

# OVERVIEW OF IMMOVABLE PROPERTY RESTITUTION/COMPENSATION REGIME – LUXEMBOURG (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, Luxembourg was occupied by Nazi Germany. Laws passed by the occupying administration confiscated property from Jews and other “enemies of the Reich”. By mid-1941, more than half of Luxembourg’s 3,900 Jews (including citizens, refugees and foreign nationals) had fled the country to the unoccupied region of France and Belgium. Approximately 1,300 Jews from Luxembourg were ultimately killed in the Holocaust, including those deported directly from Luxembourg (1941-1943) and those who initially found refuge in France and Belgium but were later deported from there.

In the midst of the war in 1941, the Luxembourg government-in-exile in London issued a **Decree Relating to the Measures of Dispossession Effected by the Enemy**, which formed the basis for immovable property restitution in Luxembourg after liberation in 1944 for *private* and *communal property*. A 2009 report issued by a government-sponsored **Study Commission** found that the vast majority of real estate (private property) had been returned to its Jewish owners. Regarding *communal property*, the government has also reported that two (2) synagogues – in Luxembourg City and Esch – were destroyed during the war, but that the government compensated the Jewish community for its losses. Regarding *heirless property*, the **Study Commission** report found only “isolated instances” of heirless Jewish property, which under provisions of the Luxembourg Civil Code, escheats to the State.

Luxembourg 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 from Luxembourg has been received.

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

In January 1940, the Luxembourg government decided not to collaborate with the Nazis and fled to London where it was recognized as a government-in-exile. Luxembourg was occupied by Nazi Germany in May 1940. At first, Germany placed the country under military administration, but by August 1940, it came under civil administration and was ruled by Gustav Simon, the head of the nearby German province of Koblenz-Trier. In August 1942, Germany annexed Luxembourg. It was an early goal to Germanise the country, which included banning the use of the French language and permitting only German to be spoken. Two-thirds (2/3) of Luxembourg's Jewish population of 3,900 fled the country shortly after the German occupation, leaving behind business and homes that were subsequently Aryanized by decree. Additional decrees confiscated property not only from emigrating Jews, but any emigrants who were considered as "enemies of the Reich." For Jews that remained, their freedoms were severely curtailed and they were subjected to laws that made them increasingly impoverished, including having to turn over keys to their apartments to the Jewish Council. Catholics were also targeted and their monasteries and convents confiscated. Luxembourg was liberated in September 1944. In 2015, the Luxembourg government issued a formal apology for the Luxembourg authorities' role in the persecution of Jews during World War II. A government commission found authorities had collaborated in the persecution of Jews by helping identify Jewish residents, dismissing them from public employment (2 person were affected by this measure) and confiscating their goods. (See [Laurence Norman, "Luxembourg Apologizes for Role in World War II Persecution of Jews", \*The Wall Street Journal\*, 9 June 2015.](#))

At the time of the German invasion of Luxembourg, in 1940, there were roughly **3,900** Jews in the country – including citizens, and 700-800 refugees and foreign nationals (50% of which were refugees who were German nationals). By mid-1941 when the Germans forbade emigration, more than 2,500 had fled the country, most to the unoccupied region of France. Many of these same Jews who found refuge in France were later deported to extermination camps in German-occupied Poland. The remaining approximately 300 Jews were interned at a camp established at the Fuenfbrunnen monastery in northern Luxembourg. They were later deported to the Lodz Ghetto, and the concentration camps in Auschwitz and Theresienstadt. An estimated 1,300 Luxembourg Jews were killed in the Holocaust (including those deported directly from Luxembourg and those who first made it to France and were then deported). Today, approximately **1,200** Jews live in Luxembourg.

At the end of World War II, as an occupied country, Luxembourg was not a party to an armistice agreement or any treaty of peace that specifically affected immovable property within its borders.

Following the war, Luxembourg entered lump sum settlement agreements, reciprocal agreements and bilateral indemnification agreements with at least 10 countries pertaining

to claims belonging to its nationals (natural and legal persons) arising out of war damages or foreign property that had been seized from Luxembourg citizens by foreign states after WWII (e.g., during nationalization of property in Eastern Europe under Communism). They included claims settlements reached with: **Belgium** (1952), **Czechoslovakia** (1952), **United Kingdom** (1954), **France** (1955), **Hungary** (1955), the **United States** (1955), **Norway** (1956), the **Netherlands** (1956), **Switzerland** (1956), and **Poland** (1963). (Richard B. Lillich and Burns H. Weston, *International Claims: Their Settlement by Lump Sum Agreements* (1975), pp. 328-334; [Government of the Grand Duchy of Luxembourg, “Rapport final au gouvernement de la Commission spéciale pour l'étude des spoliations des biens juifs au Luxembourg pendant les années de guerre 1940-1945” \(Final report to the government of special commission for the study of spoliation of Jewish property in Luxembourg during the war years 1940-1945\), 19 June 2009 \(report available in French only\)](#) (“2009 Study Commission Report”), pp. 90-91.)

Luxembourg became a founding member of the Council of Europe in 1949 and ratified the European Convention on Human Rights in 1953. As a result, suits against Luxembourg claiming violations of the Convention are subject to appeal to the European Court of Human Rights (ECHR). Luxembourg was a founding member of the European Union in 1957.

Information relating to the Jewish population in Luxembourg and World War II background was taken from: Martin Dean, *Robbing the Jews: The Confiscation of Jewish Property in the Holocaust, 1933-1945* (2008) (“Dean”), pp. 259-264; Sonja van’t Hof, “Consequences of World War II in Luxembourg”, in *The Politics of War Trauma: The Aftermath of World War II in Eleven European Countries* (Jolande Withuis & Annet Mooij, eds., 2010) (“van’t Hof”), pp. 170-176; [United States Holocaust Memorial Museum – Holocaust Encyclopedia, “Luxembourg”](#); [World Jewish Congress, “Communities, Luxembourg”](#).

### **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 September 1940, the occupying civil administration passed the **Decree on the Administration and Application of Jewish Property**, which required all Jews to register their assets. The decree also stated that Jews could be required to close, liquidate and sell their businesses. In February 1941, a further decree provided that the property of all persons who had fled the country at the time of the occupation (10 May 1940) and who did not return by 1 February 1941, as well as property belonging to Jews who had emigrated and property belonging to Jews that had been deported after October 1941, could be confiscated and placed under the occupier's control. An April 1941 order supplementing the February 1941 decree provided that the German occupiers could confiscate *all* Jewish property including inheritances.

## 2. Restitution Framework After Liberation

On 22 April 1941, the Luxembourg government-in-exile in London issued a [Decree Relating to the Measures of Dispossession Effected by the Enemy](#). This **1941 Decree** formed the basis for immovable property restitution after liberation in 1944. According to the **1941 Decree**, all acts of confiscation of property by the enemy since 10 May 1940 were declared null and void, including confiscation of private property or property belonging to the State, communes, or to establishments of public interest. (**Articles 1, 2.**) The **1941 Decree** set a limitation period of three (3) years following the conclusion of peace for the original owners to claim their property. (**Article 3.**) Any person who supported the property confiscations and who profited from them would be subject to imprisonment and a fine. (**Article 4.**)

On 17 August 1944 – just before liberation – the Luxembourg government-in-exile issued another **Decree (concerning sequestration of the enemy)** establishing a **Sequestration Office (Office des Séquestres)**. Assets of persons who had been deported, evacuated and dispossessed by the enemy (occupying forces) were put under the protection of the government. The **Sequestration Office** was then tasked with identifying the owners of confiscated property. The Office held impounded property of German Jews whose property was initially considered enemy property. However, by Decree of 26 October 1944, the Minister of Finance was permitted to stay the sequestration of property belonging to “enemy nationals”.

After liberation in 1944, the **1941 Decree** was widely published. Another related decree was issued by the Luxembourg government in July 1944 (amending the **1941 Decree**) requiring buyers of confiscated assets to provide a declaration to the police.

The **1950 Law for War Damages** provided compensation for material, political and physical damages. However, the definition of eligible recipients under the law excluded Jewish survivors when they did not have Luxembourg nationality – which was the majority of survivors. Luxembourg also entered into reciprocal international agreements relating to war damage with Belgium (1952), the United Kingdom (1954), the United States (1955), France (1955), Norway (1956), the Netherlands (1956), and Switzerland

(1956). Around this time, government policy also became more liberal with respect to stateless persons and determined they should also be permitted to seek compensation.

### 3. **Special Commission for the Study of Spoliation of Jewish Property in Luxembourg during the War years, 1940-1945**

In 2001, the Luxembourg government established a **Special Commission for the Study of Spoliation of Jewish Property in Luxembourg during the War Years, 1940-1945** (“**Study Commission**”). It was tasked with studying the conditions by which immovable and movable property belonging to Jews residing in Luxembourg during World War II and the occupation was looted, and the conditions and scope of restitution and/or damages that were granted after the war to the victims of spoliation or their heirs.

An interim report was issued in 2007 and the final report in 2009. After reviewing the available documents, the **Study Commission** found that after liberation the vast majority of real estate transactions/confiscations were declared null and void. The **Study Commission** concluded that between 1940 and 1944, there were 1019 real estate confiscations/transactions relating to Jewish property. Of these, 97.5 percent of the properties were returned to their rightful owners after the war between 1945 and 1946. The remaining 2.5 percent of those transactions (25 pieces of property) were not classified as dispossessions of property. The **Study Commission** found that none of the property sales has been the subject of a legal action by the Jewish owners and their heirs and the purchasers (however, they did not exclude the possibility of out-of-court amicable settlements).

Information in this section relating to confiscation and restitution of property and the government Study Commission was taken from: *Dean*, pp. 259-264; 2009 Study Commission Report; Marc Schoentgen, “Luxembourg”, in *The Greater German Reich and the Jews: Nazi Persecution Policies in the Annexed Territories 1935-1945* (Wolf Gruner & Jörg Osterloh, eds., Bernard Heise, trans., 2015) (“*Schoentgen*”), pp. 296-311; *van’t Hof*, pp. 182-183.

#### 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 [Consistoire Israélite de Luxembourg](#) is Luxembourg's Jewish community's representative to the government.

The **Study Commission's** final report from 2009 contained a section on "Jewish organizations", which described how Jewish organizations were liquidated during the occupation. According to the report, 22 Jewish organizations were dissolved by the *Stillhaltekommissar* and RM 35,062.22 was confiscated. (2009 Study Commission Report, pp. 37-39.)

During the occupation of Luxembourg during World War II, two (2) of Luxembourg's four (4) synagogues – located in Luxembourg City and Esch – were destroyed by the occupying Germans. After the war, the Jewish communities were compensated for the loss of the synagogues. While Jewish cemeteries were not destroyed during the war, the Jewish community was compensated for metal ornaments that were removed from the cemeteries.

Information in this section on communal property was taken from: [Consistoire Israélite de Luxembourg](#); 2009 Study Commission Report, p. 95; [Green Paper on the Immovable Property Review Conference 2012, pp. 63-64 \(Luxembourg\)](#).

#### **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.)

According to Luxembourg's [Civil Code, Articles 811-813](#), when the statute of limitations for the return of property has expired and there is no known heir to the property, it becomes a vacant estate. The proceeds from a sale of a vacant estate by public sale (of real estate) are paid into the public treasury (i.e., become property of the state).

The **Study Commission's** final report from 2009 stated that while most real estate was returned between 1945 and 1946, there were a few isolated cases where a piece of property was heirless. In those isolated instances, **Civil Code, Articles 811-813** were employed and the property became part of the treasury.

As far as we are aware, Luxembourg has not made any special provision for heirless Jewish property.

Information in this section on heirless property was taken from: 2009 Study Commission Report, p. 106.

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