

WORLD JEWISH RESTITUTION ORGANIZATION
NEGOTIATIONS REGARDING CENTRAL AND EASTERN EUROPE
UPDATE ON JEWISH PROPERTY RESTITUTION

The World Jewish Restitution Organization (“WJRO”) is charged with securing compensation and restitution from countries in Central and Eastern Europe. Together with local Jewish communities, the WJRO has been pressing governments to provide for the recovery of, or fair compensation for, Jewish property looted by the Nazis and their collaborators during the Holocaust and/or subsequently nationalized by Communist regimes.

Among its other restitution-related activities, the WJRO has worked closely with the U.S. Congress to help draft and publicize Congressional resolutions that address property restitution problems in Central and East European nations. In addition, in May 2010, the Commission on Security and Cooperation in Europe (also known as the Helsinki Commission) – which consists of members from the U.S. Senate, U.S. House of Representatives, and the Departments of State, Defense and Commerce – working with the WJRO, held a hearing on the status of the restitution of property confiscated during the Holocaust, entitled “Holocaust Era Assets – After the Prague Conference.”

Further, the WJRO was a major participant in, and worked with the Czech Republic and U.S. government officials to help prepare, the Conference on Holocaust Era Assets held in Prague in June 2009, which was attended by 46 nations. A major focus of the conference was the restitution of property seized during the Holocaust, the approval of the Terezin Declaration by over 40 governments, and establishing the European Shoah Legacy Institute (“ESLI”). ESLI, a follow-up mechanism to the Prague Conference with which The WJRO continues its involvement, will, hopefully, serve as a forum for the exchange of views and the sharing of experiences, as well as a catalyst for countries to act in the realm of property restitution. The WJRO submitted papers on, and sent representatives to speak to, the following subject areas addressed by the Prague Conference: Immovable (Real) Property; Looted Art; and Judaica and Jewish Cultural Property.

In 2010, nearly one year after the Prague Conference, 43 of the participating nations reconvened in Prague and endorsed “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.” This document provides specific, detailed guidelines regarding procedures for processing and adjudicating claims for confiscated communal, private and heirless property. Among its provisions, the document calls on countries to recognize, as the legitimate owners, the Jews who owned the property prior to Nazi persecution; to establish claims processes that are transparent and accessible to foreigners; and to consider allocating the proceeds from unclaimed properties to benefit survivors from those countries.

Since the collapse of Communism in Central and Eastern Europe, some progress has been made, in certain countries, to return confiscated properties to their former owners. A number of local Jewish communities have been able to recover, or achieve a financial

settlement for, their communal property – including synagogues, schools, hospitals, orphanages, and cemeteries – stolen during the Holocaust. In addition, there are claims processes in some countries which enable individual owners to recover – or to receive compensation for – their former private property which had been illegally seized. Other countries have proposed relevant draft legislation which is under consideration.

However, the effort to enact effective property restitution laws is laden with difficulties, as the circumstances in each country with respect to communal and private property vary considerably. Some governments, for example, limit the type of communal property that can be recovered to houses of worship, or only permit use (but not ownership) of formerly owned communal property. Further, the pace of resolving claims in countries that do have a communal claims process is often quite slow. Some countries permit communal and private property claims only for properties seized after 1945, while other countries discriminate against foreign former owners, either forbidding non-citizens from claiming their former private property, or from receiving the actual property back. Still other countries drastically limit the amount of compensation awarded. In addition, many claims programs place difficult evidentiary and procedural burdens upon claimants. In sum, while a number of countries have enacted restitution-related laws, most have made only limited progress in returning confiscated property, or are making payments of minimal amounts. Moreover, there are still countries without any restitution legislation.

In each of these countries, the WJRO has sought to improve the process for restitution or, or compensation for, confiscated communal and private property, as well as to address the issue of heirless property.

POLAND

Poland remains the only major country in the former Soviet bloc that, in the two decades after the fall of Communism, has no law providing for the restitution of or compensation for private property still located in the country which was seized during the Holocaust.

The WJRO has worked in coordination with groups representing non-Jewish former property owners whose assets were taken under Communism. The groups have attempted to establish a continuing dialogue with the Polish government, Parliamentary leaders and commissions, as well as with other interested parties regarding this issue in the effort, ultimately, to develop a just and comprehensive law for confiscated private property, with a claims process which provides potential claimants with easy and non-costly access. The current draft of the legislation – and the government has issued several versions of essentially the same bill – does not provide for the return of any actual property, excludes the extensive and very valuable properties located in Warsaw, offers limited (and unspecified) compensation, and outlines a burdensome, complex and costly claims process for claimants.

The importance of enacting fair and comprehensive property restitution legislation has been recently raised with Polish officials by both President Obama and Secretary of State Clinton. Regrettably, in the spring of 2011, Polish Prime Minister Tusk indicated that the country's economic circumstances meant that the current, proposed bill – even with the

minimal compensation it provides – would not, for the time being, receive government support.

The WJRO also helped to establish the Foundation for the Preservation of Jewish Heritage in Poland, consisting of Jewish representatives from the local community and abroad. The foundation, responsible for claiming formerly Jewish-owned communal properties and managing any restituted properties, has filed more than 3,500 claims for communal property (including cemeteries) located in areas of Poland without a Jewish presence. The recovery process for communal property, however, continues to move exceedingly slowly.

LITHUANIA

In Lithuania, active negotiations dragged on for almost a decade over proposed legislation dealing with the restitution of, or compensation for, formerly Jewish communal and religious property. While the law which was finally enacted earlier this year falls far short of what is desirable, it may be the best that can be obtained. Nonetheless, the WJRO is engaged with the local Jewish community in devising a strategy related to what foundation will receive the restitution compensation described in the law.

HUNGARY

The new government of Hungary, elected in the summer of 2011, established a new group, which includes representatives from the WJRO, as well as local Jewish representatives, to address remaining restitution issues. Parallel to, but separate from, the work of this group, the Hungarian government, as a result of negotiations with the WJRO, has committed to providing \$21 million – of which \$12.6 million already has been transferred – to provide assistance for Hungarian Holocaust survivors in need around the world.

ROMANIA

The Caritatea Foundation, responsible for managing any recovered confiscated communal property and related compensation, was jointly established by the Federation of Jewish Communities in Romania and the WJRO. While the Foundation prepared and submitted approximately 2,000 claims for the restitution of communal property by the 2005 deadline, few of these property claims have been resolved.

In addition, Romania passed legislation over a decade ago which established a restitution process for confiscated private property, but that process has proven complex and, ultimately, ineffective. Even with the various modifications made to address the inadequacies of the restitution law, the process continues to move extremely slowly. The Property Fund, established to compensate former property owners when the actual property which was seized cannot be returned, has been plagued by a number of serious problems and has taken much longer than expected to become operational, raising many substantial concerns. Thus, in spite of legislation which appears beneficial, implementation of restitution in the country has been seriously flawed.

In October 2010, the European Court of Human Rights (“ECHR”), based on a number of submitted cases from Romania, held that the process of restitution in the country raised significant concerns and directed the Romanian government to undertake all necessary measures to deal with the protracted delays in returning seized property and to provide relief in a timely fashion. The WJRO has proposed recommendations to the government committee established in response to the ECHR criticisms the specific cases being heard, but for others who are similarly situated.

LATVIA

In Latvia, the local Jewish community is working with the WJRO to prepare a new draft bill which provides for the restitution of property previously communally owned or used for communal purposes. The bill will call for the return of the seized property in kind or substitute property and, if the actual or similar substitute property is not available, provides for reasonable compensation.

OTHER COUNTRIES

Further, legislation and claims processes in other Central and Eastern European countries are also being monitored, including Bosnia-Herzegovina, Bulgaria, Croatia, Czech Republic, Slovakia and Ukraine. Serbia has recently enacted property restitution laws and the WJRO and local Jewish community are working to address problems with the legislation. WJRO negotiations with the Slovenian government over the restitution of confiscated property should begin sometime this winter. Where appropriate, the WJRO also works with the European Union (EU) to try to make the enactment of effective property restitution/compensation legislation a condition for entry into the EU, or something the EU will press members to implement.

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