

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

CONTENTS

- A. OVERVIEW
- B. BIBLIOGRAPHY

A. OVERVIEW

Switzerland remained neutral and was never occupied during World War II. Switzerland's neutral position and narrative as being a refuge to thousands of refugees during the war was not wholly challenged until the late 1990s (though questions had been raised since the early post-war period). Dual investigations supported by the Swiss government and international Jewish organizations along with the Swiss Banking Federation produced a more complete picture of Switzerland's dealings with Nazi Germany. (See, e.g., [Independent Commission of Experts Switzerland – Second World War, Switzerland, National Socialism and the Second World War \(2002\) \(Bergier Commission Final Report\)](#); [Independent Committee of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks \(1999\) \(Volcker Committee Report\)](#).)

Owing to its neutrality, Switzerland ended up providing important financial and other assistance to Germany. During most of the war, Switzerland's exports to Germany far exceeded its customary prewar trade relations. In fact, during 1942, Swiss tech and weapons manufacturing, watch-making and other business sectors critical for warfare production dedicated up to 80 percent of their capacity to filling German orders. (Regula Ludi, "Why Switzerland?" Remarks on a Neutral's Role in the Nazi Program of Robbery and Allied Postwar Restitution Policy" in *Robbery and Restitution: The Conflict over Jewish Property in Europe* (Martin Dean, Constantin Goschler & Philipp Ther, eds. 2007) ("*Ludi*"), p. 188.) The Swiss also provided the Germans with electric power and use of railways. Most importantly, nearly 80 percent of Nazi Germany's Reichsbank gold transactions went through Switzerland. (*Id.*, p. 189.)

During the war, Switzerland offered roughly 60,000 civilians refuge for varying periods of time. Approximately one-third (1/3) of the 60,000 were Jewish. However, roughly 20,000 people were refused entry into Switzerland during the war. There were also distinctions drawn (albeit non-systematic ones) between Jewish and non-Jewish foreigners in naturalization procedures. Jewish files were marked with the Star of David or the "J" stamp. Switzerland also offered refuge to roughly 100,000 military personnel during the war. (Bergier Commission Final Report, pp. 19-25.)

In 2012, the Swiss government stated that property was not confiscated or otherwise wrongfully seized in Switzerland during the Holocaust and World War II and thus "legislation and administrative measures regarding specifically immovable (real) property

were not adopted or prepared.” ([Green Paper on the Immovable Property Review Conference 2012 \(Switzerland, pp. 112-114.\)](#)) However, the historical investigations undertaken in the 1990s (described below) did include anecdotal evidence that Swiss banks and insurance companies were involved in immovable property transactions elsewhere in Europe. The 2002 Bergier Commission Final Report includes information that Swiss companies were involved in informal property takings, coerced transfers and transfers made under duress, takeovers of companies, ousting of Jewish board members, offices, employees, and affiliates (“Aryanization”); laundering of funds; and tacit acceptance of confiscations of property from Swiss nationals abroad by Swiss banks, governmental interests, and private entities. (See [Bergier Commission Final Report](#), pp. 321-338.) Specific instances of Swiss companies involved in immovable property transactions included:

Traditionally, the insurance companies were among the largest mortgage lenders and also owned assets in the form of real estate [in Germany]. In some cases, Swiss companies were involved in the [“]Aryanization[”] of property on which they had previously granted mortgages and which now had to be disposed of through forced auction: Basler Leben purchased this type of property in Mannheim[, Germany] in 1936 and in Frankfurt[, Germany] in 1939. Rentenanstalt and Vita also acquired real estate as a result of forced auctions, yet were exonerated of the charge of unjust enrichment during restitution proceedings after the end of the war. In other cases, the Swiss insurance companies’ intention to purchase and [“]Aryanize[”] property was thwarted by their German competitors. When the Swiss insurance companies rented out properties in Germany, they terminated their Jewish tenants’ leases voluntarily without coming under pressure to do so from the state; when the relevant legislation was thus passed in April 1939, they were thus able to report that these rented premises no longer had Jewish tenants.

(Bergier Commission Final Report, pp. 283-284.)

During the post-war period, Swiss insurance companies were involved in:

the return of [“]aryanized[”] property and real estate which had been acquired by Swiss insurers as part of their investment strategy. Without exception, this property was situated in the Federal Republic of Germany or West Berlin; these cases were thus subject to the corresponding [restitution] legislation imposed by the Western Allies, in particular US Military Government Law No. 59. The assets thus dealt with in the early fifties were all cases where the Swiss company held a mortgage on the [“]aryanized[”] property.

(*Id.*, p. 458.) The Bergier Commission did not make any systematic efforts to determine if similar mortgaged properties were located in East Berlin, in the former German Democratic Republic, in German Eastern territories within the 1937 borders, or in occupied countries (*Id.*)

While Switzerland’s role in the war vis-à-vis the assistance it gave to the Axis powers has been a subject of debate since the end of the war, the issue was brought again to the

forefront in the late 1990s when two commissions were established to investigate different aspects of how Switzerland might have benefitted from the Holocaust.

In 1996, the Independent Committee of Eminent Persons (“ICEP” or the “Volcker Committee”) was established through an agreement between the World Jewish Restitution Organization (WRJO), the World Jewish Congress, and the Swiss Bankers Association. The Committee was chaired by the former head of the United States Federal Reserve Bank, Paul Volcker, and had two major objectives: “(a) to identify accounts in Swiss banks of victims of Nazi persecution that have lain dormant since World War II or have otherwise not been made available to those victims or their heirs; and (b) to assess the treatment of the accounts of victims of Nazi persecution by Swiss banks.” ([Independent Committee of Eminent Persons, Report on Dormant Accounts of Victims of Nazi Persecution in Swiss Banks \(1999\) \(Volcker Committee Report\)](#), pp. 1-2.) The Volcker Committee’s Report was released in 1999.

The Swiss Parliament also established an historical commission in 1996, known as the Independent Commission of Experts Switzerland – Second World War (“ICE”), which sought to investigate “Switzerland’s response to [the Holocaust and the Second World War] and the question of how deeply it was involved.” ([Bergier Commission Final Report](#), pp. 25-26.) The Bergier Commission Final Report was released in 2002.¹

In 1998, the Swiss banks also settled class action litigation in U.S. courts. In exchange for total release from all future claims arising from the Nazi era, the Swiss banks paid USD 1.25 billion. (*See In re: Holocaust Victim Assets Litigation*, United States District Court for the Eastern District of New York, Case No. CV-96-4849.) (For more information on the issues of Nazi gold, Swiss dormant accounts, U.S. litigation relating to dormant accounts and the Bergier and Volcker Reports, *see Holocaust Restitution: Perspectives on the Litigation and Its Legacy* (Michael J. Bazyler & Roger P. Alford, eds., 2005); *see also* [swissbankclaims.com](#) (official website of the *Swiss Banks Settlement: In re Holocaust Victim Assets Litigation* United States District Court for the Eastern District of New York, Judge Edward R. Korman Presiding (CV-96-4849).)

At the end of World War II, Switzerland was not a party to an armistice agreement or any treaty of peace. However, as a neutral country, Switzerland was obligated by Article 8 of the [14 January 1946 Agreement on Reparation from Germany, on the Establishment of an Inter-Allied Reparation Agency and on the Restitution of Monetary Gold \(the “Paris Reparations Agreement”\)](#) to earmark certain categories of assets in favor of the rehabilitation of victims of Nazi persecution. (*See* Regula Ludi, *Reparations for Nazi Victims in Postwar Europe* (2012), pp. 27, 150; *Ludi*, pp. 182-183.)

¹ In addition to the Final Report, 25 studies and other research papers were published by ICE as *Publications of the Independent Commission of Experts Switzerland – Second World War*. (*See* <https://www.uek.ch/en/>, for full recitation of study and research paper papers).

Following the war, Switzerland entered into lump sum agreements or bilateral indemnification agreements with at least seven (7) countries. These agreements generally pertained to claims belonging to Swiss nationals (natural and legal persons) arising out of property that had been seized by the foreign states after WWII (i.e., during nationalization under Communism) or damage caused by National Socialism. They included claims settlements reached with: **Yugoslavia** on 27 September 1948; **Czechoslovakia** on 22 December 1949; **Hungary** on 19 July 1950 and 26 March 1973; **Romania** on 3 August 1951; **Bulgaria** on 26 November 1954; **Federal Republic of Germany** on 29 June 1961; **Poland** on 25 June 1949 and 26 June 1964.

In 1941, there were approximately **19,500** Jews living in Switzerland. Today approximately **18,000** Jews live in Switzerland.

The main Jewish organization in Switzerland is the [Swiss Federation of Jewish Communities \(Schweizerischer Israelitischer Gemeindebund\) \(SIG\)](#). It was established in 1904.

In 1906, Switzerland adopted a policy of limiting immigration of Roma, Sinti and Jenisch (commonly known as gypsies), which the Bergier Commission Final Report stated was probably respected during World War II. Documentary evidence shows that at least 16 gypsies were denied entry between 1939 and 1944. Moreover, “[t]here is evidence of several cases where it would have been easy for the Swiss authorities to protect Swiss gypsies from deportation to concentration or extermination camps, but either their citizenship was not recognised, or no steps were taken to approach the Nazi authorities to save them from danger.” (Bergier Commission Final Report, p. 122.)

Switzerland 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 Switzerland has been received.

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