

European Shoah Legacy Institute's Restitution Database Initiative

Questionnaire

I. Basic information regarding the responding agency

Country:	Sweden
Office/Ministry:	Ministry for Foreign Affairs
Title of contact person:	1. Intern 2. Senior Legal Advisor on International Law
Name of contact person:	1. Elin Jansson Holmberg 2. Per Bergling
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Date questionnaire submitted:	20 November 2015

II. Whom may we contact in your country for additional information about the responses below? This may include other individuals / agencies in government, local NGOs / advocacy groups. Please include the individual's name, affiliation, and contact information (e.g., email address).

1. Ministry of Justice, +46 (0)8 - 405 10 00
2. The Official Council of Swedish Jewish Communities, info@jsft.se
3.
4.
5.

III. Overview of Immovable Property Restitution/Compensation Regime – Sweden (as of 1 July 2015)

N/A

IV. Questions relating to specific immovable property restitution /compensation regimes in Sweden

The following questions aim to elicit additional information relating the laws generally described in the Section III Overview.

<p><u>Restitution/ Compensation Treaties or Agreements</u></p>	<p>Please describe any treaties or agreements between Sweden and other countries, which address restitution and/or compensation for immovable property that was confiscated or otherwise wrongfully taken during the Holocaust era between 1933-1945.</p>	<p>Sweden has not entered into any such treaties or agreements but is a Party to the Terezin Declaration.</p>
<p><u>Legislation Relating to Immovable Property</u></p>	<p>Please describe any laws in Sweden, which relate to the restitution or compensation of immovable property confiscated during the Holocaust (Shoah) Era, 1933-1945.</p>	<p>Swedish legislation does not specifically relate to the restitution or compensation of immovable property confiscated during the Holocaust.</p>

V. Questions relating to Sweden’s commitments under the Terezin Declaration and its Guidelines and Best Practices

<p><u>Restitution/Compensation Laws</u></p> <p>What measures has Sweden taken to comply with the Terezin Declaration and Guidelines and Best Practices (“GBP”) para. a, which states that “<i>[r]estitution and compensation laws should apply to immovable (real) property which was owned by</i>” –</p>	<p><i>“(i) religious or communal organizations . . . and then subject to confiscation or other wrongful takings during the Holocaust (Shoah) Era between 1933-1945”? (see Terezin Declaration GBP, para. a)</i></p>	<p>Sweden has not taken any specific measures since the existing legislation in Sweden on sales and transactions of real property requires an unbroken chain of properly acquired titles in order for a new title to be registered and recognized. Furthermore, action can be brought before a court on grounds of having “better right” to the property. Disputes regarding real property should be dealt with by the District Court in the district where the real property is located.</p> <p>In cases where a holocaust victim is the original owner, the legal heirs would thus be in a favorable position to prove his or</p>
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		her right to the property at hand.
	<p><i>“(ii) <u>private individuals or legal persons</u> and then subject to confiscation or other wrongful takings during the Holocaust (Shoah) Era between 1933-1945”?</i> (see Terezin Declaration GBP, para. a)</p>	Sweden has not taken any specific measures since the existing legislation in Sweden on sales and transactions of real property requires an unbroken chain of properly acquired titles in order for a new title to be registered and recognized. In cases where a holocaust victim is the original owner, his or her legal heirs would thus be in a favorable position to prove his or her right to the property at hand.
<p><u>Restitution/Compensation Processes</u></p> <p>What measures has Sweden taken to comply with the Terezin Declaration and GBP para. c, which states that the <i>“restitution and compensation process should recognize the lawful owner or holder of other legal property rights as listed in property record files as of the last date before commencement of persecution against them by the Nazis, Fascists and their collaborators during the Holocaust (Shoah) era between 1933 and 1945 including the period of WWII”?</i> (see Terezin Declaration GBP, paras. c, d) –</p>	<p>If the property owner was not a Swedish citizen at the time of the taking?</p> <hr/> <p>If the claimant was not a Swedish citizen at the time of the filing of the claim?</p> <hr/> <p>If the claimant was not a Swedish resident at the time of the filing of the claim?</p>	N/A (see above)

<p align="center"><u>Restitution and Compensation Processes</u></p> <p>What measures has Sweden taken to comply with the Terezin Declaration and GBP para. d, which states that “<i>[t]he property restitution and compensation processes, including the filing of claims, should be accessible, transparent, simple, expeditious, non-discriminatory</i>”? (see Terezin Declaration, and GBP, para. d)</p>		<p>Processes in Swedish courts are, <i>inter alia</i>, required to comply with the principle of public access to official records, the principle of concentration, the principle of immediateness and the principle of non-discrimination.</p>
<p align="center"><u>Archival Access</u></p> <p>What measures has Sweden taken to comply with the Terezin Declaration and GBP para. e, which states that claimants “<i>have unfettered and free access to all relevant local, regional, and national archives</i>”? (see Terezin Declaration, and GBP, para. e)</p>		<p>The principle of public access to official records is central in the Swedish legal system. The Freedom of the Press Act, part of Sweden’s Constitution, enacts that there is a right to access unclassified public documents.</p>
<p align="center"><u>In Rem Restitution</u></p> <p>What measures has Sweden taken to comply with the Terezin Declaration and GBP para. h, which states that “<i>[r]estitution in rem is a preferred outcome, especially for publicly held property</i>”? (see Terezin Declaration, and GBP, para. h)</p>		<p>N/A</p>
<p align="center"><u>Genuine and Adequate Compensation</u></p> <p>What measures has Sweden taken to comply with the Terezin Declaration and GBP para. h, which urge compensation to be “<i>genuinely fair and adequate</i>”? (see Terezin Declaration, and GBP, para. h)</p>		<p>That the compensation should be fair and adequate is in accordance with general principles of the law of damages and the law of tort in Sweden.</p>
<p><u>Forms of Compensation</u></p> <p>If compensation for immovable property in Sweden is issued in the form of government vouchers (securities) (see Terezin Declaration, and GBP, para. h) -</p>	<p>May a claimant sell the voucher?</p>	<p>N/A</p>
	<p>May a claimant trade the vouchers on the stock exchange?</p>	<p>N/A</p>
	<p>What limitations are there, if any, on the type of immovable property that may be purchased with the vouchers?</p>	<p>N/A</p>
<p align="center"><u>Prompt Decisions</u></p> <p>What measures has Sweden taken to comply with the Terezin Declaration and GBP paras. f and h, which state that “<i>[d]ecisions should be prompt</i>” and “<i>[t]ransfer of property title or payment of</i></p>		<p>According to Swedish legislation, processes need to be conducted as promptly as the circumstances permit and the courts shall work with the objective to promptly deliver a</p>

<p><i>compensation should be effected promptly”?</i> (see Terezin Declaration, and GBP, para. f, h)</p>	<p>verdict. In cases where an enforcement order is issued by the court, the execution of the order is carried out by the Swedish Enforcement Authority.</p>
<p><u>Heirless Property</u> What measures has Sweden taken to comply with the Terezin Declaration and GBP para. j, which encourages states to “<i>create solutions for the restitution and compensation of heirless or unclaimed property from victims of persecution by Nazis, Fascists and their collaborators</i>”? (see Terezin Declaration, and GBP, para. j)</p>	<p>No claims of this kind have been made. All real property in Sweden is registered in the Real Property Register which, <i>inter alia</i>, contains information about ownership. The real property system in Sweden presupposes that all real property is owned by someone. Ownerless property can only emerge when a legal person resolves. In such cases, an administrator or trustee can be appointed to handle the real property. The Swedish Inheritance Fund is a public fund to which funds accrues from estates in the absence of heirs or beneficiaries. Would any claim arise concerning real property having been incorrectly dealt with by the Swedish Inheritance Fund, action against the Swedish government can be brought before a court.</p>
<p><u>Heirless Property</u> Has Sweden conducted a survey to assess the total amount of heirless property located in the country? (see Terezin Declaration, and GBP, para. j)</p>	<p>The real property system in Sweden presupposes that all real property is owned by someone. In 1997, the Government of Sweden commissioned a special inquiry (UD 1997:05) into Jewish assets in Sweden and Jewish property brought into Sweden before or during the Second World War, with the objective of determining how authorities, banks and other entities before or under WWII had disposed of assets which may have belonged to Jews and had</p>

	<p>been acquired from Nazi Germany, how ownerless bank accounts of Jews in Sweden had been handled, if property which had belonged to German Jews had been liquidated through the actions of government agencies and if the Bank of Sweden had procured looted gold. The special inquiry did not focus on real property specifically.</p>
<p><u>Heirless Property</u> Who, or what organization, if any, has been designated as the proper recipient of Jewish heirless property, which is still retained by Sweden for any reason? (<i>see Terezin Declaration, and GBP, para. j</i>)</p>	<p>No litigation or restitution claims regarding real or immovable property covered by the Terezin Declaration have been initiated or submitted in Sweden or to Swedish authorities.</p>
<p><u>Heirless Property</u> If an organization, person, or group of persons have been designated as the proper recipients of Jewish heirless property in Sweden, what properties have been restituted or compensated to them to date? (<i>see Terezin Declaration, and GBP, para. j</i>)</p>	<p>No litigation or restitution claims regarding real or immovable property covered by the Terezin Declaration have been initiated or submitted in Sweden or to Swedish authorities.</p>
<p><u>Communal Property</u> What provisions have been made in Sweden for the return of Jewish communal property? (<i>see Terezin Declaration, and GBP, paras. a, b, k</i>)</p>	<p>No litigation or restitution claims regarding real or immovable property covered by the Terezin Declaration have been initiated or submitted in Sweden or to Swedish authorities.</p>
<p><u>Communal Property</u> Please describe all Jewish communal property in Sweden that has been returned. (<i>see Terezin Declaration, and GBP, paras. a, b, k</i>)</p>	<p>No litigation or restitution claims regarding real or immovable property covered by the Terezin Declaration have been initiated or submitted in Sweden or to Swedish authorities.</p>
<p><u>Communal Property</u> Please describe any Jewish communal property that remains in the possession of the Swedish state. (<i>see Terezin Declaration, and GBP, paras. a, b, k</i>)</p>	<p>No litigation or restitution claims regarding real or immovable property covered by the Terezin Declaration have been initiated or submitted in Sweden or to Swedish authorities.</p>
<p><u>Current Mechanisms</u> Are there currently any legal or administrative</p>	<p>Disputes regarding real property should be dealt with by the</p>

mechanisms in Sweden by which a claimant (Swedish or non-Swedish citizen) can seek restitution and/or compensation of immovable property seized between 1933 and 1945? If yes, please identify. (<i>see Terezin Declaration, and GBP paras. d, k</i>)	District Court in the district where the real property is located.
<u>Fulfillment of Terezin Declaration Commitments</u> Does Sweden currently view its commitments under the Terezin Declaration and Guidelines and Best Practices (“GBP”) as being fulfilled ? (<i>see Terezin Declaration, and GBP, paras. a-m</i>)	Yes, as far as relevant.
<u>Fulfillment of Terezin Declaration Commitments</u> What specifically has Sweden done to fulfill its commitments under the Terezin Declaration and GBP? (<i>see Terezin Declaration, and GBP, paras. a-m</i>)	In the absence of any case law on the matter, our assessment is that Swedish legislation is in accordance with the Terezin Declaration and GBP.
<u>Fulfillment of Terezin Declaration Commitments</u> Since Sweden’s signing of the Terezin Declaration in 2009 , what new laws or regulations , if any, have been passed and/or enacted, which promote the goals of the Terezin Declaration and GBP? (<i>see Terezin Declaration, and GBP</i>)	N/A (see above).

[If your country has more than one law that relates to Shoah era restitution/compensation of immovable property, please complete Sections VI-XIII of the Questionnaire for each law**]**

N/A

VI. Legislation / Regulation relating to restitution and/or compensation of Shoah era immovable property – Basic information (pursuant to Terezin Declaration, Guidelines and Best Practices (“GBP”), para. k)

Territory:	
Title:	
Text (original language):	
Text (English):	
Date of passage:	
Date of entry	

into force:	
Promulgating authority:	
Citation(s):	
URL:	
Other:	

VII. Scope of this Legislation / Regulation (pursuant to Terezin Declaration, and GBP, paras. c, d, g, h, k)

What type of recovery is permitted?	Restitution? If yes, describe scope of possible recovery.	
	Compensation? If yes, describe scope of possible recovery.	
	Other?	
What time period does the law cover?	Pre-1945? If yes, for which years?	
	Post-1945? If yes, for which years?	
	Other?	
What type of property can be claimed?	Movable property? If yes, describe scope of property that may be claimed.	
	Immovable property? If yes, describe scope of property that may be	

	claimed.	
	Private property? If yes, describe scope of property that may be claimed.	
	Heirless property? If yes, describe scope of property that may be claimed.	
	Communal property? If yes, describe scope of property that may be claimed.	
	Other?	
Who has legal standing to bring a claim?	Citizens? If yes, describe who is eligible to make a claim.	
	Noncitizens? If yes, describe who is eligible to make a claim.	
	Foreign residents? If yes, describe who is eligible to make a claim.	
	Direct heirs? If yes, describe who is eligible to make a	

	claim.	
	Indirect heirs? If yes, describe who is eligible to make a claim.	
	Other?	
Is there a special fund from which these claims are paid?		
What is the limitations (prescription) period for making the claims, if any?		

VIII. Identifying claimants (pursuant to Terezin Declaration, and GBP, paras. d, e, g, l)

What measures are available for identifying the current titleholder ?	
What measures have been taken to make government archives accessible to persons seeking property ownership documents?	
What measures have been taken to publicize the legislation ?	
What efforts have been made to reach out to local stakeholders , NGOs or advocacy groups?	

IX. Claims procedure under this Legislation / Regulation (pursuant to Terezin Declaration, and GBP, paras. d, e, k)

To what body is a claim made?	Administrative?	
	Judicial / courts?	
	Other?	
What is the claims procedure ?	How is a claim made?	
	Is there any fee for filing a	

	claim?	
	Is prior authorization required?	
	Who decides the validity of the claim?	
	On what basis is the claim decided?	
	What standard of proof is required?	
	Other?	
What is the appeals procedure?	Can first instance decisions be appealed?	
	Is there any fee for filing an appeal?	
	To what body?	
	What is the standard of review?	
	Other?	
Is this claims process currently open or closed?		
If closed, can late claims be accepted?		

X. Administrative regulations relating to this Legislation (pursuant to Terezin Declaration, and GBP, para. k)

Territory:	
Title:	
Text (original language):	

Text (English):	
Date of passage:	
Date of entry into force:	
Promulgating authority:	
Citation(s):	
URL:	
Other:	

XI. Key court rulings interpreting this Legislation. Please add additional rows as necessary for additional court decisions (pursuant to Terezin Declaration, and GBP, para. f)

Case 1	Name of claimant(s):	
	Name of respondent(s):	
	Date of decision:	
	Name of Court:	
	Brief description of facts:	
	Holding:	
	Citation(s):	
	Other:	
Case 2	Name of claimant(s):	
	Name of respondent(s):	
	Date of decision:	
	Name of Court:	
	Brief description of	

	facts:	
	Holding:	
	Citation(s):	
	Other:	
Case 3	Name of claimant(s):	
	Name of respondent(s):	
	Date of decision:	
	Name of Court:	
	Brief description of facts:	
	Holding:	
	Citation(s):	
	Other:	
Case 4	Name of claimant(s):	
	Name of respondent(s):	
	Date of decision:	
	Name of Court:	
	Brief description of facts:	
	Holding:	
	Citation(s):	
	Other:	
Case 5	Name of claimant(s):	
	Name of respondent(s):	
	Date of	

	decision:	
	Name of Court:	
	Brief description of facts:	
	Holding:	
	Citation(s):	
	Other:	

XII. Statistical Data relating to this Legislation / Regulation (pursuant to Terezin Declaration, and GBP, paras. c-h, j, k)

How many claims have been filed ?	
How many claims have been finalized ?	
How many claims have been accepted ?	
How many claims have been denied ?	
How many rulings have been complied with ?	
What is the total number of claims that could have been filed?	
How much has been paid by the relevant government in compensation for private property ?	
How much has been paid by the relevant government in compensation for communal property ?	
How much has been paid by the relevant government to date in compensation for heirless property ?	
What is the value of the private property restituted to date?	

What is the value of communal property restituted to date?	
What is the value of heirless property restituted to date?	
What percentage of claims awarded have been paid?	
On average, how long does the claims process take?	
On average, what is the total amount of expenses a claimant will incur when pursuing a claim to completion (excluding attorneys' fees)?	
On average, what is the total amount a claimant will pay in attorneys' fees when pursuing a claim to completion?	
What provision has been made for the distribution of heirless property , if any?	

XIII. Comments. Is there any other information you feel we should know?

We reaffirm our commitment to the Terezin Declaration, and welcome the initiative European Shoah Legacy Institute to collect and analyze information in the creation of the Immovable Property Law Database.

As far as has been possible to determine, no litigation or restitution claims regarding real or immovable property covered by the Terezin Declaration have been initiated or submitted in Sweden or to Swedish authorities to date.

On the matter of knowledge and awareness raising regarding the property of holocaust victims, it should be mentioned that the Government of Sweden already in 1997 commissioned a special inquiry (UD 1997:05) into Jewish assets in Sweden and Jewish property brought into Sweden before or during the Second World War, with the objective of determining how authorities, banks and other entities before or under WWII had disposed of assets which may have belonged to Jews and had been acquired from Nazi Germany, how ownerless bank accounts of Jews in Sweden had been handled, if property which had belonged to German Jews had been liquidated through the actions of government agencies and if the Bank of Sweden had procured looted gold.