

1-1-2018

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Branko Lakic

Haris Dajc

Recommended Citation

Branko Lakic and Haris Dajc, *The Holocaust and Restitution in Serbia: Confiscation of Jewish Property in Serbia*, 41 Loy. L.A. Int'l & Comp. L. Rev. 607 (2018).

Available at: <https://digitalcommons.lmu.edu/ilr/vol41/iss3/18>

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The Holocaust and Restitution in Serbia: Confiscation of Jewish Property in Serbia

BRANKO LAKIĆ*

HARIS DAJČ**

Before World War II (“WWII”) Yugoslav Jews were living all across the Kingdom of Yugoslavia, primarily in urban centers. Across Yugoslavia, there were 136 local Jewish communities, the majority of which were located in the biggest cities of Yugoslavia. The largest Jewish communities were in Belgrade, Zagreb and Sarajevo.¹ To be able to understand the process of the confiscation of Jewish property, it is important to divide it into two periods: first, the time the war reached Yugoslavia in April 1941 when Jewish property was the target of the Aryanization; and later, when the property was again taken as Jews, as well as other parts of society, were seen as *class enemy*.²

The year 1941 was the crucial year when relations towards “life” of Jews changed. After April 1941, the Kingdom of Yugoslavia ceased to exist, and Belgrade became a seat of German military administration. Even before the German military entered Belgrade, the representative of *Sonderkommando Jugoslawien ERR (Einsatzstab Reichsleiter Rosenberg)*, SA-Obersturmbannführer Dr. Gustav Berger and his associates arrived from Croatia and started the “unscrupulous raids into Jewish institutions and religious objects, confiscating archives of Jewish organizations and member lists of Jewish community.”³

* Director for Coordination and Supervising, Agency for Restitution, branko.lakic@restitucija.gov.rs

** Assistant Professor, University of Belgrade Faculty of Philosophy, Chairman of the Supervisory Board for the Law on Restitution of Jewish Property with No Legal Heirs, hdajc@f.bg.ac.rs

1. To learn more about Jews in Yugoslavia and Serbia, see HARRIET PASS FREIDENREICH, *THE JEWS OF YUGOSLAVIA* (1979); PAUL BENJAMIN GORDIEWJEW, *VOICES OF YUGOSLAV JEWRY* 39-42 (1999); ŽENI LEBL, *DO ‘KONAČNOG REŠENJA’ JEVREJI U BEOGRADU 1521–1942* (2001).

2. See Nikola Samardžić, *Nacionalizacija, konfiskacija i restitucija: Istorijska, pravna i političkapitanja*, 2 LIMES PLUS 9-11 (2014) (Serb.).

3. See Haris Dajč & Maja Vasilejvić, *Kretanje nepokretne imovine beogradskih Jevreja kao posledica Holokausta*, 2 LIMES PLUS 139, 144 (2014) (Serb.); Milan Ristović, *Pljačka umetničkog*

From the very beginning of the occupation, the German military administration started their solving of the Jewish issue by founding *Einsatzgruppe der Sicherheitspolizei und des Sicherheitsdienst* (EG Sippo und SD) that comprised *Judenreferat* and special committee for Jews.⁴ To enable seizing of property, it was necessary to list Belgrade Jews and their property. The Germans received approximate information on the Belgrade Jews and their property from *volksdeutsch*, even before they entered Belgrade in April 1941. After that, on April 16th of the same year, an order was given that all Jews from Belgrade report to authorities no later than April 19th.⁵

In the years prior to 1941, Germans gained control of the highest share among the foreign capital in the privately-owned banks of the Kingdom of Yugoslavia (62 percent) and were also able to control the state credit policy.⁶ Because of that control, the Germans had a very clear look at Jewish capital in the banks.

In the period from April through August 1941, Jews were registered and marked with yellow ribbons. Registering lasted only three days and, at first, 8,500 Jews in Belgrade were registered.⁷ (Ristović 2008, 174). But, according to the final list from June of the same year, the figure reached 9,145 Jews out of the 12,000 estimated to live in Belgrade before the war. The German authorities, and the collaborationist authorities of the NDH, as well as those in Belgrade (under death threat), required Jews to enlist and declare all of their property. Lists made at that time are one of several important sources that give insight into Jewish private property at the beginning of the war. In occupied Serbia, as a part of the “final solution of Jewish issue,” Germans unsparingly robbed and forfeited property, deporting and liquidating owners. The person in charge of Jewish property was the representative General for commerce in Serbia, Franz Neuhausen, and money from sales of Jewish property ended up in his account. Jewish property was bought primarily by members of the German minority and privileged individuals from the Serbian state

i kulturnog blaga Srbije u Drugom svetskom ratu i problemi njegove restitucije: nekoliko fragmenata, 20 ISTORIJA 65, 71-75 (2001).

4. See Dajč & Vasilejvič, *supra* note 3, at 144-45.

5. See Jovanka Veselinović, *Spisak Jevreja i supružnika Jevreja koji su prema naredbi Vojnog zapovednika u Srbiji od 30.maja 1941. podneli Opštini grada Beograda prijave o imovini*, 6 ZBORNIK JEVREJSKOG ISTORIJSKOG MUZEJA, 377-79 (1992).

6. See Vesna Aleksic, *The Political Role of Financial Institution*, 2 LIMES PLUS 51, 52-54 (2015) (Serb.).

7. Milan Ristović, *The Persecuted and Their Abettors: Solidarity and Help for the Jews in Serbia 1941-1944* (English translation), in MUSEUM OF GENOCIDE VICTIMS, ISRAELI-SERBIAN ACADEMIC EXCHANGE IN HOLOCAUST RESEARCH; COLLECTION OF PAPERS FROM THE ACADEMIC CONFERENCE, JERUSALEM – YAD VASHEM JUNE 15-20 2006, 209, 214 (2008).

administration.⁸ In the summer of 1941 many bylaws, decrees and orders were issued in Public Gazette (*Službene novine*) and in the daily New Time (*Novo vreme*) that deprived Jews (and often Roma) of all kinds of liberties and rights.⁹

Apart from excluding Jews from firms, occupation and civil authorities (Nedić's "Government of national salvation") in Belgrade showed interest in the property of members of the Jewish community, even that property belonging to deceased Jews or those sent to concentration camps. Besides the continual searches Nazis were performing for musical manuscripts, (i.e., documents, manuscripts related to music, and national and classic instruments), an insight into the activity of the Reich Culture Chamber (*Reich Kulturkammer*) and similar institutions gives the basis for the assumption that they mostly focused on visual arts, paintings, and sculptures.¹⁰

German troops started plundering Jewish property and occupying the flats and houses of Jewish owners in Belgrade as early as April 13, 1941, just one day after Germans entered the city. Furniture, artwork, and merchandise from warehouses of Jewish stores were taken to special warehouses. Members of other military units joined in this plundering, along with members of the German minority that would later be given posts as commissaries in shops and companies seized from their "non-Arian owners."¹¹

At the beginning of May 1941, the German military commander for Serbia ordered the seizure of Jewish deposits and other valuables from banks. After listing members of the Jewish community and banks' control over their property, it was necessary to obtain precise lists of property, as was done according to "Order No. 7" of the military commander in Serbia at the beginning of May 1941. On May 31, 1941, the "Bylaw regarding

8. See Dajč & Vasilejvić, *supra* note 3, at 145-146.

9. See, e.g. Principal Bylaw on University (Milan Nedić et al., s. r. *Službene novine*, October 21, 1941), reprinted in OLIVERA MILOSAVLJEVIĆ, POTISNUTA ISTINA: KOLABORACIJA U SRBIJI 1941–1944 188 (2006) ("Jews and Gypsies may not write, publish, or print books of any kind"); Deleting from Lawyers Directory (Bar Association in Belgrade, *Službene novine*, October 10, 1941), *id.* at 186 ("In accordance with regulation 5 of Order of Military commander in Serbia related to Jews and Gypsies of May 30 1941 . . . The council of Bar Association in Belgrade at its session of July 30 1941 made decision that all Jews lawyers by May 30 1941 should be deleted from Lawyer's directory, while, in accordance with . . . Law on lawyers, later on their successors should be appointed.); Bylaw on Printing Books and Documents (Military Commander in Serbia, *Novo vreme*, July 23, 1941), *id.* at 155 (" . . . Jews, Gypsies, or who is married to a Jew or Gipsy, generally can neither write promotional documents or books of any kind, nor publish and print them.").

10. See Nikola Šuica, *Nestanak jevrejske kulture i umetnosti*, in 2 ISTORIJA UMETNOSTI U SRBIJI XX VEK: REALIZMI OKO HLADNOG RATA 145, 149-56 (2012).

11. See Dajč & Vasilejvić, *supra* note 3, at 146-47.

Jews and Gypsies,” was issued, which forbade members of those groups from working in all public services and occupations, accessing public shops, and using public transportation.¹² The Bylaw also ordered that, “Jews and their spouses must, within ten days and through appropriate municipality (as per place of housing or residence), report to Regional command all their property with notes where it is situated.”¹³ Through this Bylaw, all Jewish property was seized. The government insisted Jewish citizens report their place of housing, and their property with notes on its whereabouts.¹⁴

The culmination of the manipulations of Jewish property was a bylaw by the Ministerial office of General Milan Nedić from August 26, 1942, by which all Jewish property was “bestowed” on Serbs, while the Srpska Narodna Banka and the Državna Hipotekarna Banka, the institutions entrusted to sell the property, paid the German authorities more than 360 million dinars as compensation for damages that the “Germans suffered due to the war against Yugoslavia.”¹⁵

During the Holocaust, approximately 80-85 percent of the Jewish population of Yugoslavia was murdered. Only some 15,000 Jews remained in all of Yugoslavia at the end of WWII.¹⁶ However, this new reality did not bring much improvement to survivors. In order to properly estimate the legal and material position of Jews in the contemporary state of Serbia, it is necessary to understand the social-historical context of property deprivation that took place after 1945. In that period, the legal-material status that Jews found themselves in is crucial for understanding their situation after civil wars in Yugoslavia in the 1990s.

Understanding the legal and material position of Jews must be seen from the aspect of unsolved ownership legislature from 1945 to this day.¹⁷ In Eastern Europe, including Yugoslavia, the defeat of Nazism brought liberation, but soon different totalitarian regimes took control, and Yugoslavia was not an exception.¹⁸ In the years immediately after 1945, the Second Yugoslavia “sovietized” at a faster rate than other Eastern European countries. The advantage of Tito and his communist

12. *See id.*

13. *See* Šuica, *supra* note 10.

14. *See* Nikola Živković, *Građa o pljački jevrejske movine u Srbiji i Banatu za vreme II svetskog rata*, 3 ZBORNIK JEvrejskog ISTORIJSKOG MUZEJA, 277, 279-84 (1975); *see also* Veselinović, *supra* note 5, at 380-405.

15. *See* Dragan Aleskić, *The Sale of Confiscated Jewish Immovable Property in Serbia during World War II for Financing War Damages to Germans*, 2 LIMES PLUS 26, 30-33 (2015) (Serb.).

16. *See* GORDIEWJEW, *supra* note 1, at 39-42.

17. *See* Goran Ilić, *The Military Judiciary in the Post-War Years*, 2 LIMES PLUS 141, 145-53 (2014) (Serb.).

18. *See* Samardžić, *supra* note 2, at 8-16.

authorities was the absence of Soviet troops, which gave the new Yugoslav authorities direct legitimacy in decision making. Immediately after the liberation, the new authorities performed a census and returned property to those who survived the Holocaust.¹⁹

The New Yugoslavia proclaimed a classless socialist society. Jews that belonged to the “class enemy” were regarded as class enemies and their property was nationalized.²⁰ Surviving Jews that received back their private property had it returned as a result of the annulment of all the laws and bylaws passed anywhere in the territory of Yugoslavia after April 1941.²¹ “However, even then complete property was not restituted, since courts had discretion to give a family, a person, or their successors a part of the property, while ‘the surplus’ would remain property of the State directorate of national property—DUND.”²²

The situation changed quickly as the first set of laws that would lead to wide nationalization and confiscation of the property started in 1946 with agrarian reform and colonization.²³ For surviving Jews, the Law on Confiscation and Nationalization of Private and Commercial Enterprises was significant, for it meant the mandatory takeover by the state and ruling structures of either the whole or part of a property.²⁴ “In that way, large parts of private property became state property.”²⁵

The formation of the state of Israel in 1948 brought a new wave of migrations and the reduction of the Jewish community in Yugoslavia. During the period of 1948 to 1952, around 7,000 Jews left Yugoslavia and some 6,200 Jews remained.²⁶ Immigrants to Israel had to renounce Yugoslav citizenship and their property in Yugoslavia. This compelled renouncement was aimed at deprivation of immovable property, which became clear after the Law on Nationalization was passed. All Yugoslav citizens who switched to other citizenships, in accordance with the Law on Nationalization of Private Enterprises of 1948, lost their ownership.²⁷

19. See Aleskić, *supra* note 15, at 27-31; see also Haris Dajč, *Jews of Former Yugoslavia and Their Decline After Wars in Yugoslavia: Legal and Material Positions in Serbia, Croatia and Bosnia & Herzegovina 1991–2016*, 8 BELGRADE HIST. REV. 117, 120-21 (2017) (Serb.).

20. See *id.*

21. See *id.* at 120-21.

22. See *id.* at 121; see also Naida Mihal Brandl, *Jews between Two Totalitarian Systems*, 7 REV. CROATIAN HIST. 103, 113-20 (2016).

23. See, e.g., *Zakon o vraćanju restituciji imovine crkvama i verskim zajednicama* [The Law on Restitution of Property to Churches], No. 46/2006, (Serb.).

24. See *id.*

25. See Dajč, *supra* note 19, at 121; see also Dajč & Vasilejvić, *supra* note 3, at 139, 148-51.

26. See Dajč, *supra* note 19, at 122.

27. See *Zakon o nacionalizaciji privatnih privrednih poduzeća* [Law on Nationalization of Private Enterprises], No. 35/48 (Serb.).

That means that a large portion of immovable property belonging to surviving Jews who emigrated to Israel by 1952 became state property. It is also very important to mention a forgotten manner in which the State authorities organized farce inheritance proceedings for the Jewish property that was given back to owners who previously lost Yugoslav citizenship. They were also not even present in Yugoslavia to initiate or attend the inheritance process, and in that way the State's property fund was getting richer with new properties. Other cases involved situations in which a Holocaust victim could be accused of collaboration during the war and under that excuse the property would be confiscated by the State. For example, the authorities accused Karoly Pollak, who perished in Auschwitz, of being a fugitive and a war criminal. His property in the city of Kula was confiscated in 1946.²⁸

After 1946 more than forty different laws on seizure of property were adopted. All types of property became the objects of nationalization between 1946 and 1968: agricultural land, forests and forest land, factories, apartments, stores and all construction land. According to one of the first laws on nationalization, passed on April 28, 1948, all voluntary societies that were an inevitable part of Jewish life ceased to exist. Despite the statute which declared that property should be transferred to religious-educational Jewish communities in the cities where they were active, the property became state property.²⁹

RESTITUTION IN SERBIA

The restitution process in Serbia has been implemented in several legislative waves, from 1991 to 2016. After the introduction of the multi-party democratic political system, various governments have changed and almost every single one adopted some restitution law. The Government of former president Slobodan Milošević adopted a law in 1991 which enabled restitution of a large part of agricultural land. The Law on Restitution of Property to Churches and Religious Communities was brought in 2006, and made it possible for churches and religious communities to get back 100 percent of taken property.³⁰ The General Law on Property Restitution and Compensation was enacted in 2011 and

28. This information, from the family archives of the late Karoly Pollak's cousin Juda Grinbereger, was provided by Pollak's attorney and with the permission of Grinbereger.

29. *See* Zakon o nacionalizaciji privatnih privrednih poduzeća [Law on Nationalization of Private Enterprises], No. 35/48 (Serb.).

30. *See* Zakon o vraćanju restituciji imovine crkvama i verskim zajednicama [The Law on Restitution of Property to Churches], No. 46/2006, (Serb.).

the legislative frame was rounded up in 2016, with the Special Law on Restitution of Jewish Property with No Legal Heirs.³¹

The 2011 Law on Restitution and Compensation enables returning all types of property in kind (restitution in rem) so far as the claimed property is today in the regime of public property, state property, or local authorities property.³² For the cases when in-kind restitution is not possible, the Republic of Serbia has created a special fund that is worth 2 billion EUR for compensation in money and state bonds. The important part of the 2011 General Law is that it does not make any kind of discrimination, nor does any kind of discrimination exist in its implementation. The best example for this assertion is demonstrated by the fact that it enables restitution of property to foreign citizens under the condition of reciprocity.³³

The Agency for Restitution (the “Agency”), a Serbian Government law enforcement agency, was established in January 2012 in order to proceed with procedures and decisions on claims for property restitution and compensation, implementation of restitution of property for churches and religious communities, and restitution of Jewish property on the grounds of the 2016 Special Law.³⁴ The Agency has received more than 80,000 claims and so far has resolved more than 60 percent of all cases.

Until this moment, the Agency has restituted in kind 4,221 business premises, 825 apartments, 889 buildings, which in total makes 5,935 pieces of property with a total surface of almost 500,000 square meters. The Agency has also returned to former owners and their legal heirs almost 3 million square meters of construction land, 26,679 hectares of agricultural land, as well as more than 5,000 hectares of forests and forest land, which is more than 2 billion EUR worth in property.

In accordance with the 2011 Law on Property Restitution and Compensation, the following property was restituted to Jewish families who today live in Serbia³⁵ and abroad (e.g., Israel, USA, Canada): 82 business premises, 12 buildings, 10 apartments, in total surface of around

31. See *Zakon o otklanjanju posledica oduzimanja imovine žrtvama Holokausta koje nemaju živih zakonskih naslednika* [The Special Law on Restitution of Jewish Property with No Legal Heirs], No. 13/2016, Feb. 19, 2016 (Serb.).

32. See *Zakon o vraćanju oduzete imovine i obeštećenja Republike Srbije* [Law on Restitution of Confiscated Property and Compensation of the Republic of Serbia], No. 72/2011 (Serb.).

33. See *id.* at 4.

34. See *The Special Law on Restitution of Jewish Property with No Legal Heirs*, No. 13/2016, *supra* note 31.

35. See *Law on Restitution of Confiscated Property and Compensation of the Republic of Serbia*, No. 72/2011, *supra* note 32.

10,000 square meters, 111,445 square meters of construction land, and about 861 hectares of agricultural land.

In accordance with the 2006 Law on Restitution of Property to Churches and Religious Communities, which allows 100 percent restitution, the Jewish Communities regained the following property: 31 hectares of land with a total surface of 8,719 square meters of land, which represents around 91 percent of claimed land area and 67.42 percent of total surface area of the claimed pieces of property.³⁶

In accordance with the 2016 Special Law, in just one year, the Agency restituted to Jewish communities: 44 stores, 8 flats, one garage and one building, and 407 hectares of agricultural land, which is very valuable in Serbia.³⁷

The author of this text was a member of the Working Group formed by the Government of the Republic of Serbia, in charge of the draft of the Special Law. This Working Group was in session for a few years, and in February 2016, the Special Law was enacted with maximum support of the Serbian Government and by the National Assembly of the Republic of Serbia—without a single vote against it!³⁸ Public resistance was not present in any form. This law adopted all of the principles of the Terezin Declaration,³⁹ and it represents codification in this area of restitution of Jewish property, including all cases of confiscation of Jewish property from 1941 to 1968. This law empowers the restitution in kind wherever possible, and the Republic of Serbia has determined financial support in the amount of 95,0000 EUR annually for the next twenty-five years as an expression of solidarity with the Jewish people. So far, experience has shown that all the claims of Jewish Communities according to this law can be solved in the next three years, when this process has been irretrievably completed. Although this law was adopted, it is being implemented very efficiently and it can certainly serve as a model for other European countries, most of which are in the EU, and whose major principles should be grounded in anti-fascism and respect of human rights.

This law clearly indicates that the Republic of Serbia and the Serbian people, while not responsible for the Holocaust in any way because they were victims of the Nazi regime, are trying to eliminate the

36. See Vojislava Crnjanski, *Nema nadzora nad parama zrtava Holokausta*, VECERNJE NOVOSTI (Nov. 8, 2017), <http://www.novosti.rs/vesti/naslovna/drustvo/aktuelno.290.html:694661-Nema-nadzora-nad-parama-zrtava-Holokausta>.

37. See Strahinja Sekulić, Speech at the International Conference Unfinished Justice: Restitution and Remembrance at the European Parliament (Apr. 26, 2017).

38. See *id.*

39. See HOLOCAUST ERA ASSETS CONFERENCE, TEREZIN DECLARATION (2009).

property consequences of the Holocaust as much as possible. There is absolutely no need for any state, city or municipality to be the owner of the property whose real owners were killed in the Holocaust. The Holocaust resulted in an immense loss of human life, but its perpetrators also had a hidden motive—the outrageous robbery of Jewish property.

The Serbian experience has shown that the selfless support of the State Department in the form of the Special Envoy for the Holocaust issues has been very significant for the restitution process, as well as the support of the U.S. and Israeli embassies in Belgrade, churches and religious communities, and the non-governmental sector. The excuses saying that restitution is impossible because of the time that passed or a lack of documentation, as well as the objective lack of money for complete restitution, are not and cannot be the reason for not implementing the restitution process. If a country like Serbia can carry out the restitution process, richer countries should also be able to do so.

If we are talking about the consequences of a successful restitution process, the Serbian example shows that restitution has a positive impact on public finances: it is undoubtedly confirmed that each square meter of returned property is bringing bigger, more long-term, and stable income to the central state and local authorities' budgets. It also has an important anti-corruption, anti-monopoly effect: restitution is efficiently removing enormous incomes from the handful of privileged people, monopolists and even organized crime members.

The biggest strength of the privileged monopolists and usurpers is actually due to an undisturbed control and usurpation of real estate under the regime of public property (i.e., cloudy property). The restitution processes, because of its nature, has identified illegal actions with public property in the period of the past thirty years, particularly after the 1990s. The power of the restitution process is to unveil the illegal acts after so many years. Furthermore, it publicly unmask and corrects the consequences by transforming the hidden state property into the private property of the former owner.

The undisputed and safe rights to real estate have been established through the restitution. The investors receive the possibility of free investments in the restituted real estate. Furthermore, there is a message to the future authorities that enforced dispossession, as a form of establishment of a totalitarian regime with a monopoly over real estate, must not be repeated.

More than 10,000 families in Serbia got the chance to work with their property, to become self-employed, or to employ other persons without increasing public debt, by providing the subventions for

employment from the budget. Restituted properties are objects of free transactions and gradually may lead to the establishment of a free market without the burden of influences, monopolies, interests, and any dependence on political and tycoon structures. Furthermore, the restituted real estate is safe, while other real estate—acquired from the state or local authorities, or public companies—are burdened by the control of politicians and political parties.

Therefore, the conclusion is that the Republic of Serbia, although it is not yet a member of the EU and belongs to the poorer European countries, stands as a role model in the property restitution area, and specifically in the restitution of Jewish property.