



World Jewish Restitution Organization (WJRO)

WJRO's Submission for the 3rd Universal Periodic Review of Hungary
For consideration at the 39th session of the UPR Working Group to be held in Oct-Nov 2021

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WJRO is a non-profit organization that serves as the legal and moral representative of world Jewry in pursuing claims for the recovery of Jewish properties in Europe (with the exception of Germany and Austria). Following the collapse of the Communist regimes in Eastern Europe, the leading world Jewish organizations established the WJRO in 1993 to address the restitution of Jewish property and the material wrongs caused to European Jewry during the Holocaust.

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Executive Summary and Methodology

1. WJRO is the legal and moral representative of world Jewry in pursuing claims for the recovery of Jewish properties in Europe. WJRO's 14 member organizations are major Jewish non-profit organizations in Europe, North America, and Israel.¹ In Hungary, WJRO works closely with the Federation of Jewish Communities in Hungary (MAZSIHISZ) on restitution issues. For many years, WJRO has been in discussions with the Government of Hungary over the issue of heirless and unclaimed property of the hundreds of thousands of Hungarian Jews who were killed during the Holocaust.
2. The thriving pre-war Jewish community of Hungary suffered enormous losses during the Holocaust. Approximately 550,000 Hungarian Jews were killed, representing two-thirds of Hungary's pre-war population. In addition to the loss of life, Jews were systematically robbed of their every possession before their deportation and murder.
3. Property restitution is essential to transitional justice and establishing the rule of law in post-conflict societies, as it fulfills various functions, including undoing past injustice, facilitating reconciliation, and restoring dignity.
4. This submission focuses on the Government of Hungary's compliance with international human rights commitments to provide restitution of, or compensation for, property wrongfully confiscated in the Holocaust and its aftermath. The information and recommendations in this submission are based on first-hand information.
5. Hungary has taken some important steps on property restitution. However, more than seventy-five years after the end of the Holocaust, the Hungarian Jewish communities together with WJRO continue to await the return of, or compensation for, property that was left heirless or unclaimed as a result of the murder of entire families.
6. WJRO notes that during the first and second cycles of the UPR, recommendations were not made to the Government of Hungary relating to property rights in general, nor on the issue of property restitution.
7. WJRO is concerned by the lack of progress in Hungary relating to heirless and unclaimed Holocaust-era property restitution and makes recommendations to address this concern.

¹ WJRO Members: Agudath Israel World Organization; American Gathering of Jewish Holocaust Survivors and Their Descendants; American Jewish Committee; American Jewish Joint Distribution Committee; B'nai B'rith International; Centre of Organizations of Holocaust Survivors in Israel; Conference of European Rabbis; Conference on Jewish Material Claims Against Germany; European Council of Jewish Communities; European Jewish Congress; Jewish Agency for Israel; National Coalition Supporting Eurasian Jewry; World Jewish Congress; World Zionist Organization.

Normative Framework

Scope of international obligations

8. On February 10, 1947 in Paris, Hungary and the Allied and Associated Powers entered into the Treaty of Peace with Hungary (Paris Peace Treaty).² In the Paris Peace Treaty, Hungary pledged to transfer to organizations “[a]ll property, rights and interests in Hungary of persons, organisations or communities which, individually or as members of groups, were the object of racial, religious or other Fascist measures of persecution, and remaining heirless or unclaimed” for the “relief and rehabilitation of surviving members of such groups, organisations and communities.” (Article 27(2)).
9. Hungary is a party to core international human rights instruments, which firmly establish the right to property and the right not to be arbitrarily deprived thereof.³
10. The right to an effective remedy for violations of human rights is also enshrined in international law, and requires States to, among other things, take appropriate legislative and administrative measures to prevent violations and to provide victims with remedies, including restitution and compensation for property wrongfully taken.⁴ Indeed, the right to restitution has emerged in recent years as a distinct and claimable right.
11. More specifically, the European Parliament’s December 1995 Resolution on the return of plundered property to Jewish communities “Calls on all countries of Central and Eastern Europe which have not already done so to adopt appropriate legislation regarding the return of plundered property so that the property of Jewish communities may be returned to Jewish institutions, in accordance with the principles of justice and morality.”⁵ Similarly, the European Parliament’s July 1998 Resolution on the restitution of the possessions of Holocaust victims “Calls on the Council and Commission, out of respect for the memory of millions of victims and the most elementary human rights, to bring every pressure to bear on the governments concerned to ensure that these assets are disclosed and returned to their original owners or those now entitled to them.”⁶
12. The 1998 Washington Conference Principles on Nazi-Confiscated Art, endorsed by 44 countries including Hungary, establish principles concerning the restitution of art confiscated by the Nazis and not subsequently restituted, including principles for countries to search provenance to identify

²Treaty of Peace with Hungary, signed at Paris February 10, 1947, available at: <https://www.loc.gov/law/help/us-treaties/bevans/m-ust000004-0453.pdf> (the “Paris Peace Treaty”). The Allied and Associated Powers include: Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Australia, the Byelorussian Soviet Socialist Republic, Canada, Czechoslovakia, India, New Zealand, the Ukrainian Soviet Socialist Republic, the Union of South Africa, and the People's Federal Republic of Yugoslavia.

³ See for example: UDHR, Articles 17(1), 17(2); European Convention on Human Rights, Article 1 of Protocol 1; Charter of Fundamental Rights of the European Union, Article 17.

⁴ See for example: UDHR, Article 8; ICCPR, Article 2(3); European Convention on Human Rights, Article 13; and Charter of Fundamental Rights of the European Union, Article 47; E/CN.4/Sub.2/2005/17, *Principles on Housing and Property Restitution for Refugees and Displaced Persons (the Pinheiro Principles)*, UN Sub-Commission on the Promotion and Protection of Human Rights, (28 June 2005); A/RES 60/147, *Basic Principles and Guidelines on the Right to a Remedy* (21 March 2006).

⁵ Official Journal C017, 22/01/1996 P. 0199, available at: <https://op.europa.eu/en/publication-detail/-/publication/0418d6e6-f5d7-4fdc-b097-f1786a5effb7>.

⁶ Official Journal C 292, 21/09/1998 P. 0166, available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A51998IP0763>.

stolen art, and publicize the information.⁷

13. The 2009 Terezin Declaration on Holocaust Era Assets,⁸ endorsed by 47 countries including Hungary, and the accompanying 2010 Guidelines and Best Practices for immovable property,⁹ endorsed by 43 countries including Hungary, establish international standards for the restitution of Jewish property wrongfully taken during the Holocaust or its aftermath. In endorsing the Terezin Declaration and its accompanying Guidelines and Best Practices, Hungary committed to make every effort “to rectify the consequences of wrongful property seizures.” In a key determination, the Terezin Declaration recognized that the vast majority of Holocaust victims died heirless, with entire families wiped out, and highlighted the potential for Holocaust-era property to “serve as a basis for addressing the material necessities of needy Holocaust (Shoah) survivors.” Additionally, the Guidelines and Best Practices call on countries to “create solutions for the restitution and compensation of heirless or unclaimed property from victims of persecution by Nazis, Fascists and their collaborators.”
14. Article Q(2) of Hungary’s constitution obligates Hungary to “ensure that Hungarian law be in conformity with international law.”¹⁰ Article Q(3) further provides that, “Hungary shall accept the generally recognised rules of international law. Other sources of international law shall become part of the Hungarian legal system by promulgation in legal regulations.”
15. In 1997, the Hungarian Parliament passed Act X of 1997, on the implementation of the provisions included in Article 27(2) of the Paris Peace Treaty. Subsequently, the Hungarian Government issued Resolution 1091/2007 (XI.27), establishing an Interministerial Commission to examine and settle asset claims submitted by Jewish communities for persons of Jewish origin and religion, deceased without heirs, who had suffered grievances. In 2011, the government issued another decision on the implementation of Act X of 1997 (see: Resolution 1024/2011 (II.11)).

Implementation of international human rights obligations and commitments

Administration of justice and the rule of law

16. In 1993, the Constitutional Court of Hungary found that Hungary had not complied with certain provisions of the Paris Peace Treaty and directed the government to implement Article 27(2), which required heirless and otherwise unclaimed Jewish property to be returned to the Jewish community for “relief and rehabilitation” of Holocaust survivors and to help reinvigorate the Hungarian Jewish community.¹¹
17. In response to the Constitutional Court decision and following negotiations with MAZSIHISZ and the WJRO, the Hungarian Parliament passed Act X of 1997. The law created, and transferred initial funds to, the Hungarian Jewish Heritage Fund (MAZSOK), which has a dual-purpose of assisting Holocaust

⁷ Washington Conference Principles on Nazi-Confiscated Art, December 3, 1998, available at <https://www.lootedartcommission.com/Washington-principles>.

⁸ Terezin Declaration on Holocaust Era Assets and Related Issues, available at: <http://www.eu2009.cz/en/news-and-documents/news/terezin-declaration-26304>.

⁹ 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, Including the Period of World War II, available at: <http://www.shoahlegacy.org/storage/app/media/2.1/2.1.1%20Guidelines%20and%20Best%20Practices%202010.pdf>.

¹⁰The Constitution of the Republic of Hungary, available at: https://www.constituteproject.org/constitution/Hungary_2013.pdf?lang=en.

¹¹ See Decision of the Constitutional Court of Hungary No. 16/1993 (III.12.), Hungarian Official Journal No. 1993/29 (III. 12).

survivors in Hungary and enhancing Jewish cultural heritage.¹² WJRO noted that the estimated value of heirless and unclaimed Jewish property located in Hungary far exceeded the government's initial payment to MAZSOK.¹³

18. In 2007, negotiations between the Government of Hungary and WJRO resulted in Hungary agreeing to conduct research to identify heirless and unclaimed property wrongfully taken from Jewish victims during the Holocaust, in order to facilitate settlement of outstanding property issues. At the same time, in recognition of the urgent needs of Holocaust survivors, the Hungarian government pledged \$21 million to be distributed over the course of five years to assist Holocaust survivors in Hungary and survivors of Hungarian origin living abroad. The \$21 million represented an initial down payment toward a future agreement on heirless and unclaimed property, once research was complete.
19. In 2017, the WJRO was one of the lead organizers of a conference at the European Parliament "Conference on Unfinished Justice: Restitution and Remembrance." At the Conference, the European Shoah Legacy Institute (ESLI) presented its report, which reviewed the progress made by each country that endorsed the Terezin Declaration in meeting the principles of the Terezin Declaration and the Guidelines and Best Practices.¹⁴ The ESLI report found, "By the terms of the Paris Peace Treaty, Hungary committed to returning or providing compensation for private, communal and heirless property confiscated from Jews and other victims during the war. Little was done to act on these commitments during the Communist era. Instead, widespread nationalization resulted in a second wave of confiscation."¹⁵ The ESLI report further emphasized, "The USD 21 million was to be considered a down payment by the government against the value of all heirless Jewish property in Hungary" and noted that "Since endorsing the Terezin Declaration in 2009, no new laws have been passed that address heirless property."¹⁶
20. The United States Department of State published the Justice for Uncompensated Survivors Act (JUST Act) Report on 29 July 2020,¹⁷ as the United States government's first-ever comprehensive review of the state of restitution of Holocaust-era assets. The report focuses on the progress that countries have made toward fulfilling commitments they took upon themselves by endorsing the Terezin Declaration. Crucially, the report found that:
 - i. "Participating countries in the 2009 Prague Conference considered that, given the unique circumstances of the Holocaust, it would be inappropriate for property rendered heirless by the extermination of Jews to revert to the state."¹⁸
 - ii. "The Paris Peace Treaty of 1947, of which Hungary was a party, required heirless and otherwise unclaimed Jewish property to be returned to the Jewish community for 'relief and rehabilitation' of Holocaust survivors and to help reinvigorate the Hungarian Jewish community."¹⁹

¹² European Shoah Legacy Institute, Immovable Property Restitution Study (ESLI Report), p.190 available at: <http://shoahlegacy.org/storage/app/media/2.1/2.1.4.2%20Immovable%20Property%20Restitution%20Study.pdf>.

¹³ ESLI Report, p. 190.

¹⁴ European Shoah Legacy Institute, Immovable Property Restitution Study, available at: <http://shoahlegacy.org/storage/app/media/2.1/2.1.4.2%20Immovable%20Property%20Restitution%20Study.pdf>.

¹⁵ ESLI Report, p. 182.

¹⁶ ESLI Report, pp. 190-191.

¹⁷ Justice for Uncompensated Survivors Today (JUST) Act Report, available at: <https://www.state.gov/reports/just-act-report-to-congress>.

¹⁸ JUST Act Report, p. 7.

¹⁹ JUST Act Report, p. 84.

- iii. “The WJRO negotiated with the Hungarian government in 2007 an interim \$21 million payment, as an advance on an expected, subsequent agreement providing more comprehensive compensation for property formerly owned by Jews that was confiscated or nationalized during the Holocaust era and which was heirless or unclaimed.”²⁰
- iv. “The next step is for WJRO and the Hungarian government to agree on a roadmap to conclude negotiations.”²¹

21. After years of discussions, the Government of Hungary sent long-awaited research reports on heirless and unclaimed property to WJRO between August 2016 and January 2021. The reports identified 21,950 immovable assets as heirless or unclaimed, of which 6,725 properties were deemed to be “demonstrably heirless.” WJRO-appointed experts reviewed the reports, concluding that the 6,725 properties identified by the Government researchers falls significantly short of estimating the number and value of Jewish-owned heirless and unclaimed real estate. Additionally, the Government researchers identified 1,133 movable property items, as well as thousands of looted artworks. However, the movable properties identified were only partial at best, as the Government researchers recognized in their own papers. Regrettably, Hungary has not made public its provenance research on looted art in its possession, nor provided WJRO experts with access to such research.
22. Now that the Government research is complete, it is time for Hungary to uphold its commitments to finalize a settlement on heirless and unclaimed Holocaust-era assets.
23. It is now 76 years after the liberation of Auschwitz, 74 years after Hungary accepted a treaty obligation to return heirless and unclaimed property, 14 years after Hungary committed to WJRO and the Hungarian Jewish community to research and then to negotiate and resolve remaining heirless and unclaimed property issues, and 12 years after Hungary endorsed the Terezin Declaration. Tragically, as this time has elapsed, more and more Holocaust survivors of Hungarian origin have passed away.

Recommendations

24. In light of this context, and now that the government research project concluded, WJRO calls upon the Government of Hungary to fulfill its international human rights commitments to resolve remaining Holocaust-era asset issues in coordination with WJRO and the Hungarian Jewish communities.
25. Given the scale of property rendered heirless and unclaimed by the Holocaust in Hungary, resolution of this issue is a core issue of justice and a reflection of how Hungary is addressing the legacy of the Holocaust. Finalizing a settlement on Holocaust-era assets would be a meaningful acknowledgement of the unique tragedy that befell Hungarian Jewry and would also enable the Hungarian Jewish community to further revitalize itself, preserve its heritage, and help elderly Hungarian Holocaust survivors, wherever they now reside, live their remaining days with the dignity they deserve.

²⁰ JUST Act Report, p. 85.

²¹ JUST Act Report, p. 85.