⁷ Law No. 247/2005 provides that a claimant’s title to a property would be presumed by the law, unless otherwise shown by the State. This alleviated the difficulty of proving one’s right to restitution in an environment where property ownership documents were often lost, missing or otherwise difficult to access in relevant archives. In fact, apparently, the presumption of ownership is not applied and claimants are asked to provide title to the property, which often, due to difficulties in accessing relevant archives, cannot be done.

⁵⁸ The Central Committee for the Establishment of Indemnification (“CCEI”) was established by the government, under Law 247/2005, to process claims. CCEI decisions can be challenged in regional district courts which can decide to change the amount of compensation or restore property in kind. In addition, while the CCEI can be sanctioned for failure to act in a timely fashion, in practice, it often postpones decisions and minimizes compensation awards.

Law 247/2005 (together with Government Decision No. 1481/2005) also authorized establishment of a Property Fund, out of which compensation would be paid, when confiscated properties could not be returned in-kind.⁵⁹ A number of private property claims have been approved, but the Property Fund is not yet operational. In sum, in spite of legislation which appears beneficial, implementation of the restitution process in Romania has been seriously flawed.⁶⁰

Decree No. 113 (June 1948), regarding the assets of deceased Jews who were victims of persecution and have no descendants, enables FEDROM to take over such assets and manage the properties until there is legal clarification or until a rightful heir emerges. This decree has never been fully implemented.

⁵⁹ The Property Fund is an investment fund consisting of the shares of over 100 state-owned companies which holds the equivalent of between 4-5 billion Euros in registered capital. Shares of the Fund are to be issued in settlement of successful restitution claims. In June 2007, the government adopted a regulation intended to enable the Property Fund to be evaluated and listed on the Bucharest Stock Exchange by 2008 (which did not happen), as well as to provide for cash payments of up to about \$215,000, in lieu of restitution. In addition, a director for the Fund has been retained but, as of June 2009, the Fund continues to be plagued by a number of serious problems.

⁶⁰ This may, in part, explain why Romania has been the losing party in some 25 restitution cases decided by the European Court of Human Rights (“ECHR”), which has consistently ruled in favor of former Romanian property owners, ordering the government to return the properties in issue or pay sizeable damages. In a recent case, The Affair of Radu vs. Romania, which involved the State’s seizure of an apartment in 1983, the ECHR, after a review of Law Nos. 10/2001 and 247/2005, determined that:

“the deprivation of the Claimants...right to ownership of the apartment... Combined with the total absence of indemnification for almost nine years, has subjected them to a disproportional and excessive burden, incompatible with their right to respect for their property guaranteed by Article 1, Protocol 1 [of the Convention Safeguarding the Rights of Man which states: “Every physical or moral person has the right of respect for his assets. He cannot be deprived of any of his property”].”

The ECHR ordered Romania to restitute the property at issue or to pay the claimants material compensation for the property, as well as an additional payment for “moral damages.”

Country Name: RUSSIA

There are no laws in Russia which deal with the restitution of either expropriated immovable communal or private property. However, the government's Restitution Commission has, according to the government, returned thousands of buildings beginning in 1993 – mostly to the Russian Orthodox Church – when a presidential decree on communal property restitution became effective. While some synagogue buildings have been transferred to local Jewish communities for their use or ownership, they represent only a small portion of the total number of Jewish properties confiscated by Soviet authorities prior to World War II.⁶¹

⁶¹ "Russia," in *Property Restitution in Central and Eastern Europe*, Bureau of European and Eurasian Affairs (Washington DC: October 3, 2007); "Russia," http://www.house.gov/international_relations/crs/russia.htm.

Country Name: SERBIA

Serbia enacted a restitution law for communal property in 2006, but has no legislation providing for the restitution of confiscated private property.⁶² Serbia's law *On the Restitution of Property to Churches and Religious Communities* (2006) provides for the following: seven "traditional" religious communities (including the Jewish community) have standing to recover their confiscated communal property; property confiscations starting in 1945 are covered, including "agricultural lands, woods and woodland, construction sites, residential and business buildings, apartments and business premises and movables of cultural, historical or artistic significance," and property in Kosovo⁶³; substitute property or (market value) compensation in the form of government bonds is to be provided when in rem restitution is not possible; and an independent restitution board will adjudicate claims, the value of any property in question and the compensation to be paid.⁶⁴

SAVEZ, the Federation of Jewish Communities in Serbia, identified 609 pre-war properties that were formerly owned by the Jewish community, including synagogues, schools/yeshivot, mikvehs, orphanages, old age homes, and 120 cemeteries. Under the communal property restitution law, SAVEZ submitted 512 claims. To date, two apartments have been returned and SAVEZ has reported that the communal property restitution process has stopped.⁶⁵ There have been preliminary discussions between the WJRO and SAVEZ about a foundation to administer and manage restituted property.

⁶² While there is no restitution law for confiscated private property, certain former owners of property expropriated in what was the Socialist Republic of Yugoslavia have been able to obtain limited compensation for their seized property under two settlement agreements between the United States and Yugoslavia. Yugoslavia paid out a total of \$20.5 million to a number of former owners of property located in Serbia who were U.S. citizens at the time their property was taken: a 1948 agreement covered property seized during 1939-1948; and a 1965 agreement covered property taken between 1948 and 1964. However, Jewish individuals who sought to immigrate to Israel from Yugoslavia beginning in 1948 were forced to renounce their Yugoslavian citizenship and title to property as a condition for being allowed to obtain an exit visa. These former Yugoslav citizens have not had their property restituted, nor have they been compensated.

⁶³ SAVEZ, the Federation of Jewish Communities in Serbia, has tried, unsuccessfully, to have properties confiscated beginning in 1941 included in the law.

⁶⁴ Serbia enacted the law for the restitution of communal property in 2006, with a claims filing period which ran from 2007 through December 2008.

⁶⁵ The government does not want to pay compensation for confiscated communal properties until it is able to ascertain what compensation may have to be paid for confiscated private property (under draft legislation which has not yet been passed).

Serbia recently completed a program under the *Law on Recording and Registering a Claim to Expropriated Property*, entailing a process in which former property owners, or their heirs, registered potential claims for their property which had been nationalized starting in 1945.⁶⁶ In addition, in May 2007, the government issued the “Act on Denationalization and Building Land,” draft legislation – not yet enacted – addressing the restitution of confiscated private property. Responding to the government’s request, the local Jewish community and the WJRO, among others, submitted suggestions regarding this proposed legislation, which has made little legislative progress.⁶⁷

Serbia has no law for the restitution of confiscated heirless property.

⁶⁶ Jewish groups protested that property seized during the Holocaust era is not specifically covered by the registration law.

⁶⁷ SAVEZ suggested, among its other comments, that the law should include the following: property confiscated beginning in 1941; all Jewish individuals who had to renounce their citizenship and property when immigrating to Israel (1948-1953); and that property of former Jewish property owners, killed in the Holocaust, which is heirless, should be transferred to a fund which would serve the Jewish community in Serbia and assist Holocaust survivors in need.

Communal Property:

Various Czechoslovakian laws, enacted 1990-91, as well as the law *On Reconciliation of Certain Abuses and Damages Caused to Church Property and the Property of Other Religious Institutions* (1993), provide for the restitution of communal religious property confiscated by the Communist regime.⁶⁸ Under the 1993 law, each of the ten Slovak Jewish communities, with an active Jewish presence, filed claims for communal properties located within their jurisdictions, while the Central Union of Jewish Religious Communities (“UZZNO”) filed claims for communal properties in locations where there the Jewish community or association had perished.⁶⁹

Private Property:

A number of laws provide for the restitution of private property seized by the Communist regime between 1948 and 1990. The laws, requiring Slovak citizenship and permanent residency, excluded most former Jewish property owners, since their property had typically been seized prior to 1948 and most Jewish survivors of the country are no longer Slovak citizens.

In 2000, a Joint Commission was established – composed of government, as well as local and international Jewish representatives – whose mission was to address open restitution issues, including heirless property. Pursuant to a Commission recommendation, a special fund was created in 2002 for the indemnification of Jewish Holocaust victims. The government transferred \$18.5 to the fund, purportedly representing 10% of the value of unrestituted Jewish property, not including agricultural lands, which had been taken during the Holocaust and never

⁶⁸ Slovakia also enacted a law (in 2005) to redress the wrongs committed in the course of restitution efforts in the 1990s, enabling registered religious communities to claim, for a one-year period, agricultural and forest land, as well as agricultural and administrative buildings nationalized between 1945-1990 (or, for the Jewish community, which were seized beginning November 2, 1938). This law also reopened the claims deadline for the 1993 law, as many church properties had remained unclaimed.

⁶⁹ Approximately 700 cemeteries and 1,269 other communal properties have been identified as belonging to the Jewish community, prior to World War II, in the region which became the Slovak Republic. The Jewish organizations filed approximately 100 claims and, in total, the government returned 85 communal properties (excluding cemeteries), including over 30 properties to UZZNO. Although many properties formerly owned by the Jewish community have not been returned, a number of problems, including difficulties in identifying and documenting additional properties and a lack of funds to repair many properties which are in poor condition, have prevented meaningful follow up on the claims already filed, or the submission of additional claims.

returned.⁷⁰

One-third of the fund was dedicated to symbolic payments for survivors (or their direct descendants) whose property had been confiscated during World War II.⁷¹ These survivors had not been eligible to receive compensation under the restitution laws, as they were no longer Slovak citizens or residents, and their property had been seized prior to 1948.

During the ten-year period from 2003–2012, interest on the remaining principal of the fund is to be used for cultural, social and educational programs for the community, as well as to renovate synagogues and maintain approximately 600 cemeteries. After 2012, any remaining principal is scheduled to be transferred to UZZNO.⁷²

⁷⁰ The total value of the Jewish-owned property seized during the Holocaust was estimated to be approximately \$185 million (224 Euros). The Slovak Jewish Community (“UZZNO”) settled for 10% of that amount as payment for all unrestituted property.

⁷¹ Of the approximately 1,300 claims filed, mostly by descendants of Slovak Jews living in the U.S. and Israel, 580 claimants were deemed eligible. Their payments ranged from \$1,100 to \$34,000, with the average payment being \$16,000. Many applications were rejected for lack of sufficient evidence. The remainder of this part of the fund was used to make one-time payments, of about \$3,000, to 122 claimants who were Slovak citizens, initially rejected from another Holocaust-related compensation program.

⁷² There also remains a dispute relating to approximately 400,000 hectares (about 150,000 acres) of heirless or otherwise unidentified and unclaimed agricultural land, part of which the Jewish community seeks to recover.

Country Name: SLOVENIA

Slovenia has no legislation for the restitution of communal property, while the *Denationalization Act of the Republic of Slovenia*, passed by Parliament in 1991, deals with the restitution of confiscated private property.

Communal Property:

Over the years, notwithstanding the absence of a communal property restitution law, the Jewish Community of Slovenia has received several properties, including a synagogue in Landova, through agreements with the government.⁷³ In addition, in recent years, the government has appointed two commissions – the Committee for the Unresolved Question of Religious Communities (in 2000) and the Sector for Rectification of Committed Injustices (September 2005) – to study the issue of the restitution of communal and heirless property. The government report on former Jewish-owned property in Slovenia is complete and, once it is exchanged with the property research report prepared by the WJRO and the Jewish community on formerly Jewish-owned immovable property, discussions will proceed related to the restitution of such property.⁷⁴

Private Property:

The *Denationalization Act* requires a claimant to have Slovenian citizenship and only includes property confiscated beginning in 1945. The claims process suffered from lack of trained personnel, inadequate ownership records and a resulting lack of transparency and inconsistent decision-making.⁷⁵

Slovenia has no legislation for the restitution of heirless property.

⁷³ In addition, a handful of lawsuits brought by the Jewish community of Slovenia to recover property have been slowly moving through the court system.

⁷⁴ In addition, the Jewish community and WJRO have agreed (2006) to establish a foundation which would receive and manage any restituted Jewish communal property or related compensation.

⁷⁵ The government has reported that, as of 2007, over 90% of the approximately 40,000 private property restitution claims filed had been processed. These, of course, included few claims by former Jewish property owners, or their heirs, as most of the Jewish population had been killed or driven out of the country during the Holocaust, and only property confiscated starting in 1945 is covered by the Slovenian restitution law. Moreover, Slovenians that immigrated to Israel between 1948 and 1950 were coerced to renounce their Yugoslav citizenship and to forfeit their property to the State as a prerequisite to leaving the country. The Jewish Community has insisted, unsuccessfully thus far, upon the elimination of this law, known as the “Tito Law.”

Country Name: UKRAINE

Ukraine has no law for the restitution of confiscated, immovable communal or private property. There are, however, several decrees by the President and government on the return of former religious property for the use of religious organizations. In addition, Article 17 of the Law of Ukraine regarding Freedom of Conscience and Religious Organizations regulates the use of former cult property by religious organizations.

Thus, in spite of the absence of specific restitution legislation for communal property, the Jewish community has been able to obtain the use of several dozen formerly Jewish-owned religious buildings, for religious purposes. Religious buildings include property “designed to satisfy the religious needs of the citizenry (temples, monasteries, chapels, bell towers, mosques, minarets, synagogues and prayer houses).” Through the previously referenced law and decrees, as well as the decision of local municipal and regional councils, certain Jewish communities have been able to use approximately fifty properties (mostly synagogues) over the last two decades, in addition to fourteen synagogues in Ukraine which functioned during Soviet times. Among the fifty “synagogues” are three buildings that were not formerly Jewish-owned, but were given to the Jewish community by local councils in lieu of certain former synagogues.⁷⁶

In January 2009, the government proposed legislation to deal with the restitution of confiscated religious communal property, but such draft legislation has made no significant progress in the legislative process.⁷⁷

⁷⁶ Under a 1992 government decree, registered religious organizations were permitted to request use of property confiscated by the Soviet regime, if necessary for religious worship. In August 2001, the Interagency Commission on Restitution of Property instructed the Ministry of Justice and State Committee for Nationalities and Religions (SCNR) to draft a law on the restitution of property to religious organizations. Since that time, SCNR has declared that the majority of buildings and objects in question have been returned to religious organizations and that many of the remaining properties for which restitution is being sought were complicated by the fact that they were currently occupied, otherwise encumbered, or fell within the jurisdiction of local governments.

⁷⁷ In anticipation of a communal property restitution law, several lists, including one by the WJRO, identifying formerly Jewish-owned communal properties have been prepared. The most extensive list was compiled by Vaad of Ukraine, which identifies more than 2,500 communal properties, including approximately 1,200 former synagogues (but does not include the related land).

Conclusion

We are not simply what we possess, nor can we be understood just by where we come from. And, yet, an individual's house, a family's business, years of living in a particular place, generation after generation, and being part of a vibrant community – where we live and the things we call our own also help to define us. Take those places and those things away and something in us is diminished. Losing one's wealth, home, the life that was so carefully developed can kill part of a person, long before the actual death.⁷⁸

The effort to press countries to enact fair and comprehensive laws for the restitution of immovable property is, of course, motivated by the desire to return to the rightful owners what was unjustly taken from them. Yet, as so many Holocaust survivors are in need, restitution also can be applied to help them, as well as provide some connection to what had once been part of their lives. The pursuit of this goal must continue even if the most that can be achieved, from the survivors' perspective, is a small measure of justice.

By the same token, the return of, or compensation for, immovable property seized during the Holocaust is an essential piece of unfinished business for most of the young democracies of Central and Eastern Europe. The establishment of a meaningful restitution process, in spite of the complicated legal, economic and other practical considerations which must be confronted, would not only show a country's willingness to face its past, but also reflect a commitment to property rights and the rule of law, vital components of democratic societies.

It is noteworthy that so many countries, voluntarily, decided to participate in the Prague Conference. Hopefully, most, if not all, will support and implement the important principles relating to restitution contained in the Terezin Declaration, and the more specific recommendations made by the Working Group on Immovable Property (attached as Appendix A following this report).

In facing their responsibilities and addressing the issue of the restitution of confiscated real property, we urge countries to pass legislation and/or implement claims processes which incorporate the following, basic principles:

- **Laws should be non-discriminatory –**
There should be no citizenship or residency requirement. Regardless of current residence or what passport an individual carries, if a person, or member of his/her family, owned property, s/he should be eligible to claim it. In addition, laws which forced individuals – who wanted to immigrate to what has been described as their “ethnic homelands” (such as Israel) after the war – to renounce their citizenship and forfeit their property, as a condition for leaving the country, should be annulled.

⁷⁸ A. Aciman, *The Exodus Obama Forgot to Mention*, New York Times (June 9, 2009), op-ed.

- **Laws should cover property confiscated during the Holocaust –**
Often, restitution or compensation laws include only property nationalized during the Communist period. Most formerly Jewish-owned property, however, was taken prior to Communist nationalization and must be covered by restitution laws.
- **Restitution should be in rem –**
The actual property in issue should be returned whenever possible, particularly when the government (at whatever level) holds the property. In addition, the State should also have burden to show if it cannot, why it cannot return property that was taken during the Holocaust era.
- **Substitute property or fair compensation when in rem restitution not possible –**
Because, as a practical matter, substantial difficulties do arise in attempting to restitute property in rem, it is incumbent for governments to provide alternate property of equal value and, if that is not available, compensation to the former owner. Moreover, compensation should not mean a minimum, token amount. It should mean the fair market value of the property.
- **Heirless formerly Jewish-owned property should be used to help victims –**
Many of the Jewish property owners and their family members were murdered, leaving much immovable property confiscated during the Holocaust era heirless. Such assets should be identified and returned to the Jewish people to meet critical needs.
- **Claims Process:**
 - (i) **Should be non-bureaucratic –**
The process should be simple, making it easy for all potential claimants – many are elderly, live in foreign countries, and are of modest means – to apply without legal obstacles and at no or low cost.
 - (ii) **Should be fair –**
Minimal documentation should be required, especially when limited compensation is offered. In addition, rules relating to *privacy*, *archival confidentiality* and establishing that one is an *heir* must be liberalized, enabling claimants to establish property ownership and the right to claim quickly.
 - (iii) **Should be easily accessible and transparent –**
An easily identifiable and/or centralized system should be established or designated to accept and process claims. This will also maximize uniformity of decision-making. Claims also should also be accepted over the internet and in multiple languages. Decisions should be made within

a reasonable time after the claim is submitted and the reason(s) for decision should be clearly stated.

- (iv) **Should be expeditious –**
Claims should be decided within a reasonable time after submission and restitution or compensation be delivered quickly. Too often, restitution legislation sets out a lengthy, protracted payment schedule, sometimes taking longer than a decade to complete. This is unacceptable, especially when so many of the claimants are elderly and in immediate need.

It is in the same spirit of voluntarism that brought so many to the Prague Conference that the Participating Countries should take the moral action of adopting legislation and/or a claims process consistent with these principles, as well as helping to develop an effective reporting and monitoring mechanism to follow up on the post-conference activities that are essential for restitution progress to be made.

World Jewish Restitution Organization
Conference on Jewish Material Claims
Against Germany

June 23, 2009

Appendix A

WORKING GROUP ON IMMOVABLE PROPERTY MEETING

(London, March 26, 2009)

Protection of and respect for property rights is a basic principle of democratic governments which operate according to the rule of law. During the Holocaust, wrongful confiscations, forced sales and sales under duress of property were part of the persecution of innocent people and groups because of their religion, nationality or political position. Jewish families and communities were systematically targeted and sustained immeasurable damage due to illegal seizures and destruction. After the defeat of the Nazis, during the period of communist control in Central and East European countries, confiscated private property was not restored to its former owners but, typically, nationalized. Moreover, neither communal nor religious property – critical to the revival of Jewish life, supporting the social welfare needs of Holocaust survivors, and promoting the preservation of Jewish cultural heritage – were returned to what remained of the devastated Jewish communities, or their successors.

While a number of countries have enacted legislation or taken other actions which address the restitution of, or compensation for, immovable property illegally seized during the Nazi and Communist eras, many governments have failed to take adequate steps to return such confiscated properties to their rightful owners.

As a result, the Working Group on Immovable Property makes the following recommendations:

1. Where it has not been done, States should make every effort to return confiscated private property to former owners, their heirs or successors, in an expeditious manner and through a process which takes into account the many obstacles facing claimants seven decades after the property was taken.
 - (a) Whenever possible, States should provide restitution in rem, particularly in circumstances where the confiscated property is still held by the government, in accordance with principles of justice and equal treatment; and
 - (b) Whenever the confiscated property cannot be returned, States should provide substitute property of equal value or equitable compensation.
2. If it has not already been done, and consistent with national law, States should establish a claims process which is simple, accessible, transparent and expeditious. The procedures should include the following:
 - (a) Applications should be processed by special tribunals or claims agencies, not by courts of the State's judicial system;

- (b) Relaxed standards of proof should apply, including acceptance of alternate forms of evidence, for example, to establish property ownership, death of former owner, or status as heir;
 - (c) Claimants should not be impeded by burdensome financial requirements;
 - (d) Claimants should be able to submit claims easily, including over the internet and with local embassies;
 - (e) A decision should be issued within a reasonable time after a claim is submitted;
 - (f) Reason(s) for a decision should be clearly stated;
 - (g) Property should be returned or compensation paid promptly, especially for elderly claimants, not over a protracted period; and
 - (h) Claimants should be able to appeal from negative decisions to an independent appeals authority.
3. Current citizenship and residency requirements should not be used to prevent the restitution of, or compensation for, confiscated property.
 4. Where it has not been done, States should make every effort to return – and transfer the ownership rights of – confiscated Jewish communal and religious property to Jewish communities, organizations, or their successors, or provide fair compensation in lieu of restitution.
 5. States should encourage, where appropriate, the establishment of foundations, to be administered jointly by representatives of the local Jewish community and of pertinent international Jewish groups, to assist in the preparation of restitution claims regarding communal and religious property and to manage such recovered property or related compensation.
 6. As part of the effort to restitute communal and religious property, when a property of historic value – such as a synagogue – in disrepair or otherwise in a ruined condition (while in the government’s possession) is returned, States should help either by modifying laws which impose penalties for not maintaining properties in reasonable condition, or by providing financial and material assistance to undertake necessary repairs and restoration.
 7. In ways consistent with national law, States should modify privacy protection laws which interfere with access to documentation related to property ownership and personal records, such as birth, death and marriage certificates.
 8. Access to archives and documentation dealing with the Holocaust period should not be hindered for researchers and the public. States should encourage governmental institutions to provide easy access to their records, in accordance with the guidelines of the International Council on Archives.

9. While every effort should be made to return confiscated, immovable property to its rightful former owners, States should also safeguard the current occupants of such property.
10. The mass destruction perpetrated during the Holocaust put an end to centuries of Jewish life and included the decimation of thousands of Jewish communities in much of Europe. The graves and cemeteries of generations of Jewish families and communities were left unattended, and unmarked mass graves containing the human remains of hundreds of thousands of murdered Jewish victims were left unmarked. Participating States are urged to insure that:
 - (a) The mass graves are identified and protected; and
 - (b) The Jewish cemeteries are demarcated, preserved and kept free from desecration.
11. The States should establish a special standing committee which will do the following;
 - (a) Monitor and otherwise follow-up on the implementation of the final Terezin Declaration;
 - (b) Prepare and distribute among the participating States periodic reports which summarize the relevant restitution-related activities which have been undertaken by governments subsequent to the Prague Conference; and
 - (c) Convene another international conference, at an appropriate time following the Prague Conference, to review the progress made and difficulties confronted in implementing the commitments reflected in the Terezin Declaration.