



## **World Jewish Restitution Organization (WJRO)**

WJRO's Submission for the 3rd Universal Periodic Review of the Republic of Moldova  
For consideration at the 40th session of the UPR Working Group to be held in January / February 2022

Submitted 14 July 2021

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

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.<sup>1</sup> In Moldova, WJRO works closely with the Jewish Community of Moldova (JCM) on restitution issues.
2. The thriving pre-war Jewish community of Moldova suffered enormous losses during the Holocaust. Approximately 230,000 Jews lived in Bessarabia (present-day Moldova) before the war – it is estimated that 130,000 of them were murdered during the Holocaust.<sup>2</sup> Several thousand Moldova Jews survived the Holocaust and returned to Moldova after the war, including those who survived deportation to concentration camps or had fled to the Soviet Union to escape the Nazis and the Romanian army. In addition to the loss of life, Jewish properties, including homes, synagogues, cemeteries, hospitals, schools, and other communal and religious spaces were systematically confiscated during the Romanian occupation (1941-1944). Subsequently, the Moldovan communist regime, in its drive to urbanize the country, demolished and/or nationalized many Jewish communal properties in Moldova, further estranging Jews from their heritage.
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 Moldova'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. Moldova has taken some important steps on Holocaust issues in recent years, including adopting January 27 as International Holocaust Remembrance Day. However, more than seventy-five years after the end of the Holocaust, and nearly thirty years since Moldova regained independence, the Jewish Community of Moldova together with WJRO continue to await the return of, or compensation for, remaining communal and religious properties, as well as for property that was left heirless as a result of the murder of entire families during the Holocaust.
6. WJRO notes that during the first and second cycles of the UPR, recommendations were not made to the Government of Moldova relating to property rights in general, nor on the issue of property restitution. While Poland recommended during the first cycle of the UPR that Moldova consider solving the problem of land ownership, Poland's recommendation was limited to property belonging to the Catholic Church and Orthodox Church (see A/HRC/19/18 para 76.8). During the first cycle of the UPR, the Government of Moldova indicated that it had created legal mechanisms to guarantee the respect of the constitutional rights of its citizens such as property rights (A/HRC/19/18 para 70).
7. WJRO is concerned by the lack of progress in Moldova relating to the restitution of Jewish communal and religious properties and makes recommendations to address this concern.

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<sup>1</sup> 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.

<sup>2</sup> Paul Shapiro, USHMM, October 2020.

## Normative Framework

### Scope of international obligations

8. Moldova has committed to uphold the principles of core international human rights instruments, which firmly establish the right to property and the right not to be arbitrarily deprived thereof.<sup>3</sup>
9. 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.<sup>4</sup> Indeed, the right to restitution has emerged in recent years as a distinct and claimable right.
10. Article 8 of Moldova's constitution obligates Moldova to "observe the Charter of the United Nations Organization and the treaties to which it is a party" and Article 4 further obligates Moldova to ensure that its "Constitutional provisions on human rights and freedoms be interpreted and enforced in accordance with the Universal Declaration of Human Rights".<sup>5</sup>
11. The 1998 Washington Conference Principles on Nazi-Confiscated Art, endorsed by 44 countries including Moldova, establish principles concerning the restitution of art confiscated by the Nazis and not subsequently restituted, including principles for countries to search provenance to identify stolen art, and publicize the information.<sup>6</sup>
12. The 2009 Terezin Declaration on Holocaust Era Assets,<sup>7</sup> endorsed by 47 countries including Moldova, and the accompanying 2010 Guidelines and Best Practices for immovable property,<sup>8</sup> endorsed by 43 countries including Moldova, establish international standards for the restitution of Jewish property wrongfully taken during the Holocaust or its aftermath. Specifically, the Terezin Declaration recognizes "the importance of recovering communal and religious immovable property in reviving

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<sup>3</sup> 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. [Although Moldova is not a member of the European Union, Moldova became a member of the Council of Europe in 1995 and ratified the European Convention on Human Rights in 1997, see: <https://www.coe.int/en/web/chisinau/republiv-of-moldova-and-the-council-of-europe>. Moldova has also committed to uphold principles of the Charter of the European Union through its bilateral Association Agreements, see: [https://eeas.europa.eu/archives/docs/moldova/pdf/eu-md\\_aa-dcfta\\_en.pdf](https://eeas.europa.eu/archives/docs/moldova/pdf/eu-md_aa-dcfta_en.pdf).]

<sup>4</sup> 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).

<sup>5</sup> The Constitution of the Republic of Moldova, available at: [https://www.constituteproject.org/constitution/Moldova\\_2006.pdf](https://www.constituteproject.org/constitution/Moldova_2006.pdf).

<sup>6</sup> Washington Conference Principles on Nazi-Confiscated Art, December 3, 1998, available at <https://www.lootedartcommission.com/Washington-principles>.

<sup>7</sup> Terezin Declaration on Holocaust Era Assets and Related Issues, available at: <http://www.eu2009.cz/en/news-and-documents/news/terezin-declaration-26304>.

<sup>8</sup> 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>.

and enhancing Jewish life, ensuring its future, assisting the welfare needs of Holocaust (Shoah) survivors, and fostering the preservation of Jewish cultural heritage” and emphasizes “the importance of restituting communal and individual immovable property that belonged to the victims of the Holocaust (Shoah) and other victims of Nazi persecution.” Communal property is defined in the 2010 Guidelines and Best Practices as: “Property owned by religious or communal organizations and includes buildings and land used for religious purposes, e.g. synagogues, churches cemeteries, and other immovable religious sites which should be restituted in proper order and protected from desecration or misuse, as well as buildings and land used for communal purposes, e.g. schools, hospitals, social institutions and youth camps, or for income generating purposes.”

## **Implementation of international human rights obligations and commitments**

### Administration of justice and the rule of law

13. Shortly after declaring independence, Moldova enacted a series of private property restitution laws. Moldova’s 1992 Law Concerning the Rehabilitation of Victims of Political Repressions as well as its subsequent amendments, provides in part for restitution, or compensation to those Moldovan citizens who can prove a causal connection between political, national, religious, or social repression and the subsequent property seizure. However, the law specifically refers to victims of the Soviet regime and does not on its face include Holocaust-era confiscations.<sup>9</sup> The law has also been the subject of several complaints before the European Court of Human Rights, most of which relate to the non-enforcement of domestic restitution and compensation awards.<sup>10</sup>
14. By contrast, Moldova has not passed legislation to return Jewish communal or religious property.
15. In 2012, the United Nations Special Rapporteur on Freedom of Religion or Belief found that in the absence of a legal framework to address property that was expropriated and confiscated during the Holocaust and its aftermath, properties have been returned on an *ad hoc* basis to the different religious communities in Moldova: “the Moldovan Orthodox Church has apparently received title over properties (including properties also claimed by the Bessarabian Orthodox Church), the Catholic community is involved in litigation to recover title to community property, while the Jewish community has reportedly been forced to purchase back community properties.”<sup>11</sup> To this day, the Jewish community has only been able to recover a limited number of buildings through repurchase, and even then, it has still not been able to obtain title to the land itself.
16. 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.<sup>12</sup> The ESLI report found that “The Republic of Moldova has not passed any laws concerning restitution of communal property.”<sup>13</sup>

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<sup>9</sup> European Shoah Legacy Institute, *Immovable Property Restitution Study*, p. 269 available at: <http://shoahlegacy.org/storage/app/media/2.1/2.1.4.2%20Immovable%20Property%20Restitution%20Study.pdf>.

<sup>10</sup> ESLI Study, p. 269.

<sup>11</sup> United Nations General Assembly Human Rights Council, “Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt, Addendum, Mission to the Republic of Moldova”, A/HRC/19/60/Add.2 (27 January 2012).

<sup>12</sup> See ESLI Study, generally.

<sup>13</sup> ESLI Study, p. 270.

17. The United States Department of State published the Justice for Uncompensated Survivors Act (JUST Act) Report on 29 July 2020,<sup>14</sup> 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, "Despite recent progress in addressing longstanding issues important to the Jewish community in Moldova, the government has not enacted comprehensive restitution legislation for communal or private property confiscated during the Holocaust nor arranged for proper financial compensation to the Jewish community."<sup>15</sup>

#### *Jewish Communal and Religious Properties in Moldova*

18. A 2010 report published by the United States Commission for the Preservation of America's Heritage Abroad catalogued 100 Jewish communal properties in Moldova, including cemeteries, monuments, houses of prayer or synagogues, hospitals, schools and other buildings.<sup>16</sup>

19. Since 2020, WJRO has been working together with the Jewish Community of Moldova on a joint research project to build on the findings of the 2010 US Heritage Commission Report. The early findings of the research have found over 80 Jewish communal properties in Chisinau alone. The next phase of the research is likely to unveil many more sites throughout the country, including dozens of synagogues, community centers, hospitals, and cemeteries.

20. Unfortunately, the Government of Moldova has not yet restituted, nor has it provided compensation for any Jewish communal properties.

#### **Recommendations**

21. In light of this context, WJRO calls upon the Government of Moldova to adopt comprehensive legislation to provide restitution of, or compensation for, property that was nationalized during the communist era, including Jewish communal property. This legislation should be consistent with international standards set forth in the Terezin Declaration and the accompanying Guidelines and Best Practices.

22. In the interim, WJRO also urges Moldova to begin working on the return of an initial set of Jewish communal properties. WJRO and the Jewish Community of Moldova look forward to working together with the Moldovan government to begin addressing these issues before the end of 2021.

23. Resolution of this matter is a core issue of justice and a reflection of how Moldova is addressing the legacy of the Holocaust. Settling Holocaust-era asset issues is a meaningful acknowledgement of the unique tragedy that befell Moldova's Jewry and would also enable the Moldovan Jewish community to further revitalize itself, preserve its heritage, and help elderly Moldovan Holocaust survivors live their remaining days with the dignity they deserve.

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<sup>14</sup> Justice for Uncompensated Survivors Today (JUST) Act Report, available at: <https://www.state.gov/reports/just-act-report-to-congress>.

<sup>15</sup> JUST Act Report, p. 116.

<sup>16</sup> United States Commission for the Preservation of America's Heritage Abroad, "Jewish Heritage Site and Monuments in Moldova" (2010), pp. 9-13.