

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

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A. EXECUTIVE SUMMARY

Germany invaded France on 10 May 1940. A month after the invasion, on 22 June 1940, Germany and France entered into an **Armistice Agreement**, by which Alsace and Lorraine were annexed by Germany and 80% of the country – including Northern France and the entire Atlantic Coast – came under German military occupation. Beginning in July 1940, France was governed by the so-called “Vichy regime” under Henri Philippe Pétain. In practice, however, the Vichy regime was only able to govern freely in Unoccupied (Southern and Eastern) France. Even though the regime was officially neutral, it collaborated heavily with Germany. Laws were enacted in both Occupied and Unoccupied France which curtailed Jewish civil rights. Competing property expropriation laws were also passed in both regions. Deportations of Jews began in 1942. The Allied landing in Normandy in June 1944 began the liberation of France. German forces surrendered Paris on 25 August 1944.

Approximately 77,000 of the 350,000 Jews in France in 1940 were killed during the war – mostly at Auschwitz in German-occupied Poland. As of 2014, France’s Jewish population was estimated at 475,000. Between 6,000 and 13,000 French Roma were interned and 200 were deported and killed during the war. As of 2012, there were an estimated 400,000 Roma in France.

Restitution and reparation measures¹ in France – particularly with respect to private and heirless property – have taken place in two phases. The first occurred in the immediate

¹ In the context of France, both scholars and the Mattéoli Commission have drawn a distinction between restitution – returning goods that had been recovered without any “moral connotation”, and reparations – compensation “which is chiefly moral and emotional and only secondarily material”. (Claire Andrieu, “Two Approaches to Compensation in France: Restitution and Reparation” in *Robbery and Restitution: The Conflict over Jewish Property in Europe* (Martin Dean, Constantin Goschler & Philipp

post-war years and ceased around 1954, and the second, commenced in the late 1990s and early 2000s and is ongoing to date. France has provided measures covering all three (3) types of immovable property: private, communal and heirless.

Regarding *private property*, France's first restitution regime was carried out through a number of decrees passed between 1944 and 1945. In addition, in early 1945, two (2) new government authorities were established – one to examine complaints against provisional administrators of property and another to help carry out restitution. The **1946 French War Damages Act** also provided compensation for material damage caused by acts of war to movable and immovable property.

Early restitution measures ceased around 1954 when amnesties were given to various individuals from the Vichy regime.

In the late 1990s, reparation measures began. A government commission was convened – the **Mattéoli Commission** – to examine the conditions under which property was confiscated by the occupying forces and Vichy authorities. The Commission estimated that post-war restitution was made with respect to 90 percent of the total value of businesses, real estate, shares, and bank accounts which had been confiscated, but that only 70 percent of actual businesses and real estate was returned.²

In 1999, the French government established the **Commission for the Compensation for Victims of Spoliation (CIVS or the “Drai Commission”)** in order to provide reparations to individual victims or their heirs who had not been previously compensated for damages resulting from legislation passed either by the Vichy government or by the occupying Germans. CIVS activities are ongoing, but as of October 2016, it has recommended compensation totaling EUR 509,082,829. Only a small fraction of CIVS compensation relates to real property.

Regarding *communal property*, while there was no explicit plan during the war to destroy Jewish synagogues, at least 20 were destroyed (including the great Strasbourg Synagogue) and many others were looted and/or partially destroyed. The French government reported in 2012 that after liberation, there was no difficulty in compensating for property confiscated from the Jewish community, and where property was destroyed to compensate the community based upon the laws relating to war damages. (Green Paper on the Immovable Property Review Conference 2012, p. 31.)

Ther, eds., 2007), pp. 134-135; *see also* Shannon Fogg, *Stealing Home: Looting, Restitution and Reconstructing Jewish Lives in France, 1942-1947* (2017), pp. 2-8.) Restitution took place in France in the three decades immediately following World War II. Reparations began in the late 1990s and continue today.

² Some scholars dispute the Commission's high restitution figure. (Telephonic Interview of Professor Richard Weisberg by Michael Bazylar, 7 November 2016.) Other scholars dispute generally the statistics (percentages, sums, etc.) compiled in the Commission's Final Report.

Regarding *heirless property*, a law from 1950 permitted Jewish persons or organizations to be appointed as custodians of Jewish heirless property in France. Despite the existence of the law, and surveys and property inventories that were conducted in furtherance of the law, in the end, the option for the Jewish communities to manage Jewish heirless property was not taken up.

In 2000, shortly after the **Mattéoli Commission** issued its report that identified the maximum value of remaining unclaimed property to be an estimated EUR 351 million, the French government established the **Foundation for the Memory of the Shoah** and it was endowed with EUR 394 million (an amount exceeding the estimated amount of outstanding unclaimed property). The creation of the **Memory Foundation** can be seen as an act of reparation to the Jewish community. The **Memory Foundation** is involved in numerous activities meant to benefit the Jewish community, including providing assistance to survivors in need.

France 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. France submitted a response in April 2016.

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

Prior to Germany's invasion of France on 10 May 1940, France had been home to roughly 350,000 Jews. Less than half of them were French citizens and many of the rest were refugees fleeing the Nazi occupation in Belgium, Luxembourg and the Netherlands. Many also fled to France from Austria and Nazi Germany.

A month after the invasion of France, on 22 June 1940, France signed an [Armistice Agreement](#) with Germany. Pursuant to the Agreement, Alsace and Lorraine were annexed to Germany and 80% of the country – including Northern France and the entire Atlantic Coast – came under German military occupation. Beginning in July 1940, France was governed by the so-called “Vichy regime” under Henri Philippe Pétain. In practice, however, the Vichy regime was only able to govern freely in Unoccupied (Southern and Eastern) France. Even though the regime was officially neutral, it collaborated heavily with Germany, hoping that it would result in greater autonomy for Unoccupied France. While Vichy laws technically applied to all of France, they were only enforceable in the Unoccupied portion. The Vichy regime had its own anti-Jewish agenda it launched even before Nazi Germany demanded any changes. In fact, Vichy laws such as the Jewish Statute of 3 October 1940, were some of the first anti-Jewish laws implemented in Occupied France.

In both the Occupied and Unoccupied regions, measures were put in place to confiscate and/or Aryanize Jewish property. Beginning in 1941, German officials and French police in both the Occupied and Unoccupied regions rounded up Jews. Deportations to Auschwitz in German-occupied Poland began in 1942.

In November 1942, Germany occupied Vichy France. The whole country was now under German control. The Allied landing in Normandy started the Liberation of France in June 1944. The French Resistance – composed of all types of French society, including members of the Jewish community – also played a large (albeit mostly symbolic) role in the Liberation. It had previously helped maintain escape routes for Jews, forced laborers, downed Allied airmen and prisoners of war. German forces surrendered in Paris on 25 August 1944 but fighting continued in other parts of France.

Approximately **77,000** of the **350,000** Jews living in French territory at the time of the German invasion in 1940 were killed during the war. Most died at Auschwitz and others in detention facilities in France. Only one-third (1/3) of the 77,000 killed were French citizens. As of 2014, France has an estimated Jewish population of **475,000**.

During the war, between **6,000** and **13,000** French Roma were administratively interned in camps in Occupied and Unoccupied France. Beginning in 1940, French Roma were interned or put under house arrest. The stated purpose was to prevent them from becoming enemy agents or interfering with military tactics. The Nazis never ordered the deportation of French Roma to Auschwitz. However, at the end of the war approximately 200 were deported to and killed at Sachsenhausen, Buchenwald, and Auschwitz. As of 2012, the Council of Europe estimated there were approximately **400,000** Roma in France.

France was a member of the “Allied and Associated powers” involved in peace treaties with the former Axis powers including, [1947 Treaty of Peace with Italy](#), [1947 Treaty of Peace with Bulgaria](#), [1947 Treaty of Peace with Finland](#), [1947 Treaty of Peace with Hungary](#), and [1947 Treaty of Peace with Romania](#) (collectively known as the Paris Peace Treaties). The treaties addressed, in part, how confiscated immovable property belonging to members of the United Nations or citizens of the former Axis countries would be treated.

Following the war, France entered into lump sum agreements, bilateral indemnification agreements or memoranda of understanding with at least 8 countries. These agreements pertained to claims, including those arising out of war damages or property that had been seized by foreign states from French nationals after WWII (i.e., during nationalization under Communism). They included claims settlements reached with: **Italy** on 29 November 1947; **Poland** on 19 March 1948; **Czechoslovakia** on 2 June 1950; **Hungary** on 12 June 1950 and 14 May 1965; **Yugoslavia** on 14 April 1951 and 2 August 1958 and 12 July 1963; **Bulgaria** on 28 July 1955; **Romania** on 9 February 1959; and **Federal Republic of Germany** on 15 July 1960. (Richard B. Lillich and Burns H. Weston, *International Claims: Their Settlement by Lump Sum Agreements* (1975), vol. 1 pp. 328-

334 & vol. 2; Richard B. Lillich and Burns H Weston, *International Claims: Their Settlement by Lump Sum Agreements, 1975-1995* (1999), pp. 101-103.)

Information relating to the Jewish population in France and World War II background was taken from: [United States Holocaust Memorial Museum – Holocaust Encyclopedia, “France”](#); Martin Dean, *Robbing the Jews: The Confiscation of Jewish Property in the Holocaust, 1933-1945* (2008) (“Dean”), pp. 300-310; [Berman Jewish Databank, “World Jewish Population, 2104 – Current Jewish Population Reports, \(Number 11- 2014\)](#), p. 4. Information relating to the Roma in France was taken from: [Genocide of the Roma, “Map – France”](#); [Marie-Christine Hubert, “Factsheets on Roma, Internment in France 1940-1946”, Education of Roma Children in Europe](#); [European Commission, “The European Union and Roma – Factsheet France”](#) (4 April 2014).

C. PRIVATE PROPERTY RESTITUTION³

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.)

Regarding confiscation of property in France, Martin Dean comments that “the complex relationship between the German and Vichy authorities resulted in a plethora of legislation concerning Jewish property, with significant differences in timing and implementation between the Occupied (Northern) and Unoccupied (Southern) Zones.” (Dean, p. 300.)

In October 1940, the German military regime issued a Decree requiring the registration of “Jewish” companies and permitted the French government to appoint the administrators. Rival measures were put in place in Unoccupied France the following year. The **22 July**

³ In the context of France, both scholars and the Mattéoli Commission have drawn a distinction between restitution – returning goods that had been recovered without any “moral connotation” – and reparations – compensation “which is chiefly moral and emotional and only secondarily material”. (Andrieu, pp. 134-135; see also Shannon Fogg, *Stealing Home: Looting, Restitution and Reconstructing Jewish Lives in France, 1942-1947* (2017) (“Fogg”), pp. 2-8.) Restitution took place in France in the three decades immediately following World War II. Reparations began in the late 1990s and continue today.

1941 French Law Regarding Businesses, Property and Assets Belonging to Jews, required all Jewish property to be put under the control of the **General Commissariat for Jewish Questions (Commissariat Général aux Questions Juives (CGCQ))**. Any proceeds from the sale of property went into blocked bank accounts. Provisional administrators were appointed for all Jewish businesses and other property (with the exception of a principal residence). The Vichy regime also applied systematic Aryanization measures in Tunisia and less-systematic measures in Morocco. (Dean, p. 306.)

1. Early Post-War Restitution Measures

In August 1940, shortly after the German invasion of France, General de Gaulle, as head of the Free French Movement, announced that upon liberation of France it would “recompense for the wrongs done to the victims of Hitler’s tyranny.” (Claire Andrieu, “Two Approaches to Compensation in France: Restitution and Reparation” in *Robbery and Restitution: The Conflict over Jewish Property in Europe* (Martin Dean, Constantin Goschler & Philipp Ther, eds., 2007) (“Andrieu”), p. 141 (quoting de Gaulle).)

In January 1943, following Germany’s occupation of all of France, the French National Committee for Liberation, the United Kingdom and 16 other governments agreed to the [Inter-Allied Declaration against Acts of Dispossession committed in Territories under Enemy Occupation and Control \(“1943 London Declaration”\)](#). In the **1943 London Declaration**, the French National Committee for Liberation condemned the dispossession and confiscation of the National Socialist movement and reserved all of its rights to declare transfers or dealings in property invalid. It was made explicit that the Declaration covered “transfers and dealings affected in territory under the indirect control of the enemy (such as the former ‘unoccupied zone’ in France) just as much as it applies to such transactions in territory which is under his direct physical control.”

Most immediate post-war restitution laws in France only applied to French citizens. The result was the nearly half of the surviving Jews in France were excluded from early restitution measures.

Restitution measures began in liberated territories during summer 1944. This occurred via amicable resolution or in the court system through the **19 August 1944 Decree on the Restoration of the Republican Legal System in the Continental State Territories** – which restored the French Republic’s legal system and also underscored the *invalidity* of all discriminatory measures taken on the basis of Jewish identity.

On **16 October 1944**, the Provisional Government of France issued a **Decree** “providing for immediate restitution of properties which had been entrusted to the Administration of Domains in accordance with the anti-Jewish legislation and had not been sold or transferred to third persons. Restitution was effected *ex officio* by the competent authority or on the basis of a simple demand by the owner.” ([Nehemiah Robinson, “War Damage Compensation and Restitution in Foreign Countries”, 16 *Law and Contemporary*](#)

[Problems 347-376 \(Summer 1951\)](#) (“Robinson”), p. 370 (describing the Decree and how restitution was effected.)

The **14 November 1944 Decree on the invalidity of act of spoliation made by the enemy under its control** addressed properties that had been subject to sequestration, provisional administration, management or liquidation based upon measures of either the Vichy regime or the German military administration. Properties were automatically regained by the rightful owners upon request to the administrator or manager – so long as they had not been liquidated or otherwise disposed of. Restitution had to be effected within one (1) month, and within two (2) months, an accounting of administration/liquidation had to be made. If the property had been liquidated or otherwise disposed of, the owner was entitled to compensation.

The **16 October 1944 Decree** and the **14 November 1944 Decree** were silent as to restitution of property that had been sold.

In early 1945, two new authorities were established. One was tasked with checking and examining complaints against the provisional administrators, and the other, the **Restitution Service of the Goods of the Victims of Despoilment Laws and Measures**, was established in conjunction with the French Ministry of Finance to carry out restitution. ([Republic of France, “Summary of the work by the Study Commission on the Spoliation of Jews in France”, 17 April 2000](#) (“Mattéoli Commission Summary of Work 2000”), p. 21.)

In addition, **Decree No. 47-770** was enacted on 21 April 1945, which set up a simplified legal procedure in restitution cases. The law distinguished between persons whose property had been taken by “exorbitant measures” – who were entitled to establish the nullity of these measures – and those persons who “voluntarily” transferred their property – who were entitled to a presumption that that contracts made after 16 June 1940 concerning the transfer of property were entered into under duress. Despite the distinction, under both instances, the law permitted judges to issue summary rulings in restitution actions. The **Mattéoli Commission** found that by 1950, more than 10,000 rulings had been made. (“Mattéoli Commission Summary of Work 2000”), p. 21.)

The **1946 French War Damages Act (Law 46-2389 of 28 October 1946)** also provided for compensation for material damage – reparations – caused by acts of war to movable and immovable property. All victims of World War II were eligible under this law – it benefitted both victims of anti-Semitic legislation and war victims generally. More than six (6) million claims were filed under the law. (*Andrieu*, p. 138.) (Many persons were also able to seek compensation from the Federal Republic of Germany via the **Federal Law on Restitution** (Bundesrückerstattungsgesetz or **BRüG**). However, compensation was limited to goods such as furniture, jewelry, precious metals and merchandise.) Foreigners, however, were specifically excluded from receiving compensation for material damage.

These early restitution measures ceased around 1954, when amnesties were given to various individual from the Vichy regime.

A second round of property-related measures would ultimately be carried out in the late 1990s and early 2000s.

2. Study Mission on the Spoliation of the Jews in France (Mattéoli Commission)

In 1997, the French government convened the **Study Mission on the Spoliation of Jews in France (Mattéoli Commission)** to “study the conditions under which movable and immovable property belonging to French Jews were confiscated or in general confiscated by fraudulent means, violence or theft, both by the occupying forces and by the Vichy authorities between 1940 and 1944.” (Mattéoli Commission Summary of Work 2000, p. 6.) The Commission aimed to produce not just an historical accounting of events, but also to establish global estimations of as yet unreturned stolen property. (*Id.*, p. 6.) The **Mattéoli Commission** had been established following then-President Jacques Chirac’s acceptance in a 1995 speech of France’s responsibility for the deportation of Jews by the Vichy regime during the German occupation.

With the establishment of the **Mattéoli Commission**, France began its reparations⁴ phase.

120 researchers worked on the **Mattéoli Commission**. Its Final Report was issued in April 2000, along with the publication of numerous detailed sector reports on specific

⁴ On defining “reparations”, scholar Shannon Fogg writes:

It was not until after the devastation of the Nazi era that reparations came to have a moral connotation that suggested that states had an obligation toward individuals to right past wrongs, or to “repair frayed or torn relations handed down from the past.” Regula Ludi explains the broad definition now represented by the term “reparations”:

reparations has prevailed as the generic term to include a wide range of activities directed at victims of human rights violations and designed to achieve their legal restorations and social rehabilitation. This term encompasses *restitution*, signifying the return of lost objects or rights, *compensation* as material benefits meant to make up for any kind of material and moral harm, and, according to some authors, *satisfaction* to denote such symbolic elements as the guarantees of nonrecurrence, the verification of facts, apologies, and in some cases also remembrance.

(Fogg, p. 7 (emphasis in original).)

topics.⁵ A [70-page summary](#) of the Final Report was also issued in English. The Report offered 19 recommendations, three (3) of which related to individual restitution.

The Commission found that the restitution process in France proceeded slowly in part because of the democratic process that arose from the use of legislative statutes. (Mattéoli Commission Summary of Work 2000, p. 7, 10.) In addition, a housing crisis that developed in the early post-war years meant that restoration of apartments to previously-expelled Jews was not a priority. Often restoration had to wait until the current occupant was relocated if she/he had been a war victim. (*Id.*) However, the Commission stressed that even though it was slow to be asserted, “[p]olitical volition was [] unambiguous”. (*Id.*)

In terms of figures, the **Mattéoli Commission** found that immediately after the war between 53% and 60.5% of Aryanizations (depending on the region) had *not* been completed. (*Id.*, p. 21.) By the Commission’s estimations, post-war restitution was made with respect to 90 percent of the total value of businesses, real estate, shares, and bank accounts which had been confiscated.⁶ (*Andrieu*, p. 136.) However, in terms of numbers, only 70% of businesses and immovable property that had been targeted for sale or liquidation were certainly returned. (Mattéoli Commission Summary of Work 2000, p. 60.) Property was considered returned where it went back to the rightful owner via court order, out of court settlement or “when the sale of property was the subject of an agreement between the victim and purchaser frequently after renegotiating the price.” (*Id.*, p. 11.) The **Mattéoli Commission** found in general that the higher the value of the property, the more likely that it was restituted. The Commission explained:

Only a quarter of the plundered property has not been claimed and one can deduce that they have been definitively lost. They account for 5 to 10% of the total value of plundered asserts. It is difficult to pinpoint the exact causes of this residual spoliation, though one’s thoughts naturally turn to the deported who were never seen again and whose families were exterminated. It is also possible that some owners of plundered property preferred to turn the page on those dark times rather than go through the necessary administrative procedures, especially when the assets involved – as was the case for craftsmen in the clothing trade – were limited to a sewing machine or two, and an iron....”

(*Id.*, p. 21.)

⁵ A First Interim Report was published in December 1997 and a Second Interim Report was published in February 1999.

⁶ In the words of the Commission: “In all, the amount of spoliation which can be accounted for is just over 5 billion unadjusted francs. Restitution or reimbursement of the levies can be assessed at between 90 and 95% of this amount.” (Mattéoli Commission Summary of Work 2000, p. 61.) Some scholars dispute the 90-95% figure. (Telephonic Interview of Professor Richard Weisberg by Michael Bazzyler, 7 November 2016). Other scholars dispute generally the statistics (percentages, sums, etc.) compiled in the Commission’s Final Report.

Of the many recommendations made by the Commission, one was to provide new compensation to individuals whose property had not been returned or compensated for according to French or German laws or international agreements. (*Id.*, p. 42; *see also Section C.3.*)

3. Commission for the Compensation for Victims of Spoliation (CIVS)

The [Commission for the Compensation for Victims of Spoliation \(CIVS or the “Drai Commission”](#)) was established in 1999 via [Decree No. 99-778](#). In 2014, CIVS activities were extended for an additional five (5) years via [Decree No. 2014-555](#), meaning as of 2016, the claims filing process is still **open**.

CIVS is charged with examining applications from individual victims or their heirs to make reparation for damages resulting from legislation passed either by the Vichy government or by the occupying Germans who have not been previously compensated. The perpetrator of the confiscation could be the state or private persons. Damages giving rise to compensation by CIVS include: looting of apartments or refugee shelters, business and real property spoliation, confiscation of bank accounts⁷ and consignment of insurance policies, theft or forced sale of cultural personal property, and confiscation of money during internment in a camp.

CIVS is not a court of law but an administrative body under the authority of the Prime Minister. For material spoliations, the French government is responsible for compensation and the Prime Minister’s office makes the recommended compensation payments.

Applicants can be citizens or non-citizens.

⁷ On 18 January 2001, the France and the United States entered into the [Agreement between the Government of the United States of America and the Government of France concerning Payments for Certain Losses Suffered during World War II](#) (“French-American Accords”), which put bank and financial institution-related claims – to be paid for by banks – under the purview of CIVS. One of the key brokers of the French-American Accords was Ambassador Stuart Eizenstat. The Accords put to rest mass claims litigation that had been filed in U.S. courts against French and other banks concerning wartime spoliation (e.g., *Bodner v. Banque Paribas*, Case No. 29 Civ. 7433 (E.D.N.Y. filed 7 December 1997)). The U.S. House of Representatives Committee on Banking and Financial Services had also previously held hearings on the same subject matter in September 1999. (See Eric Freedman, “The French Commission for the Compensation of Victims of Spoliation: A Critique” in *Redressing Injustices Through Mass Claims Processes: Innovative Responses to Unique Challenges* (The International Bureau of the Permanent Court of Arbitration, ed., 2006) (“*Freedman, The French Commission for the Compensation of Victims of Spoliation*”), pp. 140-141.)

To start an application procedure, claimants send a letter of request to **CIVS**. Applications are assigned to a rapporteur, who compiles the claimant's information and information from archives and prepares a report for the Commission that includes information about the nature of the spoliation and a proposed compensation amount. Applicants must request a copy of the rapporteur's report – they are not automatically provided with a copy. (Claire Estryn, Eric Freedman and Richard Weisberg, "The Administration of Equity in the French Holocaust-Era Claims Process" in *The Concept of Equity: An Interdisciplinary Assessment* (Daniela Carpi, ed., 2007) ("Estryn, Freedman & Weisberg"), p. 37.)

Scholars Claire Estryn, Eric Freedman and Richard Weisberg have critiqued **CIVS'** inquiry into previous restitution awards finding that "much research is expended on such verification, rather than proactive research to find other potential claimants or other spoliated assets." (*Id.*)

The Commission then examines the claim in a session composed of either three (3) or 10 Commission members. The Applicant may attend the closed-door session and may make his or her own observations. Banks and insurance companies may also attend and make their own observations. (*Id.*, p. 38.) If successful, the Commission issues a recommendation for payment to the Prime Minister's office. An Applicant can request reexamination of his/her case by plenary session of the Commission.

Estryn, Freedman & Weisberg have also noted that strict French privacy laws have often worked against justice in the Holocaust-era restitution field:

Given French laws on privacy and on the protection of private life, and although they work against the immediate interest of claimants, no individual listings (of victims or indeed of named perpetrators) can be issued by the Commission or placed on its website (although such listings can be compiled by individual access to French National Archival sources). Published historical research in France on Holocaust-era spoliation, even if it contains indexes contains no names of victims, so cannot be used by claimants or potential claimants in their search to redress wrongs. This seems to fit in with the current French desire for "privacy", memory and history, but not necessarily for justice. (*Id.*, p. 40.)

In its 2014 Report, **CIVS** noted that for business and real property spoliation, while 50,000 business and buildings were aryanized between March 1941 and June 1944 under the authority of the **General Commissariat for Jewish Questions (CGCQ)** amounting to economic spoliation valued at more than EUR 450 million, few **CIVS** claims concern **real property compensation**. The restitution of real property and cancellation of sales were addressed by simplified procedures at the time of Liberation. ([Republic of France, "Report to the Public on the Work of the CIVS 2014"](#) ("CIVS Report 2014"), p. 12.)

Between 2000 and October 2016, **CIVS** registered a total of 29,285 claims and 34,741 recommendations have been made (a single request can result in multiple

recommendations) (Republic of France, “[CIVS Key Figures, October 2016](#)” (“CIVS Key Figures October 2016”), pp. 2-3.) 19,431 of the claims were material claims and 9,854 claims were bank-related claims. (*Id.*, p. 3.)

More than half of all material files are examined within two (2) years and payment by the Prime Minister’s office is made within approximately six (6) to eight (8) months after it receives a recommendation from **CIVS**. (2016 Government of France Questionnaire Response, 21 April 2016, pp. 20-21.)

With the exception of bank-related spoliations, the French government has been responsible for the compensation for all material spoliations by **CIVS**. Through October 2016, this amount was EUR 509,082,829. (CIVS Key Figures October 2016, p. 2.) Compensation is based on the actualized value of the property at the time of the spoliation. (Government of France Questionnaire Response, 21 April 2016, p. 6.) Apart from certain works of art, **CIVS** only provides compensation and does not physically reconstitute property.

The Commission is permitted to reserve a portion of an applicant’s award for the benefit of one or more heirs who were not part of the proceeding.

Information on private property restitution and reparation measures in France was taken from: *Andrieu*, pp. 134-154; CIVS Key Figures October 2016; CIVS Report 2014; *Estryn, Freedman & Weisberg*, pp. 20-51; *Freedman, The French Commission for the Compensation of Victims of Spoliation*, pp. 139-150; Government of France Questionnaire Response, 21 April 2016; Mattéoli Commission Summary of Work 2000; *Robinson*, pp. 369-372.

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.)

There are a number of Jewish communal organizations in France. One of the main organizations, [Fonds Social Juif Unifié \(FSJU\)](#) was founded in 1950 and brings together 245 member associations in social, cultural, school and youth fields. In addition, the [Conseil Représentatif des Institutions Juives de France \(Representative Council of French Jewry \(CRIF\)\)](#) has also been involved with Jewish property restitution measures.

According to the acting Rabbi of France in 1945, Jacob Kaplan, during the war an estimated 20 synagogues were destroyed (including the great Strasbourg Synagogue), 10 synagogues occupied by Germany or others had been profaned and looted, and many others were partially ruined as a result of attacks. (Jacob Kaplan, “French Jewry under the Occupation” in *American Jewish Year Book 1945-1946, Volume 47*, (1945), p. 110.) However, because there was no explicit plan by the German occupying forces to destroy Jewish synagogues, most survived the war intact.

The French government reported in its contribution the 2012 Green Paper on Immovable Property that “[a]fter the Liberation, there were no difficulties in compensating property confiscated from Jewish communities or (in the event the property was destroyed) to compensate them in accordance with laws pertaining to war damages.” (Green Paper on the Immovable Property Review Conference 2012, p. 31.) The government also stated that:

[...] in France, by virtue of the 1905 law on separation of church and state, the government, which became the owner of religious edifices, turned them over to local municipalities, who made them available to worshippers.

Jewish communities were thus dispossessed of this property, but after the Liberation, measures were taken to re-establish the communities’ usage rights.

For this reason, the return of or compensation for property built after 1905 which belonged to the communities is based on laws pertaining to war damages.

(*Id.*, p. 32.)

CIVS, under its current programming, does not have jurisdiction over property belonging to Jewish communities in France. It only addresses compensation claims by individuals.

We do not have information as to the total amount of communal properties that to date have been restituted under all French measures.

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.)

1. Early Post-War Heirless Property Efforts

A 1950 amendment to the **Decree of 21 April 1945 (Decree No. 47-770)** on the invalidity of acts of expropriation, permitted Jewish persons or organizations to be appointed custodian of heirless Jewish property in France. (*Andrieu*, p. 147.)

In 1951, an investigatory team from the Centre de Documentation Juive Contemporaine was tasked with making an inventory of heirless Jewish property. Apparently, much of the heirless property had remained in the hands of Vichy-appointed administrators or was illegally sold. The inventory process was slow. ([Maurice Carr, “France” in *American Jewish Year Book 1952, Volume 53 \(1952\)*](#), p. 285). Surveys were also conducted in order to ascertain if deported Jews who had not returned left heirless/unclaimed assets. Available government documentation (or lack thereof) in 1953 made it difficult to determine which assets were really heirless. The 1953 American Jewish Year Book recounted that “preliminary surveys of some 15,000 individual cases revealed substantial Jewish funds left in the hands of various French banks. A list of these assets—which may or may not be heirless—was furnished to French authorities, who promised to see what disposition had been made of them.” ([Abraham Karlpikow, “France” in *American Jewish Year Book 1953, Volume 54 \(1953\)*](#), p. 262.)

Despite the framework put in place by the 1950 amendment, Claire Andrieu explains that in the end, the option for Jewish organizations to manage Jewish heirless property “was not taken up.” (*Andrieu*, p. 147.) She suggests that because German compensation to surviving Jews began in 1952 with the Luxembourg Agreement, “possibly as an indirect result of this document, the pressure on France to deal with restitution eased.” (*Id.*, p. 148.)

2. Foundation for the Memory of the Shoah

Decades later, in 2000, in its study of France’s restitution process, the **Mattéoli Commission** identified that one of the limits to restitution had been that of heirless property – particularly with respect to dormant bank accounts and to a much lesser extent with respect to buildings and businesses. (Mattéoli Commission Summary of Work 2000, p.11.) The Commission estimated that the maximum value of remaining unclaimed property (all types – bank accounts, life insurance, businesses, real estate, cash, artwork) amounted to 2.3 billion Francs (EUR 351 million). One of the **Mattéoli Commission’s** reparation recommendations was for the creation of a national memory foundation,

“intended to house public and private funds which had not been claimed” (i.e., heirless property).

That same year, the French government established the public-private interest **Foundation for the Memory of the Shoah (Fondation pour la mémoire de la Shoah) (“Memory Foundation”)**, which was endowed with 2.4 billion Francs (EUR 394 million), which “came from the restitution by the government and certain financial institutions of dormant accounts from expropriated Jews living in France who were killed during the Holocaust. ([Foundation for the Memory of the Shoah, “Annual Report 2014”](#), p. 5.) The French government’s endowment to the **Memory Foundation** was in *addition* to the compensation it pays out to individuals via **CIVS**.

The **Memory Foundation’s** activities include supporting projects that expand knowledge about the Shoah, provide assistance to survivors in need, encourage transmission of Jewish culture, and combat anti-Semitism by facilitating intercultural dialogue. (*Id.*, p. 3.)

The Foundation works to meet the needs of Shoah survivors by making available particular services including, psychological support, financial assistance for people in need, home care services, support services for individuals with Alzheimer’s, and assisted-living residences. (*Id.*, p. 18.) Approximately 3,000 Shoah survivors benefit from such services. In addition, the **Memory Foundation** provides assistance for survivors outside France (in Israel and Eastern Europe), especially for those most in need, via programs set up by charitable organizations. (*Id.*)

Information on heirless or unclaimed property in this Section was taken from: *Andrieu*, pp. 147-148; [Maurice Carr, “France” in American Jewish Year Book 1952, Volume 53 \(1952\)](#), p. 285; [Foundation for the Memory of the Shoah, “Annual Report 2014”](#); [Abraham Karlpikow, “France” in American Jewish Year Book 1953, Volume 54 \(1953\)](#), p. 262.

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