



# Foreign & Commonwealth Office

## ESLI: Immovable Property Restitution Conference: 2012

### UK Report

#### Summary

The time is long overdue for all governments to ensure that there are simple, practical, accessible, transparent, and non-discriminatory procedures whereby those who lost property during the Holocaust, or their descendants, may have their claims for restitution or compensation finally and expeditiously addressed.

#### Introduction

1. The British Government is a signatory of the Terezin Declaration of 2009 on Holocaust Era Assets and Related Issues and is committed to implementing its recommendations. A key set of those recommendations addressed the issue of the restitution of immovable (real) property, both private and communal.
2. The British Government strongly encourages all countries to adopt the “Guidelines and Best Practices for the Restitution and Compensation of Immovable (Real) Property Confiscated or Otherwise Wrongfully Seized by the Nazis, Fascists and Their Collaborators during the Holocaust (Shoah) Era between 1933-1945, Including the Period of World War II” (The Guidelines) agreed at Terezin in 2010.

#### UK Practice

3. In December 1997 a conference was held in London at Lancaster House on Nazi Gold. It was attended by 240 delegates from 40 countries. The British Government announced a scheme designed to compensate victims of Nazi persecution, and their heirs, whose assets had been confiscated under the UK’s wartime trading with the enemy legislation. The Enemy Property Payments Scheme was launched in April 1999. When the scheme closed in July 2004 there had been 377 successful claims, with payments of £16.2 million.
4. The Spoliation Advisory Panel was set up in 2000 to help resolve claims on cultural property lost during the Nazi era and now held in UK national collections. It considers claims under Section 3(2) of the Holocaust (Return of Cultural Objects) Act of 2009. This Panel considers both legal and non-legal obligations, such as the interests of fairness. Its proceedings are an alternative to litigation, and its

recommendations are not legally binding on any parties. However, if a claimant accepts the recommendation of the Panel, and the recommendation is implemented, the claimant is expected to accept this as full and final settlement of the claim.

## UK Concerns

5. The British Government recognises the efforts made by many governments in Europe since the end of World War II to resolve these hugely complicated issues. But the British Government greatly regrets that there are still many claimants across Europe who have never had their claims properly addressed. There are some claimants now living in the United Kingdom who still seek justice in respect of property taken from them or their close relations in other parts of Europe.
6. The Guidelines are a set of legally non-binding but morally important guidelines and best practices which countries may draw upon when developing their own national programmes or legislation for addressing or revisiting matters of compensation and restitution. The central thrust of the Guidelines is that the procedures for the filing of claims should be accessible, transparent, simple, expeditious, non-discriminatory, uniform and not subject to burdensome costs. Access to government or commercial archives and records is essential. Mediation and arbitration can play a constructive and healing role.
7. Restitution to local communities of communal property used in the past for religious or communal social purposes has proved to be in some countries an easier proposition than restitution of private property, homes, land or commercial property. But protection of both communal and private rights is an essential part of democratic societies and enshrined in many documents of contemporary domestic and international law.
8. The barriers to justice vary from country to country. In some they are due to past or present inadequacies in the administration of justice. In others they arise from the unpredicted consequences of arbitrary dead-lines. Sometimes they reflect severe economic pressures. Sometimes there is a lack of political consensus. But as long as the legitimate claims of Holocaust survivors and their descendants are thwarted by interminable and impenetrable court proceedings or other barriers to information and fair process, final closure and full reconciliation are impossible.

## Conclusions

9. All the countries which have endorsed the Stockholm Declaration of 2000 and the Terezin Declaration of 2009 have publicly committed themselves to resolving the outstanding issues in the interest of ensuring that the experiences and lessons of the Holocaust are never denied and never forgotten. Most of the signatories to Terezin have also adopted the European Convention on Human Rights (ECHR), and Article One of the Protocol states: "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his

possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.”

10. This review conference is an opportunity for participating governments to agree on practical steps that they could now take to facilitate a settlement of outstanding claims.

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