



World Jewish Restitution Organization (WJRO)

WJRO's Submission for the 4th Universal Periodic Review of the Romania
For consideration at the 43rd session of the UPR Working Group to be held in April-May 2023

Submitted 28 September 2022

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.

Tel: +972-2-5612497

Web: <https://wjro.org.il>

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.¹ In 1997, the WJRO and Federation of Jewish Communities of Romania (FEDROM) established the Caritatea Foundation, which assumed responsibility for submitting claims for confiscated, formerly Jewish communal property, as well as for managing any recovered property or related compensation. The Caritatea Foundation applies the proceeds from restitution of Jewish communal property in Romania to sustain and revitalize the Romanian Jewish communities, preserve Romanian Jewish heritage, and assist needy Holocaust survivors from Romania.
2. Approximately 756,900 Jews lived in pre-war Romania. It is estimated that over 300,000 Romanian Jews were murdered during the Holocaust. Of these victims, around 165,000 lost their lives under Romanian administration, while about 135,000 were killed in territories under Hungarian control. At least 115,000 Ukrainian Jews were also killed under Romanian occupation, and the fate of an additional 100,000 Romanian Jews is not known. In addition to mass extermination, many Jews also had their property stolen during the Holocaust, including their homes, land, and anything of value. Communal properties, including Jewish schools, synagogues, hospitals, and cemeteries were also subsequently nationalized by the Romanian communist regime, which ruled from 1947-1989, 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 Romania's compliance with international human rights commitments to provide restitution of, or compensation for, property wrongfully confiscated during the Holocaust and its aftermath. The information and recommendations in this submission are based on first-hand information.
5. During previous cycles of the UPR, several countries made recommendations to the Government of Romania relating to property rights in general and on the issue of property restitution in particular (see A/HRC/8/49 para 58.30; A/HRC/23/5, paras 109.74, 109.106). Most recently, during the third cycle of the UPR, Romania accepted the recommendation that it "Protect and respect the rights of national and religious minorities by returning their properties and ensure legal certainty in this context (see A/HRC/38/6 para 144.177)."
6. WJRO acknowledges that Romania has taken some important steps on Holocaust issues in recent years, including already having adopted specific legislation which regulates property restitution to ethnic minorities and religious denominations (see A/HRC/38/6/Add.1 para 21), and committing to fund the National Museum of Jewish History and Holocaust in Bucharest, which will play a vital role

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.

in commemorating Romania's Holocaust victims and educating future generations.

7. Notwithstanding, there continues to be significant problems with the restitution process for private and communal properties, and Romania has still not meaningfully addressed the issue of property that was left heirless as a result of the murder of entire families during the Holocaust.
8. WJRO is concerned by the lack of progress in Romania relating to Holocaust-era property restitution since the 3rd UPR Cycle in 2018 and makes recommendations to address this concern.

Normative Framework

Scope of international obligations

9. On February 10, 1947, Romania and the Allied and Associated Powers entered into the Treaty of Peace with Romania.² In the Paris Peace Treaty, Romania pledged to return or provide compensation for immovable property confiscated "on account of the racial origin or religion of such persons." Article 25 also required the Romanian government to transfer to organizations "All property, rights and interests in Romania 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."
10. Romania is also party to core international human rights instruments, which firmly establish the right to property and the right not to be arbitrarily deprived thereof.³
11. 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.
12. Additionally, the European Parliament's December 1995 Resolution on the return of plundered property to Jewish communities "Welcomes the fact that certain Central and Eastern European states, notably Hungary and Romania, have accepted the principle of justice and morality by

² Treaty of Peace with Romania, signed at Paris February 10, 1947, available at: https://avalon.law.yale.edu/20th_century/usmu011.asp (the "Paris Peace Treaty"), Article 25. 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 (Paris Peace Treaty).

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).

agreeing to return the property of Jewish communities to its rightful owners.”⁵

13. The 2009 Terezin Declaration on Holocaust Era Assets,⁶ endorsed by 47 countries including Romania, and the accompanying 2010 Guidelines and Best Practices for immovable property,⁷ endorsed by 43 countries including Romania, establish international standards for the restitution of Jewish property wrongfully taken during the Holocaust or its aftermath. Specifically, the Terezin Declaration 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” and urges “that every effort be made to rectify the consequences of wrongful property seizures ... which were part of the persecution of these innocent people and groups, the vast majority of whom died heirless.” The Terezin Declaration also notes the urgency of addressing the social welfare needs of elderly survivors, such as through the provision of special pensions and social security benefits to nonresidents.
14. Furthermore the 2010 Guidelines and Best Practices provide detailed guidance for countries to apply in their property restitution legislation and claims process. This includes, amongst other things, ensuring accessible processes: “The property restitution and compensation processes, including the filing of claims, should be accessible, transparent, simple, expeditious, non-discriminatory” and “procedures should not be subject to burdensome or discriminatory costs for claimants.” Additionally,
“Decisions should be prompt and include a clear explanation of the ruling.”

Implementation of international human rights obligations and commitments

Property Restitution

15. Romania has taken important steps toward redressing property wrongfully confiscated during the Holocaust and its aftermath. Beginning in the 1990s, Romania passed a series of property restitution laws. Claims processing, as well as the restitution of, or compensation for, such property is administered by the National Authority for Property Restitution (ANRP).
16. Following a 2010 decision of the European Court of Human Rights,⁸ Romania passed legislation in April 2013 aimed at speeding the restitution and compensation for existing private property and communal property claims (Law No. 165/2013).

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

⁷ 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>.

⁸ See *Atanasiu and Others v. Romania*, ECHR, Application Nos. 30767/05 and 33800/06, Judgment of 12 October 2010.

17. In February 2015, the Romanian government established a Working Group on restitution with WJRO and FEDROM to identify administrative and legislative changes to improve the process of restituting private and Jewish communal property. Subsequently, in May 2016, Romania passed legislation to address three initial priority issues identified by the Working Group: prioritizing processing of restitution claims of victims of the Holocaust, addressing obstacles to the return of properties that were abusively “donated” by Jewish communities and other national minorities; and resolving difficulties faced by the Caritatea Foundation and other national minorities as legal successors to separate entities whose property was confiscated.

18. However, the Working Group established under the previous government has not reconvened since 2019. At the time, it was in the process of considering proposals that could help unblock or expedite the processing of remaining private and communal property claims, as well as proposals to make the application for a pension program less burdensome to Holocaust survivors who no longer have Romanian citizenship.

19. As a result, there continues to be significant problems with the restitution process, including long delays, overly narrow interpretations of the law, and frequent requests for unnecessary, and often unavailable, additional documentary evidence. Nearly two decades after the 2003 claims deadline, tens of thousands of private property claims and hundreds of Jewish communal property claims remain unresolved.

20. The United States Department of State published the Justice for Uncompensated Survivors Act (JUST Act) Report on 29 July 2020,⁹ 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. “During the Holocaust, the regime seized cemeteries, synagogues, schools, hospitals, and other types of Jewish communal or religious property. Under Romanian law, the Jewish community is entitled to receive compensation for buildings and land confiscated or nationalized between September 6, 1940, and December 22, 1989.” However, the majority of communal properties have not been returned – “The Caritatea Foundation has obtained restitution or compensation for 40 percent of the communal properties it identified.”¹⁰
 - ii. “In Romania, Holocaust-era private property legislation exists, but the claims process has been difficult for U.S. and foreign citizen survivors and, in practice, has made it nearly impossible for people outside the country to qualify.”¹¹
 - iii. “The 1947 Treaty of Paris requires Romania to return heirless and unclaimed property to the Jewish community. Romania enacted legislation in 1948 (Law No. 113) designed to implement the Treaty by transferring property belonging to victims of racial or religious persecution to organizations that would benefit remaining members of the community.” However, “According to a 2016 report by the European Shoah Legacy Institute, the law

⁹ Justice for Uncompensated Survivors Today (JUST) Act Report, available at: <https://www.state.gov/reports/justact-report-to-congress>.

¹⁰ JUST Act Report, p. 149. ¹¹ JUST Act Report, p. 6.

‘was never fully or meaningfully implemented.’”¹¹

21. Unfortunately, new legislation was also adopted in July 2021, where the valuation of certain properties would be arbitrarily reduced by 50%, depending on the category of use at the time of the takeover.¹²

22. Over the years, WJRO has presented proposals to address problems in the restitution process; however, these proposals have not yet been implemented.¹³ For instance, WJRO has proposed steps to speed up the processing of claims and prevent narrow interpretations, including amongst other things:
 - i. Reconvening as soon as possible the Prime Minister’s working group on outstanding Jewish property issues;
 - ii. Ensuring timely access to archival records held by the State, where additional information is needed by the ANRP;
 - iii. That the ANRP apply key presumptions established by Government Emergency Ordinance 94/2000, including the presumption of ownership and the presumption of abusive transfer.

Romanian Pensions

23. The 2009 Terezin Declaration also notes the urgency of addressing the social welfare needs of elderly survivors, such as through the provision of special pensions and social security benefits to nonresidents.

24. In 2000, the Romanian government adopted a law on special pensions for Romanian citizens who suffered persecution on ethnic or religious grounds between 1940–1945. WJRO welcomed an amendment passed by the Romanian Parliament in November 2016 that extends pension rights to those who no longer have Romanian citizenship. However, few Holocaust survivors have benefited from this legislation because the application is burdensome and difficult to understand for survivors applying from abroad.

25. In February 2020, the Romanian Parliament amended its pension legislation again, removing many of the burdensome documentation requirements if the applicant submits a certification issued by the government of the survivor’s current country of residence.

26. Notwithstanding the above, the United States’ JUST Act Report, released in July 2020, found that “For survivors who left at a young age and do not speak Romanian, submission of the application

¹¹ JUST Act Report, p. 150.

¹² See Law no. 193/2021 (8 July 2021), Article 3, available at: http://www.cdep.ro/pls/proiecte/upl_pck2015.proiect?nr=353&an=2020 (note that for other properties, compensation would be awarded by “applying the notarial scale valid for the year preceding the issue of the decision by the National Commission...”).

¹³ See for example: “Initial Proposals to Improve the Process for Restituting Jewish Communal Property, WJRO (April 2018); “Proposals to Improve the Process for Restituting Jewish Communal Property, WJRO” (September 2020); “The Status of the Claims Process for Jewish Communal Property” (October 30, 2020).¹⁵ JUST Act Report, p. 152.

and additional documents in Romanian creates barriers.”¹⁵

27. Since then, the Center of Organizations of Holocaust Survivors in Israel, the Romanian Ministry of Labor, and the Holocaust Survivors' Rights Authority have been working on a process to facilitate applications for survivors now living in Israel. In July 2022, a deal was signed between Israel and Romania that cleared the way for the Romanian government to finally accept official Israeli documentation to provide approximately 15,000 Romanian Holocaust survivors in Israel with pensions. WJRO has also proposed to the Romanian Government specific steps to improve implementation of the law to ensure that the 2020 amendment equally benefits all Romanian survivors, wherever they now live.

Recommendations

28. In light of this context, WJRO calls upon the Government of Romania to:

- i. Reconstitute the joint working group on outstanding restitution issues and support for Holocaust survivors as soon as possible, with representatives from the Government, WJRO, FEDROM, and the Caritatea Foundation.
- ii. Accept letters from the Conference on Jewish Material Claims Against Germany, certifying that the pensions applicant was a Jewish victim of persecution during the Holocaust. This approach to the pensions issue would follow the example of Romanian legislation passed in May 2016 that establishes prioritized processing of property restitution claims filed by people certified as Holocaust survivors.

29. Resolution of these matters is a core issue of justice and a reflection of how Romania is addressing the legacy of the Holocaust. Settling Holocaust-era asset issues is also particularly important because the Caritatea Foundation applies the proceeds from restitution of Jewish communal property in Romania to sustain and revitalize the Romanian Jewish communities, preserve Romanian Jewish heritage, and assist elderly Romanian Holocaust survivors live their remaining days with the dignity they deserve.