

# RESEARCH REPORT

Institute of Jewish Affairs  
in association with the  
World Jewish Congress



79 Wimpole Street  
London W1M 7DD  
Telephone 071-935 8266  
Fax 071-935 3252

Source must be quoted on publication

No. 2, 1993

---

## Jewish Restitution and Compensation Claims in Eastern Europe and the Former USSR

---

**SUMMARY:** The collapse of the Soviet empire opened up the possibility that Jewish claims to personal and communal property expropriated by the Nazis and the Communists throughout Eastern Europe, could finally be given proper consideration.

Post-Communist Eastern European governments recognized their moral responsibility to return property to legitimate owners and began to enact legislation. And the satisfaction of Jewish claims rests largely on the legal frameworks being established.

Much of the legislation, and the discussion surrounding it, is immensely complex. But, as the analysis in this *Research Report* shows, there are significant instances of the laws being both inadequate and discriminatory towards the Jews.

In most cases claims for the Nazi period are excluded, many of the legal provisions only apply to citizens still resident in the countries, most laws apply to 'natural persons' and not institutions, and the problem of heirless property is hardly touched.

The international Jewish organizations charged with the responsibility for coordinating efforts to recover Jewish assets are fully aware of the sensitive nature of the political, social and economic problems involved, and no attempt is being made to seek privileged treatment for Jews.

But where Jewish claims appear to be deliberately excluded from the legal provisions, it amounts to a moral failure on the part of the successor governments and tacit acceptance of the validity of Nazi dispossessions.

It is not easy to influence the legislative process in the countries concerned. Urgent and concerted legal and political action is therefore required to ensure that justice is done to Jewish claims.

This *Report* was prepared by Krystyna Sieradzka, Research Officer at the IJA, with additional information supplied by IJA researcher Nan Grierfer.

---

## **JEWISH RESTITUTION AND COMPENSATION CLAIMS IN EASTERN EUROPE AND THE FORMER USSR**

<b>CONTENTS</b>	<b>Page</b>
<b>Introduction</b>	<b>3</b>
<b>Eastern Europe</b>	<b>9</b>
Bulgaria	9
Czechoslovakia	17
Hungary	30
Poland	47
<b>Commonwealth of Independent States</b>	<b>65</b>
Belarus	65
Moldova	66
Russia	66
Ukraine	67
<b>Baltic States</b>	<b>68</b>
Estonia	68
Latvia	69
Lithuania	70

*This Report is an updated version of the Report presented at the meetings of the Jewish Restitution Organization and of the World Jewish Congress Executive Committee, held in New York in November 1992.*

## INTRODUCTION

On 29 July 1992, following a meeting between the principal international Jewish organizations in Jerusalem, the Jewish Restitution Organization (JRO) was established to 'centralize and coordinate [efforts to] help recover individual, communal and organizational Jewish assets' seized by Nazi and Communist governments in Eastern and Central Europe and to receive compensation for personal sufferings of Holocaust survivors residing in those areas.'

The JRO includes representatives of the World Jewish Congress, the Jewish Agency for Israel, the World Zionist Organization, the American Joint Distribution Committee, the Conference on Jewish Material Claims Against Germany, B'nai B'rith International, the American Gathering of Jewish Holocaust Survivors and the Centre of Organizations of Holocaust Survivors in Israel. The President of the WJC, Mr Edgar M. Bronfman, is Chairman of the JRO. The WJC has been charged with coordinating the efforts to recover Jewish assets and obtain compensation for Holocaust survivors in collaboration with the communities in the various countries concerned.

The effort to seek restitution was widened and strengthened when an agreement between Israel and world Jewry to work together to seek restitution from European governments was signed in February 1993 by Israeli Finance Minister Avraham Shohat and Mr Bronfman, representing both the WJC and the JRO.

Since then, WJC officials, acting on behalf of the JRO, have held a number of meetings with East European leaders to urge that Jewish claims be dealt with fairly and on a non-discriminatory basis.

From the outset it was clear that the possibility of settling Jewish claims in the countries concerned—Albania, Bulgaria, Czechoslovakia, Hungary, Poland, Romania, the republics of former Yugoslavia and the republics of the former USSR—rested largely on the legal frameworks being established. Hence the importance of monitoring the progress of the appropriate legislation. This remains an immensely complex task given the different legal procedures followed in the various countries and the tortuous nature of much of the discussion surrounding the attempts to enact legislation.

It is important to stress that no attempt has been made to seek privileged treatment for Jews above others who have claims for expropriated property. The JRO is not in the business of asking European governments to enact special restitution or compensation laws just to help the Jews who once lived there. The fact is that the successor governments of the post-Communist period have already acknowledged their moral responsibility to ensure the return of or

compensation for expropriated property. Jewish claims are therefore made within this framework.

Nevertheless, some have questioned the wisdom of pursuing Jewish claims in an internationally organized fashion, and especially at this time. It has been argued that making demands on states facing dire economic hardship is insensitive. Their priority is economic survival. It is also said that pursuing claims, especially in a country like Poland, will further fuel antisemitism.

Clearly, the international diplomatic and political effort must be handled as carefully and sensitively as possible, and this is the approach taken by the JRO and the WJC. Not only must the interests and security of surviving Jewish communities be taken into account, so too the future relations between the countries concerned and Israel. But no special consideration is requested for Jews; no special payments are being requested above and beyond what would be available following the enactment of fair legislation for all. When governments start returning property to the people who lost it to the Communists or the Nazis, Jewish rights must be established and recognized. As for antisemitism, it cannot be used to prevent legitimate claims from being made.

### **Inadequacies of the new legislation**

The Institute of Jewish Affairs's first analysis of legislation concluded that the laws enacted or under discussion in the countries concerned would make it difficult for Jews to regain their possessions.<sup>1</sup> The same conclusion was reached in November 1992, and developments since then indicate that the position has not seriously improved. In addition, the recent decision by the German government to allow property seized by the Nazis in Eastern Germany to be restored to Jewish and other owners, provided they pay a real estate tax at current market values, against which the WJC and the Conference on Jewish Material Claims Against Germany have already protested, casts a shadow on the prospects for restitution in Eastern Europe, since many governments will be looking to see how Germany handles the issue.

The following inadequacies and deficiencies have been noted:<sup>2</sup>

- 1 In most cases, claims cannot be made for the Nazi period, with the governments concerned ready to take responsibility only for the period of Communist rule.
- 2 Even for the Communist period, in many circumstances only people who are still citizens and are resident in the countries concerned can benefit from

<sup>1</sup> *Position Paper: Jewish Restitution and Compensation Claims in Eastern Europe*, February 1992, prepared for the World Jewish Congress Executive Committee meeting in Jerusalem.

<sup>2</sup> Some of these points are derived from the excellent material prepared on the restitution and compensation question by Daniel Lack, a World Jewish Congress Legal Adviser, especially a Memorandum entitled 'Restitution and compensation for property claims and indemnification for personal suffering and injury as a result of Nazi persecution in Eastern European countries', dated 12 April 1992. Mr Lack's permission to use this material is gratefully acknowledged.

the legislation. This takes no account of the fact that Jews who survived Nazi persecution and subsequently emigrated, particularly to Israel, were frequently required to renounce their nationality and property rights as a condition for leaving.

- 3 In effect, therefore, many of the laws in question discriminate against Nazi persecutees.
- 4 With claims for the most part confined to natural persons, restitution of or compensation for communal property which had not already been acquired by the state as 'heirless' are excluded. Indeed, no serious general account is being taken of the question of heirless and unclaimed property (although some communal property has been restituted in certain countries for the limited needs of the surviving communities of those countries).
- 5 Similarly, very little account is taken of property belonging to deceased individuals who have no surviving relatives in the countries concerned.
- 6 Compensation is being linked to 'reprivatization' measures in the form of state bonds entitling privileged rights to purchase shares in denationalized former state properties in the absence of *restitutio in natura*.
- 7 Compensation is mostly inadequate in relation to the losses incurred.
- 8 Periods for filing claims are inadequate and many deadlines have already passed.
- 9 Former nationals residing abroad have not been properly informed of deadlines for filing claims.

### **Overall position remains confusing**

- 1 Legislation in the various countries is proceeding at different speeds. In Poland, for example, the proposed law on restitution and compensation which had been under discussion for some considerable time, was again sent back by a joint parliamentary commission on 17 February 1993, to be considered by a special sub-commission
- 2 Privatization may make it difficult for former owners to reclaim their property, unless their rights are established beforehand.
- 3 Most laws apply only to 'natural persons', not to institutions and organizations.
- 4 Political and economic pressures are further aggravating the complexity of the situation. Referring again to Poland, the country's economic problems were cited as one reason for the delay in dealing with the proposed legislation. Moreover, any law passed may well contribute to the aggravation of social tensions. There are those who say that restitution of private property where this property is now in private hands would be very badly received in Poland and would give rise to a further increase in antisemitic prejudice.

The situation is further confused by the fact that, even within the framework

of current legislation, many individuals have embarked on the process of attempting to reclaim their property or receive compensation. And resourceful individuals with adequate means and access to lawyers specializing in such matters may well be able to negotiate their way through the new regulations and achieve some results. But this will be only a tiny minority.

Jewish communal organizations have been making attempts to recover communal property and in some cases have been successful. Individual local authorities in some countries have, for example, returned synagogues to Jewish communities, but this is often merely a transfer of user and not a formal restitution of property. The transfers are made entirely at municipal discretion and not according to some central directive.

The return of this property, on whatever terms, raises serious problems. First, since it is essentially being done on an uncoordinated and haphazard basis, in somewhat chaotic conditions, the needs of many communities will remain unfulfilled. Second, this may be setting a precedent that property should be returned to religious groups only if it will again be used for functional purposes. As an *IJA Research Report* stated: 'While this may sound reasonable, it is immoral and unfair in regard to the Jewish communities in the countries where Nazi mass murder took place. If Jews no longer exist in a particular place in large enough numbers to use the particular religious property (for instance, a synagogue), it is because they have been murdered. It is obscene for the society which killed the Jews, or helped to kill them, to say: because you Jews are no longer there, we do not return your property to the wider Jewish community.'<sup>3</sup>

### **Urgent action needed**

The confused legislative position in the countries concerned should not be seen as a reason for delay in coming to grips with the problems. On the contrary, since precedents have already been set, there is no doubt that urgent action is needed to ensure that Jewish claims have some serious likelihood of being taken into account. And the precedents being set in Eastern Europe are likely to be very carefully noted by the former states of the USSR and especially the territories incorporated in 1939.

Attempts to influence the legislative process in the countries concerned have, of course, political and other ramifications which are not inconsiderable. However, this is already being done to some degree on an *ad hoc* basis by individuals and organizations. Such efforts are no doubt being made with the best of intentions and with an awareness of the urgency of the matter, but they cannot be as effective as concerted action by the JRO and its constituent bodies.

A number of steps can be taken:

<sup>3</sup> Stephen J. Roth, 'Setting human rights standards in Europe: developments in the Helsinki Process in 1992', *IJA Research Reports*, no. 1, 1992.

- 1 Where there is the equivalent of a process of judicial review, the laws can be challenged. In Hungary, for example, the Constitutional Court could annul the laws, or certain provisions of the laws, on the grounds that they are discriminatory and, as such, unconstitutional. The Hungarian Jewish community has in fact made such representations to the Constitutional Court. Where such procedures exist, Jewish communities should be encouraged to make use of them and be assisted in this by whatever means possible.
- 2 Where local remedies are unobtainable, there is also the possibility of taking the matter to one of the international human rights bodies.
- 3 For Holocaust survivors who are still citizens of the countries concerned, compensation should be demanded from Germany by the government in each case. As has been pointed out elsewhere,<sup>4</sup> there are precedents for this approach dating back to the 1950s and 1960s, and the first agreement between Germany and a former Communist country was reached with Poland in November 1991, although the vast majority of claimants will be non-Jews. However, both the Germans and the Poles see the agreement as 'humanitarian aid' rather than as reparations, and it should not be compared with original reparations agreements. In Hungary, Czechoslovakia, Romania, Bulgaria and the Baltic states most of the claimants would be Jewish.
- 4 Where legislation is still pending, appeals can be made to the governments on the basis of international human rights law. Most of the former Communist states recognize the principles of public international law and human rights law governing the obligation to redress personal and property rights for victims of violations of fundamental human rights. Bulgaria, Hungary and Poland are parties to the European Convention on Human Rights and therefore have clear and demonstrable responsibilities. Other Eastern European countries aspire to the same status and should be expected to act accordingly.<sup>5</sup>
- 5 It remains crucially important to continue monitoring the legislation enacted and under discussion in the countries concerned. An understanding of the complexities and provisions of the laws is necessary both to enable proper use of the laws for the purpose of lodging Jewish claims and in order to make representations concerning the laws' inadequacies. The analysis provided in this paper (for Bulgaria, Czechoslovakia, Hungary and Poland) and the information on the Baltics and the former USSR are intended to facilitate this. More study needs to be made of the laws themselves and of the legislation, such as it is, in the remaining countries where Jewish assets

<sup>4</sup> Saul Kagan, 'Restitution and indemnification in Eastern Europe', Conference on Jewish Material Claims Against Germany, 13 March 1992.

<sup>5</sup> Daniel Lack, Memorandum, 12 April 1992, para. 25.

were seized by Nazi or Communist governments, or where there are Holocaust survivors. Coordination of this monitoring and analysis is essential.

### **The legal position before Communism**

It may be helpful to review some of the background to the current position. Jewish efforts during the Second World War and after to seek recompense for Nazi wrongs were directed not only at Germany but also at the governments of the East European Nazi-occupied states. After liberation, governments introduced restitution legislation; for example: in Romania a provisional law was passed on 19 December 1944; in Hungary an order was adopted on 5 February 1945, followed by a number of decrees and laws in 1945 and 1946; in Bulgaria a decree-law was passed on 24 February 1945. Restitution measures were also introduced in Poland and Czechoslovakia.

But in all of these countries, once the Communists were completely in control, the restitution provisions either became inoperative or difficult to implement. It has been argued with some justification that procedures which existed under the Communist regimes could have been better utilised for reclaiming property—mainly houses and flats, for example, in Poland. However, much of the Jewish property that could theoretically have been retrieved under Communism remained in the hands of its expropriators.

Under the Communist regimes, property in general came under the control of the state and the Jewish communities that were allowed to operate did so only in property that the state decided the communities could use. The loss of Jewish communal property was not opposed by the Jewish leaderships in these countries, and it may have occurred under duress; in some cases the surrendering bodies may not have had any legal right to approve the takeovers.

### **Collapse of Communism brings hope of justice**

The full extent of Jewish property, personal and communal, expropriated by the Nazis throughout Eastern Europe can never be precisely calculated, but even the most conservative estimates run to hundreds of millions of dollars.

The collapse of the Communist regimes opened up the possibility that Jewish claims to this property could finally be given proper consideration.

Finally, it is important to understand that there are two kinds of claims. First, there are claims which are a legacy of what was done to Jewish individuals and communities during the Nazi period. These claims are specific to Jews. Second, there are claims arising out of what was done to everyone, not just to the Jews, during the Communist period.

## EASTERN EUROPE

### BULGARIA

#### **First restitution law**

On 11 December 1991, the Bulgarian Grand National Assembly passed the Shops and Other Premises Restitution Act. This act, which initiated restitution in Bulgaria, covers an estimated 100,000 small shops, workshops and warehouses seized or compulsorily purchased at giveaway prices by the state under a 1975 decree. This 'small restitution' was expected to begin immediately. Under the act, former owners are to refund within a year the purchase price they received but are not required to reimburse the state for any investments made by it. No solution is provided as regards shops and warehouses leased a year or two previously.<sup>1</sup> The act affects a large number of Jews.

#### **Second restitution law**

On 5 February 1992, the Grand National Assembly adopted the second of three bills on restitution introduced by the ruling Union of Democratic Forces (UDF) and approved by the Assembly on its first reading on 22 January 1992. This law applies to property seized by the Communist regime between 1948 and 1990 for the planned development of population centres in violation of the Territorial and Urban Development Act of 1948. The act provided for the expropriation of buildings for special state needs. Under the present act, houses which were not used for the stated purpose, or were not used at all, will revert to their former owners within six months. It is not clear to what extent this act affects Jews.<sup>2</sup>

#### **Third restitution law**

On 5 February 1992, the Grand National Assembly also adopted the third restitution bill which it had approved in principle on its first reading on 29 January 1992. This law repeals the acts under which property was seized by the Communist regime between 1947 and 1952 and provides for its return to its former owners. The acts repealed are those on: Expropriation of Large-Scale Urban House Property; Nationalization of Private Industrial and Mining Enterprises; the State Monopoly on Alcoholic Drinks and Trade in Brandy and Wine; the Book Printing Act; the Film Industry Act and the Act on Food Storage Facilities.<sup>3</sup>

Where the property no longer exists or has been sold, the new act provides

1 BTA in English, 12 December 1991 (BBC, *SWB*, EE/1256, 16 December 1991).

2 BTA in English, 22 January 1992 (BBC, *SWB*, EE/1287, 25 January 1992); BTA in English (BBC, *SWB*, EE/1298, 7 February 1992).

3 BTA in English, 29 January 1992 (BBC, *SWB*, EE/1292, 31 January 1992); BTA in English (BBC, *SWB*, EE/1298, 7 February 1992).

for compensation to former owners within the privatization programme (a law on privatization of state and municipal enterprises was finally adopted by the Grand National Assembly on 23 April 1992).

The law gives to tenants occupying flats subject to restitution a three-year protection period for their leases if they pay rent to the real owners. The act concerns many Jews.

Since the law's promulgation, difficulties and delays have occurred in the restitution of nationalized factories. In an August 1992 interview for the financial newspaper *Pari*, the industry minister, Rumen Bikov explained that the delay occurred because the restitution of factories, which are part of the fixed assets of enterprises, would hamper their activity and in some cases lead to the liquidation of entire industrial branches. Moreover, there was the problem of some former owners being unable to pay for the improvements made to their property.<sup>4</sup>

Under Bulgarian restitution laws foreign citizens may also claim back their property.

#### **Government amendment of the law on foreign ownership of property**

On 9 November 1992 the Council of Ministers cancelled a 1949 regulation on the management of the property of foreign citizens in Bulgaria on the basis that it contradicted the Bulgarian constitution and decrees regulating ownership rights. The 1949 regulation restricted the exercise of the right to ownership by requiring the obligatory appointment of a proxy. In the absence of a proxy, properties were occupied by the state as 'unowned' and the state acquired ownership by prescription under a 1953 decree of the Council of Ministers. Under the present amendment, all unowned property seized by the state under the 1949 regulation and the 1953 decree will be struck off the state property registers.

This applies also to the nationalized property of the Consistory of the Jews in Bulgaria and of the Jewish communities (synagogues, burial grounds, schools and administrative buildings) taken over by the then municipal councils in the 1944-89 period.<sup>5</sup>

#### **Restitution of property to Bulgarian Turks**

A bill providing for the return of property to ethnic Turks who were forced by the assimilation campaign between May and September 1989 into leaving Bulgaria and who have meanwhile returned, was tabled in parliament in early March 1992 by the Movement for Rights and Freedoms (MFR)—a party defending the interests of the ethnic Turks in Bulgaria. Most of their property was sold under pressure. The bill was adopted at the end of July 1992. It

4 BTA in English, 14 August 1992 (BBC, *SWB*, EE/1464, 20 August 1992).

5 BTA in English, 9 November 1992 (BBC, *SWB*, EE/1537, 13 November 1992).

provides for a comprehensive resolution of the problem which had so far been settled piecemeal by statutory instruments. It restores to ethnic Turks ownership of immovable property bought by the state, the municipalities, and public organizations. At the same time the bill provides for compensation to people who bought property now subject to restitution. They are to receive from the state property of equal value if, at the time they bought the property in 1989, they were on the waiting list for housing as urgent cases and if they acquired the property without taking undue advantage of their positions or membership in the Communist Party.<sup>6</sup>

### **Law on Cooperatives**

A 1991 Law on Cooperatives stipulates that existing and re-established cooperatives may claim property which was nationalized. Under this law, the Shalom Organization of Jews in Bulgaria succeeded in re-establishing the Geula Bank cooperative and is claiming back its property. A bill on the Amendment of the Cooperative Act, which was debated in parliament on 27 February 1992, gave state-owned and municipal companies six more months to return the property to the cooperatives nationalized by the communist regime.<sup>7</sup>

### **Land reprivatization act**

The Law on Ownership and Usage of Farmland adopted by the Grand National Assembly on 22 February 1991 is of marginal interest to the Jews. Passed by the Assembly then still dominated by the Communists, the act was hailed as a major step towards restoration of private ownership in Bulgaria but proved to be a major disappointment.

The law provided for the return of land incorporated into collective farms as a result of nationalization or collectivization, or expropriated by state farms to former owners or their heirs. It did not provide for the return of the original plot but of a similar piece of land and to a maximum of 20-30 hectares depending on the region.

As a result of this and other restrictions in the otherwise legally extremely confusing and flawed law, the complicated administrative procedure, the difficulties encountered in proving ownership and the resistance of the managers of farming cooperatives, practically no land was returned to the rightful owners. The land continued to remain under the control of the *nomenklatura* of collective and state farms (mostly members of the former Communist Party and the Bulgarian Agrarian People's Union), and it became clear that to achieve its objective the law would have to be amended.

6 BTA in English, 6 March (BBC, *SWB*, EE/1326, 11 March 1992); Radio Free Europe/Radio Liberty (RFE/RL) *Research Report*, vol. 1, no. 13, 27 March 1992; BTA in English 16 July (BBC, *SWB*, EE/1441, 24 July 1992); BTA in English 31 July (BBC, *SWB*, EE/1451, 5 August 1992).

7 BTA in English, 27 February 1992 (BBC, *SWB*, EE/1322, 6 March 1992).

After the October 1991 elections the UDF-led government introduced amendments (the Act on Restoring Ownership of Nationalized Land and Agricultural Property) to the land act. The amendments were passed, after more than three months of heated debates, by the Grand National Assembly on 20 March 1992 against strong opposition by BSP (former Communists) deputies.

### **The amended land act**

This act:

- 1 provides for the liquidation of all cooperatives (i.e. not only the Communist labour cooperative farms and the agro-industrial complexes, but also the newly-formed ones);
- 2 prescribes the appointment of liquidation councils. The liquidation councils are to take over the management of former cooperatives until the land is restituted to its former owners and cooperative property distributed among them;<sup>8</sup>
- 3 provides for the restoration to former owners of land within its original boundaries, though it does not guarantee that all the land owned before 1944 will be returned; where this is not possible, a plot of land of the same size will be given in the same village or region; in cases where land cannot be returned, compensation may be given as an exception;
- 4 retains restrictions on foreigners, who may acquire farmland in Bulgaria only through inheritance, but must sell it within three years to Bulgarian citizens, firms, the state, or municipal authorities;
- 5 avoids any mention of Bulgarian citizens residing abroad (the 1991 law effectively barred Bulgarian expatriates from owning land by putting them in the same category as foreigners);
- 6 obliges people who were granted land for personal use by ministerial decree after 1973 to give it back.<sup>9</sup>

The 4 March 1992 deadline set in the 1991 law for submitting claims was extended by parliament on 27 February 1992 until 3 June 1992, and on 3 June until 4 August 1992.<sup>10</sup>

By the deadline of 4 August 1992 a total of 1,705,731 out of the estimated 2 million former owners had submitted applications for the restitution of 5,569,604 hectares out of the 4.69 million hectares of arable land subject to restitution under the Land Act; 91.1 per cent of all applications were submitted by town dwellers of whom only 0.6 per cent were expatriates, who claim

8 Bulgarian Radio, Sofia, 3 April 1992 (BBC, *SWB*, EE/1350, 8 April 1992); *Gazeta Wyborcza* (Warsaw), 7 April 1992.

9 For more on the law, see Rada Nikolaev, 'Bulgarian Farmland Law seeks to hasten privatization', *RFE/RL Research Report*, vol. 1, no. 21, 22 May 1992.

10 BTA in English, 27 February 1992 (BBC, *SWB*, EE/1322, 6 March 1992), and Bulgarian Radio, Sofia, 3 June (BBC, *SWB*, EE/1405, 12 June 1992).

restitution of 35,720 hectares of land. 2.4 per cent of applications were filed by schools, churches, mosques etc.<sup>11</sup>

Following the adoption of the law the BSP unsuccessfully demanded that President Zhelyu Zhelev veto it. The law was published on 3 April 1992 and took effect on 3 May 1992.

An executive decree on restoring, in accordance with the procedure and conditions laid down in the law, ownership of nationalized land and agricultural property, was adopted by the government on 9 April 1992.<sup>12</sup>

The issue of restoration of land ownership continues to cause conflicts and sharp nationwide protests have been reported against the liquidation councils which the Ministry of the Interior described as 'organized sabotage'.

### **Restoration of property rights to those convicted by People's Courts**

On 24 January 1992, a group of UDF deputies submitted a controversial bill concerning parliamentarians and ministers of the period 1 January 1941 to 9 September 1944 who were convicted under the 1944 People's Court Statutory Ordinance. The ordinance established the People's Courts before which those responsible for involving Bulgaria in the war against the Allied Powers and related crimes were tried and convicted in 1944-45. According to the Bulgarian Encyclopaedia, 2,730 people were sentenced to death by the People's Courts.<sup>13</sup>

The bill voids that ordinance and provides for the restoration of property rights to those convicted and their heirs. The proponents of the bill argue that the People's Court Statutory Ordinance was not based on Bulgaria's international obligations and was adopted before the 1944 armistice agreement between Bulgaria and the Allied Powers, and that these individuals were tried in contravention of the then operative Turnovo Constitution.<sup>14</sup> According to that Constitution, they could not have been held liable for actions committed in the performance of their duties. The sponsors of the bill stress that ministers could have been brought to trial only by a decision of the National Assembly, that all death sentences were tantamount to extrajudicial killing and that innocent people became victims.

The bill is strongly opposed by BSP deputies on grounds that, if adopted, it would justify Bulgaria's involvement in the Second World War on the side of Nazi Germany and that Bulgaria would become the first country to exonerate politically, legally and morally, war criminals who were tried in accordance with the principles of the Nuremberg Tribunal. They argue that as regards innocent

11 BTA in English, 19 May 1992 (BBC, *SWB*, EE/1388, 23 May 1992); BTA in English, 14 August 1992 (BBC, *SWB*, EE/1464, 20 August 1992).

12 Bulgarian Radio, Sofia, 9 April 1992 (BBC, *SWB*, EE/1355, 14 April 1992).

13 At a gathering held in Sofia on 31 January 1992 to commemorate the 2 February 1945 mass execution of Bulgaria's political elite, Professor Georgi Markov estimated the total number of victims of the central and local people's courts at 20,000 (RFE/RL *Research Report*, vol. 1, no. 7, 14 February 1992).

14 The Turnovo Constitution was in force since the abolition of the Turkish rule in Bulgaria in 1879 until the adoption of the Communist constitution on 6 December 1947.

victims, the revision of such cases does not require a law but ordinary court procedure. A blanket abolition by law of these verdicts would mean rehabilitation of people responsible for the 23 January 1941 Law for the Defence of the Nation (LDN), as a consequence of which 11,000 Jews from Thrace and Macedonia were deported (in 1943) by the occupying Bulgarian administration to and annihilated in the Treblinka extermination camp.<sup>15</sup>

The BSP implies that apart from ideological reasons there might also be material motives for this revision of history:

The present Bulgarian government is busily restituting property to its owners of the period 1946-1948. This should be done in order to restore historical justice. The problem is that nobody can guarantee now that the property being restituted does not include the property which belonged to the deported Jews and to the Jews in Bulgaria proper which was confiscated from them in 1942 as a result of the [LDN] law.<sup>16</sup>

A letter of protest by the Shalom Organization of Jews in Bulgaria published in the press on 24 January says: 'Some of the sentences might be called into question, but it is beyond any doubt that crimes against the Bulgarian people weighed on the conscience of most of those convicted.'<sup>17</sup>

The European Parliament alerted international public opinion to the bill in a resolution of 9 April 1992. The resolution expresses the parliament's 'concern at the drafting of a bill in Bulgaria which, if approved, would amount to a *de facto* amnesty for war crimes and crimes against humanity . . . ' and calls on the 'Bulgarian authorities to withdraw this bill.'<sup>18</sup>

A BTA report claimed the resolution had been submitted by three Communists from Greece, France and Spain,<sup>19</sup> while some UDF deputies accused the BSP of betraying Bulgaria's national interest by having inspired the resolution. While rejecting this accusation,<sup>20</sup> the BSP Supreme Council issued a special declaration in support of the 9 April European Parliament resolution which denounced the bill.<sup>21</sup>

### *Reaction of the Bulgarian government*

The Bulgarian government, which was soon to begin negotiations with the European Community on an association agreement, reacted to the European Parliament's resolution with a lengthy explanation on 14 April 1992, which justifies the action over the People's Courts.

15 Under German pressure Bulgaria agreed on 20 February 1943 to the deportation of 20,000 Jews from the annexed parts of Thrace and Macedonia. There were only 10-12,000 Jews in these two provinces, none of them Bulgarian citizens.

16 BTA in English, 24 January 1992 (BBC, *SWB*, EE/1290, 29 January 1992); Letter of BSP Deputy Filip Bokov, *Guardian*, 18 May 1992.

17 BTA in English, 24 January 1992 (BBC, *SWB*, EE/1290, 29 January 1992).

18 *This Week: European Parliament*, 6-10 April 1992.

19 BTA in English, 14 April 1992 (BBC, *SWB*, EE/1358, 17 April 1992).

20 BTA in English, 15 April (*SWB*, EE/1358, 17 April 1992).

21 BTA in English 19 April 1992 (BBC, *SWB*, EE/1361, 22 April 1992).

While emphasizing that the bill entitled 'For Declaring Invalid the Legal Act on the Trial of the Culprits Responsible for Involving Bulgaria in the Second World War and of All Evils Stemming from the War' was submitted by a group of deputies from the Bulgarian National Assembly, the explanation states:

We are puzzled by the fact that the Bulgarian government authorities are being asked to withdraw a bill that was not submitted by the government . . . The government has not expressed any view and does not intend to express an opinion on a bill that has so far not been discussed in the parliamentary commissions.

In the view of those who submitted the bill, its purpose is to annul an act that is in contradiction with the Constitution and legislation valid at the time of its adoption. It was an act with which the Bulgarian Communist Party, having seized power under circumstances of foreign occupation, was trying to suppress its political opponents by physically destroying them or depriving them of their freedom.

Among those affected by the aforementioned law were numerous distinguished Bulgarian public figures who, during the . . . Second World War, declared themselves against the anti-democratic, antisemitic, and anti-constitutional acts of certain Bulgarian statesmen ruling at that time.

The Bulgarian government is firmly defending the stands of democracy and resolutely rejects Fascist, racist, and all other totalitarian doctrines. It has no intention whatsoever of excusing or rehabilitating those who committed acts which, according to the norms of International Law and in accordance with Bulgarian legislation, constituted and still constitute crimes against peace and humanity.

Moreover, there are no individuals currently serving sentences for such crimes in Bulgaria.

All this convinces us that the resolution of the European Parliament of 9 April relating to Bulgaria was adopted on the basis of incomplete and inaccurate information.

The Bulgarian government resolutely rejects as unjustified the opinion expressed in the resolution and is convinced that the questions raised in the resolution should be discussed after a thorough examination of the existing facts and data, in which the government is ready to render full assistance to the European Parliament.<sup>22</sup>

Though the bill on the People's Courts has not yet been adopted, on 30 April 1992 the Supreme Court repealed the sentence passed in 1952 against a banker and politician in pre-Communist Bulgaria who died in prison in 1954. The rehabilitation opens the way for his heirs to seek restitution of his property.<sup>23</sup>

On 2 February 1993, on the occasion of the forty-eighth anniversary of the mass executions, the UDF issued a declaration insisting that the law on the People's Court be finally rescinded.

### **Restitution of property confiscated from convicted persons**

On 9 November 1992 the Council of Ministers approved a bill amending the Act on the Restitution of Nationalized Immovable Property. The bill provides for the restoration of ownership rights over all immovable property confiscated under sentences issued on the basis of laws and decrees adopted from 9 September 1944

22 Bulgarian radio, Sofia, 14 April 1992 (BBC, SWB, EE/1358, 17 April 1992).

23 RFE/RL *Research Report*, vol. 1, no. 20, 15 May 1992.

to 5 December 1947 (the first years of Communist rule in Bulgaria) and voids decrees issued by the regents, the ministers and the Presidium of the Grand National Assembly from 9 September 1944 to 1962 under which the property of Bulgarian citizens was confiscated in favour of the *state or municipalities*.

On 14 December 1992 the government approved a bill providing for the restoration of property confiscated from convicted persons and acquired by *individuals*. Such property can be restituted if acquired in contravention of the laws effective at the time of acquisition by individuals who took advantage of their party or official position or abused their authority. In these cases, restitution will be effected by a court procedure. Where the confiscated property was taken over by the state as a result of the owner having been deprived of Bulgarian citizenship, restitution is envisaged only if the person concerned restores his/her Bulgarian citizenship.<sup>24</sup>

### **The Jewish aspect**

There have been no moves on the issue of compensation for personal suffering inflicted on the Jews under racial legislation enacted by the Bulgarian authorities during the war.

Official persecution of the Jews began with the above mentioned Law for the Defence of the Nation (LDN) of 23 January 1941, which was modelled on Nazi Germany's Nuremberg laws. Under the LDN all Jews between 18 and 40 were enlisted in special Jewish labour units attached to the War Ministry. In August 1941 Jewish labour units were incorporated into the Ministry of Public Works, where they were subjected to forced labour rules. Recruitment in the Jewish labour groups lasted until September 1944. Under the LDN the exercise of liberal professions was allowed only to a small proportion of Jews in the total population of the country. Within a 30-day limit Jews had to declare all their movable and immovable properties and were not allowed to own or direct schools, theatres, cinemas, or publishing houses. Under an 11 July 1941 law Jewish properties worth between 200,000 and 3,000,000 Levas were so heavily taxed that Jewish property owners had to sell them at give-away prices.

The antisemitic measures resulting from the LDN were strengthened in 1942 when new restrictions were adopted. Jewish pharmacies were confiscated and, eventually, Jews were forbidden to own any kind of enterprise.

The Bulgarians confiscated all property of the 11,384 Thracian and Macedonian Jews deported in March 1943 to Treblinka (then estimated at \$257,000).

As regards Jews in Bulgaria proper, Bulgaria successfully resisted German pressure for their deportation to extermination camps in the 'Eastern German provinces', i.e. Poland. Twenty thousand Jews were, however, temporarily

24 BTA in English, 9 November 1992 (BBC, SWB, EE/1537, 13 November 1992) and BTA in English, 14 December 1992 (BBC, SWB, EE/1565, 16 December 1992).

expelled from Sofia to the countryside and their properties and belongings sold at public auctions.

The last two Bulgarian governments before the Communist takeover on 9 September 1944 restored in part Jewish properties and abolished all anti-Jewish measures.

The Communists decided that Jews should be compensated for their losses. Compensation was based on the very low estimates of the properties, made at the time they had been confiscated by the anti-Jewish regime.

In March 1945 a law on restitution of property was adopted which came into force in November 1946. Where restitution was not possible due to destruction, compensation of up to 50,000 levas (then \$100) was given, and the balance was to be paid in bonds over the period of six years. Jews who did not return to Bulgaria by March 1946 forfeited all rights to compensation. In March 1946 the government announced that confiscated Jewish houses used by the government would be returned to their rightful owners. The post-war nationalization of private business affected Jews who had been ousted from the economy by fascist expropriation.

In 1949 Jewish schools were closed down under the Law on Religious Denominations of 1 March 1949. The law denied religious denominations the right to engage in secular education and to establish hospitals, orphanages and similar institutions, and provided for the takeover by the state of the property of existing institutions of that kind, the owners receiving fair indemnity. Later, all but three synagogues were closed down and transformed into museums. In early 1950 books of a national Jewish character were removed from Jewish libraries and the libraries transformed into general public libraries.

The Bulgarian Orthodox church began in 1992 to take possession of some of its property which had been confiscated by the Communists.

## CZECHOSLOVAKIA

### First Restitution Law

The first Restitution Law, which affects a small proportion of nationalized property, was adopted by the Federal Assembly on 2 October 1990. The law abolishes Act 71 of 1959, which regulated the expropriation of some 70,000 apartment houses, restaurants, small shops, workshops, and other small businesses between 1955 and 1961 and provides for their return to their former owners allowing six months for the submission of claims. Public auctioning is envisaged for property to which no claims are made by former owners.

As regards Czechs and Slovaks resident abroad, the law lays down that they may file claims, provided they have not received compensation under inter-governmental agreements.<sup>25</sup>

<sup>25</sup> *Independent*, 3 October 1990.

The first Restitution Law was followed by the 'small' Privatization Law which was passed by the Federal Assembly on 25 October 1990 and came into force in February 1991. Under this law, those state-owned smaller businesses which are not subject to restitution can be auctioned off to private bidders.<sup>26</sup>

Under the first Restitution Law 30,000 businesses have been returned to their former owners.

### **Second Restitution Law**

The Second Restitution Law—Law No. 87 on Extrajudicial Rehabilitation—was passed by the Federal Assembly on 21 February 1991 and came into effect on 1 April 1991. It provides for the return of most state-owned enterprises and businesses. It is the result of a compromise reached between the government and parliament on a number of contentious issues. These included the starting date for restitution entitlement; the status of Czechoslovaks residing abroad; the form of restitution, i.e. restitution in kind versus financial compensation; the question of expropriated assets of political parties and churches (which some deputies thought should be covered by the law); and the question of property confiscated from ethnic Germans and Hungarians after the Second World War.

As finally approved by the assembly, the Law on Extrajudicial Rehabilitation applies to property confiscated between 25 February 1948 (the Communist takeover of power) and 1 January 1990. Thus it does not extend to Czechoslovak citizens, the majority being Jews, whose property was confiscated during the war, nor to those Sudeten Germans and Hungarians who were expelled and whose property was seized under the May 1945 expulsion and expropriation laws. Properties taken over by the Czechoslovak state under decrees before 1948 are subject to restitution only in cases where the nationalization was illegally carried out after 25 February 1948.

The law applies only to individuals. The government pledged earlier that the issue of restitution of expropriated assets of churches and religious communities would be the subject of a separate law, as would that of political parties.

It requires Czechoslovak emigrants to return to reside permanently in Czechoslovakia and assume Czechoslovak citizenship in order to qualify for restitution.

It envisages restitution in kind. Former owners are required to pay for improvements made to their property by the state; if they choose not to pay, they may receive compensation in cash or vouchers exchangeable for shares in privatized companies. Tenants in apartment houses to be returned to their former owners enjoy a ten-year period of protection of their leases. There is also a provision that, where a confiscated property illegally in the possession of a private individual was transferred to another individual, that individual too must

26 Jan Orbach, 'Two Landmark Bills on Privatization Approved', *Radio Free Europe/Radio Liberty Research Report on Eastern Europe*, vol. 2, no. 11, 15 March 1991.

return it to the original owner.<sup>27</sup>

The law gave former owners and their heirs until the end of October 1991 to file claims.

The above law was followed by the 'large' privatization law adopted by the Federal Assembly on 27 February 1991. It regulates the privatization of some 3,000 large state-owned enterprises, banks, insurance companies and other state-owned businesses, explicitly excluding from privatization property affected by the restitution law and church property.<sup>28</sup>

Restitution of large enterprises nationalized after February 1945 is to be dealt with within the framework of further privatization: it is envisaged that former owners or their heirs will receive compensation in the form of shares or investment coupons rather than restitution in kind.

### **Land restitution law**

The Law on the Revision of Ownership Relations to Land and Other Agricultural Property of 21 May 1991 contains a provision regarding former owners residing abroad similar to that in the Law on Extrajudicial Rehabilitation and applies to land (and property on it) nationalized between 25 February 1948 and 1 January 1990. Under this law, former owners and their heirs may reclaim not more than 150 hectares (370 acres) of agricultural land or not more than 250 hectares of land in general (the latter restriction was lifted by the Federal Assembly on 18 February 1992). The law explicitly forbids foreign ownership of land. Former owners were given until 31 December 1992 to file claims.

By the end of July 1992 about 170,000 claims for farm property restitution had been filed, of which 15,000 had been cleared. Two hundred thousand more claims were expected to be registered by the end of the year.<sup>29</sup>

### **Amendments to the restitution laws**

A bill to amend the Extrajudicial Rehabilitation Law was put forward by a group of deputies soon after the law's adoption. The bill sought to regulate some issues which the restitution laws failed to address, and to expand the range of persons entitled to restitution, by including Czechoslovak expatriates residing permanently abroad, and participants in commercial companies composed exclusively of natural persons (e.g. restitution of small businesses owned by married couples who were registered as a legal person). It also sought increased restitution to people who were in forced labour camps; restitution in cases where ownership was transferred to legal persons other than the state; restitution of or the possibility of buying movable assets or fixtures in workshops, and financial compensation in the form of bonds-coupons for

27 Prague Home Service, 19 February 1991 (BBC, *SWB*, EE/1002, 21 February 1991).

28 Jan Orbach, 'Two Landmark Bills'.

29 Statement by Czech deputy premier and agriculture minister, Josef Lux, CSTK in English, 31 July 1992 (BBC, *SWB*, EE/1449, 3 August 1992).

nationalized movable assets (e.g. buses in case of transport companies).<sup>30</sup>

The government, though not over-enthusiastic, accepted that a more exact categorization and increased compensation to people who were in forced labour camps, and restitution of small businesses to married couples where they had been registered as a legal person, were justified. But it opposed the restoration of property to those who did not intend to come back to Czechoslovakia and did not have Czechoslovak citizenship.

Passage of the bill was prevented by a block of MPs belonging to the Civic Movement, the left-wing faction of Civic Forum, at the 17th session of the Federal Assembly in September 1991. Federal Premier Marian Calfa then announced his government's intention to present to parliament a short bill on the two sets of problems to which it had agreed.

### *The issue of Czechoslovak expatriates*

As regards the property of Czechoslovak expatriates, Premier Calfa promised the government would work out the issue 'into a self-standing legal norm' and find a legal procedure to allow for compensation for such property different from the one applicable with regard to people living in Czechoslovakia.<sup>31</sup>

A deputies' bill on Czechoslovak exiles in the period 1948-89 was discussed by the Federal cabinet on 16 January 1992. The bill sought to extend restitution entitlements to those who no longer had Czechoslovak citizenship and permanent residence on CSFR territory, with some restrictions. It proposed that only the original owners, not their descendants or relatives, would be eligible for restitution of property, with the exception of land, and envisaged compensation by bonds alone. The government decided to take a final decision on the matter only after all the ramifications of such compensation regarding the state budget had been evaluated.<sup>32</sup>

### *Compensation for forced labour*

On 29 April 1992 the Federal Assembly approved an amendment to the Law on Extrajudicial Rehabilitation which seeks to redress at least partially 'injustices suffered by citizens who during their obligatory military service and special military exercises between 1948-54 were branded as politically unreliable and put into forced labour camps'. The amendment provides for a contribution of Kcs 15 to be added to the pension of such citizens for every month they had spent in the camps. Widows, children or parents of those who died in the camps will receive a one-off payment of Kcs 100,000.<sup>33</sup>

30 Czechoslovak Television, 5 September 1991 (BBC, *SWB*, EE/1176, 13 September 1991) and Czechoslovak TV, 27 September 1991 (BBC, *SWB*, EE/1190, 30 September 1991).

31 Interview with Federal Premier Marian Calfa on Czechoslovak Television, 27 September 1991 (BBC, *SWB*, EE/1190, 30 September 1991).

32 Radio Czechoslovakia, 16 January 1992 (BBC, *SWB*, EE/1284, 22 January 1992).

33 CSTK in English, 30 April 1992 (BBC, *SWB*, EE/1371, 4 May 1992); Radio Czechoslovakia, 16 May 1992 (BBC, *SWB*, EE/1386, 21 May 1992).

On 6 May 1992 the Slovak National Council approved an amendment 'which mitigates injustices committed against those who were taken to labour and concentration camps on the territory of the USSR . . . in the period between 1946-53. The amendment also applies to those forcefully removed from their residence in the 1948-52 period.'<sup>34</sup>

#### *Restitution of property to ethnic Germans*

On 15 April 1992 the Czech National Council (parliament of the Czech Republic) approved an amendment to the restitution law concerning people unjustly expropriated under the presidential decree of 19 May 1945 regarding confiscation of property belonging to Germans, Hungarians, traitors and collaborators, and of enemy assets.

The amendment aims at redressing property wrongs suffered under the 1945 presidential decree by Czechoslovak citizens of German origin, who had not collaborated with the Nazis, whose Czechoslovak citizenship was restored in 1953 and who live in Czechoslovakia. It applies to an estimated 25,000 people (47,789 ethnic Germans live in Bohemia and Moravia, 5,629 in Slovakia). The amendment does not apply to the 2,700,000 Sudeten Germans who were expelled after the war.

The amendment makes it possible to return property confiscated before February 1948. In this case it was argued that restitution of property would not go beyond the 25 February 1948 starting date because the injustice occurred in 1953, when confiscated property was not returned to these people, even though they had been cleared of the charge of collaboration and their Czechoslovak citizenship was restored to them at that time.<sup>35</sup>

#### **Restitution of Jewish property**

As the Czechoslovak restitution laws apply only to assets expropriated by the Communists after 25 February 1948, all the originally Jewish property which had been confiscated after September 1938 and in the majority of cases was not returned after the war to the original owners or their heirs or legal representatives, has practically been excluded from restitution. This affects property confiscated by the Nazis from Jews expelled from the Sudetenland after its incorporation into the Third Reich; and Jewish property confiscated under a long list of anti-Jewish measures enacted in the Slovak state and under the Reich Protector Von Neurath's 21 June 1939 decree and other anti-Jewish legislation enacted in the Protectorate of Bohemia and Moravia.<sup>36</sup>

34 Slovak Radio, 6 May 1992 (BBC, SWB, EE/1375, 8 May 1992).

35 Interview with Czech Premier Petr Pithard, Czech Radio, Prague, 21 April 1992 (BBC, SWB, EE/1363, 24 April 1992).

36 The total value of Jewish assets expropriated by the Germans in the Protectorate alone has been estimated as at least half a billion dollars. See Livia Rothkirchen, 'The Jews of Bohemia and Moravia: 1938-1945', in Avigdor Dagan (ed.), *The Jews of Czechoslovakia*, vol. III, 28.

Under these measures Jewish immovable property was transferred into the hands of 'Aryans', Jewish valuables were forcibly deposited, Jewish savings had to be paid into frozen bank accounts etc. A large proportion of the appropriated Jewish assets had been left behind by the 277,000 Czechoslovak Holocaust victims (the tens of thousands deported to Nazi concentration camps in 1942 and 1944 from Slovakia, one of the two Nazi puppet states to accede voluntarily to the deportation of their Jews, and the 78,154 Holocaust victims from the Nazi protectorate of Bohemia and Moravia).

The validity of Nazi racial legislation enacted in Czechoslovakia was denied by the Czechoslovak government-in-exile in its proclamation of 17 August 1941 and through its accession to the 5 January 1943 London declaration of 17 governments on Nazi atrocities. Also the political leadership of the Slovak anti-fascist uprising (August-October 1944) abolished all laws of the Nazi-satellite Slovak state, including the anti-Jewish legislation.

After the end of the war two laws regarding restitution of property confiscated during the war were issued in Czechoslovakia—presidential decree no. 5 of 1945 which abolished Aryanization and provided for the restitution of Aryanized property and Law no. 128 of 16 May 1946, which stipulated that:

Any property transfer irrespective of whether it is movable or immovable, public or private, is considered invalid if it was implemented after October 29, 1938 under the pressure of the occupation of Czechoslovakia or any kind of national, racial or political persecution. The right to property belongs to those who, according to Law No. 128/1946 Col., lost those rights through invalid legal proceedings or to their legal heirs. Only in cases where rights to property are being claimed by persons considered untrustworthy under Czechoslovak law does the property belong to the State as a confiscate, according to the presidential decree of October 25, 1945, Law No. 108.

Under the restitution laws all such property was to be returned to the rightful owners within a period of three years. While a small proportion of Jewish property was retrieved by former owners, the restitution laws remained largely on paper. Restitution was particularly modest in Slovakia despite the great efforts invested by Jewish organizations—the Association of the Racially Persecuted (SRP), the Central Union of the Jewish Religious Communities in Slovakia (USZNO) as well as the World Jewish Congress which intervened against the appropriation of heirless Jewish property. This was due to a number of reasons. In their struggle against Czech domination the Slovaks were reluctant to implement laws passed in Prague by a parliament other than their own legislature—the Slovak National Council. Moreover, opposition to restitution on the part of the population was greater than in the Czech lands and pressure exerted by war profiteers and Aryanizers also played a part in slowing restitution down. In effect, local bodies in charge of implementing the laws on restitution boycotted or circumvented them or employed delaying tactics. Jewish shops and enterprises were placed under a 'national management' and Jewish

owners encountered enormous difficulties in having them transferred to them. As for Jewish landed property, which had been confiscated and distributed among the peasants during the war in the Slovak state as well as in Southern Slovakia, which was incorporated into Hungary under the 'Viennese Award' of 2 November 1938, the tiny proportion of it that *was* returned to Holocaust survivors after the war was soon taken away again under the pretext that it was Magyar property when the Czechoslovak state carried out its land reform. When later restitution Law no. 128/1946 also provided for the return of landed property, deputies of the Slovak Democratic Party and the Communists sought to amend the law to exclude from restitution farms of thirteen hectares and less. The Jews were to be paid a token indemnity.<sup>37</sup>

The extremely slow restitution process in Czechoslovakia was overtaken by the Communist seizure of power. Under the Communist regime restitution was phased out and by 1950 stopped completely.

An appeal by a Czech Jew draws attention to the fact that the rights of the original owners who survived the concentration camps or returned from forced emigration were often decided by courts only after February 1948 (when the Communist regime took power). For these proceedings a special certificate of nationality was required. These certificates of trustworthiness were extremely difficult to obtain for Jewish citizens who did not claim Czech or Slovak nationality before the war. Post-February 1948 courts then dismissed most of the property claims for two basic reasons: (1) Persecution of claimants was not regarded as proof of their trustworthiness; (2) Law No. 79/1948 Col. of April 7, 1948, an amendment to Law 128/1946 Col., instituted the rule by which any restitution could be denied if denial was in the public (state) interest. Most claims were denied under this pretext.

In addition, even under current Czechoslovak law, any case which has not been appealed within three years is considered to be conclusively decided. Although the recent restitution laws recognized the invalidity of many post-February 1948 laws, they have failed to remove this simple procedural obstacle.<sup>38</sup>

Thus, as the Federation of Jewish Communities in Czechoslovakia points out in a letter sent to the Federal Assembly before the Law on Extrajudicial Rehabilitation was finally adopted, as a result of the law addressing only property wrongs committed by the Communists after 25 February 1948:

a situation might occur, particularly in the Slovak Republic, in which Aryanized Jewish property would paradoxically be returned to its Aryanizers . . . We are fully aware that the

37 Publication of the Parliament, no. 753, 7 July 1947, Proposal of the Deputy Martin Kvetko and colleagues; Publication of the Parliament, no. 856, 27 October 1947, Proposal of the Deputy Michal Faltan and colleagues, *Tribuna*, 21 November 1947.

38 'Czechoslovak Federal Parliament Discriminates Against Property Claims by Czechoslovak Jews', an appeal by Michal Klepetar, Prague, to the President, the Prime Minister, Deputy Prime-Minister, the Minister of Foreign Affairs and Attorney General of the CSFR, the Prime Minister of the Czech Republic, and the Chair of the Czech National Assembly.

extent of the law now being discussed will depend on further enactments, particularly in defining which persons will be entitled, since most of the heirs of Jewish property now live abroad. But even if this law only pertains to the tiniest part of the unjustly requisitioned property, it still should be solved as a matter of principle.<sup>39</sup>

This appeal was, however, ignored and the failure of the Czechoslovak restitution laws to make provision for the return of property to the Jews and other resident Czechoslovak citizens whose assets were confiscated from them or their ancestors by the Nazis on racial or political grounds

enables state enterprises and others holding this property, including privatization committees, to regard these Aryanized properties as confiscations of German or Hungarian property, without acknowledging them as thefts from Czechoslovak citizens. The properties thus remain in the hands of the State organs, or—as an allegedly State-owned property—are sold at auctions. The State is thus effectively appropriating property in contravention of Law No. 128/1946.<sup>40</sup>

### **Restitution of property to churches and other religious communities**

Under the new Law on Freedom of Religion and the Churches adopted by the Federal Assembly on 4 July and effective since 1 September 1991, registered churches and religious communities are recognized as legal entities and permitted to own real estate and other property. The law's underlying philosophy is rejection of separation of church and state. Thus the law requires churches and other religious communities to register with state organs but at the same time provides for the state's financing of the activities of properly registered churches. At the time the law was adopted, the federal government reiterated its pledge, first made in July 1990 in Premier Calfa's federal government programme, that legislation would be prepared on the restitution to churches and religious communities of their former property.

### **Restitution of church property and state financial support for the churches**

Following the overthrow of Communist rule, restitution of property to and state financial support for the churches and religious communities became their main concern and the key issue in state-church relations. When decree no. 218 of October 1949 which governed church and religious activities was replaced by decree no. 16/1990 of 23 January 1990, many limitations on church economic activities were removed. The principle that the state pays the salaries of clergymen of acknowledged churches was, however, retained.<sup>41</sup> The 4 July 1991 Law on Freedom of Religion as mentioned above provides for the financing of the activities of registered churches by the state. Economic support for these activities is implemented directly through state subsidies and indirectly through tax rebates and duties exemptions. Direct subsidies for salaries as well as

39 The letter dated 15 January 1991 is quoted from *ibid.*

40 'Czechoslovak Federal Parliament Discriminates'.

41 CTK in English, 23 January 1990 (BBC, *SWB*, EE/0672, 26 January 1990).

religious and social activities amounted to Kcs 150,000,000 and Kcs 559,000,000 in 1990 and 1991 respectively.<sup>42</sup>

A new plan for financing the churches and other religious communities has been in preparation since mid-1991 but, as Federal Deputy Premier Jozef Miklosko observed, 'it can be completed only after the problem of restitution [of church property] is settled.'<sup>43</sup> The issue of economic relations between the state and the churches was the subject of talks between the federal and republican governments and the Catholic Church and the Ecumenical Council of Churches in 1991-92. On 3 November 1992, the Federal Assembly passed a government bill amending the 1949 law on financing churches and religious communities by the state. The amendment's aim was to remove differences between churches and religious communities arising in the application of the law. The amendment entitles all registered churches and religious communities to financial coverage of their clergymen's salaries by the state if they apply for it.<sup>44</sup>

As regards Jewish communal property, a law on adjustments to certain property relationships between the Federation of Jewish Communities in the Czech Republic and the Union of Jewish Religious Communities in the Slovak Republic was approved by the Czech government on 18 March 1992.<sup>45</sup>

It is expected that recovery by the churches and religious communities of their buildings and land confiscated by the Communists will in the long run enable them to finance their activities. For the foreseeable future, however, they are dependent on state assistance. A statement by Finance Minister Vaclav Klaus seems to indicate that the government would be prepared to restore all property to all churches and religious communities, provided they accept financial autonomy.<sup>46</sup>

Restitution of property to the Catholic Church has been in progress since 1990. In accordance with Law No 298/90 of 19 July 1990 and amendments adopted in 1990 and 1991, 268 monasteries were returned (in the 1950s 914 monasteries and convents were closed down).<sup>47</sup>

As regards restitution of land to churches and religious communities, the Federal Assembly decided in May 1991 that the issue should be addressed in separate legislation.

A draft law that would have opened the way for a third round of restitution of church property was prepared in June 1991 by sixty-eight deputies from various parties. The draft law provided for the restoration to *all* churches and

42 Peter Martin, 'The new Law on Freedom of Religion and the churches', *RFE/RF Report on Eastern Europe*, vol. 2, no. 36, 6 September 1991.

43 AP, 19 July 1991.

44 Peter Martin, 'The New Law on Freedom of Religion'; CSTK in English, 3 November 1992 (BBC, *SWB*, EE/1532, 7 November 1992).

45 Radio Czechoslovakia, 18 May 1992 (BBC, *SWB*, EE/1335, 21 March 1992).

46 *Die Welt*, 6 August 1991.

47 Peter Martin, 'The New Law on Freedom of Religion'.

religious communities existing in the country at the time of *all* property confiscated by the Communists after 25 February 1948. The Federal Assembly refused to discuss it.

Some churches and religious communities questioned as undemocratic restricting restitution to property confiscated after 25 February 1948 and proposed that a new draft law issued in March 1992 by sixty-one deputies provide for the restoration of property seized from the Evangelical Church of the Czech Brethren, the Silesian Evangelical Church, the Slovak Evangelical Church, the Reformed Christian Church of Slovakia, and Jewish religious communities after 29 September 1938 (the Munich Agreement).<sup>48</sup>

It seems that it was that draft law which, as reported in February 1992, the parliamentary Social and Cultural Committees refused to pass on to the Federal Assembly on the grounds that it would solve the issue of restitution of property only for some of the churches but not for the Jewish community. Deputy Miroslav Macek (ODS—Civic Democratic Party) said that ‘nobody wants to solve this problem [the Jewish one] because it is too complicated, especially that of Aryanized property in Slovakia.’<sup>49</sup>

In this context it is worth recalling that when the draft Law on Extrajudicial Rehabilitation was debated in the Federal Assembly in February 1991 and some deputies argued that it should also apply to expropriated church assets, deputies Klara Semkova and Rostislav Senjuk opposed this. They argued that since this would apply also to the Jewish religious community there was a danger that movable cultural treasures would be taken out of Czechoslovakia. According to Semkova, Federal Deputy Premier Miklosko shared the opinion that the danger resulted from an agreement between the Jewish Museum in Prague, the Jewish religious community and the Israeli Embassy. The Federation of Jewish Communities in the Czech Republic strongly protested against these statements, which ‘represented a dangerous attempt to label the Jews as second-rate citizens whose rights had to be restricted by a special decree.’<sup>50</sup>

Petr Pihoda, a spokesman for the Czech Prime Minister Petr Pithard, observed in an article in *Lidove Noviny* of 1 July 1991 that nearly 200,000 items seized from Jewish households and synagogues were stored in the state-owned Jewish Museum in Prague, which had been expropriated by the Communists in the 1950s. Most of these items were stolen from Jewish communities in Bohemia and Moravia whose members had died in the Holocaust. A few survived however, and are still alive in Czechoslovakia, Israel or elsewhere. The collection includes about 4,000 Torah mantles, 2,500 Torah curtains, 360 valances, 1,500 binders, 600 Torah shields, 200 silver crowns and 1,000 pointers. In all there are

48 Peter Martin, ‘Major issues confront the churches in Czechoslovakia’, RFE/RL *Research Report*, vol. 1, no. 29, 17 July 1992.

49 ‘Problémy s arizovaným majetkem’ (Problems with Aryanized property), *Cesky denik* (Czech Daily), 26 February 1992.

50 CTK in English, 25 February 1991 (BBC, *SWB*, EE/1010, 2 March 1991).

some 175,000 items, most of which came originally from the 153 Czech Jewish communities destroyed by the Nazis. Prihoda added that the problem of religious articles expropriated by the state under the Communist regime was under consideration.<sup>51</sup>

The above mentioned new draft law was submitted in March 1992 by the sixty-one deputies at the initiative of the parliamentary caucus of the Christian Democratic Union—Czechoslovak People's Party because, according to its spokesman, the federal government had blocked the restitution of property to churches and had been unable to come up with a viable draft.<sup>52</sup> The draft applied to property confiscated after 25 February 1948. The federal government did not support the draft saying 'the ownership of property confiscated from the church should be recognized, but the property itself should remain in the hands of the state.'<sup>53</sup> The Federal Assembly rejected the draft law on 15 April 1992. During the debate on the draft law it was argued, *inter alia*, that by providing for the restitution of property to legal entities the draft law would run counter to the 1990 and 1991 restitution laws which allow for the restoration of property only to individuals. The counter-argument was that the 1991 Law on Freedom of Religion and the Churches accorded to the churches the right to unlimited current and fixed assets thus recognizing the difference between them and other legal entities, and, moreover, that it was hypocritical of the Federal Assembly to adopt the Law on the Czechoslovak Red Cross, which allowed for the restitution of property to that organization as a legal entity, while opposing the return of church property.<sup>54</sup>

According to Federal Premier Marian Calfa, the rejection was due to the fact that 'those who had submitted [the draft law] had, by their maximal demands, failed to estimate the political reality in parliament, and for this reason this issue will have to be resolved after the elections.'<sup>55</sup>

The effects restitution of land would have on privatization and the transformation of collective farms and the restitution of the property of the Jewish religious community are the main stumbling blocks, which have delayed the adoption of the law.

On 6 January, following the 1 January 1993 split of Czechoslovakia into two separate states, a new bill on the restitution of the property of the churches and religious communities was discussed by the Czech government. However, it failed to receive the government's endorsement on the grounds that it contravened present restitution laws. The bill (similar to that of March 1992), submitted by twenty-three deputies of the two Christian parties in the Czech coalition government and providing for the return to the churches of all the

51 Josef Klansky, 'Czech official urges government to restore Nazi-plundered judaica', *Jewish Telegraphic Agency Daily News Bulletin*, no. 127, 4 July 1991.

52 Peter Martin, 'Major issues'.

53 *Ibid.*

54 *Ibid.*

55 Slovak Radio, Bratislava, 24 April 1992 (BBC, *SWB*, EE/1365, 27 April 1992).

assets of which they were dispossessed by the Communist regime, is not only opposed by the opposition parties but also by the two other parties of the ruling coalition. Most Civic Democratic Party deputies favour the return of only such property as is directly linked to religious activity, while the Civic Democratic Alliance argues that the bill would benefit mainly the Catholic Church. The Catholic Church demands the return of 2,250 buildings, 160,000 hectares of forests, and 47,000 hectares of arable land. Other churches which did not own much land are apprehensive that full restitution would lead to the state's withdrawing all financial assistance from religious communities. Both coalition partners and the opposition are in agreement, however, that restitution should *not be financial* and that, as in the case of restitution of property confiscated from natural persons, it should apply only to church assets expropriated by the Communist regime after 25 February 1948.<sup>56</sup> This time limit would make it impossible for the Jewish communities to regain the property of which they were dispossessed by the Nazis and which, as German property, was confiscated by the state after the war. However, on the issue of pushing the time limit back to before 1948, the Czech government is uncompromising for a number of reasons, not least because such a change would trigger claims from the 2.7 million Sudeten Germans expelled after the war.

In a 6 March 1993 interview, President Havel said it was

a scandal that until today the Jewish communities have not been given back those few synagogues and cemeteries that belong to them and that were taken from them after the onset of the Nazi regime . . . these should be returned to them. There is absolutely no doubt about it. It does not concern many objects.

Havel pointed to a possible way of overcoming the problem: 'At the same time I believe that it probably should not be called restitution and that it need not mean going beyond that unsurpassable [time] limit . . . it should be some sort of repaying a debt . . . , a debt whose legal title goes back to as early as the post-war period and has never been repaid. Hence it should not be considered restitution.'<sup>57</sup> Havel further clarified his view on the matter on 29 March 1993, when he told journalists that:

. . . the restitution of property confiscated from the Jewish communities during the Second World War would not change the restitution deadline of 25 February 1948. The relevant laws on Jewish property had already been adopted after the war, but the Communist regime never implemented them. Now a legal formula should be found which would not have the character of some sort of restitution but which would provide for the implementation of what was decided after the war.<sup>58</sup>

56 Czech Radio-Radiozurnal, Prague, 6 January 1993 (BBC, *SWB*, EE/1581, 8 January 1993); *Frankfurter Allgemeine Zeitung*, 22 January 1993; CTK in English, 21 January 1993 (BBC, *SWB*, EE/1595, 25 January 1993).

57 Czech Radio-Radiozurnal, Prague, 7 March 1993 (BBC, *SWB*, EE/1632, 9 March 1993)—Excerpts from 6 March interview with Czech President Vaclav Havel.

58 CTK in English, 29 March 1993 (BBC, *SWB*, EE/1651, 31 March 1993).

Czech Jewish leaders have proposed that special legislation pertaining to Jewish property be passed and, to allay fears of unlimited demands, put forward a list of 120 major Jewish properties—mainly synagogues, cemeteries, the Prague Jewish Museum and buildings formerly belonging to B'nai B'rith lodges, Maccabi-Hagibor sports clubs, and other Jewish institutions—in respect of which claims would be made.<sup>59</sup>

In Slovakia too the issue of restitution of church property still awaits resolution. The Jewish communities there consider 1939 (the 'independent' state of Slovakia was officially proclaimed by the Slovak parliament on 14 March 1939), as the starting date for the restitution of Jewish property. Their position is that the return of Jewish communal property, consisting of about 500 immovable properties, should be treated by the Slovak parliament as a part of a law on church property restitution in the republic. The returned buildings are likely to be rented by individual Jewish communities which lack finances.<sup>60</sup>

In February 1993 reparations for Jewish property lost or confiscated during the Second World War was the subject of talks in Bratislava between Slovak government representatives and officials of the World Jewish Congress, which is authorized as a primary recipient of repayments on behalf of world Jewry, to negotiate the issue with the East European countries concerned. Israel and Jewish organizations are seeking from East European countries the type of restitution and reparations they have already received from the former West German government. As a result of the talks in Slovakia, as well as Hungary (see below), a draft agreement was reached on setting up commissions to work on resolving the issue.<sup>61</sup>

### **Compensation for political persecutees**

Under the law on judicial rehabilitation, Czech courts have been dealing with the rehabilitation cases of Czechoslovak citizens affected by the Communist political trials in 1948-89 since 1990 and compensation has been paid by the State. As of May 1992 Czech courts rehabilitated 185,769 individuals out of a total of 208,000 cases they had dealt with by March 1992 and out of the estimated 220,000 Czechoslovak citizens concerned. By the beginning of March 1992, 11,447 citizens of the Czech Republic out of the 42,718 who had applied for compensation had actually received financial compensation totalling Ksc 836,000,000 (US\$27,900,000), of which 247,000,000 (US\$8,200,000) were paid in koruny and the rest in state obligations.<sup>62</sup>

59 *Jewish Chronicle*, 12 March 1993; JTA, 15 March 1993.

60 CTK in English, 17 March 1993 (BBC, SWB, EE/1643, 22 March 1993).

61 JTA, 19 February 1993.

62 CTK in English, 14 August 1990 (BBC, SWB, EE/0844, 16 August 1990); CSTK in English, 6 May 1992 (BBC, SWB, EE/1375, 8 May 1992).

### **German compensation to Nazi victims**

As regards German compensation to victims of Nazism, Chancellor Helmut Kohl pledged to President Havel at the 1992 Helsinki summit that Germany would pay damages to all living Czechoslovak citizens who had been persecuted during the Nazi occupation of Czechoslovakia. However, as Czech Foreign Minister Josef Zieleniec recently pointed out, Germany does not plan to make individual reparations to the victims but to offer financial participation in an extensive charitable project.<sup>63</sup> Before Czechoslovakia split, the establishment of a Czechoslovak-German Foundation similar to the Polish-German Reconciliation Foundation (established in February 1992) was considered in talks between the two governments. The foundation was to have at its disposal DM 100 million for compensation payments to an estimated 22,000 Nazi victims.<sup>64</sup>

## **HUNGARY**

After the collapse of Communist rule in Hungary the issue of restitution of property to former owners was first raised by the Independent Smallholders Party, who pledged that land confiscated by the Communists from the peasants after 1947 would be returned to them or their heirs. When, in the wake of the March and April 1990 parliamentary elections, the Smallholders Party was invited to become a partner in a coalition government, its price for joining the coalition was the inclusion of reprivatization of agriculture in the government's programme. This laid the government open to accusations of discrimination against other groups of the population who had lost their assets as a result of confiscation, nationalization or political persecution, and/or suffered injustice as a result of persecution for political racial or religious reasons. These included the Jews, the Hungarian Germans and the Gypsies.

The issue of redressing the wrongs committed by the present government's predecessors, including those resulting from the application of the anti-Jewish legislation enacted by the Hungarian fascist regime prior to and during the Second World War, has become the subject of impassioned parliamentary and extraparliamentary discussion. The Constitutional Court has been asked on several occasions to rule on the constitutionality of some of the principles and solutions proposed in the draft legislation under preparation.

The present Hungarian government has acknowledged that the wrongs inflicted on various segments of the population not just by the Communists but by the fascist Hungarian regime as well should be redressed in some measure. However, taking into account 'the country's burden-bearing capacity'—as it was

63 CTK in English, 11 February 1993 (BBC, *SWB*, EE/1612, 13 February 1993).

64 Czechoslovak TV, 4 September 1992 (BBC, *SWB*, EE/1481, 9 September 1992).

put—the government chose the method of partial compensation, to be addressed by stages and in separate laws in respect of grievances of people affected by the application of legislation enacted in the various periods.

In the course of 1990-92 several laws were enacted which aim at recompensing people in one form or another for loss of property, life or freedom under Communism and the Hungarian fascist regime. These are chronologically:

- 1 law no. 26 of 1990 (entry into force 1 January 1991) on supplementary pensions for political persecutees imprisoned between 1945 and 1963 (reparations for those sentenced for the 1956 uprising were dealt with in a 1989 law);
- 2 government decree of 30 May 1991 on supplementary pensions for Nazi victims in the period from 1938 to 1945;
- 3 the 26 June 1991 (in force since 24 August 1991) First Compensation Law concerning property confiscated or nationalized in the period after 8 June 1949;
- 4 the 10 July 1991 Law on the Ownership Status of the Churches' Real Estate;
- 5 the 7 April 1992 (in force since 7 June 1992) Second Compensation Law for property confiscated or nationalized in the period between 1 May 1939 and 8 June 1949;
- 6 the government decree of 5 March 1992 which adjusted the pensions of Hungarian POWs from the Second World War and increased the pensions of those who had been forced to serve in labour battalions and camps in the USSR.
- 7 the 12 May 1992 Third Compensation Law for political persecutees of the period between 11 March 1939 and 23 October 1989. The law came into effect on the thirtieth day after its promulgation.
- 8 the 23 June 1992 law on special national allowances for people who suffered impairment of health due to injustice in the period between 19 March 1944 and 23 October 1989.

### **First Compensation Law**

This law adopted on 26 June 1991 is an amended version of the law passed on 24 April 1991, some principles of which were subsequently challenged in the Constitutional Court. The contested provisions were altered and the law as amended (the 25th Law of 1991) came into force on 24 August 1991.

The law affects property nationalized or confiscated by the Communists after 8 June 1949 (the date of the first parliamentary session following the Communist takeover). It affects approximately 4 million hectares of arable land, 3,840 industrial enterprises, ventures and other production units which employ

less than 100 people, and more than 400,000 residential and business premises.<sup>65</sup> (Prior to this in May 1991 the Hungarian Constitutional Court annulled a number of nationalization measures which were adopted in the late 1940s and early 1950s, including legislation on confiscation of certain housing properties, industrial enterprises and pharmacies.<sup>66</sup>)

Under the provisions of the law:

1. Compensation is envisioned for private property nationalized or confiscated only after 8 June 1949 (thus excluding those, mainly Hungarian Jews and Germans, whose properties were confiscated earlier). However, the law includes a requirement that a second compensation law be passed not later than 30 November 1991 to deal with illegal confiscation of private property between 1 May 1939 and 8 June 1949 and expressly lists the legal regulations enacted in this period which caused damage to citizens' property.<sup>67</sup> The 1 May 1939 starting date for entitlement was chosen to include claims arising from the application of the 4 May 1939 Second Anti-Jewish Law.<sup>68</sup> These were amendments introduced, in accordance with a ruling of the Constitutional Court, to the earlier version of the law which contained only the stipulation that compensation for loss of assets suffered before 8 June 1949 would be dealt with *at a later date*, in separate legislation based on the same principles as the present law.

2. Eligibility to receive compensation is confined to natural persons (*termeszetes személyek*) only (i.e. not institutions or organizations) who are or were Hungarian citizens at the time their property was seized. However the law stipulates that citizens of countries with which Hungary has a compensation agreement will not be eligible. Hungary has such agreements with sixteen countries but not with Israel and Germany.<sup>69</sup> Persons who receive property rights compensation in connection with their having been wrongly deprived of Hungarian citizenship, are also entitled to compensation.

General inheritance provisions do not apply. Thus, where the former owner is no longer alive, claims for compensation may be submitted by his direct descendants within a limited circle and, subject to certain conditions, the surviving spouse.

3. Partial compensation and not full indemnification is envisaged. Former owners will be compensated for 100 per cent of the value of their property, if

65 Justice Minister Istvan Balsai's presentation of the Bill in the National Assembly, Budapest home service, 4 February 1991 (BBC, *SWB*, EE/0992, 9 February 1991).

66 Budapest home service, 14 May 1991 (BBC, *SWB*, EE/1074, 17 May 1991).

67 Budapest home service, 18 June 1991 (BBC, *SWB*, EE/1106, 24 June 1991).

68 Karoly Okolicsanyi, 'Compensation Law finally approved', Radio Free Europe/Radio Liberty, *Report on Eastern Europe*, vol. 2, no. 36, 6 September 1991.

69 Karoly Okolicsanyi, 'The Compensation Law: attempting to correct past mistakes', RFE/RL, *Report on Eastern Europe*, vol. 2, no. 19, 10 May 1991.

that does not exceed 200,000 forint. Compensation for property valued at more than 200,000 forint will be calculated on a declining scale. The percentage of compensation decreases as the value of the property concerned increases—200,000-300,000 forint—50 per cent; 300,000-500,000—30 per cent, over 500,000—10 per cent. The upper limit for compensation is 5 million forint.

Most claimants are expected to receive between 100,000 and 500,000 forint. Assessment of the present value of the property is based on its estimated worth at the time of confiscation which is adjusted to inflation.

Compensation will be paid in the form of property bonds (also referred to as compensation vouchers or coupons), a security which can be freely circulated and utilized for acquisition of arable land and other property in the course of the sale of state and agricultural cooperative assets, but cannot be used for the purchase of apartments and houses if they were transferred to local governments before the enactment of the law. Nonetheless, former owners will be able to exchange their property bonds for real estate as 95 per cent of the apartments and houses are still in the state's hands.

As regards those in the hands of local government, compensation vouchers may be used to purchase such property if it was transferred to the local authority after the law's promulgation, free of charge. Compensation vouchers cannot be exchanged for cash. However under a law approved by the Hungarian parliament on 5 May 1992, people over sixty-five and the disabled are allowed to convert their compensation bonds into annuities. The monthly annuity will depend on the age and the sex of the claimant: for example, as the life expectancy of a woman is longer, a sixty-five-year-old man would receive a monthly annuity of 667 forint for his 100,000-forint voucher but a woman of the same age only 531 forint.<sup>70</sup>

Compensation terms are more favourable to those who exchange their property bonds for arable land, if they commit themselves to keeping the land under cultivation for at least five years. In addition to compensation bonds for their property, an agricultural production support grant of up to 800,000 forint is envisaged. In response to the Constitutional Court's objections to the 24 April version of the law no one, including former landowners, can now exchange property bonds for their former property, and land and other properties will be auctioned off to the highest bidder, irrespective of whether he/she is the former owner of the property. However, former landowners who make the above commitment will be in a better financial position to bid for their former land.

Compensation to former Jewish landowners dispossessed during the war and their heirs (by 1943 all Jewish agricultural holdings had been seized by the state), is covered by the Second Compensation Law (see below).

The original 8 November 1991 deadline for filing compensation claims was later extended to 16 December 1991. Claims are filed with the National Office

for Damage Settlement and Compensation (Országos Karrendesési és Karrotlási Hivatal—OKKH) which has to decide within six months on the validity of a claim.

A government executive order deals with the procedure for auctions and gives other guidelines. The first auctions of confiscated property took place in July 1992; the first farmland auctions began throughout the country on 24 August 1992.

According to Tamas Sepsey, the OKKH Chairman, the implementation of the First Compensation Law is likely to take four years. Processing of claims is proceeding slowly due to lack of staff, particularly in the provincial offices. Only 1.5 per cent (12,000 people) of the 830,000 claimants received compensation vouchers in April 1992, the first full month of compensation payments.<sup>71</sup>

It is estimated that compensation bonds granted under the First Compensation Law will total about 60 billion forint.<sup>72</sup>

### **Second Compensation Law**

The Second Compensation bill on partial compensation for damage by the state to citizens' property caused unjustly by the application of legal regulations enacted between 1 May 1939 and 8 June 1949 was adopted by the National Assembly on 7 April 1992 and took effect on 7 June 1992.

Those entitled to compensation were given 120 days, from the date of the law's entry into force, for submitting claims at the appropriate compensation offices.

The law covers two distinct periods: 1939-45, during which time the anti-Jewish legislation, beginning with the 4 May 1939 Second Anti-Jewish Law, resulted in the confiscation of Jewish property by various legal actions—sequestration, compulsory placing in deposit, compulsory pledges etc.; and 1945-49, when privately-owned large factories and mines were nationalized. Moreover, in the later period reprisals collectively applied against Hungarian Germans and the settling of scores with political opponents also resulted in confiscation of property.

The law's objective is to provide a measure of remedy for damage caused by the state to people of various backgrounds—to Hungarian Jews as a result of the application of racial laws, the Hungarian German population as a result of the application of the 'collective guilt' principle, former aristocrats, owners of sizeable landed estates and large factory owners.<sup>73</sup>

The Second Compensation Law is linked to and supplements the 26 June 1991 First Compensation Law, which, as the Minister of Justice emphasized when presenting the bill to the National Assembly, constitutes its 'first

71 Hungarian Radio, 4 May (BBC, *SWB*, EE/1375, 8 May 1992).

72 MTI in English, 8 May 1992 (BBC, *SWB*, EE/1379, 13 May 1992).

73 Hungarian Radio, Budapest, 7 June 1992 (BBC, *SWB*, EE/1405, 12 June 1992).

chapter'.<sup>74</sup> Thus the principles governing the extent and form of compensation are the same in both laws—the amount of compensation is 100 per cent for property valued up to 200,000 forint, after which a regressive scale is applied—the larger the value of property the smaller the amount of compensation; compensation will take the form of property vouchers, which can be utilized in the manner envisaged in the First Compensation Law, including in bidding for land as land auctions will take place in several stages.<sup>75</sup> The vouchers which successful claimants will receive under the Second Compensation Law have been gaining interest, at 75 per cent of the prevailing interest rate, since the coming into force of the First Compensation Law.<sup>76</sup>

Clearly addressed to injustice suffered by the Jews are stipulations regarding partial compensation for confiscated jewelry, precious metals and art treasures which incorporate standardized rules—a special lump-sum calculation—in respect of liquid asset deposits (*ingosag*). However, the law does not provide for the return of what were compulsory deposits involving no change in ownership rights.

As regards eligibility the law retains the principle of the First Compensation Law. The law does not exclude from receiving compensation from the Hungarian state those Hungarian citizens whose grievances were partially redressed by another state, such as Germany in the case of Jews. Where a person is entitled to compensation under the provisions of the First and the Second Compensation Laws, the value of the properties is totted up and the principle of regression is applied.

The law's validity extends only to damage which occurred within the present borders of Hungary as set by the Peace Treaty concluded with Hungary in Paris on 10 February 1947 (i.e. restoration of borders as set in the Trianon Treaty of 4 June 1920). Thus persons who suffered loss of property outside these borders when they were Hungarian citizens are not eligible to receive compensation.

It is expected that 200-300,000 applicants will hand in claims under the Second Compensation Law and that compensation coupons will total some 20 billion forint. According to the respected *HVG* weekly of 25 April 1992, the first two compensation laws will involve about 160 billion forint worth of coupons in state property.<sup>77</sup>

### **The issue of Jewish property**

The 600,000 Hungarian Jews who died in the Holocaust—most of them in German concentration camps but about 100,000 in Hungary at the hands of Hungarians—left behind flats and houses. (An estimated 300,000 immovable properties were confiscated from the Jews during the Second World War in

74 Hungarian Radio, Budapest, 28 January 1992 (BBC, *SWB*, EE/1292, 31 January 1992).

75 Hungarian Radio, Budapest, 7 June 1992 (BBC, *SWB*, EE/1405, 12 June 1992).

76 Hungarian Radio, Budapest, 7 April 1992 (BBC, *SWB*, EE/1352, 10 April 1992).

77 *MTI in English*, 8 May 1992 (BBC, *SWB*, EE/1379, 13 May 1992).

Hungary. This total includes schools, synagogues and other Jewish community buildings which the above law does not cover as it applies to natural persons only.) All Jewish agricultural holdings had been confiscated by the state by 1943. After Hungary was occupied by the Germans on 19 March 1944, a complete transfer of Jewish assets was imposed, including jewelry, precious metals and stones and art objects.

Under a 3 May 1944 measure enacted by the Hungarian collaborationist government more than 200 Jewish-owned pharmacies were confiscated; under a 5 May 1944 measure Jews were obliged to deposit any earnings over 3,000 pengo, and their cars, bicycles, radios and telephones were confiscated; under further legislation Jews were dismissed from all public services and excluded from the liberal professions. As a result of these measures, and the application of the 28 June 1938 First Anti-Jewish Law, which restricted the number of Jews in the liberal professions, the administration, commerce and industry to 20 per cent, as well as the application of the 4 May 1939 Second Anti-Jewish Law which further restricted the number of Jews permitted to engage in economic activity to 5 per cent, an estimated 250,000 Hungarian Jews were deprived of their livelihood.

The issue of former Jewish property which remained unclaimed and escheated to the state as heirless remains unresolved. The 26 November 1947 Hungarian enactment on such property, which, in keeping with Hungary's obligation under the February 1947 Paris Peace Treaty with Hungary, provided for the transfer of heirless Jewish property to the National Jewish Rehabilitation Fund for relief of surviving victims, was not complied with by the succeeding Communist regimes.

The Second Compensation Law has been faulted for falling short of compensating Jews in a just manner. Despite attempts by Rabbi Tamas Raj, member of parliament from the opposition Free Democratic Party, to introduce amendments to the draft law, few were accepted and the law, as adopted, contains stipulations which are discriminatory towards the Jews in more than one respect.

To begin with, the cut-off date of 1 May 1939 ignores the 1938 First Anti-Jewish Law and, as the weekly *Heti Vilaggazdasag* of 25 April 1992 observed, it is unfair and arbitrary as regards the extent of compensation and the groups of people affected:

No one can claim that those who worded or passed it wanted to favour the Jews still living in the country. The regressivity is even more apparent in the case of personal property, the extent of restitution is even smaller than it is in the case of real estate. The jewels and objects of art were confiscated and deposited during the war, but their ownership was not changed from the legal point of view. In spite of this it is out of the question that these deposits will be given back to their rightful owners. They too will get only compensation in the form of coupons . . .