

## **Immovable Property Review Conference Concluding Statement by the Co-chairmen**

November 28, 2012, Prague

Thirty-nine countries, the European Commission and many non-governmental institutions convened in Prague for a conference to review the 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 endorsed in Prague in June 9, 2010. Participants in this conference reiterated their support for the Terezin Declaration of June 2009 as well as for these Guidelines and Best Practices. The conference focused on practical ways in which, even during economic hardship in Europe, restitution and compensation of property confiscated by the Nazis and their collaborators could be achieved in an affordable and practical manner.

The convening of this Immovable Property Review Conference has stimulated 30 separate country reports on the progress of their countries on the restitution and compensation for communal and private property and on mechanisms to deal with heirless property. It was also informed by a paper presented by the Conference on Jewish Material Claims Against Germany and World Jewish Restitution Organization.

Participants in the conference also discussed the legal, legislative, and bureaucratic hurdles to their shared goal of restituting or compensating for communal, religious, and private property confiscated or wrongfully seized by the Nazis, Fascist and their collaborators during the Holocaust (Shoah) in 1933-1945. Discussions covered the three major types of confiscated property: communal, private and heirless. Participants offered examples for states to use within their own legal systems in dealing with these types.

Best practices introduced by participating States for restitution and compensation of communal property include:

1. Creating administrative claims processes that permit the adjudication of communal property claims and thereby return synagogues, cemeteries, and other religious and communal properties to Jewish communities.
2. Establishing specific foundations, in cooperation with international and national Jewish organizations, to make claims for properties and to administer them once they have been restituted.
3. Allocating funds to assist in the restoration of communal properties while recognizing the burden placed on Jewish communities in trying to restore restituted properties in deteriorated conditions.
4. Providing compensation in lieu of restitution, which has the advantage of avoiding lengthy adjudicating processes and the burdening of local Jewish communities and their governments with their restoration, while providing funds that can be more generally used as support for Jewish life in post-Holocaust/post-Communist era.

Gaps and deficiencies that remain in the restitution and compensation of communal property include:

1. Administrative and judicial processes that are often time-consuming and expensive.
2. Records to establish ownership to communal properties that are often difficult to obtain, because of their destruction during Holocaust.

3. Funds to upgrade the restituted properties, which were often in a dilapidated state, that are often difficult to obtain.

Best practices introduced by participating States for restitution and compensation of private property include:

1. Private property restitution or compensation laws that specifically cover Holocaust- or World War Two-era takings.
2. Compliance with decisions of the European Court of Human Rights in order to improve private property restitution and compensation.
3. The dedication of funds to provide limited compensation for the claimants for private property not only to their own citizens but to also those abroad whose families had property confiscated during the Nazi era and later nationalized during the Communist era.

Gaps and deficiencies that remain in the restitution and compensation of private property include:

1. Laws that apply only to post-1945 confiscations or are unclear about their applicability to Holocaust era confiscations.
2. A lack of access to archives to obtain information on titles and high court fees that also serve as barriers to pursue claims.
3. A lack of trained historians and archivists to help claimants identify potential titles.
4. 4. Citizenship is often a requirement.

Best practices introduced by participating States for restitution and compensation of heirless property include:

1. Dedicating funds from the sale or lease of heirless properties for social welfare benefits for Holocaust survivors and for Jewish institutions.
2. Creative mechanisms to benefit survivors, such as funds created from the privatization of state owned companies.

Gaps and deficiencies that remain in the restitution and compensation of heirless property include:

1. A lack of focus by governments on heirless Jewish property.
2. A lack of public understanding of the concept of heirless property and the use to which it can be put to help Holocaust survivors.

Conference participants stressed the importance of the following priorities:

- The need to continue to retribute or compensate for Holocaust-era confiscations and to pass appropriate communal and private property legislation to enable this to be achieved;
- The need to address issues of heirless property by using it as a means of providing all possible care for survivors and other victims of Nazi persecution and of supporting education about the Holocaust;
- The importance of building a partnership among governments, international organizations, communities, and individuals in a cooperative effort to find just and fair solutions to mitigate injustice caused by the Holocaust;
- The urgency of adopting a national legislation securing protection of the sites of the memory, such as Jewish cemeteries and burial sites;
- The importance of international and regional bodies such as the European Commission, the European Parliament, the Council of Europe, the Organization of

Security and Cooperation in Europe and others playing an active role in encouraging their members to support the principles of the Terezin Declaration and the Guidelines and Best Practices for Restitution and Compensation of Immovable (Real) Property;

- The need to support and strengthen the European Shoah Legacy Institute in order to enable it to prepare and publish regular reports on the progress in fulfilling the goals of the Terezin Declaration and the Guidelines and Best Practices, as they have done with the Green Paper provided at this conference;
- The need to find ways to make compensation programs affordable and practical by, for instance, including caps on individual recoveries and overall payments; by making payments for less than market value in place of restitution; and by spreading payments over a number of years;
- The importance of ensuring that national archives are open and accessible;
- The importance of ensuring that achieving the Guidelines and Best Practices is done without displacing any current private individuals owning or leasing private property confiscated during the period of 1933-1945; and
- The importance of and the need to develop a sense of urgency on the part of all states to help survivors during their lifetimes.

During the conference the European Shoah Legacy Institute announced its intention to organize a Conference on Social Welfare in Brussels in 2013. In cooperation with European institutions, international organizations and governments, this conference will focus on ways to improve living standards of survivors and other victims of Nazi persecution, including by encouraging implementation of best practices in the area of heirless property.

Consideration will be given to the best mechanisms to follow up this Review Conference to assure continued progress.