

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

CONTENTS

- A. EXECUTIVE SUMMARY
- B. POST-WAR ARMISTICES, TREATIES AND AGREEMENTS
DEALING WITH RESTITUTION OF IMMOVABLE PROPERTY
- C. PRIVATE PROPERTY RESTITUTION
- D. COMMUNAL PROPERTY RESTITUTION
- E. HEIRLESS PROPERTY RESTITUTION
- F. BIBLIOGRAPHY

A. EXECUTIVE SUMMARY

During World War II, Nazi Germany invaded and occupied Belgium. Even though the country was put under German military administration, Belgium's civil administration continued to function. At the time of the occupation, between 65,000 and 75,000 Jews lived in the country (90% of which were not Belgian citizens). More than 25,000 Jews hid in Belgium and were not deported during the occupation, many with the help of the Belgian resistance. More than 25,800 Jews (of which over 20,000 were adults) were deported from Belgium. Only 1,455 of the adults survived. 351 Roma were also deported, and only 32 survived the war.

Owing to unique aspects of Belgian law still in force during the occupation, less than 10% of Jewish real estate was sold by Germany. This was also partly because only 4% of the entire Jewish community in Belgium owned real estate. Most *private property* that came under German administration was rented out and the proceeds put into blocked accounts for the benefit of the original property owners. After the war, there was no organized process for seeking payment of the rental account balances or for seeking restitution or compensation for real estate that had been sold by the German administration. But, in theory, all owners could seek return of their property.

In the late 1990s, the Belgian government's **Study Commission** – established to examine the fate of Jewish property during the war – found it difficult to identify any remaining unrestituted immovable property because of the *ad hoc* manner of its return after the war. Notwithstanding this difficulty, an **Indemnification Commission** was established in 2001 to compensate individuals whose property (immovable and movable) had not been previously compensated/returned. The Commission had EUR 110 million at its disposal to use to pay out claims. It issued 170 positive decisions on real estate claims valued at EUR 1.2 million.

The Belgian government has described the destruction of Jewish *communal property* as being isolated during the war, and the government paid partial compensation for the damage after the war.

In 2008, remaining funds from the **Indemnification Commission** were transferred to the **Belgium Judaism Foundation** to compensate for *heirless Jewish property*. The **Foundation** works to ensure the sustainability of the Jewish community and also to engage in activities that benefit other groups targeted during World War II, such as the Roma (Gypsies).

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

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

B. POST-WAR ARMISTICES, TREATIES AND AGREEMENTS DEALING WITH RESTITUTION OF IMMOVABLE PROPERTY

Belgium was occupied by Nazi Germany on 10 May 1940. The Belgian government established a government-in-exile in London but the King remained in Belgium. Germany set up a Military Administration for Belgium that co-existed with the Belgian civil service. Eighteen anti-Jewish laws were enacted during the first two (2) years of the occupation, including laws that gradually identified and confiscated Jewish property and businesses.

Internal displacement and deportation began at the end of 1940. At the time, 3,000 Jews from Antwerp were forced to resettle to Limburg province. In the summer of 1941, they were then permitted to move to Brussels. By 1942, Jews were prohibited from leaving Belgium.

Deportation from Belgium began in 1942. The first transport left on 4 August 1942 and the last one on 31 July 1944. Up until September 1943, Belgian Jews were not deported. However, after September 1943, both Belgian and non-Belgian Jews were deported. Most were sent to Auschwitz, with others to Buchenwald, Ravensbrueck, Bergen-Belsen and Vittel. Brussels and the Dossin barracks (SS-Sammellager Mecheln) were liberated on 4 September 1944.

Beginning in 1940, during the first days of the invasion, the Belgian administrative apparatus helped to arrest all persons in Belgium suspected of having sympathies towards Germany. An unfortunate result was that this included Jewish German refugees who had already fled to Belgium. They were considered suspect and were interned in France. Many were later sent to Auschwitz, Sobibor and Maidanek from French camps such as Drancy, Compiègne and Beaune-la-Rolande.

Approximately **65,000 - 70,000** Jews lived in Belgium during the German occupation (mainly in the cities of Antwerp and Brussels). The vast majority were foreign or stateless Jews who had previously arrived in three waves: the first, at the end of the 1890s from tsarist Russia (because of the pogroms); the second, in the 1900s and the Interbellum from Poland and Eastern Europe (because of the pogroms and also due to economic migration); and the third, after 1933, from Germany and Austria. More than 25,000 Jews in Belgium hid from authorities and avoided deportation. A robust resistance to the occupation also helped to protect many Jews. Many initiatives were Jewish-led, such as the Jewish Defense Committee, a network which hid more than 3,000 Jewish children. More than **25,800** Jews were deported from Belgium, of which, approximately **20,000** were adults. A further **6,000** were deported from France. Only **1,455** of the adults survived. Today, approximately **42,000** Jews live in Belgium, mainly in Antwerp (home to Europe's largest Hasidic community) and Brussels.

During World War II, **351** Roma were deported from Belgium, with **32** surviving the war. As of 2012, there were an estimated **30,000** Roma in Belgium (although the number could be between 15,000 and 50,000 because ethnicity is not recorded in public registers). Approximately **20,000** of the Roma in Belgium are not Belgian nationals, but retain the nationality of their country of origin.

At the end of World War II, Belgium was not a party to an armistice agreement or any treaty of peace that specifically affected immovable property within its borders confiscated or wrongfully taken during the Holocaust. Belgium was a member of the "Allied and Associated powers" involved in the [1947 Treaty of Peace with Italy](#), which addressed, *inter alia*, the return of property *in Italy* to members of the United Nations (**Article 78**). Belgium was not involved with the [1947 Treaty of Peace with Bulgaria](#), [1947 Treaty of Peace with Finland](#), [1947 Treaty of Peace with Hungary](#), or [1947 Treaty of Peace with Romania](#).

Following the war, Belgium entered into lump sum settlement agreements, reciprocal agreements, or bilateral indemnification agreements with at least five (5) countries. These agreements pertained to claims belonging to its nationals (natural and legal persons) arising out of war damages or property seized by foreign states after WWII (e.g., during nationalization under Communism). They included settlements reach with: **Luxembourg** (1952); **Czechoslovakia** (1952); **Italy** (1952); **Hungary** (1955); and **Poland** (1963). (Richard B. Lillich and Burns H. Weston, *International Claims: Their Settlement by Lump Sum Agreements* (1975), pp. 328-334.)

Belgium became a member of the Council of Europe in 1949 and ratified the European Convention on Human Rights in 1955. As a result, suits against Belgium for violation of the Convention are subject to appeal to the European Court of Human Rights (ECHR). Belgium has been a member of the European Union since 1958.

Information relating to the Jewish population in Belgium and World War II background was taken from: [Chancellery of the Prime Minister, Jewish Community Indemnification Commission, "Final report" \(4 February 2008\)](#); [Chancellery of the Prime Minister –](#)

[Study Commission Jewish Assets, “Final Report of the Study Commission into the Fate of the Belgian Jewish Community’s assets, which were plundered or surrendered or abandoned during the war 1940-1945” \(July 2001\)](#) (Part 5 – Final evaluation, conclusions and proposals – is available in English) (“*2001 Study Commission Report*”). Information relating to the Roma was taken from: [European Union Agency for Fundamental Rights, Country thematic studies on the situation of the Roma: Belgium \(2012\)](#), p. 7; Sonja van’t Hof, “A Kaleidoscope of Victimhood – Belgian experiences of World War II”, in *The Politics of War Trauma: The Aftermath of World War II in Eleven European Countries* (Jolande Withuis & Annet Mooij, eds., 2010), p. 56.

C. **PRIVATE PROPERTY RESTITUTION**

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

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

(Terezin Best Practices, para. b.)

1. **Immovable Property Confiscation during the Occupation**

In 1940 and 1941, Jews were required to register all their land, real estate and businesses with the Jewish property office. Roughly 3,000 registrations were made under this ordinance. In 1941, Jewish real estate not located in Antwerp came under the management of the **Administration of Jewish Real Estate Holdings in Belgium (VJGB or Verwaltung des Jüdischen Grundbesitzes in Belgien)**. Antwerp property came under the management of four (4) private administrators. These entities could lease the properties and collect rents, but found it difficult to sell property. Belgian law, still in effect during the occupation, prohibited administrators from selling the real estate without the owner. Even though the Military Administration later issued its own regulations permitting notaries to authenticate sales contracts, buyers were wary of the legality of the German regulation.

When Jewish-owned houses with mortgages were placed under German administration, they were sold (below market value) via compulsory sales in Belgian courts to discharge the outstanding debts. However, once the creditor took his share from the sale, under Belgian law, the remaining proceeds were, in theory, paid into blocked accounts in the Jewish family’s name. The German Military Administration did not have access to the funds. Taking both “voluntary” and enforced sales into consideration, less 10% of

Jewish-owned real estate was sold during the occupation. It is nevertheless important to note that less than 4% of the entire Jewish community in Belgium owned real estate.

According to a member of the Belgian **1997 Study Commission** (*see Section C.2*):

Considering the circumstances, the outcome for the victims of expropriation was not entirely negative. If their real estate was encumbered by a mortgage at the time of occupation, it was probably compulsorily sold following court proceedings before a Belgian court. If this was not the case, property was usually still registered under the names of the owners and could be reclaimed after liberation (together with a portion of any possible rental returns) by survivors or surviving dependents.

(Rudi van Doorslaer, “The Expropriation of Jewish Property and Restitution in Belgium”, in *Robbery and Restitution: The Conflict over Jewish Property in Europe* (Martin Dean, Constantin Goschler & Phillip Ther, eds. 2007) (“*van Doorslaer*”), p. 158.)

Information in this section was taken from: *van Doorslaer*, pp. 155-170; Martin Dean, *Robbing the Jews: The Confiscation of Jewish Property in the Holocaust, 1933-1945* (2008), pp. 291-293, 296-297.

2. Restitution Framework After Liberation

The Belgian government-in-exile in London issued a **resolution on 10 January 1941** stating that all decrees of the German Military Administration were null and void.

After the war, an official receiver was installed at the **VJGB** – originally founded by the German occupiers to administer confiscated property, now dedicated to the protection of real estate. The disorganized restitution process was described as follows:

As there was no legal basis for the administration of non-enemy property, the assets of most Jewish victims were reimbursed in tacit disregard of the law by the various official receivers. Case by case, the authorized agents sought individual solutions for the problems at hand. The lack of clarity, and therefore – to a certain extent – of legal security, was compensated for by good will and improvisational talent. This could not, however, make up for the lack of a clear policy and coordination between the various offices dealing with compensation for the loss of property in Belgium.

(*van Doorslaer*, p. 162.)

Because of the government-in-exile’s **10 January 1941 resolution** annulling property sales under the German occupation, owners whose property was sold could not seek both restitution and also the proceeds from the sale (which had been put into bank accounts in the former owners’ names). The option was one or the other.

Another issue relating to restitution involved property of German and Austrian Jews in Belgium. After liberation, when their citizenship was restored – it had been stripped as a

result of the Eleventh Decree to the Reich Citizenship Law in November 1941 – property belonging to deceased or absent German and Austrian deportees was immediately treated as “enemy” property and passed directly to the Belgian state. The property of survivors was only released after 1947 on written confirmation of non-enemy status.

Information in this section came from *van Doorslaer*, pp. 155-170; Viviane Teitelbaum-Hirsch, “Confiscation in Belgium: Diamonds and other Jewish Properties”, in *The Plunder of Jewish Property during the Holocaust: Confronting European History* (Avi Beker, ed. 2001), pp. 336.

3. 1997 Study Commission

In 1997, as part of an ongoing dialogue between the Belgian government and the Belgian Jewish community – initiated by the **National Committee of the Belgian Jewish Community for Restitution (CNCJBR)**¹ – the Belgian government established a **Study Commission** to “investigat[e] the fate of the Belgian Jewish Community’s assets appropriated, lost or abandoned in those circumstances.” (**Article 1, Royal Decree of 6 July 1997.**) The **Study Commission** examined the following areas: the financial sector, life insurance, real estate assets, businesses, the diamond sector, art objects and cultural assets, and furniture/domestic possessions. With certain exceptions, the Commission located and identified assets in each of these areas that had not been returned.

The final report from the **Study Commission** was presented to the Belgian government in 2001. The report did not contain information on locating unrestituted real estate:

The Study Commission on the one hand, found itself faced with the problem of ‘compulsory’ sales during the occupation for non-payment of mortgage debts and, on the other, a post-war restitution plan of little uniformity. With respect to the ‘compulsory’ sales, often the result of individuals going in hiding or being deported, the Study Commission was obviously not in a position to turn back the clock on events. In what concerns the restitution of real estate property, both the Department of Sequestration (Brussels) and private ‘temporary trustees’ designated by the Courts (Antwerp) were involved. With reference to the latter group, the Study Commission determined that it was impossible to carry out systematic searches. The management activities of these ‘temporary trustees’ were not placed under the control of any official authority (as was the case in the Netherlands), which resulted in the absence of necessary sources to assist with the research.

(2001 Study Commission Report, p. 465.)

¹ Now known as the National Committee of the Belgian Jewish community for Restitution and Remembrance.

4. Act of December 2001 and the Indemnification Commission

After the presentation of the **Study Commission** report in 2001, the [Act of 20 December 2001](#) (relating to the indemnification of the Belgian Jewish Community assets, which were plundered, surrendered or abandoned during the 1940-1945 war) (2001-12-20/43) set up the [Jewish community Indemnification Commission](#) (“**Indemnification Commission**”).

Following discussions with the **CNCJBR**, EUR 110.6 million – representing the amount of unrestored assets identified by the **Study Commission** – was paid by the State, banks and insurance companies into an account available to the **Indemnification Commission**. Future claims relating to property covered by the law were meant to be extinguished.

Claimants had until **9 September 2003** to file a claim. Claimed property could not have been subject to previous compensation or restitution. Any person residing in Belgium at any time between 10 May 1940 and 8 May 1945 whose assets had been plundered in Belgium as a result of anti-Jewish measures or anti-Semitic acts of the occupying German authorities was considered. There was no citizenship requirement to file a claim, and 42 percent of claims came from abroad.

The **Indemnification Commission** examined available records to determine the status of restitution or compensation on the claimed piece of property. For real estate, this included examining management or “Hopchet” account records showing what rents were paid for property that had been under German administration. Real estate sales during the war could be identified at the Administration générale de la Documentation patrimoniale. The **Indemnification Commission** was also able to request notarized deeds of sale from mortgage registries, which listed circumstances of the sale, and proceeds/debts/charges relating to the property. Where proceeds had not previously been claimed, the **Indemnification Commission** paid compensation to the claimants.

The **Indemnification Commission** found that, after liberation, the **VJGB** only had enough funds to pay 65 percent of the rental profit balances owed to real property owners whose properties had been confiscated and rented during the war. As a result, the **Indemnification Commission** either indemnified a claimant 100 percent of the rental profits or 35 percent (equal to the outstanding balance of rental profits when the claimant previously received 65 percent from the **VJGB**). Claims for property in Antwerp, which had been administered by four (4) private administrators, were more difficult to resolve. In those cases it was difficult to find management account records showing rental amounts and payments to owners of real estate. Thus, the Commission determined that when it was clear a claimant’s property in Antwerp had been placed under German management, he or she would be paid a flat-rate compensation based upon average rents received by the German management. The **Indemnification Commission** also awarded lump sum payments for claims where there was enough information to identify despoilment but where there was no trace of the asset. (**Article 8, Act of 20 December 2001.**)

The **Indemnification Commission** processed 5,220 claims for individual compensation totaling EUR 35.2 million. Approximately EUR 1.2 million was awarded with respect to all real estate claims (170 positive claims). Claimants had the right to appeal Commission decisions. On 31 December 2007, when the Commission concluded its examination of claims, 22 appeals to the Council of State had been made (a majority of which related to the propriety of making lump sum payments to claimants).

After the Commission completed processing claims in 2007, the law required that remaining funds be transferred to the **Belgian Judaism Foundation** (for more information on the foundation, *see* **Sections D** and **E**).

Information from this section relating to the **Indemnification Commission** came from: [“After the Holocaust – Recent Belgian Initiatives: Education, Remembrance, Research, Material and Moral Reparations”, FPS Chancellery of the Prime Minister \(2012\) \(“2012 After the Holocaust”\)](#), pp. 28-31; Chancellery of the Prime Minister, Jewish Community Indemnification Commission, “Final report” (4 February 2008).

D. COMMUNAL PROPERTY RESTITUTION

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

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

The Jewish community in Belgium is represented by a number of Jewish communal representative organizations, including the [Coordinating Committee of Jewish Organizations in Belgium \(CCOJB or Comité de Coordination des Organisations Juives de Belgique\)](#), and the [Central Jewish Consistory of Belgium \(CCIB or Consistoire Central Israélite de Belgique\)](#).

There was no systematic plunder of Jewish communal properties during the war. However, in August 1940, Jewish organizations in Belgium were ransacked by the Nazi Sicherheitsdienst (SD). In April 1941, an anti-Semitic mob of collaborators set fire to two (2) synagogues and a rabbi’s house and pillaged certain properties in Antwerp.

After liberation, the Ministry of Reconstruction partly compensated the local Jewish community for material damage. A 2012 *After the Holocaust* publication issued by the Chancellery of the Prime Minister described the Antwerp incident as “an isolated event in the history of the persecution of Jews in Belgium.” (2012 *After the Holocaust*, p. 32.)

1. Belgian Judaism Foundation

In accordance with **Article 14** of the [Act of 20 December 2001](#), the [Belgian Judaism Foundation \(Fondation du Judaïsme de Belgique\)](#) (the “**Foundation**”) was established in 2008 with the remaining funds from the **Indemnification Commission**.

The mission of the **Foundation** includes the management of its intangible capital and periodic distribution of the capital’s interest via grants in order to ensure the sustainability of the Belgian Jewish Community. Institutions can apply for grants for projects addressing: Holocaust remembrance; social issues; education; worship; culture; solidarity and support for Jewish victims of World War II, in particular those who settled in Belgium after the liberation; solidarity with persons such as Roma who were also victims of discrimination, racist persecution or racial deportation during World War II; solidarity with persons outside the Jewish community, including the Belgian Righteous Among the Nations; projects to combat anti-Semitism and intolerance; and scientific and historical research into Jewish subjects or subjects relating to World War II.

Information in this section was taken from: 2012 *After the Holocaust*, p. 34; [Belgian Judaism Foundation \(Fondation du Judaïsme de Belgique\), “Mission”](#);

E. HEIRLESS PROPERTY RESTITUTION

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

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

(Terezin Best Practices, para. j.)

Under Belgian law, all heirless/unclaimed immovable property escheats to the state after 30 years. A change to this usual rule was made for Jewish property in Belgium that became heirless as a consequence of World War II.

The Belgian Jewish community, through the [Belgian Judaism Foundation \(Fondation du Judaïsme de Belgique\)](#) (the “**Foundation**”), has been declared the legitimate heir of Jewish heirless property. In 2008, the **Foundation** was the recipient of the balance of the money made available to the **Indemnification Commission** (via payments from the state, banks and insurance companies) that remained unused/unclaimed (i.e., heirless) after the individual claims process was complete. (*See* 2012 *After the Holocaust*, p. 34; [Belgian Judaism Foundation \(Fondation du Judaïsme de Belgique\), “Mission”](#).)

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