

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

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A. EXECUTIVE SUMMARY

During World War II, Slovakia (previously part of the independent country of Czechoslovakia) became an autonomous state and an ally of Nazi Germany. Slovakia joined the Axis powers in November 1940. Jews in Slovakia were subject to laws passed by the Slovak government that confiscated Jewish businesses and Jewish property. Immediately after World War II, Czechoslovakia (restored following the German surrender) issued **Decree No. 5/1945** and passed **Act No. 128/1946**, which provided that all property transfers occurring under pressure of Nazi occupation between 1939 and 1945 were invalid. However, the Slovak National Council resisted implementation of the law and even suspended its execution in 1946. Then, in 1948, Czechoslovakia fell under the influence of Soviet Communism and restitution efforts stopped for the next forty years. Czechoslovakia peacefully dissolved in 1989 in the so-called “Velvet Revolution”. In its place two independent states emerged: the Czech Republic and the Slovak Republic.

In the post-Communist period, Slovakia has legislated in the area of private and communal property restitution, albeit with some key limitations that have impacted both the amount of property that has been returned and who may claim property. In 2002, Slovakia also entered into an agreement with the Jewish community of Slovakia where the community accepted USD 18.5 million as payment for unrestituted Jewish heirless property that had previously reverted to state ownership.

In 1940, there were approximately 89,000 Slovak Jews. 70,000 of them were deported and a further 10,000 fled or went into hiding. Today, there are approximately **2,000 Jews in Slovakia**.

The **Roma** population in Slovakia numbers approximately **80,000** (some estimate upwards of 350,000 live in Slovakia). During the war, 6,000 to 7,000 thousand Roma were killed in concentration camps in the territory that was Czechoslovakia.

Private Property. Claims by some foreign citizens relating to war damages and nationalization were settled during the Communist period through at least three (3)-dozen bilateral or lump-sum settlement agreements between Czechoslovakia and various countries . The next round of private property restitution laws for Slovak citizens was not enacted until after the Velvet Revolution in 1989. **Act No. 87/1991** (and amendments), **Act No. 229/1991** (and amendments) related to restitution of property (buildings, land, agricultural property) occurring during various time periods between the beginning of the Nazi occupation (1939) and the Velvet Revolution (1989). For these laws, both compensation and restitution were available. However, claimants electing restitution where the property had appreciated in value were obligated to pay the current owner the difference between the original and the current value. The legislation required that claimants had to be Slovak citizens with permanent residence in the Slovak Republic in order to file a restitution claim.

Communal Property. In 1993, Slovakia enacted **Act No. 282/1993 (on the Mitigation of Certain Injustices Caused to Churches and Religious Communities)**. In general, the law covered property confiscated between 1945 and 1990, but a special provision permitted Jewish communities to file claims dating back to 1938. The law obliged the state, municipalities and in some instances, private citizens to return property. A follow-up **2005 Restitution Law** permitted religious communities to file claims for agricultural and forest land and administrative buildings, including non-religious property. It also reopened the claims process under **Act No. 282/1993**. The **Union of Jewish Religious Communities (UZZNO)** filed communal property claims on behalf of the Jewish community in areas where there was not an active Jewish presence. As of 2009, **UZZNO** had filed 500 property claims and over 300 properties had been restituted. Communal property restitution has been described as uneven across the country. Restitution in Bratislava occurred swiftly, but in places such as Košice in eastern Slovakia (which had a large Jewish presence before the Holocaust but where less than 300 Jews live today) there have been difficulties in getting buildings back. In addition, critics describe how municipalities are happy to return derelict synagogues but problems arise when the building in issue is being used for municipal services.

Heirless Property. The often wholesale extermination of Jewish families in Czechoslovakia during the Holocaust had the effect of leaving substantial property without heirs to claim it. Principles enshrined in documents such as the 2009 Terezin Declaration, 2010 Guidelines and Best Practices, and 2015 Statement at the Conclusion of the International Conference on Welfare for Holocaust Survivors and Other Victims of Nazi Persecution, emphasize that heirless property from victims of the Holocaust should not revert to the state but instead should be primarily used to provide for the material needs of Holocaust survivors most in need of assistance. Instead of using heirless property to create a rehabilitation fund for victims of racial persecution, in 1947 the Czechoslovak government used heirless property to fund its **Currency Liquidation Fund**. The fund facilitated currency reform by reimbursing those whose accounts were blocked after Czechoslovakia was liberated. This meant that all property without heirs and owners passed to the state and Czechoslovak Jews were not promised access to any money from the fund.

However, in 2002, the Slovak government and the Jewish community in Slovakia reached an agreement on the issue of heirless property. The Jewish community agreed to accept 10 percent (USD 18.5 million) of the total estimated value of heirless Jewish movable and immovable property as payment for the unrestituted Jewish heirless property in Slovakia. The agreement created the **Council for the Compensation of Holocaust Victims in the Slovak Republic**. For a period of 10 years, the **Council** – made up of government officials and Jewish community members – oversaw the distribution of the fund. Up to one-third of the fund was earmarked for compensation for individuals whose assets were never returned or indemnified in any way. The other two-thirds was to be used for social welfare, for education, and for renovation and preservation projects. In 2012, the remaining balance from the original USD 18.5 million was transferred from the **Council** to **UZZNO**.

The Republic of Slovakia 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. The Republic of Slovakia submitted a response in September 2015.

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

At the outbreak of World War II, the modern day Slovak Republic was part of the country of Czechoslovakia. In 1938, the border regions of the Czechoslovak Republic were annexed by Germany in an exchange for peace in the infamous Munich Pact between the leaders of Great Britain, France, Italy and Germany. In violation of the Munich Pact, the rest of the territory comprising the Czech Republic was invaded and made into the Protectorate of Bohemia and Moravia of Nazi Germany. The remainder of the then Czechoslovak territory became the autonomous state of Slovakia, an ally of Nazi Germany. Slovakia joined the Axis powers in November 1940 when its leaders signed the Tripartite Pact.

Slovakia was the first Axis partner to consent to the deportation of its Jewish population in what is known as the Final Solution. In March 1942, Slovakia signed an agreement with Germany that allowed the deportation of Slovak Jews. (See [United States Holocaust Memorial Museum - Holocaust Encyclopedia, “The Holocaust in Slovakia”](#).)

In 1940, there were approximately 89,000 Slovak Jews. 70,000 of them were deported and a further 10,000 fled or went into hiding. (See David Vital, *A People Apart: A Political History of the Jews in Europe 1789-1939* (1999), p. 897.) Today, there are approximately **2,000 Jews in Slovakia**. (See [Green Paper on the Immovable Property Review Conference 2012, pp. 95-105 \(Slovak Republic\)](#).)

The **Roma** population in Slovakia numbers approximately **80,000** (some estimate upwards of 350,000 live in Slovakia). During the war, 6,000 to 7,000 thousand Roma were killed in concentration camps in the territory that was Czechoslovakia.

After the war, in February 1948, in a move towards Communism supported by the Soviet Union, Czechoslovakia (restored after the German surrender) became a people's democracy. Forty years later in 1989, the Velvet Revolution brought about an end to Communist rule in Czechoslovakia and a multiparty democracy reemerged. The peaceful constitutional dissolution of Czechoslovakia occurred thereafter, on 31 December 1992. Two new countries were created, the Czech Republic and the Slovak Republic.

The Slovak Republic became a member of the Council of Europe in 1993 and ratified the European Convention on Human Rights in 1992. As a result, suits against the Slovak Republic claiming violations of the Convention are subject to appeal to the European Court of Human Rights (ECHR). The Slovak Republic has been a member of the European Union since 2004.

1. Claims Settlement with Other Countries

During the period between the late 1940s and 1980s, Czechoslovakia entered into at least three (3)-dozen bilateral claims settlement or lump-sum settlement agreements with European and Allied countries. Each agreement had unique terms. Some agreements determined compensation based upon citizenship of the claimant at the time of the *taking* and others considered claimants' citizenship at the time of the *signing* of the agreement. The practical effect of this group of foreign claims settlements was that foreign claimants were compensated for their property losses before Slovak and Czechoslovak citizens, apart from those who resided *in* the Slovak Republic or Czechoslovakia and were compensated by the restitution laws passed immediately after the war. As best as we are aware, claims settlements were reached with:

- **United Kingdom** on 1 November 1945, 28 September 1949, 22 October 1956 and 29 January 1982
- **Switzerland** on 18 December 1946, 29 December 1947, 25 August 1948, 22 December 1949, 27 June 1967
- **Italy** on 27 July 1966
- **Germany** on 27 August 1947
- **Hungary** on 19 March 1948
- **France** on 2 June 1950
- **Belgium and Luxembourg** on 30 September 1952
- **Norway** on 9 June 1954
- **Yugoslavia** on 11 February 1956
- **Sweden** on 22 December 1956
- **Ukraine** on 6 February 1958
- **Poland** on 29 March 1958
- **Soviet Union** on 30 June 1958
- **Denmark** on 23 December 1958

- **Netherlands** on 11 June 1964
- **Greece** on 22 July 1964
- **Canada** on 18 April 1973
- **Austria** on 19 December 1974
- **United States** on 29 January 1982

(See also Richard B. Lillich and Burns H. Weston, *International Claims: Their Settlement by Lump Sum Agreements* (1975); Richard B. Lillich and Burns H. Weston, *International Claims: Their Settlement by Lump Sum Agreements, 1975-1995* (1999).)

2. Specific Claims Settlements Between Czechoslovakia and Other Countries

a. Claims Settlement with the United States

Following the war, in 1954 the United States enacted the **International Claims Settlement Act of 1949**. This authorized the **Foreign Claims Settlement Commission (“FCSC”)** to consider claims of nationals of the United States against the government of Czechoslovakia for property nationalized after the Communist Revolution.

In 1962, the **First Czechoslovakia Claims Program** was completed with awards totaling approximately USD 113 million for 2,630 claims. 8.5 million USD in blocked Czechoslovakian assets was initially used in partial payment for the awards.

It was not until the **Czechoslovakia Claims Settlement Act of 1982** that Czechoslovakia paid the United States an additional USD 81.5 million. USD 74.5 million was designated for payment on previous claims, an additional USD 5.4 million was designated for previously denied claims due to the claimant not being a U.S. national at the time of property loss, and a final USD 1.5 million was designated for claims where the property loss occurred after 8 August 1958. The **Second Czechoslovakia Claims Program** was completed on 24 February 1985. In the end, by 1985 successful claimants from the **First Czechoslovakia Claims Program** were paid approximately 73% of the principal of the awards.

For more information on the **First and Second Czechoslovakia Claims Program**, the **FCSC** maintains statistics and primary documents on its [Czechoslovakia: Program Overview](#) webpage.

We do not have more detailed information for the lump-sum agreements with other countries relating to the restitution/compensation of immovable property taken during the Holocaust (Shoah) era.

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.)

Laws passed by the Slovak government during the war in 1940 and 1941 Aryanized Jewish businesses and confiscated Jewish property. (See Martin Dean, *Robbing the Jews: The Confiscation of Jewish Property in the Holocaust, 1933-1945* (2008), pp. 319-321.)

1. Decree No. 5/1945 and Law No. 128/1946

Immediately following the end of World War II, President of the Republic, Edvard Beneš issued **Decree No. 5/1945 (concerning the Invalidity of Transactions involving Property Rights from the Time of the Oppression and Concerning the National Administration of Property Assets of Germans, Magyars, Traitors and Collaborationists and of Certain Organizations and Associations)**, which was part of the so-called “Benes decrees”. The Decree stipulated “every transfer of property and every transaction in respect of property rights, whether concerning movable or immovable property is invalid insofar as it was executed under pressure from the occupying forces or as a result of persecution on grounds of nationality, race or political affiliation.”

The Provisional National Assembly of the Czechoslovak Republic passed [Act No. 128/1946 \(on the invalidity of certain property-related legal acts taken in the period of non-freedom and on claims arising from such invalidity and other interference with property\)](#) in 1946. The law declared null and void all property transfers made after 29 September 1938 “under occupation or national, racial and political persecution” (**Section 1**). It established a process for restitution of property with a three (3)-year statute of limitations. If restitution *in rem* was not possible, compensation would be paid for the property.

Despite intervention from the central government in Prague, the Slovak government in Bratislava was unwilling to approve or implement the restitution laws. (See Anna Cichopek-Gajraj, *Beyond Violence: Jewish Survivors in Poland and Slovakia, 1944-48* (2014), p. 111 (“Cichopek-Gajraj”).) Slovak authorities worried about social unrest that might come with restitution – the government “tended to sympathize with citizens who had benefited from the anti-Jewish laws, and now resisted efforts to enforce restitution.” (*Id.*)

District courts had the authority to enforce property restitution and had the power to override inaction by local property committees. (*See Cichopek-Gajraj*, p. 103.) However, with the exception of the Jewish community, there was overwhelming pressure *not* to implement the law, and in August 1946 its implementation was temporarily suspended. (*Id.*, pp. 103, 105.) In any event, the restitution process was short-lived.

The elimination of private property was an important part of the new Czechoslovak Communist regime in the late 1940s. A second round of large-scale property confiscations took place by the Czechoslovak government. Antisemitic incidents and pogroms were reported in Bratislava and other Slovak cities and small towns between 1945 and 1948, which caused many Jews in the region to emigrate. Thus, for the next 40 years, many of the property-related injustices remained unresolved until the post-Communist legislation of the 1990s.

2. Act No. 87/1991 - The Rehabilitation Law

After the Velvet Revolution in 1989 that brought about an end to Communist rule in Czechoslovakia and the reemergence of a multiparty democracy, the Czechoslovak government enacted the private property law, **Act No. 87/ 1991** on Extrajudicial Rehabilitation (the “**Rehabilitation Law**”) (amended by 285/1996). Czechoslovakia was among the very first countries in Central and Eastern Europe to pass private property restitution legislation in the early 1990s that covered Holocaust era confiscations.

The law applied to (1) property taken by force by the Nazis between 1939 and 1945 if on the date of transition, the property owner previously had a claim under **Decree No. 5/1945** and **Act No. 128/1946**, which had not been satisfied because of political persecution or practice in violation of generally recognized human rights and liberties, and (2) property nationalized between 25 February 1948 and 1 January 1990. Property confiscated from Sudeten Germans was not eligible for restitution under the **Rehabilitation Law**.

The **Rehabilitation Law** permitted compensation in lieu of restitution if the property had been devalued from its former condition. (*See* [Robert Hochstein, Jewish Property Restitution in the Czech Republic, 19 B.C. Int’l & Comp. L. Rev. 2, 423-447, 441 \(1996\).](#)) It also permitted the claimant to choose between restitution and compensation where the property had significantly increased in value. If the claimant elected restitution, he was then obliged to pay the current owner the difference between the original and current value of property. (*Id.*).

A large loophole in the law severely reduced the likelihood of actual restitution of the private property. If the current owner of the property could prove his property rights by permanently occupying and possessing the property over a period of at least 50 years, then the former owner was not entitled to restitution. This remained the case even if the former owner had ownership documentation for the property. (Catherine Horel, “Restitution and Reconstructed Identity: Jewish Property and Collective Self-Awareness

in Central Europe” in *Restitution and Memory: Material Restoration in Europe* (Dan Diner and Gotthart Wunberg, eds. 2007) (“*Horel*”), p. 192.)

Only citizens of the Czech and Slovak Federal Republic who were Czechoslovakian residents could successfully lodge a claim.

By its terms, **Rehabilitation Law** applications initially had to be made within six (6) months after enactment and a court action had to be commenced within 10 months of enactment. Failure to lodge a claim extinguished the right to restitution. (See [George E. Glos, “Restitution of Confiscated Property in the Czech Republic”, SVU: Czechoslovak Society of Arts and Sciences \(2000\).](#))

Law No. 92/1991 (on the Conditions for the Transfer of State Property to other Persons) stated that if the claimants’ property under the **Rehabilitation Law** was included in a privatization project, failure to request restitution an exclusion from the privatization project by 1 April 1991, would extinguish the right to restitution under the **Rehabilitation Law**.

3. Other Restitution Laws

Act No. 229/1991 (amended by **Act No. 93/1992**) related to ownership rights of land and other agricultural property, and allowed for restitution of property confiscated between 1948 and 1989. **Act No. 229/1991** required that the claimant prove that the state had originally obtained the property in breach of then-applicable laws or due to illegal preferential treatment.

This restitution regime was also only open Slovak citizens who were also Slovak permanent residents. All claims had to be filed by **2001**. Administrative land offices handled the claims. It is not possible to file new claims under **Act No. 229/1991**.

Other restitution laws included the **Law No. 119/1990** (on Judicial Rehabilitation) (amended by Law No. 633/1992); **Law No. 319/1991** (on Redressing Certain Property Injustices) (amended by Law No. 86/1994); and Law No. 42/1992 (on Adjustment of Ownership Relations Concerning Agricultural Property) (amended by Law No. 264/1995).

4. Notable European Court of Human Rights Decisions Relating to Slovakia’s Restitution Regime

Residency requirement

Numerous cases have been filed with the European Court of Human Rights concerning the residency requirement for the Slovakian restitution regime.

For example, in *Brežný and Brežný v. Slovakia*, applicants were Slovak citizens who resided in Switzerland and Austria. ([Brežný and Brežný v. Slovakia, ECommHR](#),

[Application No. 23131/93, Decision of 4 March 1996.](#)) Applicants sought restitution of their property in 1991 pursuant to **Law No. 87/1991**. Slovakian courts denied applicants' request because they were not permanent residents of Czechoslovakia. Applicants complained to the European Commission on the grounds, *inter alia*, that the residency requirement was a disguised penalty and was discriminatory against residents domiciled abroad in violation of the European Convention on Human Rights. The Commission found the application to be inadmissible. In particular, it found that refusal to return property cannot be considered a penalty within the meaning of **Article 7** (on no punishment without law) of the **European Convention on Human Rights** ("**Convention**"). The Commission also found that by the terms of **Law No. 87/1991**, applicants knew they would be excluded from restitution and thus, there was not a violation of **Article 1** of **Protocol No. 1** to the **Convention** relating to interference with peaceful enjoyment of their possessions because applicants could not claim to have had "possession" of the property in issue.

In 2003, in *Jantner v. Slovakia*, the ECHR again addressed the issue of permanent residence and whether, as in *Brežný and Brežný v. Slovakia*, the requirement from **Law No. 87/1991** violated **Article 1** of **Protocol No. 1** to the **Convention**. ([Jantner v. Slovakia, ECHR, Application No. 39050/97, Judgement of 4 March 2003.](#)) The applicant in *Jantner* claimed to be a permanent resident of both Germany and Slovakia and was excluded from restitution under **Law No. 87/1991**. Here the ECHR noted that **Article 1** of **Protocol No. 1** "does not guarantee the right to acquire property . . . [and] [i]t cannot be interpreted as imposing any restrictions on the Contracting States' freedom to choose conditions under which they accept to restore property which had been transferred to them before they ratified the Convention.". (*Id.*, ¶ 34.) As a result, the ECHR found no violation in favor of the applicant.

Restitution amounts

In *Rosival and Others v. Slovakia*, the ECHR considered whether applicants were entitled to the full restitution of their property – approximately 1500 hectares – under **Law No. 229/1991**. ([Rosival and Others v. Slovakia, ECHR, Application No. 17684/02, Decision of 13 February 2007.](#)) At the time when applicants had lodged their restitution claims, there were not any restrictions on the amount of property that could be returned. A year later, an amendment to the **Law No. 229/1991** restricted restitution to 250 hectares. Applicants wanted all 1,500 hectares of their property returned. The ECHR found that applicants had a "legitimate expectation" that their restitution claim would be realized and that the claim deserved the protections of **Article 1** of **Protocol No. 1** of the **Convention** regarding unlawful interference with the peaceful enjoyment of their possessions. The ECHR declared the application admissible. A year later, notice of friendly settlement was filed with the ECHR. Slovakia paid applicants EUR 35,000 in pecuniary and non-pecuniary damages. ([See Rosival and Others v. Slovakia, ECHR, Application No. 17684/02, Judgement of 23 September 2008.](#))

Since Slovakia endorsed the Terezin Declaration in 2009, no new laws have been passed relating to the restitution of private property.

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.)

After the Velvet Revolution in 1989 and before the split of Czechoslovakia in the early 1990s, general restitution laws were enacted by which the Jewish community could claim previously confiscated property.

1. 1993 Religious Communities Law – Act No. 282/1993

The Slovak government enacted **Act No. 282/1993** (on the Mitigation of Certain Injustices Caused to Churches and Religious Communities as amended) (the “**1993 Religious Communities Law**”) to compensate state-registered religious communities for injustices committed from 8 May 1945 – 1 January 1990. A special clause in the law granted Jewish religious communities permission to file claims dating back to 2 November 1938. Religious organizations had 12 months to file their applications. The application period closed on **31 December 1994**.

A large portion of religious property in Slovakia was held by either the state or municipalities. (*See Horel*, p. 192.) Pursuant to the **1993 Religious Communities Law**, city councils, municipalities, and in some instances private citizens, were obliged to return property to the same extent as the state. If the municipality refused to restitute a property, the law permitted claimants to sue the municipality within 15 months of when the application period closed, by **31 March 1996**. (*Id.*)

2. 2005 Restitution Law

In 2005, a follow-up law was enacted, the **2005 Restitution Law**. It was meant to address some of the shortcomings of the communal property restitution regime from the 1990s. For a period of one (1) year, religious communities were permitted to file claims for agricultural and forestland, and agricultural and administrative buildings, including non-religious property (community halls, schools) nationalized between 1945-1990. Jewish communities were again permitted to file claims dating back to 2 November 1938. The 2005 law also reopened the claims process from the **1993 Religious Communities Law**. The application period under the 2005 law closed on **30 April 2006**.

The **2005 Restitution Law** obliged current owners to return the property to former owners. However, where structures had been built on the property or were in the process of being built, the property was not subject to restitution *in rem*. Instead, the claimant could receive substitute lands or monetary compensation. (See [Daniel Futej, “Slovakia: Buyers take care”, International Financial Law Review, 1 July 2008.](#))

The umbrella Jewish organization in Slovakia is the [Union of Jewish Religious Communities](#) (the “**UZZNO**”). **UZZNO** filed claims for communal property located in areas where there was no longer an active Jewish community. Jewish communities in Slovakia with an active Jewish presence filed claims for property in their own jurisdictions. **UZZNO** lodged claims for the return of approximately 500 communal properties (including cemeteries), and as of 2009, the government returned over 300 communal properties. (See [Organization for Security and Co-operation in Europe \(OSCE\), “Information on the policy of the Government of the Slovak Republic regarding combating Anti-Semitism and Holocaust Remembrance in the SR” 28 September 2009, p. 4.](#))

It has been reported that the Jewish communal property restitution process in the capital, Bratislava, was swift and smooth, but that the restitution experience was uneven in other cities and provinces. (See *Horel*, p. 192.) The Jewish community in Košice for example – which was the hub of Jewish life in east Slovakia before the war but where less than 300 Jews live today – has had trouble obtaining restitution of its buildings. (*Id.*) Yet other small communities have not experienced such trouble. (*Id.*)

An estimated 80 percent of synagogues in Slovakia were destroyed during the war and subsequent Communist regimes. Historian Catherine Horel has described the Jewish communal property restitution situation as follows:

The synagogues were razed under several pretexts; the one invoked most frequently was “urban renewal” in the case of dilapidated buildings that could not be claimed by communities that no longer existed. Almost eighty synagogues still stand, but most of them are devastated, when they are not used for purposes far removed from their original aims. The municipalities are happy to restitute the derelict synagogues; the problem arises when the municipality uses one or several buildings for purposes it considers essential for municipal services, such as schools, gymnasia, dispensaries and so on.

The case of the cemeteries is more simple. They have been razed, or are situated in desolate areas of no interest for the immediate town, and thus have been preserved. Or they owe their preservation to the fact that they are more or less part of a Christian entity, like the two cemeteries of Bratislava, the Orthodox and the Neolog, which are next to the large cemetery of Žižkova Street, not far from the Mausoleum of the great Rabbi Moses Sofer, which the communist authorities did not dare to violate. Thus it is estimated that about 600 cemeteries still exist, placed under the responsibility of [UZZNO]. However, [UZZNO] has little

money to take care of them. A lack of money is in fact the essential problem created by successful restitution.

(*Id.*)

Much like private property, since Slovakia became a signatory to the Terezin Declaration in 2009, no new laws have been passed relating to the restitution of communal property.

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 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.)

1. 1947 Currency Liquidation Fund Act

After World War II, the Czechoslovak government discussed using heirless property in the country to set up a rehabilitation fund for victims of racial persecution. Instead, in 1947, the government passed the **Currency Liquidation Fund Act**. The law was enacted to facilitate currency reform and to reimburse owners of blocked accounts after Czechoslovakia was liberated. The law also provided the legal framework for the majority of Jewish property to pass into state ownership. The Supreme Administrative Court ruled it was not possible to restitute property that could not be attributed to individual owners. Thus, all property without heirs and owners after the war passed to the state. (*See* Eduard Kubů and Kan Kulkík, “Reluctant Restitution: The Restitution of Jewish Property in the Bohemian Lands after the Second World War”, *in Robbery and Restitution: The Conflict over Jewish Property in Europe* (Martin Dean, Constantin Goschler and Philipp Ther, eds. 2007) p. 233.) Scholars Eduard Kubů and Kan Kulkík have noted that this was “an obvious case of breach of promise on the part of the government, which had pledged to use such assets to support the victims of racially motivated persecution.” (*Id.*) However, in defense of the law, the Czechoslovak parliamentary committee for state budgets stated:

The establishment of a separate fund for Jewish survivors might create the impression that the Jewish part of the population received far reaching preferential treatment which could give rise to anti-Semitic feeling, and that the Council of Jewish Communities was neither legally nor morally entitled to claim this property.

(*Cichopek-Gajraj*, p. 110 (quoting language from parliamentary committee).)

Czechoslovak Jews were not promised access to any of the money from the **Currency Liquidation Fund Act**.

2. 2002 Partial Financial Compensation Agreement

The issue of heirless property located in Czechoslovakia and then in the Slovak Republic languished for over 50 years during the Communist period and the first decade after the Velvet Revolution in 1989.

In 2000, the Slovak government and the Jewish community in Slovakia created a joint commission to discuss outstanding restitution issues, including heirless property. The commission was composed of government officials as well as representatives from the **Union of Jewish Religious Communities in the Slovak Republic (“UZZNO”)**, the **American Jewish Committee, B’nai B’rith International and the World Jewish Congress and the World Jewish Restitution Organization (“WJRO”)**. (See [Bureau of European and Eurasian Affairs, “Property Restitution in Central and Eastern Europe, U.S. Department of State” \(Slovakia\), 2 October 2007.](#)) Expert reports submitted to the joint commission valued heirless Jewish movable and immovable property (excluding agricultural land) to be worth approximately 8.5 billion Slovak Korunas (USD 185 million). The Jewish community in Slovakia agreed to accept 10 percent of the total estimated value as payment for unrestituted Jewish heirless property in Slovakia. (*Id.*)

On 2 October 2002 an agreement was reached between the Slovak Republic Government and **UZZNO** on the Partial Financial Compensation of Holocaust Victims in the SR (“**Partial Financial Compensation Agreement**”). The agreement created the **Council for the Compensation of Holocaust Victims in the Slovak Republic (“Council”)** to oversee the distribution of a fund of 850 million Slovak Korunas (USD 18.5 million) over a 10-year period. The **Council** included four (4) members of **UZZNO** and three (3) members of the Slovak government. Money for the fund was deposited by the Ministry of Finance into a bank account to be used by the **Council**.

Between 2002 and 2012, the Council made decisions regarding the allocation of the funds to the following: (1) to natural persons, whose assets were neither returned nor indemnified in any way, for the purpose of the mitigation of certain asset injustices caused by the Holocaust; (2) for social-health care projects with special consideration for the needs of Holocaust survivors; (3) for the reconstruction, renewal and maintenance of immovable and movable Jewish monuments in the Slovak Republic; (4) for projects dedicated to the dignified memory of Holocaust victims; and (5) for support of social, cultural and education activities in the field of Judaism.

Up to one-third of the fund was earmarked for item (1), to pay compensation to individuals whose assets were never returned or indemnified in any way. This included compensation for Holocaust victims (or heirs) whose properties were Aryanized during WWII and were part of the Slovak territory that was ceded to Hungary through an agreement brokered by Germany and Italy in 1938. The **deadline to register a claim was 31 December 2003.**

Compensation payments were made between 2003 and 2012. As of 31 December 2012, all of the remaining funds were transferred to **UZZNO.**

Since endorsing Terezin Declaration in 2009, no further agreements regarding heirless property have been concluded although we are aware that there is still some dispute over 400,000 hectares of heirless land for which the Jewish community seeks return.

F. BIBLIOGRAPHY

Cases

Brežný and Brežný v. Slovakia, ECommHR, Application No. 23131/93, Decision of 4 March 1996.

Jantner v. Slovakia, ECHR, Application No. 39050/97, Judgement of 4 March 2003.

Rosival and Others v. Slovakia, ECHR, Application No. 17684/02, Decision of 13 February 2007.

Rosival and Others v. Slovakia, ECHR, Application No. 17684/02, Judgement of 23 September 2008.

Articles, Books and Papers

Bureau of European and Eurasian Affairs, “Property Restitution in Central and Eastern Europe, U.S. Department of State” (Slovakia), 2 October 2007, (<http://2001-2009.state.gov/p/eur/rls/or/93062.htm>) (last accessed 13 December 2016).

Anna Cichopek-Gajraj, *Beyond Violence: Jewish Survivors in Poland and Slovakia, 1944-48* (2014).

Martin Dean, *Robbing the Jews: The Confiscation of Jewish Property in the Holocaust, 1933-1945* (2008).

The Embassy of the Slovak Republic in Washington, “Restitution and Rehabilitation in Slovakia” (https://www.mzv.sk/web/washington-en/consular_and_visa_information/restitution-and-rehabilitation) (last accessed 13 December 2016).

Daniel Futej, “Slovakia: Buyers take care”, *International Financial Law Review*, 1 July 2008 (<http://www.iflr.com/Article/1984023/Slovakia-Buyers-take-care.html>) (last accessed 13 December 2016).

George E. Glos, “Restitution of Confiscated Property in the Czech Republic”, SVU: Czechoslovak Society of Arts and Sciences (2000) (<http://www.svu2000.org/issues/glos.htm>).

Government of the Slovak Republic – Department of Human Rights, “Council for the Compensation of Holocaust Victims” (<http://archiv.vlada.gov.sk/ludskeprava/24547/rada-na-odskodnenie-obeti-holokaustu-v-sr.html>) (last accessed 13 December 2016).

Green Paper on the Immovable Property Review Conference 2012, pp. 95-105 (Slovak Republic) (http://shoahlegacy.org/wp-content/uploads/2014/06/Green_paper_on_the_immovable_property_review_conference_2012.pdf) (last accessed 13 December 2016).

Robert Hochstein, Jewish Property Restitution in the Czech Republic, 19 B.C. Int'l & Comp. L. Rev. 2, 423-447 (1996) (<http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=1286&context=iclr>) (last accessed 13 December 2016).

Catherine Horel, "Restitution and Reconstructed Identity: Jewish Property and Collective Self-Awareness in Central Europe" in *Restitution and Memory: Material Restoration in Europe* (Dan Diner and Gotthart Wunberg, eds. 2007).

Eduard Kubů and Kan Kulkík, "Reluctant Restitution: The Restitution of Jewish Property in the Bohemian Lands after the Second World War", in *Robbery and Restitution: The Conflict over Jewish Property in Europe* (Martin Dean, Constantin Goschler and Philipp Ther, eds. 2007).

Richard B. Lillich and Burns H. Weston, *International claims: Their Settlement by Lump Sum Agreements* (1975).

Richard B. Lillich and Burns H Weston, *International Claims: Their Settlement by Lump Sum Agreements, 1975-1995* (1999).

Ministry of Justice of Slovak Republic, Database of Slovak Republic Legislation (<http://jaspi.justice.gov.sk>) (last accessed 13 December 2016).

Organization for Security and Co-operation in Europe (OSCE,) "Information on the policy of the Government of the Slovak Republic regarding combating Anti-Semitism and Holocaust Remembrance in the SR", 28 September 2009 (<http://www.osce.org/odihr/38722?download=true>) (last accessed 13 December 2016).

Response from Slovak Republic Government to ESLI Immovable Property Questionnaire (14 September 2015).

Tel Aviv University, "Report on issues related to property restitution and compensation in former Communist countries", November 2012, pp. 59-62 (Slovakia) (<http://www.kantorcenter.tau.ac.il/sites/default/files/Property%20Restitution%20Report%20251112.pdf>) (last accessed 13 December 2016).

United States Holocaust Memorial Museum – Holocaust Encyclopedia, "The Holocaust in Slovakia" (<http://www.ushmm.org/wlc/en/article.php?ModuleId=10007324>) (last accessed 13 December 2016).

David Vital, *A People Apart: A Political History of the Jews in Europe 1789-1939* (1999).

World Jewish Restitution Organization, “Holocaust-Era Confiscated Communal and Private Immovable Property: Central and East Europe”, June 2009, pp. 29-30 (Slovak Republic).

World Jewish Restitution Organization, “Slovakia Operations” (<http://wjro.org.il/our-work/restitution-by-country/slovakia/>) (last accessed 13 December 2016).

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