

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

CONTENTS

- A. OVERVIEW
- B. BIBLIOGRAPHY

A. OVERVIEW

On 22 June 1941, Germany invaded the territory of the Soviet Union, in violation of the August 1939 Molotov-Ribbentrop Pact, a non-aggression pact between the two countries. The invasion marked the beginning of what Russia would later call the Great Patriotic War (the eastern front of World War II), where the Soviet Union suffered losses to its population in the tens of millions people (soldiers and civilians alike). Germany wanted to expand its *Lebensraum* (living space), and to this effect, it began with systematic elimination of Jews and other targeted groups in the Soviet Union. The war against the Bolshevik Soviet Union was meant to be quick and efficient. However, the overwhelming numbers of Soviet Red Army troops, as well as harsh winter conditions eventually halted the German forces' advance near Moscow on 27 November 1941. Germany suffered its largest defeat of the war on 2 February 1943 at Stalingrad, resulting in the capitulation of Germany's Sixth Army under command of General Friedrich Paulus. From that point on, the Russian forces began a massive counter-attack, securing historical victory in a huge tank battle of Kursk on June 1943. The next victory over Germany would be the final victory for the Soviet Union and the Allies, when on 2 May 1945 the Soviet forces captured the Reichstag in Berlin.

During the war, the USSR lost at least **11,000,000** soldiers, and between **7,000,000** and **20,000,000** million of its civilian population.

In spring 1941, so-called *Einsatzgruppen* ("action groups") – a special branch of the *Security Service (SD) and Security police* – were set up for the purpose of killing Jews and other targeted groups. There were four (4) *Einsatzgruppen* in total – A, B, C, and D. They were attached to German armies advancing eastwards throughout the Soviet-German front.

Before the war, Soviet Jews were not singled out for persecution by Stalin's NKVD (The People's Commissariat for Internal Affairs), but were persecuted on a par with the rest of the Soviet people. Throughout the war, Jews played an important part in the Soviet military effort. Their role on the front lines was significant and arguably higher than other national groups. Aware of the mass killings conducted by the German forces in the Soviet Union, the Soviet Jews wanted to contribute to the fight against the Germans. About **500,000** Jews served in the Soviet Red Army during the Great Patriotic War. Some of them are still alive today (approximately **7,000**) and live mainly in Israel. After the war, Soviet government gradually began to abuse, discriminate and partly persecute Soviet Jews. Until Stalin's death in 1953, a growing number of Soviet Jews were sent to gulags

and faced significant physical and other abuse. In 1952, Stalin had 13 leading Russian Jewish intellectuals murdered in a clandestine manner after a closed trial, which would later be called the “Night of the Murdered Poets.” It seems that only Stalin’s death prevented greater persecution of Jews.

According to the census of 1926, the total number of Jews living in the USSR was estimated to be between **2,599,973** and **2,672,398**, of which **975,000** lived in Russia. A total of approximately **2,000,000** Jews are believed to have died during the Holocaust on the whole territory of the Soviet Union, which left approximately **672,000-870,000** Jewish survivors after the war. An estimated **107,000** Jews were exterminated on the territory of Russia during the war. Due to the fact that **7,000,000** Soviet citizens missing were missing after the war, there are no universally agreed upon estimates of the surviving Russian Jews. The latest official census of 2010 showed a figure of **265,000** Jews currently living in Russia.

Certain researchers suggest that the total number of Roma living in the Soviet Union before World War II was approximately **200,000** – this number is, however, very speculative. (See Panikos Panayi, *Outsiders: History of European Minorities* (1999), p. 46.) The estimated number of Roma deaths during the war varies from **30,000** to **35,000**. Today, there are an estimated **825,000** Roma living in Russia.

In 1945, the three (3) main Allied powers – the United States, the United Kingdom and the Soviet Union – met at Yalta and Potsdam to negotiate terms for the end of the war. The resulting agreements included the [February 1945 Yalta Conference](#) - between President Franklin D. Roosevelt (United States), Prime Minister Winston Churchill (United Kingdom) and Chairman of the Council of Peoples’ Commissars Joseph Stalin (Soviet Union) – and the [July 1945 Potsdam Conference](#) – between President Harry S. Truman (United States), Churchill (and later Prime Minister Clement Atlee) (United Kingdom) and Stalin (Soviet Union).

Russia was a party to numerous agreements and treaties during and after the war, which articulated how property previously taken from the United Nations and nationals of former Axis powers would be treated. Russia – as a part of the Soviet Union – endorsed the [1943 London Declaration](#), which condemned property dispossession. On 19 September 1944, the Soviet Union was a party to an [Armistice Agreement with Finland](#) (**Armistice Agreement between the Union of Soviet Socialist Republics and the United Kingdom of Great Britain and Northern Ireland, on the one hand, and Finland on the other**) by which Finland and the Soviet Union returned or renounced rights over certain territories. On 10 February 1947, Allied powers (including the Soviet Union) signed the [Treaty of Peace with Bulgaria](#), [Treaty of Peace with Hungary](#), [Treaty of Peace with Finland](#), [Treaty of Peace with Italy](#), [Treaty of Peace with Romania](#) (otherwise known together as the Paris Peace Treaties). In its decision of 20 July 1999, the Constitutional Court of the Russian Federation declared that the Paris Peace Treaties preclude the aforementioned signatories (Bulgaria, Hungary, Finland, Italy, and Romania) from having any claims against Russia for restitution of property that was taken from them by Soviet forces during World War II. (See [Decision of the](#)

Constitutional Court of the Russian Federation, Case of the Federal Law of 1999 about the Cultural Valuables Transferred to the Territory of Russia During the Second World War, 20 July 1999.)

The Russian Federation was formally reestablished in June 1991 but came into being as an independent entity only after the collapse of the Soviet Union on 31 December 1991. The Russian Federation became a member of the Council of Europe in 1996 and ratified the European Convention on Human Rights in 1998. As a result, suits against Russia claiming violations of the Convention are subject to appeal to the European Court of Human Rights (ECHR).

Russia endorsed the Terezin Declaration in 2009, but declined to endorse the 2010 Guidelines and Best Practices. In 2012, the Russian Foreign Ministry stated that “the [Terezin] declaration does not contain principles that are essential to our country. We consider it important to deal with these issues on the basis of post-war settlement principles fixed in the Yalta and Potsdam conferences of the Allied powers. We would like to emphasize that it’s necessary to regard the Holocaust era as fixed in the declaration, which means from 1933-1945.” ([Jan Richter, “Little progress seen in central and Eastern Europe on Jewish property restitution”, Radio Praha, 28 November 2012](#) (quoting statement of Mikhail Khorev from the Russian Foreign Ministry).)

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 Russia has been received.

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.)

As best as we are aware, to this day, Russia does not have any restitution and/or compensation laws relating to confiscations, which occurred from the Bolshevik Revolution in October 1917 onwards.

In the first years after the Bolshevik Revolution, the Communist party nationalized all of the existing property in the territory of Russia through decrees including those “On the abolition of private ownership of property in the cities”, “On the nationalization of enterprises”, “On the abolition of the right of inheritance” and others. Jewish private and communal properties were no exception.

The Nazi-occupied territories of the Soviet Union suffered property confiscation by the German forces throughout the period of 1941-1944. However, most of the confiscation took place in the western Soviet Republics, particularly Belarus and Ukraine. To the extent that we are aware, there is no official data as to how much property was taken from Jews on the territory of Russia specifically. Various German authorities benefited from the confiscated movable property (such as clothing and jewels) including the German military and civil administration, German institutions and banks in Berlin and throughout the Reich, the military and SS officers of various ranks, and even the local collaborators. In addition, for their services to the occupying regime, a certain number of local people were awarded with property (rooms, apartments, and houses) that belonged to the Jews executed by the Germans.

For a variety of reasons, few attempts were made to compensate the surviving Soviet Jews for what was taken or destroyed by the German forces after the war was over. (See Timothy Snyder, *Bloodlands: Europe Between Hitler and Stalin* (2010), Chapter 11.)

As of today, several unsuccessful attempts have been made by Russian deputies to pass a law for restitution of property nationalized or confiscated from 1917 onwards. Progress is very slow due to the prevalent national attitude that the Soviet nationalization was lawful, and even if not, the current Russian government cannot and is not responsible for rectifying the consequences of the Bolsheviks’ actions. (See, e.g., [Transcript of a Radio Discussion on Restitution and Denationalization, Radio “Svoboda,” 4 November 2002.](#))

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.)

Russia has several umbrella Jewish organizations. The [Russian Jewish Congress \(REK\)](#) was created in 1996. The **REK** focuses on fundraising to help the poor and elderly, restoration of the religious Jewish community, and support of Jewish educational cultural, and sporting institutions. The [Federation of Jewish Communities in Russia](#)

[\(FJC\)](#) was established in November 1998 to revive the Jewish communities of the Former Soviet Union. The FJC is involved in development of Jewish communities and rebuilding Jewish institutions. It provides humanitarian aid and Jewish education, and also organizes cultural events and provides religious services. The **Congress of Jewish Religious Communities and Organizations in Russia (KEROOR)** was established in 1993 as an association of more than 160 congregations, including educational institutions of various levels from Sunday schools to yeshivas, charitable organizations, and cultural centers.

There is no official communal property restitution law in Russia for property confiscated or nationalized from 1917 onwards. However, a 1993 presidential decree on communal property provided for the return of a number of religious properties to communities, which had been confiscated during the Bolshevik Revolution prior to World War II. As of 2007, the bulk of the religious property returned (approximately 3,500 buildings) had been returned to the Russian Orthodox Church. Other religious organizations, including the Jewish communities, had also received some of their buildings back.

Overwhelmingly, this was achieved by ad hoc actions, gestures on the part of the local authorities responding to pressure from federal and local actors. Among the most notable examples of restitution to the Jewish community include synagogues in Oryol and Vladivostok, and school buildings in Rostov-on-Don and Orenburg. Restituted property represents only a fraction of what was originally taken from the Jewish community. ([U.S. Department of State, “Property Restitution in Central and Eastern Europe”, 3 October 2007.](#))

Heirless Property Restitution

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

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

(Terezin Best Practices, para. j.)

Since endorsing the Terezin Declaration in 2009, Russia has not passed any laws dealing with restitution of heirless property taken by the Nazis. In Russia, if there are no heirs to a property as defined by law, the property is deemed heirless, and its ownership passes to the Russian state.

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Individuals

Academics

Dr. Kiril Feferman, Fellow, USC Shoah Foundation Center for Advanced Genocide Research, Los Angeles.

White & Case LLP

Heather Greenfield, Associate, White & Case LLP, Washington.

Owen Pell, Partner, White & Case LLP, New York.