

MARTIN JAIGMA<sup>1</sup>

# Measuring Injustice: Restitution Policies and Minor Jewish Communities in South Eastern Europe: The Slovenian Example<sup>2</sup>

**Abstract:** The article establishes the state of the art in the official process of restituting Jewish property in Slovenia and lays out its historical context. It also sheds light on the current situation of the Slovenian Jewish community and its needs for further assistance, again in connection with the restitution issue. In addition, the article touches upon the issue of restitution in general, adducing examples from Central and Eastern Europe.

**Key words:** Slovenia, Croatia, Jewish communities, World War II, Holocaust, restitution, government

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## Meriti krivičnost: politike povračila in manjše judovske skupnosti v JV Evropi. Primer Slovenije

**Izvleček:** Članek obravnava novejšo uradno politiko povračila judovskega premoženja v Sloveniji in pojasnjuje njegov zgodovinski kontekst. Osvetljuje tudi trenutno stanje in potrebe slovenske judovske skupnosti po nadaljnjih sredstvih, tudi v povezavi s problemom povračila. Poleg tega se članek dotakne vprašanja povračila na splošno in izpostavi primere iz srednje in vzhodne Evrope.

<sup>1</sup> Dr Martin Jaigma is a researcher at the Peace Institute, Ljubljana. E-mail: Martin.Jaigma@gmail.com.

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**Ključne besede:** Slovenija, Hrvaška, judovske skupnosti, 2. svetovna vojna, holokavst, krivice, uradna politika



## 1. Introduction

The project 'Measuring injustice: restitution policies and minor Jewish communities in South Eastern Europe: the Slovenian example' germinates from the current developments in the policy trends of the Slovenian government and activities of the Jewish community to ultimately find a mutually acceptable settlement of the restitution question.

After a lengthy international legal saga dating back to the 1950s and unprecedented advances in the transitional justice system, there are still countries in Europe where the Jewish restitution process has not yet begun or has just been initiated. These countries are, among others, the now independent states of former Yugoslavia, including Slovenia.

In Europe, of course, there has been a clear divide between the former Western and Eastern blocs in the handling of the Jewish victims' claims. The countries with Communist and Socialist regimes had never wholeheartedly taken part in the restitution process and kept the question of redressing victims' tribulations low on their agenda; a case in point is the passivity of the German Democratic Republic, as opposed to the purposeful activities of the Federal Republic of Germany. By now, almost every country in the region of South Eastern Europe (which used to belong to the Eastern bloc) has been legally grappling with the restitution question since the tumultuous late 1980s and early 1990s, when the Communist

regimes were overturned. Still, restitution laws in general, even if adopted in some countries like Serbia, Croatia and Romania, act at a painstakingly slow pace in solving concrete cases. The situation in the region is further complicated by the twisted historical legacy of the 20<sup>th</sup> century, when many countries replaced Nazi aggression and occupation with Communist oppression. Consequently, it is many other groups beside the Jewish communities and Jews who are identified as victims with claims to some kind of compensation.

The project has scrutinised the standing of the Slovenian Jewish community in relation to the restitution process and the speed of legislative progress. More importantly, it has moved on from the plain legislative process to inquire more profoundly into this tiny Jewish community (whose members have often been reduced after World War II to negligible numbers, balanced in the margin of statistical error). The project has probed into the actual needs of the Slovenian Jewish community: what could help to sustain its members' existence, their cultural and communal life? Obviously, the solution would often go beyond a simple transfer of money or restitution of real estate, challenging the governments with a long-term vision of a fair multicultural society and religious/ethnic diversity.

On the other hand, the project has also focused on the Slovenian Jewish community's own preparedness to be the recipient of the redressing policy. Notwithstanding the small size of the community, it has proved riddled with internal conflicts and problems, which might have obstructed the entire restitution process.

## **2. The history of restitution in Europe – different angles**

### **2.1. Establishment of victimhood**

Any restitution produces winners and losers. The issue of private property restitution in Europe has flourished ever since the 19<sup>th</sup> century because of its highly codified and systemised nature, which

has enabled the authorities to recognise expropriation, record it and, if needed, return the property to its owners. The importance of the registry of properties was, for example, highlighted during the civil war in Yugoslavia in 1999, when the retreating Serbian army of Kosovo destroyed the land registry files in order to obstruct the future restitution process.<sup>3</sup>

After World War II, the law did not foresee a recognised reparation claim for individuals or collectives. It was reserved only for states. There was no existing procedure settling monetary compensations for the violations of human rights and dignity; moreover, to many victims claiming money for mental and physical suffering was repulsive.<sup>4</sup>

According to Torpey, there are two types of reparation claims. The first type involves victims exposed to physical harm in the past, who consequently suffer psychologically. Most of the claims originating from World War II fit into this cluster. The second type involves the victims of a past system of domination and various forms of colonialism. The movements within the latter type 'are more forward looking, view reparations as a means of transforming the current conditions of deprivation suffered by the group in question, and are more frequently connected to broader projects of social transformation than are commemorative projects' (the former type).<sup>5</sup> In any case, the postwar politics could not work out a uniform standard for the compensation of human rights violations. The restitution policies were a mere 'legal patchwork', often of secondary importance. Due to the absence of international obligations, redressing the Nazi victims' wrongs remained optional and was influenced by the 'individual countries' memory policies aimed at

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<sup>3</sup> Blacksell, Born, 2002, 178-79.

<sup>4</sup> Ludi, 2006, 429, 431.

<sup>5</sup> Torpey, 2001, 337.

forging national unity'. Consequently the survivor organisations did not have a say in the restitution policies, while the victim recognition procedures were influenced by numerous victim groups. The latter set up a 'competition' which overshadowed the differences between different groups of sufferers – among them war veterans, Nazis who felt wronged by the denazification process, etc.<sup>6</sup>

Thus a multitude of questions were asked after the war about who could be legitimate and rightful receivers of the compensation schemes – only the victims or their relatives as well, civilian or military victims, victims of the war or persecution, political victims or victims of racial or ethnic concepts, those engaged in active resistance or passive individuals?<sup>7</sup> Such hierarchical differences among the victim groups caused confusion and conflicts in many countries. In Poland, Jews and Christians clashed in a competition to show which group had suffered most. In Belgium, the compensation for one group means that the same has to be undertaken for the other. In time, the scope of victims who wanted to be recognised widened in all countries.<sup>8</sup> In some countries, for instance, the heroism of the resistance fighters turned them into typical Nazi victims – 'the decision to risk one's life for a better world was at the heart of their sacrifice. This honoured them while belittling other survivors, in particular Jews, who were persecuted for racial reasons alone and thus denied the chance of making such choices.' Jewish victims were seen as a lower rank of political victims. They could get special welfare payments but were denied the symbolic forms of compensation (e.g. identity cards).<sup>9</sup>

The last increase of victims came with the fall of the Iron Curtain in Eastern Europe, which brought forward the sufferers of Com-

<sup>6</sup> Ludi, 2006, 436-37.

<sup>7</sup> Mooij, 2010, 276.

<sup>8</sup> *Ibid.*, 283-84.

<sup>9</sup> Ludi, 2006, 444-45.

munist crimes. The Black Book of Communism, published in France in 1997, sought to point out that Communist crimes had been undeservedly neglected, compared to the Nazi crimes and the Holocaust. However, it has been suggested that despite the horrors of Gulag, the idea of liquidating a class (*kulaks*) is not as visible and persistent as are ethnic and racial group conceptions. Social classes simply do not endure through historical time.<sup>10</sup> The Jews have highlighted the race category in the disputes over the compensation schemes, in other words, ‘racial domination has clearly become central to claims for reparations’. And that is why it is difficult for the victims of Communism to obtain the same acknowledgment for their claims.<sup>11</sup>

It was only in the 1970s that the concept of victimhood changed in Europe, shifting from the picture of the active anti-Fascist resistance fighter to the innocent victim of the Nazi regime. Reparations, too, were perceived differently – the attention was turning from compensating for mere physical losses to restoring the victims’ human dignity, symbolically and psychologically.<sup>12</sup> Mention has been made of the ‘global spread of *reparation politics*’, which means tackling past problems either by monetary or other forms of compensation. In fact, the universal trend to compensate various victim groups for the crimes committed against them stems from the responses to the Holocaust.<sup>13</sup>

Institutional and organisational support mechanisms and structures, social and political opportunities, and the expression and resonance of trauma narratives are vital to the positive or negative outcome of the victims’ restitution claims. The relative success of

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<sup>10</sup> Torpey, 2001, 338-39.

<sup>11</sup> *Ibid.*, 352.

<sup>12</sup> Ludi, 2006, 449.

<sup>13</sup> Torpey, 2001, 334.

the Jewish victims' claims has influenced the strategy of making such justice claims by other victims as well. The Jewish efforts have assisted in portraying the Holocaust as the central tragedy of all time, which helped to make postwar denazification and restitution central issues. Evidently, a crucial point in victimhood acknowledgement is an effective publicity of victimisation narratives and demands.<sup>14</sup>

## **2.2. Jewish property restitution schemes across Europe**

Two schools of thinking can be identified in the approach to the restitution of Jewish property. One is very restrictive as to what can be restored, and to what extent. The other one, represented by e.g. the Jewish Claim Agency, views the restitution to war victims as something essential, which should override all other considerations. The most comprehensive and explicit policies of Jewish restitution were carried out in former East Germany, where private restitution was included already in the 1990 Unification Treaty, embracing all the relevant provisions since the time of the Allied Occupation (implemented in the 1940s) and entitling anyone with the necessary proof of prior ownership to claim and benefit.<sup>15</sup>

In Eastern Europe, restitution lay behind many ambiguous decisions on privatisation, as most of the claims were restricted to dispossessions during the Communist rule. These claims produced a hierarchy of historical injustices, consequently overshadowing anti-Semitic policies and the persecution of ethnic minorities during World War II.<sup>16</sup>

In the Baltic states, restitution was mainly implemented with the purpose of bringing back the expatriates who had fled from the

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<sup>14</sup> Woolford, Wolejszo, 2006, 872, 875-77.

<sup>15</sup> Blacksell, Born, 2002, 179.

<sup>16</sup> Ludi, 2006, 427.

Soviet occupation. It was a dynamic action, carried out on a large scale, except in Lithuania. In Hungary, the politicians favoured monetary compensation over physical restitution, not least because it would minimise the costs for the state. In Poland it was very difficult to restore physical property to the former owners due to its highly sensitised nature in the public eyes – the state-sponsored resettlement of Poles from the territories lost to the Soviets in the western regions which had been gained from Germany after the war. However, both in Hungary and Poland there was one exception to the general reluctance to undertake systematic restitution: the Roman Catholic Church, which was rapidly given back its property. Slovenia launched at its declaration of independence a legislative process to privatise the economy, including restitution to the former owners – private property, businesses and agricultural land.<sup>17</sup>

Property restitution is distinguished from other ways of redressing wrongs by the absolute nature of its solution – the return of something in its entirety. Another standard practice of righting other forms of injustice is to provide monetary compensation. Germany and the Czech Republic have favoured physical restitution, possibly because of the key role assigned to private property in society, and because of the intense pressure from lobby groups in favour of full indemnification. Hungary, by contrast, has exercised almost exclusive monetary compensation, provoking criticism because of inadequate payments. The range of persons who are entitled to claims varies from country to country, depending on the local political climate: from citizens who are also residents of the country to the distant relatives of the dispossessed who have never been to the country. For example, the Polish and Czech administration is not too eager to deal with their ethnic Germans who were

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<sup>17</sup> Blacksell, Born, 2002, 182.



displaced after the war, and Polish re-settlers have higher priority in pursuing their rights. Navigating between the rights of the current population and the rights of those who suffered in the past is an arduous task.<sup>18</sup>

In these countries, Jewish claims form an independent section of the issue. ‘The campaign for the restitution of Jewish property has, therefore, subsequently been pursued internationally and somewhat separately, as a moral issue that transcends national boundaries and one which all states involved have a duty to address, whether or not the current regime was directly involved’.<sup>19</sup> The prominence of physical property restitution in post-Communist countries can be explained by the pressures to restore Jewish property. The Czech government has distinguished between small and large restitution claims, especially those concerning agricultural land, to avert the formation of a ‘property-owning oligarchy’. In addition, some states have been concerned that large-scale restitution might hinder investments and economic development: thus they have tried to block it, in some cases enforcing monetary compensation instead of physical restitution.<sup>20</sup> The restitution has worked well in the wealthier areas and cities untouched by economic depression. There the lucrative restitution has fostered the process of ‘renovating the urban fabric’. But in other, less developed areas, the restituted property can be accompanied by debts and other financial responsibilities, which in its turn discourages further claims to restitution.<sup>21</sup>

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<sup>18</sup> *Ibid.*, 183.

<sup>19</sup> *Ibid.*, 183-84.

<sup>20</sup> *Ibid.*, 184.

<sup>21</sup> *Ibid.*, 186.

### 2.3. Role of the World Jewish Restitution Organisation

Since the fall of the Iron Curtain, the claims for Jewish restitution in East Central Europe have been a joint effort of the local Jewish communities and international Jewish organisations. The mid-1990s have seen the establishment of the World Jewish Restitution Organisation (WJRO) in Israel to provide the necessary help. There exists a 'strong moral desire' to have at least some assets returned into communal Jewish ownership. The return of property also opens up opportunities for the rejuvenation of Jewish communal life in the region.<sup>22</sup> Reclaimed property can thus help towards the communities' fiscal independence and self-sustainability.

According to the majority of restitution laws, 'only buildings or lands which were formally owned by communal or religious entities before the Shoah can be claimed'. Yet there are many private properties that were used for communal purposes (e.g. *shteibelach* – prayer halls) and cannot be claimed. Moreover, it is only the officially recognised Jewish communities that can make claims to property, and the governments have usually assigned a proper status to such communities on a similar basis as to churches.

There are other problematic points. While the Christian churches were normally used throughout the Communist era, the Jewish property was almost never used after the war, and the buildings frequently changed their function.<sup>23</sup> Secondly, compared to the churches, the Jewish real estate was usually in a worse shape due to the local authorities' negligence. Thirdly, unlike the churches, Jewish communities in pre-war Europe possessed buildings that were 'communal' but not formally owned by a religious body or used for that purpose (hospitals, homes for the elderly, orphanages).

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<sup>22</sup> Block, 2009, 71.

<sup>23</sup> *Ibid.*, 72.

In the 1990s, an understanding was reached between the local Jewish communities and the WJRO as to who would be heir to the pre-war communal Jewish property: through the creation of 'foundation' partnerships between the local and the world Jewry, the income from the restored property would first cover the Jewish needs in that country, while any surplus would go toward assisting the survivors from the same country now living in Israel or elsewhere.

The whole process of restitution usually starts with a thorough research, compiling an inventory of the former Jewish communal and religious assets. It is followed by a restitution legislation, which can tackle laborious negotiations. Once a law is established, the inventory and documentation are handed over to the relevant governmental body and the claims defended. The result can be the return of the original property, the rendering of a substitute asset, or monetary compensation. The whole process of compiling inventories and setting up claims can be costly, especially for the communities which are not wealthy. Furthermore, the government officials are, as a rule, reluctant to return assets to Jewish claimants.<sup>24</sup>

Typically, the governments have no problem returning to the Jewish communities their cemeteries and ruined synagogues, which have little value but are costly for the communities to restore. The work of the WJRO has been monitored and assisted by the State of Israel, using Israeli embassies as instruments. In addition, the states in the region have been encouraged since the mid-1990s to adopt and implement restitution laws by the US embassies and the Office of Holocaust Issues established in the State Department in Washington.<sup>25</sup>

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<sup>24</sup> Ibid., 73.

<sup>25</sup> Ibid., 74-5.

### 3. Restitution of Jewish property in Slovenia

On January 27, 2010, on the International Holocaust Remembrance Day, Slovenian Prime Minister Borut Pahor visited Maribor, the location of the largest and most renowned Jewish community in the country's history, to take part in the memorial ceremony held in the local synagogue. Pahor pointed out that the little pre-World War II Jewish community had suffered enormously during the war and been almost completely wiped out, while its surviving members had mostly fled abroad. The newly immigrated Jews in the postwar setting were too few to take care of the abandoned property, and had no help in this respect. On the contrary, their synagogues and cemeteries were destroyed or removed. Recognising and condemning the still existing anti-Semitism in Slovenia, Pahor also mentioned the Jewish property restitution. While admitting that the government had not reached yet an agreement on restitution (the assets seized by the state from the Holocaust victims who did not return to the country) with the local Jewish community, he saw it as an issue deserving a quick action and resolution. The purpose of the restitution, according to the Prime Minister's words, would be to establish lasting conditions for the decimated Jewish community to flourish spiritually and culturally in an environment where it had belonged for centuries. In this way, the state could also close the issue of war-time injustices.<sup>26</sup>

This noble and upright speech from the head of the government ironically crowned a years-long series of discussions and attempts to set things right, a process which had been characterised by anything but a speedy resolution.<sup>27</sup>

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<sup>26</sup> Pahor, 2010.

<sup>27</sup> Some authors have blamed the consecutive governments of Slovenia since 1991 for obstructing restitution in general. According to Vlado Bevc, the post-1991 governments and major political parties have consisted of

The Slovenian Jewish community first presented its position on the restitution issue to the government in February 2000. In 2003, it reminded the then Prime Minister, Anton Rop, and in 2005 the Minister of Justice, Lovro Šturm, of the tragic fate of 3000 Jews, reduced to an insignificant number after World War II. It was then that the public became aware of the sum of the compensation. The compensation for the confiscated and heirless Jewish property was estimated by the Jewish community at 15 million euros. The then head of the community, Andrej Kožar Beck, added that this request was merely a symbolic figure since the real value of the property would amount to half a billion US dollars. In addition, the problem of the 60 Jews who emigrated in 1949 and were forced to 'donate' all their assets to the government should be solved as well. There was also the issue of the Moskovič villa, now used by the Social Democratic Party of Slovenia: its owner Moskovič, a businessman, had been deported to Auschwitz and died in 1941. After the war, he was accused of collaborationism and all his assets were seized. Beck declared that the community would not object to the return of the villa in exchange for the ruined synagogue in Lendava; it would also be satisfied with some other real estate option in Ljubljana.<sup>28</sup>

In May 2005, the Slovenian Jewish community met with the governmental representatives and proposed how to redress the in-

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former Communists, who have not dared to oppose the denationalisation law too vigorously, partly fearing the future and partly hoping to avoid its implementation. And when the property did start to be restored, the 'preference was given to persons loyal to the former Communist regime and members of the nomenclature'. He even goes so far as to suspect the apparent instructions which were sent out to the authorities dealing with restitution claims, 'directing them to delay and obstruct the resolution of these claims'. In short, there is no political will to 'carry out fair and equitable restitution of seized property' (Bevc, 2008, 219-20).

<sup>28</sup> Ivelja, 2009a.

justice done to the Slovenian Jewish assets. The proposal consisted of three points: (a) the payment of 15 million euros of compensation to the Jewish community for the heirless property, (b) in compensation for the ruined synagogue in Murska Sobota, the construction of a new building of the same size in Ljubljana (the Moskovič villa), (c) the return of the property of the Jews who had left for Israel in circumstances that obliged them to leave their property to the state. According to the community, there were 60 such Jews who emigrated in the period 1948-1950.<sup>29</sup> Although the community had not defined the grounds for claiming compensation for heirless property (the exact circumstances of the seizure of personal property by the state), it was important to consult the current denationalisation procedure, legal sources, comparable examples of restitution in other countries with a similar situation, and the two researches conducted on the situation.<sup>30</sup>

In another media episode in August 2005, *The Jerusalem Post* published an article on the restitution of Jewish property in Slovenia. The head of the Slovenian Jewish community, Beck, said that Slovenia's Jewish community was demanding 17.9 million US dollars from the government, as restitution for the property lost by its members during and after World War II. 'It would be a symbolic compensation for the property seized during the war,' according to Beck. He also mentioned that the tiny Jewish community - numbering about 150 people - had first requested this restitution five years earlier, 'but we're still where we started. Nothing has happened.' 'I know this cannot be solved overnight, but patience has its limits and some think we should file a lawsuit against the state.' Beck added the heirs of those killed should be paid for the damages.

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<sup>29</sup> Šonc, 2008, 14.

<sup>30</sup> *Ibid.*, 15.

He said that the community was not demanding that the property – largely buildings, apartments and houses – be given back. However, he said, a 1949 document estimated the value of the Jewish property seized during the war at 250,000 US dollars, ‘and injustices done to Jews have been in the meantime compensated across Europe by countries much poorer than Slovenia’. The Slovenian Minister of Justice, Lovro Šturm, acknowledged that Slovenia would ‘have to deal with the request as soon as possible’. But he insisted that the government had to collect detailed documents on the property seized during the war before making the payment. ‘The final amount of compensation ... will be a matter of agreement between the state and the Jewish community,’ said Šturm.<sup>31</sup>

In early March 2009, a governmental commission for solving the issues concerning religious communities, headed by the Minister without Portfolio, Boštjan Žekš, convened to discuss the return of the Jewish property confiscated during and after World War II. Although three institutions had conducted researches in the recent past, trying to compile an account of the assets to be restituted to the Slovenian Jewish community, the government still lacked a proper study to negotiate with the community. By Žekš’ admission, the studies had reached very different conclusions; that was why he ordered the Office for Religious Communities to inquire into who exactly had defined the tasks of the research teams and how much the researches had cost so far. He added that they were also waiting to hear the wishes and demands of the Jewish community. However, the head of the community, Beck, stated that he was not aware that the community should make a move. On the contrary, they had already explained the situation to the Minister of Justice Šturm and were now waiting for the good will of the state. Beck said that they

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<sup>31</sup> *The Jerusalem Post*.

would like to be constructive and reach a reasonable compromise with the government.<sup>32</sup>

### **3.1. Existing reports on the restitution of Jewish property in Slovenia**

The three institutions doing research on the restitution of Jewish property have been the following: the Institute for Ethnic Studies,<sup>33</sup> the Institute of Contemporary History,<sup>34</sup> and the Sector for Redressing of Injustices and for National Reconciliation at the Ministry of Justice.<sup>35</sup>

The International Religious Freedom Report 2010 laconically states that ‘in 2007, acting on a tender awarded by the Ministry of

<sup>32</sup> Ivelja, 2009a.

<sup>33</sup> The Institute for Ethnic Studies is the oldest research institute for minority and ethnic studies in Europe. Traditionally it studies the following issues: ethnicity, ethnic relations and conflicts, nationalism, borders; the Slovenian national question; national minorities, especially the position and status of national and ethnic minorities in Slovenia and of the Slovenian ethnic communities in Italy, Austria, Hungary, Croatia and other successor states of former Yugoslavia; the position and status of immigrants, migration and integration policies in Slovenia; international regulation and protection of the human rights, especially the rights of national minorities; case studies and comparative studies of ethnicity in Europe and worldwide. See <http://www.inv.si>.

<sup>34</sup> The Institute of Contemporary History acts as a central research organisation specialising in the field of contemporary history in Slovenia, focusing in its researches on the period from the 19<sup>th</sup> century to the present. In doing so, it seeks to identify the needs of historiography, establish new research topics and open new research areas. See <http://www.inz.si>.

<sup>35</sup> The basic aim of the Sector is to study all forms of violence against and encroachments on the basic human rights and fundamental freedoms, committed against the Slovenian nation and the members of other ethnic communities in Slovenia during the periods of three totalitarian systems: Fascism, Nazism, and Communism. See [http://www.mp.gov.si/si/devolovna\\_podrocja/poprava\\_kvivic\\_in\\_narodna\\_sprava/](http://www.mp.gov.si/si/devolovna_podrocja/poprava_kvivic_in_narodna_sprava/).



Justice, the Institute of Contemporary History researched a report on such properties. Also in 2007 the World Jewish Restitution Organisation (WJRO) funded a separate report that was researched by two experts affiliated with the Institute for Ethnic Studies. The Ministry of Justice stated that the Institute of Contemporary History finished its report in spring 2008, and the WJRO finished its report in March 2010; neither report was published. The Ministry of Justice, the WJRO, and the Jewish community of Slovenia planned to discuss restitution after both reports were complete but had not begun negotiations by the end of the reporting period.<sup>36</sup>

While the report by the Institute of Contemporary History has not been published on paper, translated into English or officially presented, it is now available in the digital library.<sup>37</sup> The report by the Institute for Ethnic Studies, on the other hand, is unfortunately not available for research at the moment. Submitting an online inquiry to the WJRO on their webpage has yielded no response either. To an inquiry about the possibility of obtaining the study for academic purposes, Herbert Block, Assistant Executive Vice President of the American Jewish Joint Distribution Committee, replied that 'the report was prepared for the WJRO and was given to JDC on behalf of the WJRO. We cannot release it to anyone else at the time. The report will be used for discussions with the Ministry.'<sup>38</sup>

The said report has been till this moment plagued by unexplained delays. By 2009, Irena Šumi and Hannah Starman from the Institute for Ethnic Studies – commissioned and already paid by the WJRO to conduct the study – would have been, according to the head of the WJRO, more than two years late in submitting the study to the organisation, but there was still none to submit. Irena

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<sup>36</sup> U.S. Department of State, 2011a.

<sup>37</sup> Digitalna Knjižnica Slovenije.

<sup>38</sup> E-mail to the author from January 9, 2011.

Šumi claimed that the study was finished and would soon be presented. Whether it was already submitted or not, she did not say because she could not make a public statement.<sup>39</sup> The head of the Slovenian Jewish community, Andrej Kožar Beck, revealed in June 2009 that whenever he had asked for the study, by then two years and five months late, he had received the same answer that it would soon be ready. Beck was also convinced that the WJRO was ready to sue the team from the Institute for Ethnic Studies for such a long delay, especially when the resources had already been spent.<sup>40</sup>

The earlier report by the Sector for Redressing of Injustices and for National Reconciliation is not available on the internet but was available for the current study.

Apart from the professional research centres, it is crucial to mention the researches conducted by the Jewish community of Slovenia itself. There have been two studies, one in 2002 and an improved version in 2005.

### **3.2. Studies by the Jewish community of Slovenia**

The 2002 study is titled 'Zaplembe in nacionalizacija judovskega premoženja po drugi svetovni vojni (1946-1949)', i.e. 'Confiscation and nationalisation of Jewish property after World War II (1946-1949)'. It is not officially available but has been made public through various sources.<sup>41</sup>

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<sup>39</sup> Ivelja, 2009a.

<sup>40</sup> Ivelja, 2009b.

<sup>41</sup> According to an anonymous source within the Jewish community, the study (prepared by two young and enthusiastic members) was not meant to be published as the final version of the Jewish community's restitutional claims. On the contrary, it was seen as a first step or preliminary attempt to gather some data on Jewish property for internal use. At this point, the study did not aim at ultimate results, and its authors were aware of inconsistencies. Moreover, they intended to send it to the international

The study starts with the census results for the Jewish population in the former Drava Province (Slovenian territory) from 1931 and 1939. The second chapter is an inventory of economic, industrial and commercial facilities in the wider areas of Ljubljana and Maribor, which used to be owned by persons of Jewish origin before the nationalisation or confiscation of property. According to the authors, the study includes only the largest enterprises for which documentation could be found, but the latter is not complete. In fact, it is a small collage of sources that covers some archival finds (local city archives) as well as indirect references from other historiographic material.<sup>42</sup>

The study continues by listing the Jewish persons of foreign origin who held shares in certain companies of the Drava Province, with the information again accrued from various sources. Moving to the national scale, it registers the confiscated and nationalised industrial and trading enterprises throughout Slovenia.<sup>43</sup> There is also a subsection providing the enterprise valuation according to the district court in 1949 (in contemporary currency). Another chapter is dedicated to the real estate and other assets belonging to the Ljubljana Jews who were deported to Italy in 1941 and did not return (based on archival sources). The final section is an inventory of the enterprises and real estate of the Jews in the Prekmurje region

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Jewish organisations in the US, hoping for further financial support to enable a more thorough and professional study. But this did not happen as the working draft was, in an uncoordinated manner, leaked by the leadership of the Slovenian Jewish community to the public and approached by many as the community's official standing in the restitution issue.

<sup>42</sup> Mostly Vlado Valenčič, 'Židje v preteklosti Ljubljane' (The Jews in Ljubljana's past), Ljubljana, 1992.

<sup>43</sup> Relying solely on France M. Dolinar, 'Viri za nacionalizacijo industrijskih podjetij v Sloveniji po 2. svetovni vojni' (Sources on the nationalisation of industrial enterprises in Slovenia after World War II), Ljubljana, 1992.

(based on various sources), where the authors themselves point out the shortcomings of some of the information, especially concerning the real estate registry. The overall impression is that of scattered, unsystematic and partly unverified information accumulated on a small number of pages.

An improved and supplemented version of the study by the Jewish community was prepared in 2005 (likewise not publicly available). In fact, the study is almost identical to the previous version. The biggest difference is an annex to the 2005 study, 'Restitucijska zahteva - gradivo' (Request for restitution - materials), dated December 27, 2005. It contains a registry of the confiscated assets which had been, according to the Slovenian Jewish community, wholly or partly owned by Jews. The preamble to the annex reflects on the accessibility and condition of the materials on the Jews' fate in the Slovenian archives. It declares that the archives formerly closed to the public are now, 60 years after the war, generally opened, but that Slovenian or Yugoslav archives are inaccessible, destroyed by the Communists, or simply not preserved out of neglect. In this way, says the preamble, 'their [the Jews'] bodies were burnt in concentration camps and there are no graves, and no documents on their lives either'. The preamble concludes with the statement that while it was possible to recover some materials on the Jews who lived in Ljubljana and Prekmurje, no documents were found of those who lived in other regions of Slovenia: Dolenjska, Primorska, Gorenjska and Koroška. That is why the current documentation can only be a part of the private and industrial property of the Jews who did not return from the camps.

The preamble is followed by a chapter giving a historical introduction of Slovenian Jews from the earliest times to the 20<sup>th</sup> century. The second chapter is called 'The biggest theft in the history of mankind' (Največja kraja v zgodovini človeštva). It lays out the

restitution theme, supplementing it with numerous legal cases from all over the world. The opening paragraph mentions that the persons who have initiated the negotiations for restitution have forgotten to explain why the compensation is morally justified. Germany is cited as a state that shouldered its moral responsibility and paid up to 70 billion US dollars of reparations to German Jews. However, not much has been done in Germany to compensate for the material losses of the Holocaust victims or for the slave work. The text goes on to present cases from the 1990s, when, for example, the pressure of US Jewish civil servants, politicians and top lawyers forced 65 German businesses to pay 5.2 billion US dollars to all concentration camp survivors, both Jews and non-Jews. The authors of the annex then briefly stress the importance of the international restitution institutions and, emphasising the human rights dimension of the entire problem, adduce the cases of Armenian claims against Turkey's genocide or American soldiers' slave work during the war in Japanese enterprises like Mitsubishi etc., which are currently being handled in court. Finally, the authors declare that the victims of the Holocaust in Slovenia left behind at least 200 houses, villas, around 30 workshops, plots, quarries, two hotels, a brewery, a shop with alcoholic beverages, four textile companies, three paper companies, three mines and other property.

In the third chapter, titled 'Property', the authors note that they have only managed to obtain information on the private and industrial property for the Ljubljana and Prekmurje regions. The list contains 57 plots, apartments, houses and villas in the Ljubljana region; 46 apartments, smaller shops, craftsman's shops and farmland in the Prekmurje region; 66 commercial premises of higher value. The fourth chapter sketchily describes the fate of the Murska Sobota synagogue, which was destroyed in 1954. The remainder of the annex is a numbered register of the private and commercial property.

The final page of the annex presents the value of the destroyed property (22 out of 66 units) as estimated by the court in 1949, which amounts to 5.5 million US dollars. With an annual interest rate of 5%, its value in 2005 would be app. 84 million US dollars.

### **3.3. The study by the Institute of Contemporary History**

The team of the Institute of Contemporary History, led by the historian Andrej Pančur, prepared its report by 2008. The study succeeded in identifying heirless Jewish assets and those assets of the former Jewish community which had not been restored to the community's legal successors.

The study discovered that the legal successors of the Jewish communities in Lendava and Murska Sobota did get back their assets after the war but sold their property over the years (e.g. the synagogues in Lendava and Murska Sobota). Nationalised property, too (e.g. the Jewish school in Lendava), was returned in the course of the denationalisation process.

More complicated is the issue of heirless Jewish property. The research has identified three Prekmurje families where all the legal successors had perished and their assets had become state property. Based on the data on the Jewish war victims, the research has concluded that there are a number of Jewish families whose close family members have all died, leaving no inheritance document. Since their property has most likely fallen into the hands of the state, it would be necessary to conduct a more precise investigation on these assets by using resources which the Institute's study has not included or could not take into consideration due to restricted access. Drawing on those additional resources would make it possible to define the value of the assets which the Slovenian Jewish community could possibly expect to recover.

The research has shown that the nationalisation of Jewish property after World War II was carried out entirely within the framework applying to any group of citizens. Therefore, the restitution of the nationalised Jewish property has already been properly dealt with in the denationalisation law. According to the publicly available data, the larger part of the Jewish property has been returned to the former owners' legal successors during the denationalisation process, while some cases are still waiting for denationalisation and some of the claims have been refused for various reasons. Like any other foreign citizens, the former owners of foreign Jewish assets are not eligible beneficiaries of denationalisation if they hail from countries where they could get compensation for damages to their former property, because Yugoslavia had already paid for such damages, or else nationalised the property on account of the war damages. In this context, the nationalised property of the Jews who were affected by the decree of AVNOJ (Antifašistični svet narodne osvoboditve Jugoslavije - Anti-Fascist Council of the National Liberation of Yugoslavia) from November 21, 1944, as persons of German nationality is not problematic either.

The denationalisation law states that its beneficiaries can be persons whose assets were nationalised under the above decree if, naturally, they were citizens of Yugoslavia and this citizenship was recognised. In the case of the Jews who were labelled as Germans, their Yugoslav citizenship was not recognised and their property was nationalised because of their alleged disloyalty: these persons have a chance to prove that they were actually loyal and thus to become denationalisation beneficiaries.

Contrary, according to Article 7a of the law on the denationalisation of private businesses, is the case of those Yugoslav citizens who moved abroad after the war and whose assets were nationalised. These persons are excluded from the denationalisation procedures;

in fact, it is on Article 7a that most refusals of the Jewish claims have been based. Similarly, denationalisation does not extend to citizens of the other states of former Yugoslavia with whom the reciprocity of denationalisation procedures has not been established.

To conclude, the denationalisation law defines the denationalisation of the former Jewish assets of all kinds and does not belong into the framework of the current restitution claims by the Slovenian Jewish community. In this respect, according to the denationalisation law, everything has been concluded and the assets returned where they could be returned. The community can only claim the right to the former Jewish assets without legal heirs. Their value could be assessed on the basis of sources not available to the Institute's study (Digitalna Knjižnica Slovenije). The realisation of this possibility, however, depends on the political good will and on a governmental decision to craft the legal grounds for a specific restitution of Jewish property, which has so far not taken place.

### **3.4. The study by the Sector for Redressing of Injustices and for National Reconciliation at the Ministry of Justice**

In 2006, a team consisting of Damjan Hančič and Renato Podbersič from the Ministry of Justice completed a study titled 'Jewish property in 20<sup>th</sup> century Slovenia' (Judovsko premoženje na Slovenskem v 20. stoletju). The work, begun in October 2005, was seen as pioneering as no one before had undertaken such a thorough and systematic examination of Jewish property. Based on the study conducted by the Jewish community (2002, improved 2005), it tackled the possible restitution of Jewish property in a more professional and efficient way. The introductory part explains that the authors began by critically examining the study prepared by the Slovenian Jewish community, identifying its mistakes and inconsistencies. What was perceived as a major flaw in the community's



study was its confusion in differentiating between partial and whole ownership, as well as its uncritical approach to some of the sources. The Ministry's team first browsed through the various archives to seek out the commercial property (private companies, trading companies etc.) owned by Slovenian Jews. Relying on this, the two authors compiled a list of property formerly in Jewish hands, which the community could use in their request for restitution from the government.<sup>44</sup>

The first part of the study contains a list of small Jewish businesses in Ljubljana (eight altogether), as well as a list of the 42 most important enterprises in Slovenia partly or wholly owned by Jews before World War II. The list is complemented with the value of the property before and after the war (if known), and with the grounds for its seizure. As explained in the final remark below the register, the list includes the owners who actually were Jews, as well as those who are regarded by the Slovenian Jewish community as Jews but are not presented as such in the documents. The overall value of the businesses is estimated at around 300 million dinars. Then the study touches on the problem of the Jews who were of German origin or came to be regarded as Germans or otherwise disloyal subjects.

The second part of the research deals with the Jews and their property in the Prekmurje region, which results in a list of Jewish private property in Prekmurje, 137 entries altogether. Most of them have legal heirs.

### **3.5. An academic legal study on restitution**

A welcome contribution to the restitution topic in the academic sphere comes from Rok Šonc, in the form of a graduation thesis defended at the Faculty of Law, Ljubljana University, in 2008.

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<sup>44</sup> Hančič, 2006, 8-16.

One of the chapters most relevant to the current study deals with the question of heirless Jewish property in Slovenia. Rok Šonc refers to the two reports drawn up by the Ministry of Justice and the Slovenian Jewish community,<sup>45</sup> noting that both studies agree that an undefined amount of property belonging to members of the local Jewish community and their potential legal heirs perished in the war. Their property thus passed into state ownership on the grounds of public succession, or because it was later not denationalised.

According to Šonc, even if a common feeling of justice were in favour of state financial compensation for such heirless property (the money could be used to benefit the Jewish community or to aid the Holocaust victims), this action has no foundation in the current positive law. The Slovenian law on the right of succession and the rules that regulate the passing of heirless property into state ownership are not part of the regulations under which the property was nationalised. Moreover, in contrast to some other countries, the denationalisation law in Slovenia does not confer a special status on the Jews who had to leave their property, were deported to the camps, and died without legal heirs. Since the principle of equality is the foundation of the law as such, one may ask whether it is legally acceptable at all to make an exception for a certain group of people, such as the Jewish community, in the denationalisation process. According to Šonc, such a *differentia specifica* might be justified by the systematic destruction of the Jews, which resulted in much heirless property.<sup>46</sup> Similar legal solutions have been found, for example, in Slovakia, the Czech Republic and Macedonia.<sup>47</sup>

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<sup>45</sup> The study by the Institute of Contemporary History was obviously not available to him at the time.

<sup>46</sup> Šonc, 2008, 49.

<sup>47</sup> *Ibid.*, 55.

As to the Moskovič villa mentioned in the Jewish community's study, its owner had indeed died in the Auschwitz concentration camp, but the property was inherited by a legal heir, who immediately sold it. Thus there are no grounds for the state to restore it to the Jewish community as requested.<sup>48</sup>

Šonc goes on to examine the possibilities of restoring the Jewish property under the Slovenian denationalisation law. The law does not differentiate on the basis of the claimant's personal characteristics, such as nationality, religion, or ethnicity: everyone is treated equally. Eligible recipients of denationalised property are thus the physical persons who were Yugoslav citizens at the time of the nationalisation, or their legal heirs, and in specific circumstances also legal entities, such as churches and religious communities.<sup>49</sup>

The basic question is whether the positive law allows redressing the damage caused by nationalisation by taking into account the special historical situation of the Jewish community, which was almost completely destroyed in the Holocaust. In Slovenia, Jewish property had no special treatment either in the nationalisation or denationalisation processes.

Šonc distinguishes between four categories of Jewish owners: (1) Jews who meet the citizenship condition under the denationalisation law; (2) Jews who did not have Yugoslav citizenship when their private property was nationalised; (3) Jews who were defined (or who defined themselves) as persons of German nationality by the occupational authorities or by the postwar government, or those stripped of their citizenship by the Socialist Yugoslav authorities due to their alleged disloyalty to the state; and (4) Jews who emigrated to Israel after the war and thus revoked the Yugoslav citi-

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<sup>48</sup> Ibid., 50.

<sup>49</sup> Ibid., 34.

zanship. Šonc does not address here the restoration of property to legal entities, because it is not an issue in the debate between the government and the Slovenian Jewish community.<sup>50</sup>

The first group of Jews, the former Yugoslav citizens, do not differ from other denationalisation beneficiaries: they have every right to get back their nationalised assets, etc. This is because nationalisation was not determined by nationality, religion or race, but rather by a person's social or class status.<sup>51</sup> Jews had simply often found themselves in the 'wrong' category, whose property was confiscated.<sup>52</sup>

Members of the second group owned stocks in the companies of former Yugoslavia despite their foreign citizenship, and their personal assets were nationalised. The eligibility of foreigners for property restoration is determined by the denationalisation law – those foreigners who did not have Yugoslav citizenship at the time of the nationalisation are excluded from the denationalisation process. The law has another negative condition: the beneficiaries of denationalisation cannot be those who already have the right to compensation in another country. The reason is that former Yugoslavia, whose legal successors include Slovenia, had reached bilateral agreements on global compensation with several states whose citizens' assets were nationalised by Yugoslavia.<sup>53</sup> With this act, the foreign states undertook responsibility for compensating their citizens for the nationalised assets. These agreements were made with Austria, the US, Hungary, Italy, Switzerland, Greece, France, the Netherlands, Turkey. Another reason is historical: not to deal with the property of those non-citizens whose countries were involved in the attack on Yugoslavia.

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<sup>50</sup> Ibid., 35.

<sup>51</sup> Ibid.

<sup>52</sup> Fajić, 2009, 85.

<sup>53</sup> Šonc, 2008, 36.

The third group of Jews consists of those who were denied Yugoslav citizenship after the war, on the grounds of their alleged disloyalty to the state. The main rationale was that all Germans were viewed as enemies, and no distinction was made for German Jews.<sup>54</sup> The 1945 Yugoslav law on citizenship determined that Yugoslav citizens were all the persons who were Yugoslav citizens according to the effective law in 1945, which dated back to 1928. An amendment to the law was made in 1948, ruling that the citizens of Yugoslavia did not include persons of German nationality who were abroad in 1948 or who had shown disloyalty to the state during or before the war. The Slovenian denationalisation law refers to this 1948 law, although making an exception for the persons who were deported to labour camps for religious or other reasons, or who fought against the Fascists. Consequently, the restitution of property to Jews of German nationality depends on each individual case. They have a chance to prove their loyalty in the process of citizenship acquisition in order to be eligible for denationalisation.<sup>55</sup>

The fourth group of Jews, who emigrated from Yugoslavia to Israel after the war, were also affected by the nationalisation law (adopted 1946, amended in 1948), which excluded those who had revoked Yugoslav citizenship for a foreign one.<sup>56</sup> After the war, around 60 Jews moved to Israel, and those are not eligible beneficiaries of the denationalisation process. Some of their legal heirs have submitted claims for the restoration of the property but have been refused. They have also appealed to higher courts, arguing that they should not be classed together with the enemies of the state.<sup>57</sup> Šonc

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<sup>54</sup> Ibid., 37.

<sup>55</sup> Ibid., 38-9.

<sup>56</sup> Ibid., 40.

<sup>57</sup> Ibid., 41.

expresses as his personal opinion that the denationalisation should be reconsidered because the Jews who left the country to start a new life in Israel should be treated differently. Unfortunately, the postwar period had brought no bilateral agreement between Israel and Yugoslavia, nor a peace treaty regulating the treatment of such persons. Apart from the legal means of seizure described above, Jewish property was also confiscated by certain military courts during the war. According to Šonc, these court decisions should be annulled, thus providing legal grounds to start the denationalisation process.<sup>58</sup>

### **3.6. A glance at the neighbour: the restitution process in Croatia**

According to the International Religious Freedom Report 2010, '[s]everal Jewish property claims, including some buildings in Zagreb, remained pending; the Jewish community complained that restitution had been at a standstill for years. Additionally, the Jewish community complained about a Ministry of Justice decision in March 2010 that denied the community the right to the title to property that had been previously restituted.'<sup>59</sup>

Croatia does have a law on restitution (brought to public attention in 1996 and enforced in 1997, it applies to all possible claimants rather than specifically to Jews), but it is currently waiting for a governmental amendment, originally planned for 2002. Western powers, such as the United States and Italian and Austrian embassies, are pressing the government to amend the law. The amendment, intended to encourage and speed up the restitution process, is closely bound up with the expansion of the European Union to include Croatia. The crux of the matter is that restitution will be a

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<sup>58</sup> Ibid., 42.

<sup>59</sup> U.S. Department of State, 2011b.

topic in closing down the legislation chapter in Croatia's negotiations with the EU. According to the amendment, the people working on the restitution cases will be encouraged to work more quickly, eagerly and punctually (once to twice a month, while it used to be once or twice a year). In brief, the amendment should be adopted before Croatia's entry into the EU.

So far Croatia has returned 60% of the Jewish communal assets, but not even 30% to individual families. In 1998-2000, the restitution started in an orderly fashion, but later the practice gradually slowed down, and the process has been very slow over the last four years. The pace is a political issue, and the government seems reluctant to give back the property.

What sets Croatia's situation apart from Slovenia is the lack of institutional studies on what could be claimed and restored. The Croatian government has not commissioned any researchers to draw up relevant reports, nor has there been any considerable NGO involvement.<sup>60</sup> There is merely the list of assets compiled by the Croatian Jewish community, used for claims to the property and negotiations with the government. In fact, the Jewish community in Zagreb is working on behalf of all the other communities in Croatia, so the claims are presented and represented by a single organisation.

There is no single list of the individual claimants. The Jews who had fled from Croatia have hired their own lawyers to represent them (in Israel, the US, Canada etc.). Thus no exact numbers are available, but there are definitely over 2000 claims. However, it is very difficult to estimate how many of them are legitimate because they are all

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<sup>60</sup> There is one NGO drawing up a list of various claimants (not only the Jewish owners and their successors), but it is limited to the organisation's own members.

processed individually. The same applies to the total value of the property claimed, since the assets have not been evaluated.

The heirless property belongs to the Croatian state. It does not go to the Jewish community (local or international), nor are there any symbolic compensation schemes. When the independent state of Croatia was formed in 1941, the authorities confiscated all Jewish property. Socialist Yugoslavia, in its turn, nationalised the assets which were heirless. With the coming of independence in the early 1990s, Croatia followed the example of Socialist Yugoslavia – the heirless property belongs to the state alone and cannot be claimed back.

The most serious obstacle to an efficient solution is money. If the state had money, the entire process would speed up. For example, if a person files a claim for 100,000 HRK (Croatian Kunas), the law stipulates that one quarter of the sum should be returned in three months, and the rest in 20 years. Usually, however, even this first quarter is not paid for 2-3 years. Moreover, the law sets an upper limit to the value of returned assets, which is approximately 750,000 euros. And thirdly, there are two ways of returning the property: either in nature or, if the assets cannot be returned, by financial compensation. But it is only the empty or tenantless buildings that can be returned in nature. For those where the tenants have already bought the ownership, the state gives back one quarter of their value. Generally, claimants are likely to receive money rather than buildings.

By and large, the government is exercising the delaying tactics. Waiting for the passing of the generation of claimants could be a strategy, but it does not prevent legal battles with the legal successors. Thus the problem is probably not going to fade away. During the last 2-3 years, the government has been very reluctant to deal with the restitution questions, but as they are crucial to the Euro-



pean Union accession, there is some hope of solution. The US, Italy, Austria and Israel are putting pressure on the Croatian government.<sup>61</sup>

In essence, the situation in Croatia regarding the restitution of Jewish property is similar to the one in Slovenia. There is no specific law on returning or compensating Jewish property, the process is dragging, and the government is less than eager to deal with it.

#### **4. The past and future of the Slovenian Jewish community**

The Slovenian Jewish community was officially established as a religious community in 1997. Prior to its foundation, religious practitioners used to gather in a private apartment to have at least a little place to support and maintain something of the Jewish identity. Some time later, the community experienced a kind of spiritual renaissance, cherishing the holiday celebrations, opening Hebrew language classes, publishing and translating Jewish literature, even establishing its own newspaper in Slovenian. The latter, unfortunately irregular and short-lived, aimed not only to advertise the community's activities but also to present a broader informative spectrum of the Jewish culture and Judaism.

The year 1999 saw the appointment of the first Chief Rabbi for Slovenia (until then, the service matters had been entrusted to Zagreb), who resided in Trieste, and 2003 witnessed the establishment of the first synagogue in Slovenia (Ljubljana) after 60 years. The services in the synagogue had a troubled start since most of the community members did not understand Hebrew, while the older

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<sup>61</sup> From the author's interview with lawyer Sead Tabaković in Zagreb, December 7, 2010. Tabaković was contacted at the suggestion of the Croatian Jewish community. He is regarded as the most knowledgeable person on the legal matters in the restitution issue in Croatia.

community members did not understand English. Therefore a Slovenian translation of Siddur was undertaken. Monthly lectures on Judaism were offered and a study group of those interested in the Jewish religion was established. In addition, sewing and cooking classes were organised, the Kadima youth section was created, and there was some hope of forming the desired Jewish archives.<sup>62</sup>

However, this picture only reflects the community's early activities or its presentation to the outside world through the media. In the recent years, the community has suffered several drawbacks, dissipation of the original enthusiasm and the emergence of numerous internal tensions.

According to an anonymous source within the Jewish community, the community was long led in an authoritarian style, frightening away many people who would have contributed to the vitality and integrity of the communal life. Important questions were decided in a closed circle, there was no transparency, and young people's enthusiasm was abused. One part of the community was occupied solely with the restitution issue, in the hope of gaining quick results and money for rather unrealistic projects. What was needed, according to the source, was the administrative capability to run the communal affairs, but no person was hired for such a job. Another questionable issue is the legitimacy of the community's formal affairs.

There were attempts in the community at establishing their own formal statutes to run things in an orderly fashion, but they were not followed or followed only when suitable. The prevailing tendency was to run the community as a big family, rather than by rules or more formal principles. According to our source, this was another mistake which resulted in a chaotic and unprofessional

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<sup>62</sup> European Jewish Fund.

handling of affairs, contributing to financial downfall. In addition, the community events so far had mainly drawn together the older generation, whose prime interest was not so much to celebrate Jewish holidays as to meet for an informal chat. Thus the original sense of general enthusiasm cooled down due to the problems mentioned above. The anonymous source hoped that the current crisis was waiting for a new tide: one of the key components to hold the community together for the next 50 years is education, with an emphasis on Jewish religious education and traditions. A way to salvage the dire situation would be to form a new and strong core of the Jewish community, uniting people of a strong intellectual background. This new core could, for example, devise a master project which would reunite the community.

Another source, Klemen Jelinčič Boeta, a recent member of the executive board of the Slovenian Jewish community, commented in the autumn of 2011 that the community was undergoing a very difficult period: it was on the verge of bankruptcy, there were no sources to maintain the communal functions, and one of the options could actually be to declare the Jewish community officially dissolved. Furthermore, the long-term president of the community, Andrej Kožar Beck, had resigned and distanced himself from community matters. Currently there was no replacement and the affairs were handled by the executive board. The new revival of the community, if it was to take place at all, should be led by a charismatic person who would not exercise an authoritarian style in the communal affairs. As one of the reasons for the poor recent attendance at meetings and holiday celebrations, Jelinčič Boeta cited the orthodox conduct of the rabbi (e.g. strict behavioural rules), which repelled the potential comers.

In fact, the community itself has publicly admitted to serious existential problems within its ranks: 'What we need most is somebody with fresh ideas to attract more Jews to join the Jewish community

of Slovenia. We know there are many people who are still not interested in being part of the Jewish community. We are often at a loss for ideas on what to offer them. As our young people grow up and get jobs, the pool of willing volunteers for our programmes is dwindling. In a few years, we may find ourselves facing a real lack of volunteers. We have few young members and absolutely no experience providing them with activities. Some of the children are interested in a Sunday school, but none of us are qualified to teach. We definitely need somebody to educate us on how to educate others.<sup>63</sup>

In his research on the Slovenian Jewish community, Lenart Kodre addresses the so-called Jewish revival on the Slovenian scene. His interviews have shown that ‘three quarters of those who participated in the survey celebrate at least one Jewish holiday, but observance of Sabbath and of the strict laws of the Torah are rare. /.../ Only one fifth of the participants in my survey have defined themselves as Jews, and half of them celebrate Christmas in some form. Mixed marriages remain an issue: more than half of the participants have a non-Jewish partner.’<sup>64</sup> Despite a period of vitality, the Slovenian community remains a tiny community with unpromising demographic trends. Some of Kodre’s interviewees point out that it would be an over-statement to talk about a ‘Jewish revival’ in the Slovenian context because it ‘lacks the “traditional” dimension of being Jewish, which had contributed to the perseverance of the Jewish nation and culture throughout history in the first place’. Slovenia is one of the most homogeneous countries in Europe, with assimilation posing a real threat to the Jewish community, which is why it should be the ‘duty of the Jewish community of Slovenia not to allow this to happen’.<sup>65</sup>

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<sup>63</sup> Ibid.

<sup>64</sup> Kodre, 2005, 83.

<sup>65</sup> Ibid., 84.

In November 2007, the Board of Deputies delegation, the representative body of the British Jewish community, met with the Slovenian Ambassador, H.E. Iztok Mirosic, at the Slovenian Embassy in London, to discuss a range of issues of concern to British Jews and the world Jewry. Leading the delegation was Flo Kaufmann JP, Vice President of the Board of Deputies and Chairman of the Board of the European Jewish Congress. Among other topics, Flo Kaufmann explained that the Slovenian Jewish community is an ageing one, and would benefit from a community centre/old people's home financed by the restitution money.<sup>66</sup>

This suggestion brings up the scenarios on how to use the financial compensation or restitution of the Jewish assets to refresh the communal life. Interestingly, there is a document dating from 2006, drafted by a (here anonymous) member of the executive board of the Slovenian Jewish community, which briefly comments on the idea of a home for the elderly. The document is called 'Strategija razvoja JSS – osnutek predloga' (Strategic development of the Slovenian Jewish community – draft proposal), which remained a draft and did not go beyond ideas. Still, it shows an individual's vision of what could be done if the community was to receive substantial sums in the restitution process. The document is divided into two sections, one of which lists the presumed financial circumstances, while the other proposes ideas for the development enabled by those circumstances.

According to the document, the expected amount of denationalisation money is 15 million euros. In addition, the Moskovič villa is listed as a property to be returned to the community. This, however, clashes with the information by other sources represented in the text, namely that there are no legal grounds to claim the villa

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<sup>66</sup> The Board of Deputies of British Jews.

as the legal heir had sold it long ago. Apart from that, the sale of the current office and the synagogue are envisaged as available proceeds (150,000 euros), while the other sources of income include donations and membership fees.

The most important part of the document contains ideas about the development of the community. The first step would be to institute the Slovenian Jewish Community as an enterprise with limited liability, entirely owned by the community. Secondly, there would be direct investments of 5 million euros. The biggest project would be the renovation of the Moskovič villa, which could host a number of vital communal institutions: a synagogue (plus *mikveh*), a simple kosher restaurant, a kindergarden for both members and outsiders, a library and bookshop, a youth hostel, a printing house, and the Community office.

The money remaining from the direct investments would be used to establish another Jewish restaurant in the centre of Ljubljana, set up a development fund for the businesses and other projects of the community members (managed directly by the community), and, finally, create an information system (computers, software) to carry out the various activities and projects. The indirect investments are supposed to amount to 10 million euros, including investments into foreign and domestic funds (5 million euros each) and into the domestic blue-chip companies (150,000 euros). The development document likewise envisions activities in the field of *tzedaka*. Moreover, its author comments on the then president's idea to establish an old people's home for both community members and non-members. Rather than development-oriented, he perceives it as a final blow to the community's future.

Given the current situation and negative developments within the Slovenian Jewish community, such plans have been shelved and will remain so for some time.

## 5. Conclusion

Of all the studies and inventories of the Jewish property in Slovenia done so far, two are obviously seen as the most critical: those by the Institute of Contemporary History (commissioned by the government) and by the Institute for Ethnic Studies (commissioned by the WJRO but unfortunately still not available to the public or for the current study). In its work plan for 2011, the World Jewish Restitution Organisation reports about the tasks related to Slovenia: 'Meet with government officials regarding the following: (a) Appointment of government representatives to address issue of property restitution; and (b) Review and reconcile the two reports on confiscated property (prepared by the WJRO and the government) as basis for restitution negotiations.'<sup>67</sup>

According to the report by the US Department of State (International Religious Freedom Report 2010), 'there had been no restitution of Jewish communal and heirless properties confiscated or nationalised during and after World War II'.<sup>68</sup> This statement shows a polarity in the perceptions of the different actors dealing with the restitution in Slovenia. The official position of Slovenia, according to the governmental reports, is that the communal property has already been returned to the Jewish community and the private property to its legal successors, both on the grounds of the denationalisation law.<sup>69</sup> In fact, however, the question of heirless Jewish property calls for a political decision, that is, a law

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<sup>67</sup> World Jewish Restitution Organisation.

<sup>68</sup> U.S. Department of State, 2011a.

<sup>69</sup> Klemen Jelinčič Boeta, commenting on the reliability of the reports prepared so far, said that the Jewish community attaches no value to the reports on Jewish property conducted or commissioned by the government. They are considered unfair and biased.

specifically regulating the restitution of Jewish property, as the latter is not addressed in the current denationalisation law.

It is evident that the restitution of Jewish property in Slovenia remains a highly political and sensitive issue, with obstacles to transparency and accessibility caused by all the concerned parties. According to an anonymous source within the Jewish community, the community, grappling with evident existential problems, is currently not a serious partner to the government in the restitution negotiations. In the same vein, Jelinčič Boeta claims that as far as the restitution of Jewish property in Slovenia is concerned, it is entirely up to the Slovenian government to settle things by adopting a specific legislation. According to Jelinčič Boeta, the government could, with some good will, finish the process in a short time. But so far the good will has been lacking, or the restitution has not been perceived as urgent (in the light of European recession problems). The current legislation regulating such affairs is, according to Jelinčič Boeta, motivated by fairly nationalistic sentiments and is unfair to Jewish claims. To reach a positive solution, the government should see the restitution of all Jewish property as a matter of its national interest, an act that would gain Slovenia global friends and respect. The lobby of the US government is another factor which could push the Slovenian government to take the necessary steps. The role of the Slovenian Jewish community in the whole scheme is, according to Jelinčič Boeta, negligible. He predicts the status quo in the restitution process to continue for the next couple of years.

To sum up, the Slovenian Jewish community obviously lacks the critical mass and the level of organisation needed to initiate the desired legislative process for a restitution law. The community is not persistently vocal about the issue and has little leverage for a powerful lobby. Due to its insignificant size, it cannot attract sufficient or constant attention from the bigger international actors to



keep up the pressure on the Slovenian government. Effectively, the troubled community is part of a game which it cannot sufficiently control, needing to battle for its own existence.

For the time being, the words of the Slovenian Prime Minister envisioning a spiritually and culturally flourishing Slovenian Jewish community and the WJRO's hopes that the restitution will help rejuvenate Jewish communal life are still remote from reality.

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