

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

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A. OVERVIEW

Germany occupied Denmark for a period of five (5) years beginning on 9 April 1940. At the time of the occupation, there were approximately **7,500** Jews living in Denmark. 6,000 were Danish citizens and the remainder were refugees from Germany and other Eastern European countries. Approximately **120** Danish Jews died during the Holocaust but 98 percent survived. Today, there are approximately **8,000** Jews in Denmark, of which roughly 2,400 are members of the officially recognized Jewish religious community.

Between 1940 and 1943, the German occupiers gave the Danish government relative autonomy in carrying out domestic matters and generally did not interfere. The tone of the German occupation changed in 1943, however, as more Danes were standing up in protest and resisting occupation measures.

Hitler approved the deportation of Danish Jews in 1943. By the time the raid to collect Jews took place on 1 October 1943, few had managed to flee. They had however, left their homes and had taken refuge with neighbors, friends and even strangers. Throughout the occupation, Denmark's King Christian supported the Jewish community. Danish authorities, Jewish communities (excluding Denmark's largest Jewish community – Det Mosaiske Troessamfund), and regular citizens banded together to save the Danish Jews. During a one (1)-month period, 7,200 Danish Jews and their non-Jewish relatives were transported by boat to neutral Sweden. Even with the remarkable Danish resistance efforts, the Germans managed to capture approximately 470 Jews – mainly German and Eastern European refugees – and deport them to the Theresienstadt (Terezin) camp in occupied Czechoslovakia. The Germans were disinclined to send these deportees to the death camps because Danish authorities, acting through the Swedish Red Cross, repeatedly asked for information regarding the deportees' location and conditions. While a few dozen Danish Jews died in Theresienstadt, and one was mistakenly deported to Auschwitz, most returned to Denmark in 1945. (This historical information was taken from [United States Holocaust Memorial Museum – Holocaust Encyclopedia, “Denmark”](#). Please refer to complete entry for more information on Denmark's resistance efforts.)

Denmark was liberated on 5 May 1945. At the end of the war, as an occupied country, Denmark was not a party to an armistice agreement or any treaty of peace, which affected the return of property.

After the war, Denmark entered into lump sum agreements or bilateral indemnification agreements with at least five (5) countries. These agreements pertained to claims belonging to foreign nationals (natural and legal persons) arising out of war damages or property that had been seized by the foreign states after WWII (i.e., during nationalization under Communism). They included claims settlements reached with: **Poland** on 25 February 1953, **Czechoslovakia** on 23 December 1958, **Bulgaria** on 26 May 1959, **Yugoslavia** on 13 July 1959, **Federal Republic of Germany** on 24 August 1959, and **Hungary** on 18 June 1965 and 18 March 1971.

Denmark 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 Database 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. Denmark sent a response in April 2016.

Private Property Restitution

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

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

(Terezin Best Practices, para. b.)

In Denmark, there was no state policy of property confiscation during World War II. To the contrary, the Danish government's Ministry of Welfare reinforced its intolerance for theft and looting during the occupation by charging local civil servants in Copenhagen – the Social Service – to safeguard abandoned property (Sofie Lene Bak, "Repatriation and restitution of Holocaust victims in post-war Denmark", *Scripta Instituti Donneriani Aboensis* 27 (2016) ("*Bak*"), p. 173.) The Social Service worked to retain houses, pay rent on flats, enter into contracts for trustees of property and business to prevent theft – "the rationale behind the work of the Social Service was that the Jews should have homes to return to." (*Id.*, 137.)

Almost immediately after liberation, on 16 May 1945, the government established a **Central Office for Special Affairs** to assist with restitution and compensation for victims of the occupation. Former Jewish refugees composed 25 percent of persons receiving assistance from the Central Office. (*Bak*, p. 138.) The Central Office also

provided assistance – as mediators or by finding separate legal representation – for Jewish returnees who had come home to find that the property they had left behind had been misused or that persons entrusted to safeguard the property had overstepped their rights. (*Id.* p. 141.)

Four (4) month later, on 1 October 1945, the [Law of Compensation to the Victims of the Occupation \(and later amendments\)](#) was enacted. The law provided compensation in three main instances: (1) for death and disability owing to actions during the war; (2) for tort compensation for imprisonment, internment and deportation; and (3) for damage to property and support to begin or continue a business activity and restoration of particularly severe losses. (*Bak*, p. 142.) The law did not discriminate based upon race or descent. However, eligible persons were limited to Danish citizens who were over 18 years of age. Bak reports that 75 percent of claims made by Jews pertained to compensation for theft of property and damage and economic loss in connection with deportation (*Id.*, p. 143.) The law’s provision covering severe losses permitted Jews to make claims for property sold in order to pay for travel out of the country during the war.

A total of 1,058 individuals of Jewish descent applied for compensation under the **Law of Compensation to the Victims of the Occupation** (*Bak*, p. 143.) As Bak notes, the figure fails to capture all of those otherwise eligible under the law, who were unaware that there avenues for redress, and also those who were ashamed or skeptical of seeking assistance. (*Id.*)

The law was amended in the 1972 and again in 1993. Both amendments expanded the definition of who was eligible to receive compensation under the award of honour provision of the law. Notwithstanding these amendments, the government of Denmark, through its Denmark National Board of Industrial Injuries, reports that while a compensation, law for the victims of the German occupation was adopted in 1945, “[i]n 1996, the paragraphs concerning rules for compensation etc. in connection with e.g. damage to property during the German occupation were repealed and the Compensation Council decommissioned. This was due to the fact that the rules for compensation had only been used in the years immediately after the war.” (*See* 8 April 2016 Response from Denmark Government to ESLI Immovable Property Questionnaire.)

Historian Sophie Bak has theorized as to why the Danish experience with restitution and repatriation of Jewish citizens is exceptional:

Structural factors were decisive in determining the Danish restitution process. Not only was the legal framework behind restitution based on existing legislation. It also represented an extension and development of existing principles of social welfare. This means that the extraordinary social welfare programmes pertaining to the Second World War has a lasting impact on Danish society and it facilitated a new understanding of the state’s responsibilities to its citizens.

Reference to exiting legislation lent legal and political legitimacy to the process. The aid provided by ‘the Social Service’ of the City of Copenhagen in

safeguarding the homes and property of Jewish families during the exile, and the Central Office for Special Affairs providing immediate help and restitution, were both legally grounded in social welfare legislation of 1933. The **Law of Compensation to the Victims of the Occupation**, enacted in 1945, was based on principles in the pre-war **Law on Invalidity Pension to Casualties in Conscript Forces (1934)** and wartime law on **State Insurance Subsidy to War Damage (1940)** and the ‘**Award of honour to families of casualties and wounded on the 9th April 1940**’ which were both enacted as a result of the German occupation in 1940. The legal foundations of the restitution process thus reveal a continuity of social reform from the 1930s.

(*Bak*, pp. 147-8 (bold emphasis added)). Few other countries experienced the same rapid return of property and reintegration of Jews into society as did Denmark.

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 main Jewish organization in Denmark is the [Jewish Congregation in Copenhagen \(Det Mosaiske Troessamfund\)](#).

No communal property was confiscated during the occupation and therefore such property was not subject to the 1945 **Law of Compensation to the Victims of the Occupation**.

Heirless Property Restitution

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

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

(Terezin Best Practices, para. j.)

We are unaware of any heirless Jewish immovable property after the war, which belonged to Danish citizens.¹

¹ However, there may be a question of heirless property of German Jews, who maintained assets in Danish banks (a subject which is not covered by the scope of this Study).

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