

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

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A. OVERVIEW

Spain is typically described as having been a neutral country during World War II. However, during the war, the Fascist ideology of Spain's General Francisco Franco was closely aligned to that of the Nazis' National Socialism. From 1940, Spain pursued a policy of non-belligerency rather than strict neutrality, and displayed sympathy toward the Axis powers. Spain contributed to Germany's war effort through its exports of iron ore, zinc, lead, mercury, wolfram (tungsten), wool, and hides. These exports were in exchange for arms that Germany had provided to Franco during the Spanish Civil War (1936-1939). Germany also used Spain to smuggle assets and Spain permitted its citizens to volunteer for the German army. During the war, Spain's support of the Axis powers through its exports was tempered by Allied efforts, including war trade agreements with Spain that prohibited the country from exporting certain goods.

The Spanish government reported in 2015 that “. . . Spain pursued the status of ‘neutral’ during the years of persecution and thus was not occupied by the Third Reich.” (2015 Government of Spain Response to ESLI Immovable Property Questionnaire (25 September 2015).) The government further stated that “There was no anti-Semitic discrimination established as did the Nazis which resulted in immovable property being confiscated or otherwise wrongfully taken from its owners.” (*Id.*) Therefore, to the extent that we are aware, no Jewish immovable property was confiscated from Jews or other targeted groups in Spain during the Holocaust by either the Spanish government or Nazi Germany.

As best as we are aware, after World War II, Spain did not enter into any treaties or agreements with other countries that involved the restitution or compensation of immovable property confiscated or wrongfully taken during the Holocaust.

As best as we are aware, Spain has no domestic laws that specifically address restitution of immovable property from World War II and the Holocaust era, which is located in another country. Spain's **Law 16/2015 on privileges and immunity of foreign states, international organizations and conferences** provides that foreign states enjoy immunity regarding jurisdiction before Spanish courts. Certain exceptions to the rule exist. For example, the law abrogates sovereign immunity where the action relates to damage or loss of property caused by an act or omission allegedly attributed to the state, provided that the *act or omission occurred in whole or in part in Spanish territory* and the perpetrator of the act *was found in Spanish territory* at the time the act or omission occurred (**Article 11**). The law does not abrogate sovereign immunity where the property is located *in another country*.

The Jews of Spain have a long history of persecution dating back to the 15th century. In 1492, Spain enacted the infamous Alhambra Decree (also known as the Edict of Expulsion), which declared that no Sephardic Jews were permitted to remain in the Spanish kingdom unless they converted to Catholicism within three (3) months. A law passed by the Spanish government more than 500 years later, in 2014, permits an estimated 3.5 million people to apply for Spanish nationality if they can prove their Sephardic ancestry.

An estimated **25,600** Jews escaped Nazi-controlled Europe to Spain during World War II. Spanish diplomats protected a further **4,000** Sephardic Jews in France and the Balkans, and in 1944, the Spanish Embassy in Hungary aided in the rescue of Budapest's Jews by accepting **2,750** refugees. Most of these Jewish refugees were only in Spain temporarily because they were not offered residency visas by Spain. Approximately **45,000** Jews live in Spain today, with the majority located in two major centers: Madrid and Barcelona. Spain's Jewish population is mainly comprised of post-war migrants from Morocco, the Balkans, and other European countries.

The [Federation of Jewish Communities of Spain \(Federacion de Comunidades Judías de España\)](#) (“**FCJE**”) was established in 1982 and is the umbrella organization for the Jewish communities in Spain. **FCJE** represents Jewish interests to the government, and also works with Jewish communities to provide religious, cultural, and educational services.

We are unaware of the size of Spain's Roma population during World War II. The European Commission estimated in 2012 that Spain's Roma population is approximately **750,000** or **1.63%** of the population.

Spain 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. Spain submitted a response in September 2015.

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