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JEWS OF FORMER YUGOSLAVIA AND THEIR DECLINE AFTER WARS IN YUGOSLAVIA: LEGAL AND MATERIAL POSITIONS IN SERBIA, CROATIA AND BOSNIA & HERZEGOVINA 1991–2016*

Once one of the most numerous and prosperous minorities in Yugoslavia, the number of Jews declined from over 80,000 to 15,000 in the years after WW2. This number further decreased due to migration to Israel in the first post-war years, and further impoverishment took place because of confiscation and restitution of the majority of private and communal Jewish property, and enforced renouncing of Yugoslav citizenship. The first multi-party elections in Yugoslavia brought to power nationalist elements in all republics, which was followed by civil war, and the breaking of socialist Yugoslavia. Jews of Yugoslavia found themselves on different warring sides. Fragmentation on all confronted sides made the Jewish community even more vulnerable. A huge majority of former Warsaw Pact members after the Berlin wall fell passed laws for restitution of property taken by the state in post WW2 period. Jews of Yugoslavia, in several new states, had promises from state officials that their property would be restituted and errors made half a century ago would be rectified. The only case where such a promise came true was Serbia. In 2011 Serbia passed General Restitution Law concerning individuals, therefore also Jews. In 2006 Serbia passed Law on property of the religious communities that also included Jewish community and that helped restitution of the Jewish communal property. The state of Serbia is the only state in the region that passed the Jewish Lex Specialis that concerns on Jewish property with no successor but also unclaimed Jewish

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property in February 2016. Croatia passed a General Restitution Law in 1996, and amended it in 2002, but it only affects property nationalized after May 1945. That Law is limited to direct successors who are Croatian citizens or citizens of countries which have bilateral agreements with Croatia. Due to very high taxes, in some cases reaching 25% of property value, a lot of Jewish requests remained unsolved. Bosnia and Herzegovina is one of the rare European countries that did not pass such a law. Moreover, the BIH constitution declares three constituent nations: Serbs, Croats and Bosnians, while others as minorities cannot be nominated for state positions, according to chapters IV and V of the BIH constitution (*Sejdić and Finci v. Bosnia and Herzegovina*). This paper aims to give insight into the economic power of Jews just before the breakdown of Yugoslavia, and the current economic situation of Jewish communities in Serbia, Croatia and BIH, with a special emphasis on their economic, legal and social position in the last two decades. This restitution issue is very important for it shows how much goodwill states have for helping their local Jewish communities. The research material is obtained from local Jewish communities, periodicals, reports, interviews, conferences, scientific journals and statistical data of all three states and various Jewish organization. Facing the past, admitting and rectifying remain open issues in those countries, and they are excellent indicators of the progress achieved in the last 25 years.

Key words: Jews, restitution, Holocaust, property, Yugoslavia, Serbia, Croatia, Bosnia and Herzegovina

1945–1991

Prior to WWII Yugoslav Jews were living all across the kingdom of Yugoslavia, but primarily in urban centers. Across Yugoslavia there were 136 local Jewish communities. In comparison with Hungary and Poland, the Jewish community in Yugoslavia was relatively small, and characterized by big differences within the community that made it unique. Historical *Limes* (the Sava and the Danube border) coincided with borders separating the two most numerous collectivities, Ashkenazi and Sephardic.¹ The most important Jewish centers were Belgrade, Zagreb and Sarajevo, both before WW II and after 1945. In those cities, between world wars, Jews made up 4–5% of the population in Zagreb and Belgrade, and approximately 10% in Sarajevo (Freidenreich 1979, 3–6). The Jewish communities of Belgrade and Sarajevo were mostly Sephardic, but also with strong Ashkenazi communities present. The creation of Yugoslavia brought a lot of Ashkenazi from Austro-Hungary to Belgrade, especially from the Vojvodina region, while in Sarajevo that migration had been happening since the early 1880s. In Zagreb the vast majority of Jews were Ashke-

¹ Dajč, Vasiljević 2013, 97–100.

nazim. Although Jews in Yugoslavia were not as numerous as in some other Central and Eastern European countries, they were well established and had very important roles in different industries, as well as in the financial sector.²

In order to understand the material and legal position of Jews in Yugoslavia, one should have in mind their economic position before 1941, as well as the conditions which led towards transition to state possession of large part of Jewish private and communal property after 1945.

During the Holocaust approximately 80–85% of the Jewish population of Yugoslavia was murdered. The kingdom of Yugoslavia was conquered in the shortest possible time, during the April War of 1941.³ The division of Yugoslavia into occupied zones, forming a quisling-type Independent State of Croatia (NDH), and quisling-type authorities in power in Serbia, came as the result of different political circumstances.

The German authorities, and the collaborationist authorities of the NDH as well as those in Belgrade (under death threat) required Jews to be enlisted and declare all of their property. Lists made at that time are one of several important sources that give insight into Jewish private property at the beginning of the war.⁴ In occupied Serbia, as a part of the “final solution of Jewish issue”, Germans unsparingly robbed and forfeited property, deporting and liquidating owners. The person in charge of Jewish property was the representative General for commerce in Serbia, Franz Neuhausen, and money from sales of Jewish property ended up in his account. Jewish property was bought primarily by members of the German minority and privileged individuals from the Serbian state administration. The culmination of manipulations with Jewish property is a bylaw by the Ministerial office of General Milan Nedić from August 26, 1942, by which all Jewish property was “bestowed” to Serbs, while the Srpska Narodna Banka and the Državna Hipotekarna Banka, the institutions entrusted to sell the property, paid the German authorities more than 360 million dinars as compensation for damages that the “Germans suffered due to the war against Yugoslavia”.⁵ Only some 15,000 Jews remained in all of Yugoslavia at the end of WWII.⁶ However this new reality did not bring much improvement to survivors.⁷

In order to properly estimate the legal and material position of Jews in contemporary states (Serbia, Croatia, Bosnia and Herzegovina) it is necessary

2 Aleksić 2014, 109–111. and Aleksić 2015, 52–60.

3 Ristović 2010, 1–2.

4 Veselinović 1998, 485–495.

5 Aleksić D, 30–36, 2015.

6 Gordiejew 1999, 39–42.

7 Ristović, 2001, 69.

to understand the social-historical context of property deprivation that took place after 1945. The legal-material status that Jews found themselves in, in that period is crucial for understanding their situation after civil wars in Yugoslavia in the 1990s.

A small number of Jews remained in Yugoslavia, and due to socialist property laws passed from the end of the war until the late 1950s, they were put into a position of full dependence on state benefaction primarily because they were left without the majority of their property, taken during the Holocaust in the first place. Understanding the legal and material position of Jews must be seen from the aspect of unsolved ownership legislature from 1945 to this day.⁸

The disintegration of Yugoslavia at the beginning of WW II additionally complicated legal, historical and ethnic aspects of facing processes that threaten and/or led to dispossession. Property ownership faced hard times of lawlessness, plundering and retaliation. In all of Eastern Europe, including Yugoslavia, the defeat of Nazism did not bring real, full liberation. Totalitarian regimes ruled over Europe. Yugoslavia was not an exception.⁹

In the years immediately after 1945, the Second Yugoslavia “sovietized” at a faster rate than other Eastern European countries. The advantage of Tito and his communist authorities was the absence of Soviet troops, for they did not stay in Yugoslavia. That gave the new Yugoslav authorities direct legitimacy in decision making.

None of the post-war laws in Yugoslavia referred to the special situation its Jewish citizens found themselves in. Immediately after the war, the new authorities performed a census and returned property to those who survived the Holocaust.¹⁰ Post-war Yugoslavia proclaimed a classless socialist society, “expropriation of expropriators”, “people’s collectivism” and domination of “nation-wide property”. Those surviving Jews that belonged to the “class enemy” were not regarded Jews, but as class enemies. This is significant, for the Law on nationalization regarded them as other citizens. Only Jews who had served in National liberation forces had the same privileges as other participants of that movement.¹¹ Surviving Jews that received back their private property had it returned as a result of the annulment of all the laws and by-laws passed anywhere in the territory of Yugoslavia after April 1941. The first laws on restitution enabled the return of the property to persons that had to leave it during the war for whatever reason. In accordance with that law a large part of surviving Jews

8 Ilić 2015, 142–152.

9 Samardžić 2014, 8–19.

10 Aleksić D, 27–33, 2015. and Dajč, Vasiljević 2014, 148.

11 Romano J. 1980, 9–20.

retrieved property seized after 1941. Inheritance petitions were receivable for one year after the end of war. However, even than complete property was not restituted, since courts had discretion to give a family, a person or its successors a part of the property, while “the surplus” would remain property of State directorate of national property – DUND.¹²

The first laws passed before the one on nationalization were, those on agrarian reform and colonization.¹³ For Jews of Yugoslavia, the law on confiscation and nationalization of private and commercial enterprises was significant for it meant the mandatory takeover by the state and ruling structures of either the whole or part of a property. In that way, large parts of private property became state property. Large numbers of Jewish enterprises were taken by the state under the accusation that they had made war profits. Namely, Arianized Jewish enterprises that kept doing business under German control were regarded as war-profiting, so even if they were returned to successors or previous owners after the war, they were confiscated anyway.¹⁴

Nationalization was the subject of the law passed on April 28 1948, that encompassed credit and insurance companies, mines, electric plants, railways, radio industry, all large boats and ships, hospitals, sanatoriums, public baths, spas, printing businesses, lithographs, all merchant, transport, and construction companies, all commercial warehouses, cellars, garages, cinemas, hotels and other objects state considered should be nationalized.¹⁵

This was exactly the pattern that deprived Jewish communities in Yugoslavia, concentrated in three cities: Belgrade, Zagreb and Sarajevo, of large parts of their property. According to that law all voluntary societies that were an inevitable part of Jewish life ceased to exist, while their property became state property. The same thing happened to many Jewish endowments that also ceased to exist, and whose property was taken by the state despite the statute which declared that they should be transferred to religious-educational Jewish communities in the cities where they were active.

After 1945, the Jewish communities of Yugoslavia faced serious problems, for they had no support of any kind from the state. The aid of JDC started to arrive for the Jewish communities of Yugoslavia only after 1953. Another important year was 1948, and the formation of the state of Israel, for it brought a new wave of migrations and the reduction of the Jewish community in Yugoslavia. Immigrants to Israel had to renounce Yugoslav citizenship and their

12 Brandl 2015, 13.

13 Službeni glasnik NRS 39/45 I 4/46

14 Dajč, Vasiljević 2014, 148–151.

15 Samardžić 2014, 8–19

property in Yugoslavia. It was aimed at deprivation of immovable property, and that became clear after the Law on nationalization was passed.

The most important reasons for the emigration of Jews from Yugoslavia after 1945 were unsolved social problems and disadvantageous legal and property positions. To what extent certain communities in Yugoslavia were impoverished can be seen by the fact that some of them had to sell their communal property. That situation was the result of the absence of any state support, for communities had to take care of those who were left with nothing during the war and could not maintain objects that had survived WW II. Part of the sales of communal property after 1945 should be observed from that aspect.¹⁶

The period of 1948–1952 was significant for the Jews of Yugoslavia as a period of large emigration to Israel. Around 7000 Jews left Yugoslavia, while some 6200 remained.¹⁷ Even so, not all requests to emigrate to Israel were granted; refused were individuals with scarce skills, and husbands – non-Jewish partners, while Jewish men with non-Jewish wife were permitted to emigrate.¹⁸

The last wave of emigration to Israel took place in 1951, and was the least significant judging by the number of people involved.

It is important to mention that all Yugoslav citizens who switched to other citizenships, in accordance with the Law on nationalization of private enterprises of 1948, lost their ownership. This is significant for it means that a large portion of property belonging to surviving Jews who emigrated to Israel by 1951 became state property. The State authorities also organized the a farce inheritance proceedings for the Jewish property that was given back to owners who previously lost Yugoslav citizenship and were not even present in Yugoslavia to start and attend the inheritance process.

The community up to 1950s, sometimes also later, sold parts of their communal property. Such was the case of the Zemun synagogogue that was sold to Zemun, an administrative part of city of Belgrade, in 1962.¹⁹ Another material blow to members of community was the passing of the law on nationalization of rented houses and development land in December 1958.

The post-war years are characterized by intensified secularization as a dominant factor in Jewry lives, with left-oriented Liberation war veterans as

16 Dajč, Samardžić 2012, 150–154.

17 Precise number of Jews can be traced by an annual calendar that the Federation of the Jewish Communities was publishing. In those calendars they were listing all Jews of Yugoslavia by different cities they belonged to. Kerenji 2008, 174

18 Brandl 2015, 185-190.

19 Still it is not clear what were conditions under which the Zemun Jewish Community accepted the transfer of its property. There is a slight possibility that the sale was made under duress. Dajč, Samardžić 2012, 152–154.

protagonists. In such a framework the Union of Jewish communities of Yugoslavia was reestablished in 1950, with a leading role of Law faculty professor Albert Vajs.

Important events for the position of Jews in Yugoslavia were the Suez crisis, when Yugoslavia took an anti-Israeli position, but even more so during the war of 1967, after which Yugoslavia expelled the Israeli ambassador and when an increased number of anti-Israeli texts were evident in the dailies, followed by anti-Semitic statements that aligned Jews with imperialistic class enemies. The Yom Kippur war of 1973 only strengthened the anti-Israeli position of the Yugoslav government. Jews of Yugoslavia had to adapt to the anti-Israeli position of Yugoslavia that persisted all the way until the disintegration of the Second Yugoslavia.²⁰

1990S AND 21ST CENTURY

In order to understand the position of Jews in Yugoslavia in war and post-war years, it is necessary to look back to the political, social, and ownership changes that took place in countries of Eastern Europe after the fall of the Berlin wall. The extent of post-war changes and several decades of authoritarian rule contributed to the fact that already in the first decade after disappearance of the Warsaw pact, nostalgia for communism occurred. Despite that, all ex-members of the Eastern bloc passed, by the end of 20th, century most of the laws enabling restitution of property seized after 1945, both to individuals and legal entities. The restitution of private property was an integral part of post-communist transition in Eastern bloc countries and Yugoslavia. The process was, and is, going at much slower pace in ex-Yugoslav republics. After 1989 in Yugoslavia, instead of democratic alternatives, power was taken by nationalist alternatives that originated from within previous elite. Despite the general opinion of a special place and role, and exceptional success of Yugoslav republics in the socialist period in comparison with Warsaw pact countries, only two Yugoslav republics achieved membership in European Union; Slovenia in 2004, and Croatia in 2013. On the other hand a huge majority of states that were Eastern European Soviet satellites became EU members in 2004 and 2007.²¹

The issue of restitution was the most important for the further survival of Jews in ex-Yugoslav states. But wartime events caused their numbers to be halved. In other words, out of 7,000 Jews at the beginning of the civil war, their

20 Samardžić 2015, 12–18.

21 Samardžić 2014, 8–19.

number shrank to 3,500 in countries that succeeded Yugoslavia.²² Accurate evidence of the number of Jews emigrating from all Yugoslav republics was kept by The American Jewish Joint Distribution Committee.²³

After the wars in Slovenia, Croatia and Bosnia and Herzegovina the number of Jews declined drastically. Jews from former Yugoslavia mostly emigrated to the USA, Canada, Germany, the UK and of course Israel. By 1994, more than 1,600 members had left Bosnia.²⁴ The last significant wave of emigration was the one that ensued in Serbia in 1999.

What Jews from ex-Yugoslav republics had in common was that they found themselves on all warring sides during the civil war, except for in Kosovo. This new rush of nationalism and ethnic conflict put Jews into a very delicate position, for radicals on all confronting sides blamed Jews for supporting the opposite side.²⁵ Through the lens of the special connection of governing structures and Jews and behaviors of states (Serbia, Croatia, Bosnia and Herzegovina) towards Jewish property, a better insight can be achieved into material and legal position of Jews in those republics.

SERBIA

The position of Jews in Serbia is especially interesting at this moment because it is the only country in the Eastern Europe that eventually completed the entire process of the Jewish restitution since the endorsement of the Terzin declaration in 2009. The National Assembly of Serbia in February 2016 unanimously passed Law on regulating consequences of property seizure to the Holocaust victims with no living legal heirs (also known as the Restitution Law 2016).²⁶

In Serbia there are 9 Jewish communities that form the *Savez jevrejskih opština Srbije* (Federation of Jewish Communities of Serbia – SJOS), and of those nine, only three in Belgrade, Novi Sad and Subotica have enough material and human resources to survive on their own, without help.

The property issue is a crucial topic for Jews, for only with return of property that was seized first as a consequence of the Holocaust, and later as a consequence of new authorities taking over and introducing classless society, can an additionally impoverished and reduced in numbers Jewish com-

²² Romano 1952, 31–33.

²³ JDC 1993, 32–33.

²⁴ JDC 1993, 33.

²⁵ Lebl interview 2014. and Samardžić 2015, 12–18.

²⁶ Službeni glasnik RS, no. 13/2016.

munity persist on its own. The state of Serbia, in the period after democratic changes in 2000, passed several laws concerning restitution of property and compensations.²⁷

The best insight into material position of Serbian Jews can be achieved from reports by the World Jewish Restitution Organization and European Commission as well as from the proceedings of the permanent conferences held in Serbia 2014–2016, through analyzing laws that have already been passed and by observing the current situation in the country.

The process of restitution in the Republic of Serbia started in 1991, but it was limited in scope. The first Law regulated exclusively the return of farming land seized in accordance with the Law on the obligatory buy-out of 1953. That Law encompassed and enabled the return of just a fraction of seized property, and it was limited to farming land. All the way to 2006, there were no other system laws regulating the process of restitution. That year, the Law that enabled the return of all the seized property to churches and religious communities was passed. That was the foundation for the restitution of property seized from Jewish communities.²⁸ This Law made it possible for the Jewish communities of Serbia to claim back their property in the capacity of religious communities, but they couldn't claim the property of legacies, funds and other organizations connected to the Jewish community. Agency for Restitution, who is in charge of the enforcement of the 2006 Law, and on that basis it returned just shy of 10 million € to the Jewish communities until late 2016.²⁹

At the end of the previous decade Serbia endorsed the Terezin Declaration on Holocaust Era Assets and Related Issues.³⁰ The Declaration recognized the importance of returning or providing compensation for property taken from Holocaust victims. The Declaration was also signed by Croatia and Bosnia and Herzegovina. In year 2010 Serbia as well as Croatia and Bosnia and Herzegovina endorsed the Guidelines and Best Practice for the Restitution and Compensation of Immovable (Real) Property Confiscated or Otherwise Wrongfully Seized by the Nazis, Fascists or Their Collaborators during the Holocaust (Shoah) Era between 1933–1945. The Guidelines call for in rem restitution as the preferred outcome. When that is not possible the Guidelines urge for other solutions, including substituting property of equal value or paying genuinely fair and adequate compensation.³¹

27 Službeni glasnik RS, no. 72/2011.

28 Block and others 2014, 96–102.

29 Sekulić, 2017.

30 WJRO report, 2009.

31 WJRO report, 2009.

The material position of Jews who individually claimed property improved after Serbia passed The Law on Restitution of Property and Compensation to address private property restitution (also known as the General Restitution Law 2011). That also similar to a law in Croatia applies to property confiscated after March 1945.³² Article 5 of the Law on Restitution (general Restitution Law 2011) explicitly indicates that Serbia should pass a special law that will address heirless Jewish property. Apart from Jews who are citizens of the Republic of Serbia, beneficiaries of this Law were Jewish families that after the War or later emigrated to Israel, USA, Canada, Brazil, Argentina, Venezuela and several European countries. Property restituted in kind to Jews consist of: 82 commercial buildings, 12 buildings, 10 apartments, 6,031 square meters of construction land, 105,414 square meters of undeveloped construction land and 861 hectares of agricultural land.³³

Another big obstacle is that the Law can't return in rem the property that was privatized in the period after the 1990s, as a large number of Serbian state companies as well as other property were sold before the law was passed in 2011. By this action Jews of Serbia are permanently aggrieved, for it made any restitution of property sold in that manner impossible. Still the situation of Jews is no different from the other citizens of Serbia as they also can't claimed the property that was sold/privatized in post 1990 period.³⁴

The complex situation of the restitution process is impossible to understand without the rehabilitation process that is very active in Eastern European post communist states since the end of the Cold war.³⁵ Serbia is not an exception but it is still among less endangered countries comparing with the region and other former Warsaw pact members. Luckily for Jewish titular of property seized during WW II the Restitution agency of Serbia contested restitution to claimants that came into possession of property in the period 1941-1944 if there was suspicion that the property is actually previously seized Jewish property, taken by state of Serbia in accordance with act of 1942. Such a policy of a Restitution agency is an important example of autonomy of a state institution. This is also an example of relative silence of Jewish community in Serbia that didn't take an active role in opposing the rehabilitation of war quisling except briefly in the late 2016.³⁶

The final phase in the process of the Jewish restitution in Serbia was passing of the Special Law on restitution of heirless and unclaimed property con-

32 Block and others 2014, 96-102

33 Sekulić, 2017.

34 Tel Aviv Serbia, 2011.

35 Lazić, 2015, 113-121.

36 Haaretz 2016.

fiscated as the consequence of the Holocaust in 2016. Besides formal-legal difficulties in passing the law and attempts to codify the return of Jewish property, there was significant resistance in the institutions as well as the society.³⁷ This was the ground breaking moment not only regarding the legal and material position of Jews in Serbia and Serbian state but also for the prospective Jewish restitution in other European states, especially in Poland and Hungary.

The process until the law was passed lasted more than two years. There was a long-lasting negative conflict of jurisdiction between two ministries – the Ministry of finance and the Ministry of justice – regarding the preparation of the Law until the Government of the Republic of Serbia finally authorized the Ministry of justice to prepare the Law. A working group was formed, with representatives from the Agency for restitution as well, to prepare the text of the Law. During this entire period there was a conflict between Jewish communities of Serbia and the World Jewish Restitution Organization about the distribution of and the control over the funds received according to the Law. In certain moments the Agency, as an institution trusted by both sides, had a role of a mediator in order to find quick solutions and to prevent the escalation of the conflict that would endanger the Law. The Law was finally passed on February 19th, 2016 without a single negative comment in Serbian national Assembly or in the general public!³⁸

It is interesting and important to note that the initiative for this law, the work on the text, lobbying, and media campaigns were initiated and enacted mainly by the institutions of the Republic of Serbia, primarily the Agency for Restitution, and eminent individuals, mostly non-Jewish, gathered in the NGO New Balkans Institute, and Association of Public Prosecutors and Deputy Public Prosecutors of Serbia.³⁹

The 2016 Law because of its importance deserves an additional research and analysis.

The total estimated value of the property returned so far (less than a year) to the Jewish communities is around 14 million €. The Law also declared financial support of the Republic of Serbia to Jewish communities and specified the amount to 950.000 € annually in the next 25 years, starting in January 2017.⁴⁰ The biggest challenge for the further successful implementation and the promotion of the Law (especially in the region and Poland and Hungary) lays on Jewish community in Serbia as it should keep the process transparent. This might be a huge burden for the Jewish community as it is the unique case

37 Sekulić, 2017.

38 Sekulić, 2017.

39 Samardžić 2015, 8–17.

40 N1 2017.

that the Jewish community got such an opportunity of managing such a huge resources.

The example of Serbia is a remarkable one as the change of the situation in course of few years was unprecedented. Serbian Special Law of 2016 is the best example of the encompassing codification of the issue of restitution of Jewish property.

CROATIA

The situation in Croatia is different in comparison to Bosnia and Herzegovina and Serbia. Croatia is an EU member, and economically more stable and prosperous than its neighbors. This makes the material position of Jews as individuals better. Croatian law does not discriminate against Jews, just as the law in Serbia. However, the situation concerning the restitution of property and economic prosperity of the community does not meet the standards according to those endorsed by the Terezin Declaration and Guidelines.⁴¹

The Jews of Croatia, similar to those in Serbia, are concentrated in the capital, Zagreb, with significant communities in Osijek and Split. Other communities exist in: Dubrovnik, Čakovec, Virovitica, Slavonski Brod, Rijeka, Koprivnica and Daruvar. The number of Jews in Croatia is close to that one in Serbia with between 1,500 and 2,000 Jews. Despite the better economic situation, self-support is possible only for communities in Zagreb, Osijek and Dubrovnik. The same problems that Jews faced in Serbia are also present in Croatia, regarding both communal and individual property.⁴²

The law was passed in Croatia relatively early, just after the end of wars in Bosnia and Herzegovina and Croatia. It seems probable that such a law was needed to meet the conditions that Croatia had to attain in order to take steps towards European Union, but also to return to the Catholic church all property seized by communist authorities after 1945.⁴³

The influence of the Catholic Church in Croatia is probably equal if not even more important than the influence of the Orthodox church in Serbia. Duplicity of both countries can be best seen in these examples. Both church organizations have privileged positions in Croatia and Serbia respectively in comparison to other religious communities, including the Jewish community.

The Act on Restitution/Compensation of Property Confiscated During the Yugoslav Communist Rule (1996) as modified in 2002, governs the resti-

41 Tel Aviv Croatia, 2011.

42 Dobrovšak, 2015, 79–83.

43 WJRO 2014, 164-167. Brandl, 2016, 112-119

tution of both confiscated communal property and nationalized immovable private property in Croatia. (Narodne novine 1996 and 2002).

As it was the case in Serbia until 2016 Law, the law does not apply to property seized before May 1945. It should also be noted that the title of the Croatian restitution law does not mention Holocaust era confiscations; the text of the law refers solely to property confiscated after May 1945 (ESLI Croatia 2012). Besides, the law discriminates against those without Croatian citizenship, as the only eligible citizen for the restitution of private property are former owners or their direct descendants if they are Croatian citizens, or citizens of a country with bilateral treaty with Croatia (ESLI Croatia 2014)

As stated before, more than a half of the Jews from post war Croatia left Yugoslavia in the period 1948–1951, and according to this law they are ineligible to claim their property (WJRO 2014, 164–167). Another big obstacle is that there is no time limit for court rulings, so roughly one half of the cases were not solved by 2014 (Tel Aviv Croatia).

The Jewish community of Croatia submitted more than 130 requests for the restitution of communal property. Until today just 15 property units have been returned. In recent years there has been an obvious standstill in the restitution of communal property. One of few positive outcomes for the functioning of the Jewish community in Zagreb is the return of a large plot in downtown Zagreb that is used as a parking lot and enables the community of Zagreb to have a steady income. The plot is where a destroyed Ashkenazi synagogue used to stand.

The claims process for private property in Croatia is directed to authorities on the local level, but the Ministry of justice has right to annul decision with no possibility of appeal. The biggest problem for Jews claiming property in Zagreb is that a huge majority of Jewish property was seized before May 1945. Besides, a large number of survivors emigrated to Israel and, as already mentioned, they were forced to renounce Yugoslav citizenship, and with that their rights to property. The Republic of Croatia still has an active law that enabled its citizens be extorted and blackmailed, and afterwards robbed despite only few years previously having survived the Holocaust.⁴⁴

Until early 2016 bit below 30% of Jewish families in Croatia managed to successfully claim back their property. That was one of the reasons for the Government of Zoran Milanović to make a symbolic gesture and restituted one Zagreb downtown building to the Jewish Community Zagreb. That property was originally nationalized by the NDH regime in the WW II.⁴⁵

44 WJRO 2014, 164–167.

45 Dobrovšak, 2015, 88.

Additional perplexity in Croatia is existence of two communities in Zagreb, after original community split in 2005.

Unlike Serbia and Bosnia and Herzegovina, Croatia has already become EU member and that puts Jews in that country in a more difficult position, since the pressures of European Commission cannot be as efficient as in the cases of Serbia and Bosnia and Herzegovina. Besides, in Croatia Jews and non-Jewish organization did not organize to solve the issue, as was the case in Serbia. Due to all this, and because of the economic position of Jews is better in Croatia than in Serbia, there is not much ground for optimism in their material position will improve in near future, or that the injustice Yugoslavia made towards its citizens who survived the Holocaust will be rectified. Other big challenge that Croatian society is facing is Holocaust revisionism. Croatia is not the only country in Europe facing such problems but attempts to whitewash Holocaust crimes can also harm future positive restitution legislature.

BOSNIA AND HERZEGOVINA

The civil war in Yugoslavia most heavily affected Bosnia and Herzegovina due to its multiethnic population, made up of three large groups: Bosniaks, Serbs and Croats. As a result, the war that raged over Bosnia from 1992 to 1995 made the position of local Jews more difficult than of those in Croatia or Serbia. Before the end of 1993, more than 1,600 Jews emigrated from Bosnia.⁴⁶ The most significant community was the one of Sarajevo, for it was the capital of Bosnian Jews from the second half of the 16th century onwards. Jewish emigration lasted until 1995, and to a lesser extent continued afterwards.

During the war, the oldest and most important Jewish association was *La Benevolencija*, that helped all Sarajevo citizens in need during the siege, and that made it one of the symbols of the city. However, the solidarity with the population during war hardship did not bring an improvement of their position after Bosnia and Herzegovina was formed in accordance with the Dayton agreement. After large exodus, there are less than 1,000 Jews left, living mostly in Sarajevo.⁴⁷

Bosnia has no law concerning restitution of immovable communal or private property confiscated during the Holocaust era, or even after WW II. No law addresses restitution of confiscated heirless property.⁴⁸ Although Bosnia formally endorsed the Terezin declaration and Guidelines, no progress regard-

46 JDC 1993, 32-33.

47 ESLI Bosnia 2012.

48 WJRO 2014.

ing restitution was observed. In 2005 the Councils of Ministers established a Commission for Restitution that was given the task of choosing the best model for that process.⁴⁹

Due to the absence of legislation dealing with the restitution of communal property, not a single claim was processed, with more than 100 claims waiting.

The other, even more dangerous fact, is the current legal position of Jews and other minorities in the post Dayton Bosnia and Herzegovina, for they are not accepted by the Constitution as constituent nationalities (only Bosniaks, Serbs and Croats are). After complaints that the constitution of Bosnia and Herzegovina favors constituent nationalities over other ethnic groups, titled minorities that comprise 17 groups (including Jews), adopted a law protecting the rights of national minorities in 2003.⁵⁰

Two prominent representatives from the Roma and Jewish communities, Derva Sejdić and Jakob Finci, sued Bosnia and Herzegovina at the European court of Human Rights in Strasbourg, for the fact that belonging to minorities prevented them from being elected to the Presidency of Bosnia and Herzegovina and the *Dom Naroda* (Parliament of Bosnia and Herzegovina). They were given posts, but only in 2015 did the Constitutional court of Bosnia and Herzegovina declare the division of the state into entities to be unconstitutional.⁵¹

The Jewish community of Bosnia and Herzegovina is in a very difficult position, for it has no legal options to request even the restitution of property confiscated after the Holocaust, i.e. since 1945. Moreover, members of the community, unlike in Croatia and Serbia, have no equal rights as people of constituent nations.

CONCLUSION

The civil war in ex-Yugoslavia destroyed the Jewish community as one entity and it was replaced by many small communities in all successor republics. Large emigration of Jews that wanted to save their lives or escape from a country destroyed and impoverished by the war resulted in mass exodus. It is not only the departure of many Jews, but primarily an exodus of the middle generation, 25 to 45 years.

Emigration of that age group was a very serious blow for the small Jewish communities of Serbia, Croatia and Bosnia and Herzegovina.

49 ESLI Bosnia 2012.

50 Ibid

51 DW 2015.

The focus of this paper is on the issue of restitution, a process through which a state not only admits its responsibility for previous decisions that harmed owners, but can directly affect the better material position of its Jewish citizens. Not solving Jewish property issues actually means recognition of the Holocaust's results.

It is devastating to realize that apart of Serbia since 2016, other two states Croatia and Bosnia and Herzegovina did anything concrete about property confiscated as a result of the Holocaust. Besides, when laws passed in the Second Yugoslavia that remained in force are analyzed, it is noticeable that the states kept those laws which support retention of Jewish private and communal property. All three states spoke proudly of their democratic achievements and progress made after the disintegration of the Second Yugoslavia, but only one of them fulfilled what they committed to by signing the Terezin Declaration and the Guidelines. The situation is the worst in Bosnia and Herzegovina, better in Croatia and closed Serbia.

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Haris Dajč

JEVREJI BIVŠE JUGOSLAVIJE I NJIHOVO OPADANJE NAKON RATOVA U JUGOSLAVIJI: PRAVNI I IMOVINSKI POLOŽAJ U SRBIJI, HRVATSKOJ I BOSNI I HERCEGOVINI 1991–2016

Nekad jedna od najprosperitetnijih manjina u Jugoslaviji, čiji broj je opao sa preko 80.000 od 1941. na 15.000 godina nakon Drugog svetskog rata, Jevreji Jugoslavije su imali posebnu tragičnu sudbinu i u godinama nakon 1945. Do dodatnog smanjenja jevrejskog stanovništva dolazi usled migracije u Izrael u prvim posleratnim godinama, koju prati i dalje osiromašenje zbog konfiskacije i nacionalizacije privatne ali i komunalne jevrejske imovine. Iseljavanjem i gubljenjem državljanstva nekadašnji građani Jugoslavije trajno gube pravo na imovinu koja prelazi u državni fond. Prvi višestranački izbori u Jugoslaviji organizovani nakon pada Berlinskog zida doveli su do formiranja suprotsavljenih nacionalističkih vlada koje su se potom sukobile u građanskom ratu koji je doveo do kraja Druge Jugoslavije. Dalja fragmentacija nekadašnje jevrejske populacije Jugoslavije učinila ju je još ranjivijom. Novi talas jevrejskih izbeglica prepolio je broj Jevreja u nekadašnjim jugoslovenskim republikama u toku 90ih godina 20.veka. Nasednice Jugoslavije su poput većine bivših članova Varšavskog pakta prihvatile da donesu zakone o vraćanju nacionalizovane. Na taj način bi greške napravljene pre pola

veka bi bile ispravljene. Međutim jedini slučaj u kojem je došlo do potpunog i sveobuhvatnog povraćaja jevrejske imovine dogodio se u Srbiji. Srbija je u peperiodu od 2006. donela tri zakona koji se odnose na restituciju: Zakon o imovini verskih zajednica, koji je uključivao i jevrejsku zajednicu 2006; Opšti zakon o restituciji za pojedince, stoga i za Jevreje 2011; Zakon o otklanjanju posledica oduzimanja imovine žrtvama Holokausta koje nemaju živih zakonskih naslednika 2016. Poslednjim zakonom u Srbiji je u potpunosti rešeno pitanje restitucije jevrejske imovine. Samo za manje od godinu dana Agencija za restituciju je vratila imovinu u naturi jevrejskim zajednicama Srbije u iznosu većem od 14 miliona €, pored godišnje pomoći u iznosu od 950.000 €. Dalja uspešna realizacija zakona u najvećoj meri zavisi od jevrejskih zajednica i njihove sposobnosti da vode ceo postupak upravljanja i raspolaganja imovinom transparento. Posebnost u vezi sa donošenjem zakona o jevrejskoj restituciji iz 2016. jeste što su u pripremi zakona, lobiranju i stvaranju zakona pored državne ustanove, Agencija za restituciju, učestvovali i pojedinci organizovani u NVO sektor: Novi Balkanološki Institut i Udruženje javnih tužilaca i zamenika javnih tužilaca Srbije, kao i članovi akademske zajednice, sa veoma ograničenim angažovanjem lokalne jevrejske zajednice. Hrvatska je usvojila Zakon o opštoj restituciji 1996. godine, koji je dopunjen 2002. godine. Međutim zakon se odnosi samo na imovinu koja je nacionalizovana nakon maja 1945. Pored toga zakon je ograničen na direktne naslednike koji su hrvatski državljani ili građani zemalja koje imaju bilateralne sporazume sa Hrvatskom. Zbog vrlo visokih poreza, u nekim slučajevima dostizanjem 25% vrednosti imovine, veliki broj jevrejskih zahteva ostao je nerešen. Bosna i Hercegovina je jedna od retkih evropskih zemalja koja nije donela zakon o restituciji imovine oduzete u periodu nakon 1945. Pitanje jevrejske restitucije je veoma važno jer pokazuje koliko država ima dobre volje za pomoć lokalnim jevrejskim zajednicama. Istraživački materijal koji je korišćen prilikom pisanja ovog rada dobijen je od lokalnih jevrejskih zajednica, časopisa, izveštaja, intervjua, zbornika sa konferencija, stručnih časopisa i statističkih podataka iz sve tri države ali i međunarodnih jevrejskih organizacija. Suočavanje s prošlošću, priznavanje i ispravljanje ostaje otvoreno pitanja u državama koje su tema istraživanja i predstavljaju odlične pokazatelje napretka u poslednjih 25 godina.

Ključne reči : Jevreji, restitucija, Holokaust, imovina, Jugoslavija, Srbija, Hrvatska, Bosna i Hercegovina