

Restitution in Estonia

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After its independence was restored in 1991, Estonia also reinstated the continuity of the right of ownership. The return of unlawfully expropriated property, or restitution, was made possible by the fact that Estonia regained its independence on the basis of its own legal continuity. The property reform that took place involved all of Estonian society and for the most part happened over a very short time, utilising existing state structures. The impetus behind the property reform was the desire for justice of a people that had just been liberated from Soviet occupation as well as the dream of restoring Estonia to the country it once was. Property reform, which had the support of a majority of the people, created a firm foundation for economic reforms in Estonia and guaranteed a rapid transition to a market economy.

During the first few years of the Soviet occupation in Estonia (1940-41 and after World War II), land, real estate, and industrial and agricultural assets were entirely nationalised and/or collectivised by the Soviet regime. Around the time that national independence was restored in the early 1990s, a majority of Estonian political forces supported the idea that unlawfully expropriated property must be returned to former owners and their successors (re-privatised). The principles of restitution were established by the Parliament in the Principles of Ownership Reform Act adopted in 1991 and the major aspects of the restitution of land in the Land Reform Act of 1991.

The general principles of restitution foresee the return of and compensation for unlawfully expropriated (nationalised, collectivised, abandoned during mass repressions, etc.) property to former owners and their successors, provided that it does not infringe on the interests of other persons that are protected by law. When the natural return of property is regarded as not possible, or the entitled subjects do not claim it back, the state compensates the subject for the property by issuing compensation bonds ⁽¹⁾ – dematerialised securities redeemed by the state mainly through the process of the privatisation of dwellings, land, shares and assets of companies, etc.

The individuals entitled to restitution are the former owners of unlawfully expropriated property and their descendants. Restitution laws state that property will be returned or compensation given to owners that were Estonian citizens or organisations or religious groups that were active in Estonia at the moment of Estonia's occupation, 16 June 1940, assuming that their chartered activity has been restored. Those entitled to restitution may be natural or legal persons as well as local governments or the state itself. The later citizenship and country of residence of the owners of the property and their legal successors or descendants do not matter. The property that is subject to return and compensation was illegally expropriated between 16 June 1940 and 1 June 1981 – this includes the private and communal property confiscated primarily from the Jewish community⁽²⁾ by Nazi German occupation authorities between 1941 and 1944.

In returning illegally expropriated property to Jewish individuals or Jewish organisations, Estonia has followed the same regulations that are in place for returning all illegally expropriated property. In all cases, a resolution has been found that satisfies all parties and there are no disputed cases. ⁽²⁾

Some examples of the return of illegally expropriated property to Jewish organisations:

- The Estonian Jewish congregation applied for and got back the property located at Karu 16 along with the building of the former Tallinn Jewish Secondary School. The process took place in accordance with the regulations foreseen by law and was completed without obstacles.

The Estonian Jewish School (a public school) now functions in the building. The annex built on the property in 1970 was purchased by the Estonian Jewish Community in 1998. Following renovations a temporary synagogue and community centre were opened in the annex. In 2007 a new synagogue was opened on the eastern end of the property.

- The Estonian Jewish congregation applied for the return of the Tallinn synagogue property located at Maakri 5. The Tallinn synagogue, which was damaged in the bombings of March 1944 and destroyed following World War II, was located in an area where the street network and positions of properties have changed significantly (partially on Rävåla Street, where the B-building of the Tallinna Kaubamaja shopping centre is located and behind it). Taking these circumstances into consideration, it was decided to compensate the congregation with Estonian privatisation vouchers.

- The Jewish community of Tartu applied for the return of the property of the Tartu synagogue on Turu Street, the property of the Tartu Jewish School on Aleksandri Street, the property of the old Jewish cemetery on Roosõ Street, and the Jewish cemetery in Lohkva in Luunja township. Both cemeteries were returned in accordance with the appropriate procedures. The Tartu synagogue and Tartu Jewish School were destroyed during the war. The property of the Tartu synagogue was compensated with Estonian privatisation vouchers, as the property borders in that area had not remained the same due to changes in the street network. The borders of the Tartu Jewish School had remained the same but the return process was complicated by the fact that the territory was being used by a rescue unit. The Rescue Board was unwilling to give it up because the only access to the rescue unit's building was located on the property that was to be returned. After long negotiations, the property was returned and the Rescue Board then bought it back.

The total number of parties entitled to restitution was 230 000 (18% of the present population of Estonia), among them about 13 000 foreigners. The real procedures of returning and compensating property began in 1991 and by now the massive process of restitution has mostly been completed. There are still some complicated restitution proceedings and court cases that may last several more years.

Most of the property to be returned or compensated fell under the category of land⁽³⁾ (urban, agricultural, forest, etc.), which made up 86% of the total value of all returned or compensated assets. By today 1.50 million hectares of agricultural and forest land and 28 million square meters of urban plots have been returned (about 99.5% of the estimated final target); people have also received compensation for 1.2 million hectares and 107 million square meters of the land that was nationalised in 1940. The compensation value of the land was determined by the land taxation price for 1993. Former farmlands and plots under new urban areas were not returned, only compensated. As a result of extended urbanisation during the last decades a significant portion of agricultural land was not claimed back and remained free for privatisation.

In addition, buildings (mostly dwellings) determined to have retained their original form have been returned together with former plots. Destroyed buildings, ships, and industrial and agricultural assets have mostly been compensated for. The shares of companies were compensated but other kinds of securities and legal obligations were not. About 1 000 restitution claims out of 140 000 (less than 1%) have still not been satisfied.

Today the process of restitution has slowed down because of legislative changes and inconsistencies in carrying out the restitution policy by the successive governments, but even more so due to numerous long-time lawsuits.

The most significant social conflict in the process stemmed from the return of rental houses, which placed both the new owners and the tenants in a difficult position. The former needed considerable resources to recover their property, but the latter were often not capable of paying higher rent or moving to another residential space. However, the situation seems to have abated with the help of soft loans and subsidies provided for housing construction and the resettlement of tenants.

Troublesome political and juridical discussions also arose regarding whether the real property of the Baltic Germans who left Soviet-occupied Estonia in 1941 (the so-called post-settlers - die Nachumsiedler) should be returned to them on equal grounds with Estonian nationals or not. The problem has technically been settled for the time being. In October 2006 the Supreme Court decided that the former post-settlers must be treated equally to other subjects entitled to restitution – i.e. all persons who were citizens of Estonia on 16 June 1940 and whose property was illegally expropriated. The Court also stated that their restitution claims must be reconsidered by the local commissions and addressed by local governments.

⁽¹⁾ The universal dematerialised Privatisation Vouchers (PV) have two different origins: the Popular Capital Obligations (PCO) issued to all residents of the Republic of Estonia according to their length of employment, and the Compensation Bonds (CB) issued as compensation for illegally nationalised property. The freely tradable PVs were noted by the Tallinn Stock Exchange. Their market price has fluctuated within a wide range and is currently about 90 percent of their nominal value during their last few years of use. The PVs have been immobilised since 31 December 2006 and the unutilised vouchers are to be disbursed according to their nominal value. Since then, outstanding compensations have been paid out in cash.

⁽²⁾ During his visit to Israel in July 1998, then Foreign Minister Toomas Hendrik Ilves met with deputy chairman of the World Jewish Restitution Organization Naphtali Lavie, who gave the Republic of Estonia the following official assessment by the organization: Estonia is the only country in Eastern Europe to which the WJRO makes no demands.

⁽³⁾ The total land area of Estonia is 4.2 million hectares. Before World War II 3.1 million hectares of land were privately owned and the rest (state forests, wetlands, coastal areas, etc.) belonged to the state.