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

CONTENTS

A. EXECUTIVE SUMMARY

The Netherlands was occupied by Nazi Germany in May 1940 and remained at least partially occupied (in the north) through May 1945. A German civil administration was installed in the country, while the Dutch government fled and set up a government-in-exile in London. A key feature of the German occupying administration was implementing what has come to be described as "looting by decree" of property and possessions of the Jews in the Netherlands. In the period between 1940 and 1942, after which deportations commenced, Jewish property was registered and confiscated all under the guise of legality and in certain instances with the help of the Jewish Council (e.g., with respect to liquidation of communal organizations). Between 1942 and 1944, the German occupiers and Dutch collaborators deported 107,000 Jews, of which 5,200 survived. Between 25,000 and 30,000 Jews went into hiding, two-thirds (2/3) of which survived. In the end, less than 20% of all Jews in the Netherlands survived the Holocaust. Only the Roma in the Netherlands suffered a fate comparable to the Jews. 245 Roma were deported in a raid in May 1944 and their possessions were seized. Only 30 returned.

Restitution of immovable property began immediately after the war under a framework of laws issued by the Dutch government-in-exile in London during the war. The laws cancelled wartime German confiscation decrees and set up a **Council for the Restoration of Rights**, which included an administrative immovable property division. Dutch historian Gerard Aalders has described the restitution of *private property* as a complicated and protracted process that often involved a good deal of compromise via "amicable settlements" (or expensive litigation) but that Jewish owners generally got their property back. A 2000 report issued by a government commission of inquiry whose mandate included determining the amount of unrestituted property, the **Van Kemenade Commission**, also concluded that the property restitution process – with the exception of securities – was generally carried out lawfully and with precision but that there were shortcomings which resulted in unfair or unreasonable consequences.

Postwar restitution of *communal property* could only be initiated by organizations that were in existence before the war, which was chiefly the **Dutch Israelite Congregation (NIK).**

With few exceptions, no special provisions were made for immovable *heirless property* in the early post-war years. However, after the release of the **Van Kemenade Commission** report, in 2002, the Dutch government entered into an agreement with banks, insurance companies, the stock exchange, the **Central Jewish Board (CJO)** and **The Platform Israel,** which stated that a total of EUR 346.7 million (764.12 million guilders) would be made available as material and moral compensation for the recognized deficiencies in the restoration of rights after World War II. In a letter to Parliament in March 2000, the government stated the compensation was in part "intended to cover [] amounts [property] that lawfully reverted to the State." The **Maror Foundation** is in charge of distributing the funds, which has included one (1)-time lump-sum payments to individuals, as well as ongoing funding of communal activities both in the Netherlands and abroad.

The Netherlands 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 the Netherlands has been received.

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

Nazi Germany invaded and occupied the Netherlands in May 1940. After a brief period of military administration, Germany established a civil administration in the Netherlands headed by Austrian-born Arthur Seyss-Inquart. The Dutch government fled and established a government-in-exile in London but instructed the chief civil servants in the various ministries to remain and continue to work so long as their duties were in line with existing law. However, the Dutch civil servants had to work under the direction of German Commissioners (Generalkommissare), whose orders came directly from Berlin.

During the occupation, Jews and Roma (Gypsies) were the main victims of "looting by decree" in the Netherlands, which came in three phases: defining the victim, registration, and establishing an entity where the assets were deposited. (*See* Gerard Aalders, "Organized Looting: The Nazi Seizure of Jewish Property in the Netherlands, 1940-1945" *in Networks of Nazi Persecution: Bureaucracy, Business and the Organization of the Holocaust* (Gerald D. Feldman & Wolfgang Seibel, eds., 2005) ("*Aalders, in Networks of Nazi Persecution*"), pp. 175-175.) One Dutch historian has written that "[o]nly the Gypsies suffered a fate comparable to that of the Jews. We have no precise figures, but they too had to hand over their property to the Nazis because, like the Jews,

they were victims of Nazi racism." (Gerard Aalders, *Nazi Looting: The Plunder of Dutch Jewry During the Second World War* (Arnold Pomerans & Erica Pomerans, trans., 2004) (originally published in Dutch in 1999 as *Roof: De ontvreemding van joods bezit tijdens de Tweede Wereldoorlog*) ("*Aalders*, *Nazi Looting*"), p. 225.)

In early 1941, Nazi policy became stricter in the Netherlands and the occupiers and Dutch collaborating officials segregated Jews from the rest of the Dutch population and required them to register themselves as being Jews. Approximately 15,000 Jews were sent to German-run labor camps, while Jews from around the country were concentrated in Amsterdam, others were sent to the Vught camp, and foreign/stateless Jews were sent to the Westerbork transit camp. Deportations began in summer 1942 and lasted into 1944. During this time, the Germans and their collaborators deported **107,000** of the Netherlands' **140,000** Jews, mainly to Auschwitz and Soribor. **5,200** survived. During the war, between **25,000** and **30,000** Jews were assisted by the Dutch underground and went into hiding, two-thirds (2/3) of which survived. **Less than 20%** of all Dutch Jews survived the Holocaust.[1] Today there are between **41,000** and **45,000** Jews living in the Netherlands.

245 Roma were deported in a large raid on 16 May 1944 and only **30** returned. On the orders of the German police, their possessions were seized. Commissions established by the Dutch government in the late 1990s to examine various aspects of post-war restitution policies were unable to uncover additional information. The Council of Europe estimates that as of 2012, there were **40,000** Roma in the Netherlands. (European Commission, "The European Union and Roma – Factsheet: The Netherlands" (4 April 2012).)

The southern part of the Netherlands was liberated in the fall of 1944, but the northern part would not be liberated until May 1945. At the end of World War II, as an occupied country, the Netherlands was not a party to an armistice agreement or treaty of peace that specifically affected immovable property within its borders.

Following the war, the Netherlands entered lump sum settlement agreements, reciprocal agreements or bilateral indemnification agreements with at least nine (9) countries pertaining to claims belonging to its nationals (natural and legal persons) arising out of war damages/victims of National Socialism persecution or property that had been seized by foreign states after WWII (i.e., during nationalization under Communism). They included settlements reach with: **Yugoslavia** on 22 July 1958, **Austria** on 30 September 1959, **Federal Republic of Germany** on 8 April 1960, **Bulgaria** on 7 July 1961, **Poland** on 20 December 1963, **Czechoslovakia** on 11 June 1964, **Hungary** on 2 July 1965, and **U.S.S.R.** on 20 October 1967. (Richard B. Lillich and Burns H. Weston, *International Claims: Their Settlement by Lump Sum Agreements* (1975), pp. 328-334; Burns H.

[1] The most famous victim was Anne Frank, whose family hid in a secret annex until 1944 when they were turned over to the Germans by a collaborator. Anne and her sister Margot were transferred to the Bergen-Belson concentration camp where they died. Anne's father Otto Frank was the only member of the family that survived the war.

Weston, Richard B. Lillich and David J. Bederman, *International Claims: Their Settlement by Lump Sum Agreements 1975-1995* (1999), pp. 101-103.)

The Netherlands became a member of the Council of Europe in 1949 and ratified the European Convention on Human Rights in 1954. As a result, suits against the Netherlands for violation of the Convention are subject to appeal to the European Court of Human Rights (ECHR). The Netherlands has been a member of the European Union since 1958.

Information relating to the Jewish population in the Netherlands and World War II background was taken from: United States Holocaust Memorial Museum – Holocaust Encyclopedia, "The Netherlands"; World Jewish Congress, "Communities, Netherlands"; *Aalders, in Networks of Nazi Persecution*", pp. 168-188. Information relating to the Roma in the Netherlands was taken from: Government response to reports on World War II assets (Letter from Prime Minister of the Netherlands).

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

During the occupation, Jewish businesses/enterprises and other immovable property in the Netherlands were registered and confiscated through a series of decrees (**Verordnungen or VO**) that had the force of law.

VO 189/1940 required that all Jewish businesses ("Jewish businesses" included those with one (1) Jewish partner or director, or those where Jews owned 25% or more of the capital) be registered with the **Office of Economic Investigation (Wirtschaftsprüfstelle) (WPS).** Roughly 21,000 "Jewish" businesses were registered. **VO 48/1941** provided the "legal" basis for forced sales and liquidation of enterprises. In total, 2,000 businesses were Aryanized (worth 75 million guilders) and 10,000 were liquidated (worth 6.5 million guilders). 8,000 of the original 21,000 "Jewish" businesses were able to avoid the definition by reducing the level of Jewish ownership and paying a fine. Aryanization occurred generally more quickly here than in other parts of Europe –

and was tied to deportation plans that were to begin in mid-1941. The Nazi civil administration was an integral part of this confiscation process.

On 27 May 1941, **Ordinance (Verordnung) VO 102/1941** required that all agricultural lands held by Jews or Jewish businesses in the agricultural and fishery sectors be registered and then transferred to non-Jews by 1 September 1941. However, less than 1% of Dutch agricultural property was in the hand of Jews.

The 11 August 1941 **VO 154/1941** (concerning Jewish real estate) tasked the **Netherlands Estate Administration (Niederländische Grundstücksverwaltung) (NGV)** with the liquidation of Jewish real estate and mortgages. The Decree covered land, buildings, rent, building rights, hereditary tenure, mortgages and other property rights. All properties had to be registered with the **NGV**. 20,000 pieces of land and 5,600 mortgages worth an estimated total of 172 million guilders were registered. Collection of rents, payment of mortgages and the sale of property were managed by the **NGV** and the **General Netherlands Administration of Real Estate (Algemeen Nederlands Beheer van Onroerende Godeeren) (ANBO)** from offices around the country, along with assistant administrators who were paid half of the 5% administration fee. Rents and sale proceeds were deposited in one of the banking outlets of the **Property Administration and Pension Institute** (**Vermögensverwaltung und Rentenanstalt)** (**VVRA)** such as the infamous Lippman, Rosenthal & Co. in Sarphatistraat (which was not really a bank but a storage facility and sales office for stolen Jewish property). Jewish owners were *in theory* permitted to collect their money in 100 quarterly installments (i.e., over 25 years) – but in reality the German occupiers had no intention of returning the money. Moreover, properties were sold far below market prices and the **ANBO** concluded that "a very large portion of Jewish houses are falling into the hands of buyers who work hand in glove with black marketeers, the percentage of houses that actually pass into the hands of private individuals being relatively far too low". (*Aalders, Nazi Looting*, p. 124.)

Information in this section relating to confiscation of property was taken from: *Aalders in Networks of Nazi Persecution,* p. 185; *Aalders, Nazi Looting,* pp. 122-126; Martin Dean, *Robbing the Jews: The Confiscation of Jewish Property in the Holocaust, 1933-1945* (2008) ("*Dean*"), pp. 267-270.

2. Early Post-War Restoration (Not Restitution)

a. The Legal Framework

Even before the war was over, the Dutch government-in-exile in London issued a number of decrees in an effort to establish a framework that would facilitate the restoration of property rights in the Netherlands.

On 17 September 1944, the Dutch government-in-exile issued the **Decree for the Restoration of the Rule of Law (Besluit Herstel Rechtsverkeer)**, known as **E100.** The purpose of **E100** was to restore the rights of the original owners by "cancelling the numerous civil law acts performed under the pretense of justice and otherwise executed

under direct or indirect compulsion" during the occupation. (Gerard Aalders, "The Robbery of Dutch Jews and Postwar Restitution" *in The Plunder of Jewish Property during the Holocaust: Confronting European History* (Avi Beker ed., 2001) ("*Aalders, in The Plunder of Jewish Property*"), p. 290.) The implementation of the restoration of rights was delegated to the **Council for the Restoration of Rights (Raad voor het Rechtsherstel)**. The **Council** had a number of departments, including a judicial division – which acted as a special restitution court – and a custodian division, immovable property division, and securities division. The latter three (3) were administrative agencies whose decisions could be appealed to the Judicial division. (Wouter Veraart, "Two Rounds of Postwar Restitution and Dignity Restoration in the Netherlands and France", Law & Social Inquiry – J. of Am. Bar Foundation 41(4) (Fall 2016), pp. 956-972, 960 ("*Veraart, Two Rounds of Postwar Restitution*").)

The **Occupation-Measures Decree**, known as **E93,** was also passed on 17 September 1944 and was pivotal to post-war restoration of rights because it listed 423 German decrees to be revoked, including all anti-Jewish measures.

On 20 October 1944, the Dutch government-in-exile passed the **Enemy Property Decree**, known as **E133**, which provided that property of enemy states and subjects within the territory of the Netherlands would pass to the Dutch state.

b. The Return of Property

Despite the existence of the restitution legal framework, property return was a complicated and protracted process. Moreover, the process was less a *restitution* process and more a *restoration* of whatever property remained. Even though the Jews suffered comparatively more than any other group in the Netherlands, the restoration framework did not give them any kind of preferential treatment.

Real Estate

With respect to real estate in particular, one historian has observed:

> Restoring real estate to the rightful owners also gave rise to specific problems. While Jewish owners (or their heirs) were entitled to reclaim their property, questions arose about the individual who was to take the loss. If a building had been purchased by a Nazi or a Dutchman with Nazi sympathies (e.g., a member of the NSB, the Dutch national-socialist party), the answer was obvious: the first buyer took the loss, and the owner regained his property. Buildings that had been resold several times, especially ones where the original Jewish ownership had been kept secret, were a more complicated matter. The most recent buyer might have been unaware of the situation. In such cases the department of real estate of the council for restitution of legal rights would try to negotiate a settlement distributing the loss among the subsequent buyers. Often, however, such a settlement proved impossible. The case would be heard by the department of

> dispensation of justice. Legal fees mounted. Ordinarily, Jewish owners got their property back.

(Gerard Aalders, "A Disgrace? Postwar Restitution of Looted Jewish Property in the Netherlands", *in Dutch Jews as Perceived by Themselves and by Others* (Chaya Brasz & Josef Kaplan, eds., 2001) ("*Aalders, in Dutch Jews*"), p. 401.) As a result, the restitution process lacked predictability, and former owners could not always rely on the letter of the law to get their property back. (*See Veraart, Two Rounds of Postwar Restitution,* p. 961.) In many cases it was part of the settlement that the Jewish owner had to partially financially compensate the most recent buyer in order to get his property back, for example with regard to the loss on mortgages. (*See* (in a critical vein) Wouter Veraart, *Deprivation and Restitution of Property Rights in the Netherlands and in France during the Years of Occupation and Reconstruction in the Netherlands and in France* (published PhD thesis in Dutch with English summary) (2005), p. 545). Historian Wouter Veraart has also described another competing interest in post-war restitution 1945-1952, the interest of the Dutch Minister of Finance:

> He used the restitution machinery mainly to pursue the financial interests of the Dutch state in order to reconstruct the economy, even if this policy conflicted with the interests of the dispossessed Jewish community.[…], [Finance Minister] Lieftinck, with his mind set on the social-economic reconstruction of Dutch society in general, did his utmost to protect Dutch financial institutions against claims during the postwar period.

(*Veraart , Two Rounds of Postwar Restitution,* p. 961.)

Many properties were returned via "amicable settlement", which was the non-court dispute settlement process under the real estate division of the **Council for Restoration of Rights**. Civil law notaries facilitated the administrative process of restoration of rights between parties. In case of a dispute an appeal could be filed with the judicial division of the **Council for Restoration of Rights.** The **Council** addressed approximately 200,000 claims (not exclusively real estate claims). The **Council** discontinued its activities in 1967 (but the securities division continued to operate as an independent entity for another 10 years).

<u>Businesses</u>

The owners of businesses suffered the most financially during the restoration process, because when their businesses were Aryanized or liquidated, they were appraised and sold for amounts well below market value. As a result, when business owners sought restoration of their rights, they got back only the balance of funds from when the business was Aryanized or sold at a cut-rate rate. Often this amount was just a fraction of the original value.

Information in this section relating to post-war restoration of immovable property was taken from: *Aalders, in Dutch Jews,* pp. 400-403; *Aalders, in The Plunder of Jewish Property*, pp. 282-296; and *Veraart, Two Rounds of Postwar Restitution.*

3. Renewed Restitution Efforts from the Late 1990s and Early 2000s

In the late 1990s, the Netherlands undertook the establishment of no less than four (4) commissions of inquiry tasked with examining different aspects of the post-war Dutch restitution process in Europe. These commissions included the **Kordes Commission** (mandate relating chiefly to the despoliation of Jews in the Netherlands via the bank Lippman Rosenthal & Co. (LiRo)); the **Scholten Commission** (mandate relating chiefly to looting of securities, bank accounts, and insurance policies, but not businesses); the **Ekkart Commission** (mandate chiefly dealing with looted art); and the **Van Kemenade Commission** (mandate relating initially to monitoring whether Dutch citizens could advance claims abroad (i.e., the dormant accounts in Switzerland) and extended to, *inter alia*, the amount of property held by Jews in the Netherlands before the war and the extent of the looting and the way the restitution process was organized).

Part of the **Van Kemenade Report**, issued in 2000, was an historical overview of the Dutch post-war restitution process. The **Report** noted that, with respect to restitution legislation, the view in the immediate aftermath of World War II was that Jews were to be treated like all other Dutchmen, even though they had generally suffered and lost far more – meaning that no special treatment was afforded to Jews, even though more than 100,000 had been murdered during the war.

The **Report** found that generally the restitution process (for all types of property except securities) was carried out in a lawful and precise manner but that the restitution process had unfair consequences for many involved. An example was the initial failure to waive inheritance tax on property of Jews that died in concentration camps. The **Report** also found that it was impossible to determine the financial damage that these shortcomings had on the Jewish community and it was impossible to calculate the difference between the amount of looted property and the amount that had been restored, and if there was a difference, who was responsible. (*See* Government of the Netherlands, Government response to reports on World War II assets (21 March 2000) (translation to English from Dutch original)).

The **Report** estimated that businesses were looted in the amount of somewhere between 150 and 600 million guilders, and the value of confiscated real property was an estimated 196 million guilders. (*See* Manfred Gerstenfeld, *Judging the Netherlands: The Renewed Holocaust Restitution Process, 1997-2000* (2011) ("*Gerstenfeld, Judging the Netherlands"*), p. 110 (summarizing report).)

Information from this section related to official government commissions of inquiry and independent academic research into post-war restitution measures was taken from: Manfred Gerstenfeld, *Judging the Netherlands: The Renewed Holocaust Restitution Process, 1997-2000* (2011), Ch. 4-8 & Epilogue; *See* Government of the Netherlands, Government response to reports on World War II assets (21 March 2000) (translation to English from Dutch original).

4. Maror Foundation

After the publication of the Commission reports in the late 1990s and 2000, the Dutch government, in cooperation with banks, insurance companies, the stock exchange, the **Central Jewish Board (CJO)** and **The Platform Israel,** determined that a total of EUR 346.7 million (764.12 million guilders) would be made available as material and moral compensation for the recognized deficiencies in the restoration of rights after World War II (of which, 400 million guilders was paid by the government). The money was allocated to the Jewish community under government supervision through the **Maror Foundation.** (*See also* **Section D.3** on communal property activities of **Maror Foundation.**)

The money was allocated as follows: EUR 50 million to a Dutch Jewish Humanitarian Fund for projects outside of the Netherlands and Israel. For the remaining approximately EUR 300 million, 80% was allocated to fixed-sum payments to individuals and 20% for communal purposes for a period of 20 years (of which 74% were for communal purposes in the Netherlands and 26% outside).

To receive a fixed-sum individual payment for property loss, claimants had only to show they were born prior to 8 May 1945, resided in the Netherlands for some period between 10 May 1940 and 8 May 1945, and had at least one (1) Jewish parent and two (2) Jewish grandparents on the side of the Jewish parent, or suffered persecution and/or looting in the Netherlands as a result of being Jewish.

Claims had to be received by the **end of December 2001**.

Information in this section on the breakdown of MAROR funds was taken from: Government of the Netherlands – Ministry of Health, Welfare and Sport, "World War II and its aftermath in the Netherlands" (Ministry of Health Welfare and Sport, The Netherlands Dept. of Victims and Remembrance WWII, eds., 2010), p. 14.

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 Dutch Jewish community is represented by three (3) main councils, depending on affiliation. The council for the Dutch Ashkenazi Orthodox Jews is the **Nederlands-Israelitisch Kerkgenootschap (Dutch Israelite Congregation) (NIK)**. The council for

the Dutch Reform Jews is the **Verbond van Liberaal Religieuze Joden (Dutch Union for Progressive Judaism) (NVPJ)**, which was founded in 1931. The council for the Dutch Sephardic Orthodox is the **Portugees-Israelitisch Kergenootschap (Sephardic Jewish Community)**. Like many other European Jewish communities, the Dutch Jewish community has become increasingly secularized with only 25% being members of a Jewish organization or congregation (as compared to 60% in 1947). (Chaya Brasz, "After the Shoah: Continuity and Change in the Post-war Jewish Community of the Netherlands", *in Dutch Jewry: Its History and Secular Culture 1500-2000* (2002) ("*Brasz*"), p. 274.)

In addition, the **Central Jewish Board (Central Joods Overleg) (CJO)** was founded in 1997 to represent the Jewish community to the Dutch government. Members of the **CJO** include the **NIK,** the **NVPJ**, the **Portugees-Israelitisch Kergenootschap,** the **JMW** (organization for Jewish social work), the **Federation of Dutch Zionists (FNZ)**, and the **Center for Information and Documentation on Israel (CIDI).** The **CJO** was instrumental in negotiating with the Dutch government regarding additional post-war restitution settlements in the early 2000s.

1. Communal Property Confiscation During World War II

In addition to Aryanizing and liquidating private property, German occupiers also liquidated non-profit organizations (with Jewish and non-Jewish affiliations) via **VO 145/1940** (requiring registration of property) of 20 September 1940 and **VO 41/1941** (requiring liquidation) of 28 February 1941. The occupiers required all Jewish organizations (apart from religious ones) to be put under the control of the Amsterdam **Jewish Council.** The **Jewish Council** was told that if it assisted in the liquidation process, if it turned out that frozen funds were needed to continue activities like aiding needy Jews, the assets would be unfrozen. The occupiers thus made the **Jewish Council** its liquidation accomplice and "all Jewish organizations and institutions would ultimately be liquidated or virtually ransacked." (*Aalders, in Nazi Looting,* pp. 111-114.) The **Jewish Council** was required to turn over a list of Jewish organizations, which eventually totaled 1,015 (*Id.*, p. 113.) Liquidating Jewish organizations yielded more than 10 million guilders, which was paid into the **Property Administration and Pension Institute (Vermögensverwaltungs- und Rentenanstalt) (VVRA).**

2. Post-war Restitution

Despite efforts to create new Jewish umbrella organizations to represent the Jewish community in the Netherlands after the war, the **NIK** ended up being the organization that dealt with the Dutch government regarding restitution of communal immovable property. Chaya Brasz has observed:

> For the Dutch authorities, restitution of property (buildings and the like) to the Jewish community could only go through the official pre-war religious institutions and legal owners, the so-called Jewish 'church'-organizations, and not through a new Jewish organisation that was based on the idea that the Jews

> formed a separate nation. Thus, when the International Jewish organisations withdrew and the Dutch Jews were left to deal with the Dutch authorities alone, only the Nederlands Israelietisch Kerkgenootschap [**NIK**] could do so and not the [Jewish Coordinating Committee].

(*Brasz*, p. 284.)

3. Communal Property Restitution Efforts in the late 1990s-early 2000s

Money the Netherlands received in the late 1990s as a final payment from the **Tripartite Gold Commission** (a commission created in 1945 and disbanded in 1998, whose mission was to judge claims of countries whose possessions had been looted and to pay out a proportionate share of the gold that the Nazis had stolen and the Allies recovered after the war) went to support communal activities (for both Jews and Roma). A total of 22.5 million guilders was divided amongst the following types of activities: cultural programming, education, museums, upkeep of cemeteries, libraries, synagogues, books and films. (*Gerstenfeld, Judging the Netherlands*, p. 92.)

The restitution fund set up as the **Maror Foundation** in December 2000 with funds from agreements with the Dutch government, banks, insurance companies and stock exchange (*see* **Section C.4**), had both individual and communal restitution components. Between 10 and 20% of the EUR 346.7 million (764.12 million guilders) was earmarked for communal purposes for a period of 20 years (of which, 74% of the funds were for communal purposes in the Netherlands and 26% outside). The **Maror Foundation** distributes these funds to qualified applicants.

The **Dutch Jewish Humanitarian Fund (JHF)** was also established in 2002 as a result of the negotiations between the Dutch government and the Jewish community. EUR 50 million of the agreed-upon restitution amount was allocated to support projects dedicated to Jewish life in Central and Eastern Europe. **JHF** activities support the continuation of Jewish life and focus on cultivating Jewish values among the younger generation.

4. 2016 Donation to Jewish Community by Amsterdam City Council

In May 2016, the Amsterdam City council announced that it would donate EUR 10 million to Amsterdam's Jewish community as compensation for back taxes that Holocaust survivors were forced to pay after the war.

A study issued by the **NIOD Institute for War, Holocaust and Genocide Studies** found more than 200 instances of Holocaust survivors – including those returning from Auschwitz – being required to pay bills, including utility bills for people who had been squatting in their houses during the war.

The money was given to the Amsterdam Jewish community after it was determined that individual repayment was not practical due to lack of information. The compensation will be put towards Jewish community projects such as memorials and a Holocaust museum. (*See* "Amsterdam to Give Back $11m in Taxes Paid by Holocaust Survivors

Upon Return", Haaretz, 17 May 2016; "Amsterdam to give €10m to Jewish community for WWII local tax scandal", Dutchnews.nl (15 May 2016).)

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.)

Since 80% of the Dutch Jewish population had been killed during the Holocaust, it was often difficult to find to heirs or rightful owners of immovable property. Where heirs or rightful owners to property could not be found, administrators were appointed to administer the property, including the **Administration of Missing Persons and Unclaimed Property (BAON)**. The administration was resolved or ended when the heirs or rightful owners were no longer missing (meaning they were usually declared dead). Heirs were traced through registers of births, marriages and deaths, and via notices in newspapers. A special law was enacted in 1949 in order to issue death certificates to missing persons (persons who were killed in concentration camps had not been issued death certificates).

An **October 1959 Royal Decree** determined that the **Jewish Social Service Foundation (JMW)** should benefit from claims of persons to **LVVS** (relating to property in accounts) who were missing or could not be found (assumed dead) provided that **JMW** would turn over the claimant's funds if he or she turned up later. However, unclaimed Jewish property not subject to the **October 1959 Royal Decree** was treated like all other unclaimed property in the Netherlands and escheated to the **State Consignation Fund** and was published in the Government Gazette. No special provision was otherwise made for heirless immovable Jewish property.

After the presentation of numerous reports from government-established commissions of inquiry in the early 2000s – in particular the **Van Kemenade Report** (*see* **Section C.3**), , the Dutch government and other entities paid a total of EUR 346.7 million (764.12 million guilders) as material and moral compensation for the recognized deficiencies in the restoration of rights after World War II (400 million guilders was paid by the government). In a 21 March 2000 letter to the Dutch Parliament summarizing the conclusions of the various commissions, the government described the monetary payment as being "*intended to cover both amounts that lawfully reverted to the State* and specific issues such as the costs of the camps at Westerbork and Vught which are understandably very sensitive issues for the Jewish community." (Government of the Netherlands, Government response to reports on World War II assets (21 March 2000) (translation to English from Dutch original) (emphasis added); *Veraart, Two Rounds of Postwar Restitution,* pp. 966-968.) The money was allocated to the Jewish community under government supervision through the **Maror Foundation** and meant to benefit the collective activities of the Jewish community. (*See also* **Section D.3** on communal property activities of **Maror Foundation.**)

Since endorsing the Terezin Declaration in 2009, the Netherlands has not passed any laws dealing with restitution of heirless property.

Information in this section on heirless property was taken from: *Aalders, in The Plunder of Jewish Property,* pp. 291- 292; *Veraart, Two Rounds of Postwar Restitution,* pp. 11-13.

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