

OVERVIEW OF IMMOVABLE PROPERTY RESTITUTION/COMPENSATION REGIME – REPUBLIC OF MOLDOVA (AS OF 13 DECEMBER 2016)

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A. OVERVIEW

The modern territory of the Republic of Moldova was formed in August 1940 as the new Moldavian Soviet Socialist Republic. It was composed chiefly from parts of Bessarabia (formerly part of Romania), and also from small parts of the territory of Bukovina and territory of the Moldavian Autonomous Soviet Republic, a small piece of land beyond the Dniester (which had been established in 1924).

In 1941, when Germany invaded the Soviet Union, German-allied Romanian troops crossed into Northern Moldova and took back Bessarabia and northern Bukovina. The German-allied Romanians organized the deportation of the Moldovan Jews, and the Germans focused on their extermination.

In 1940, the Jewish population of the Moldavian Soviet Socialist Republic was between 270,000 and 280,000, of which 205,000 lived in Bessarabia. The Soviets labeled thousands of wealthy Jews as “class-hostile” elements and deported them to remote regions of the USSR. Romanian and German occupiers began mass extermination of Jews – men, women and children – in the region in 1941 in a policy known as “cleansing the terrain.” (Vladimir Solonari, “Public Discourses on the Holocaust in Moldova: Justification, Instrumentalization, and Mourning” *in Bringing the Dark Past to Light: The Reception of the Holocaust in Postcommunist Europe* (John-Paul Himka & Joanna Beata Michlic, eds., 2013), p. 378.) Tens of thousands were sent to concentration camps and ghettos in Transnistria. Along with killings came plunder of property. The Romanian government recorded in 1942 that by the end of 1941, 91,845 Jews had been deported from Bukovina and 55,867 from Bessarabia. Historian Vladimir Solonari found that “by the end of 1941 Bessarabia was ‘free of Jews’ while in Bukovina (northern and southern parts) about nineteen thousand Jews were allowed to stay, as they were deemed “indispensable” for the local economy.”¹ (*Id.*, p. 380.)

Researchers estimate that **40,000-60,000** Jews were killed in Bessarabia and Northern Bukovina during the first few months of the war, and tens of thousands more Bessarabian Jews were killed in the Transnistria part of Soviet Ukraine (between the Dniester and Bug rivers and administrated between 1941 and 1944 by Romania). Some reports suggest that by the end of the war, up to **90,000** Jews were killed on the territory of the Moldovan SSR.

Following the collapse of the Soviet Union in the early 1990s, the Jewish community of Moldova decreased due to assimilation, age, and emigration to Israel (approximately **44,000**

¹ Other experts believe that a few hundred of Jews remained in Bessarabia.

Moldovan Jews made Aliyah including leading Israeli politician Avigdor Lieberman). Today, the Jewish population in Moldova is estimated to be between **15,000** and **25,000**.

The number of the Roma killed on the territory of Moldova during the Holocaust is unknown. There are at least **2,300** known elderly Roma Holocaust survivors in Moldova, who have benefited from humanitarian programs. The latest official numbers of the Roma community come from the census made in the Soviet era (1989), when **11,600** people were counted as Roma, representing **0.3%** of the population of that time. Moldova conducted its own census in 2004, but it did not contain any data about the Roma population. The unofficial estimate of Roma in Moldova is **150,000**.

As one of the 15 constituent Soviet Republics, the Moldavian Soviet Socialist Republic was represented by the Union of Soviet Socialist Republics in the 1947 Paris Peace Treaties ([Treaty of Peace with Bulgaria](#), [Treaty of Peace with Hungary](#), [Treaty of Peace with Finland](#), [Treaty of Peace with Italy](#), [Treaty of Peace with Romania](#)).

The independent Republic of Moldova was established in August 1991 after the collapse of the Soviet Union. The Republic of Moldova became a member of the Council of Europe in 1995 and ratified the European Convention on Human Rights in 1997. As a result, suits against Moldova claiming violations of the Convention are subject to appeal to the European Court of Human Rights (ECHR).

Moldova endorsed the Terezin Declaration in 2009 and the Guidelines and Best Practices in 2010.

As part of the European Shoah Legacy Institute's Immovable Property Restitution Study, a Questionnaire covering past and present restitution regimes for private, communal and heirless property was sent to all 47 Terezin Declaration governments in 2015. As of 13 December 2016, no response from Moldova has been received.

Private Property Restitution

Private immovable (real) property, as defined in the Terezin Declaration Guidelines and Best Practices for the Restitution and Compensation of Immovable (Real) Property Confiscated or Otherwise Wrongfully Seized by the Nazis, Fascists and Their Collaborators during the Holocaust (Shoah) Era between 1933-1945, Including the Period of World War II ("Terezin Best Practices") for the purpose of restitution, is:

property owned by private individuals or legal persons, who either themselves or through their families owned homes, buildings, apartments or land, or who had other legal property rights, recognized by national law as of the last date before the commencement of persecution by the Nazis, Fascists and their collaborators, in such properties.
(Terezin Best Practices, para. b.)

In 1992, Moldova passed the [Law Concerning the Rehabilitation of Victims of Political Repressions](#) (Law No. 1225-XII of 8 December 1992, as amended by Law No. 295-XIII of 23

November 1994, Law No. 84-XIV of 8 July 1998, Law No. 133-134/656 of 2 December 1999, Law No. 520-XV of 11 November 2001, Law No. 186-XVI of 29 June 2006). The law provided in part for property restitution or compensation to those Moldovan citizens who suffered repression based upon political, national, religious or social grounds. (**Article 1**.) Restitution and compensation are conditioned upon proving a causal connection between political repression and the subsequent seizure of the property in question. ([U.S. Department of State – Bureau of Democracy, Human Rights and Labor, “Moldova 2013 International Religious Freedom Report”, p. 15.](#))

The law specifically refers to the victims of the Soviet regime, identifying those victims who were persecuted by certain authorities: “Within the period of the totalitarian regime administrative, judicial and extrajudicial authorities . . .” As such, on its face, the law does not include Holocaust-era property confiscations.

In 1994, the Parliament introduced a chain of amendments to the original text of the law. It was further amended in 1996, 1998 (twice), 1999, 2000, 2001 (twice), 2003, 2005, 2006, 2009, and 2010. The amendments made the law more functional. In particular, the 2006 amendment changed **Article 12**, and added **Article 121**, regulating the order of accepting applications for restitution of lost property or compensation of its value.

Special commissions established by public authorities examined the restitution and compensation applications. Decisions by the special commissions could be appealed to the Moldovan courts.

Where property could not be restituted *in rem*, compensation would be paid according to the property’s market price at the time of the application examination. Where the value of the property was below Moldovan lei 200,000, compensation was to be paid over three (3) years. Where the value of the property exceeded Moldovan lei 200,000, compensation was to be paid over five (5) years.

Between 2008 and 2013, the U.S. Department of State reported that, while the commissions had been established, the government often failed to fund them. (*See e.g.*, [U.S. Department of State – Bureau of Democracy, Human Rights and Labor, “Moldova 2008 International Religious Freedom Report”](#).) In 2013, the U.S. Department of State reported that the Moldovan government “allocated 20 million lei (USD 1.65 million) to victims of political repressions and deportations. The victims of political repressions, whose property was seized or nationalized, along with 8,300 deportees, are expected to receive limited compensation during the year [2013].” ([U.S. Department of State – Bureau of Democracy, Human Rights and Labor, “Moldova 2013 International Religious Freedom Report”, p. 15.](#)) It is unclear how many of these individuals ultimately received compensation.

The 1992 **Law Concerning the Rehabilitation of Victims of Political Repressions** has been the subject of a number of applications brought to the **European Court of Human Rights (ECHR)**. Most relate to the issue of non-enforcement of domestic restitution and compensation awards. For example, in [Prodan v. Moldova, ECHR, Application No. 49806/99, Judgment of 25 April 2006](#), the applicant – whose parents’ house was seized by the Soviet authorities in 1946 – sought return of the property (then subdivided into 6 apartments) by filing an application in 1997

under the **Law Concerning the Rehabilitation of Victims of Political Repressions**. The domestic courts awarded the applicant restitution of the claimed property and ordered the eviction of the occupants of the apartments in the applicant's now subdivided house. The domestic judgment remained unenforced for many years because the Municipal Council asserted it did not have the resources to relocate the occupants of the apartments in the subdivided house (a 1998 amendment to the law required evicted occupants to be given housing by the local administration). The ECHR found that the state's lack of funds or accommodations are not valid reasons for non-enforcement of a judgment. As a result, the applicant had been deprived of his rights under **Article 1 of Protocol No. 1 to the European Convention on Human Rights** to peaceful enjoyment of one's possessions, and his **Article 6(1)** right to fair trial because multiple years had elapsed without the Moldovan authorities honoring the judgment. (*See also Popov v. Moldova*, ECHR, Application No. 19960/04, and Judgment of 6 December 2005; *Baibarac v. Moldova*, ECHR, Application No. 31530/03, Judgment of 15 November 2005; *Scutari v. Moldova*, ECHR, Application No. 20864/03, Judgment of 26 July 2005; *Prepelita v. Moldova*, ECHR, Application No. 2914/02, Judgment of 23 September 2008.)

We do not have information on the current status of the restitution and compensation regime, including the total number of applicants or the number and value of successful claims.

Communal Property Restitution

Communal immovable (real) property, as defined in the Terezin Best Practices for the purpose of restitution is:

property owned by religious or communal organizations and includes buildings and land used for religious purposes, e.g. synagogues, churches[,] cemeteries, and other immovable religious sites which should be restituted in proper order and protected from desecration or misuse, as well as buildings and land used for communal purposes, e.g. schools, hospitals, social institutions and youth camps, or for income generating purposes.

(Terezin Best Practices, para. b.)

Jewish synagogues, buildings and other religious sites within the borders of the current Republic of Moldova suffered severe damage during the Holocaust. What buildings remained were then destroyed, left to fall into disrepair or repurposed for other activities during the Soviet period. Few pre-World War II synagogues remain today in the country. Jewish cemeteries have also been desecrated. ([United States Commission for the Preservation of America's Heritage Abroad, "Jewish Heritage Site and Monuments in Moldova" \(2010\), pp. 6-8.](#))

A 2010 report published by the United States Commission for the Preservation of America's Heritage Abroad catalogued 100 Jewish communal properties in Moldova, including cemeteries, monuments, houses, hospitals, colleges and other buildings. (*Id.*, pp. 9-13.)

The Republic of Moldova has not passed any laws concerning restitution of communal property.

A few properties have been returned to the Jewish community via *ad hoc* measures (e.g., Hay and Cahul synagogues). In 2012, the U.N. Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt, found that in the absence of legislation, *ad hoc* return of communal property in Moldova differed by religious community: “the Moldovan Orthodox Church has apparently received title over properties (including properties also claimed by the Bessarabian Orthodox Church), the Catholic community is involved in litigation to recover title to community property, while the Jewish community has reportedly been forced to purchase back community properties.” ([United Nations General Assembly - Human Rights Council, “Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt, Addendum, Mission to the Republic of Moldova”, A/HRC/19/60/Add.2 \(27 January 2012\), p. 17](#); see also [U.S. Department of State – Bureau of Democracy, Human Rights and Labor, “Country Reports on Human Rights Practices for 2015 – Moldova.](#))

The Jewish community of Moldova is united under the umbrella organization, the [Jewish Community of the Republic of Moldova \(JCM\)](#). The main goals of the organization include promoting the development of Jewish societies, traditions, religious heritage and culture, and resistance to national forms of intolerance (e.g., anti-Semitism, xenophobia, chauvinism and aggressive nationalism). The JCM is a member of the **Euro-Asian Jewish Congress**.

Heirless Property Restitution

The Terezin Declaration states “that in some states heirless property could serve as a basis for addressing the material necessities of needy Holocaust (Shoah) survivors and to ensure ongoing education about the Holocaust (Shoah), its causes and consequences.” (Terezin Declaration, Immovable (Real) Property, para. 3.) The Terezin Best Practices also “encourage[s] [states] to create solutions for the restitution and compensation of heirless or unclaimed property from victims of persecution by Nazis, Fascists and their collaborators.” Heirless immovable (real) property, as defined in the Terezin Best Practices for the purpose of restitution, is:

property which was confiscated or otherwise taken from the original owners by the Nazis, Fascists and their collaborators and where the former owner died or dies intestate without leaving a spouse or relative entitled to his inheritances. . . . From these properties, special funds may be allocated for the benefit of needy Holocaust (Shoah) survivors from the local community, irrespective of their country of residence. From such funds, down payments should be allocated at once for needy Holocaust (Shoah) survivors. Such funds, among others, may also be allocated for purposes of commemoration of destroyed communities and Holocaust (Shoah) education.

(Terezin Best Practices, para. j.)

Moldova does not have any special laws dealing with restitution of Holocaust-era heirless property. In Moldova, where there are no legal heirs to property, its ownership passes to the Moldovan state.

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Academics

Dr. Diana Dumitru, State Pedagogical Institute (Ion Creanga), Chisinau.

Dr. Ioanid Radu, Director of U.S. Holocaust Memorial Museum, Washington D.C.

Dr. Stan Lavinia, St. Francis Xavier University, Nova Scotia.

**Report Prepared by ESLI Restorative Justice and Post-Holocaust Immovable
Property Restitution Study Team (queries: michael.bazyler@shoahlegacy.org)**