



# The Legal Status of Jewish Properties after the Second World War<sup>1</sup>

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**Abstract.** The author examines the legislative means by which the Jewish minority in Romania was dispossessed of its assets prior to World War II by the fascist regime and in the wake of this war by the communist regime. The study examines how the post-World War II government wilfully hindered the restitution of unlawfully taken Jewish assets and how it not only allowed the perpetuation of the dispossession which took place during the Holocaust but also added measures for the nationalization of Jewish assets. The post-1989 restitution process is also examined briefly to outline the successive failures of the Romanian Government to enact proper restitution.

**Keywords:** Jewish minority in Romania, Holocaust, dispossession of assets, nationalization of assets, fascist regime, communist regime

## 1. Introduction

The issue of Jewish property in Romania dates back to the period preceding the communist regime, and it continues to be of relevance to this day.

For the Jewish population of Romania, the development and creation of Greater Romania represented the granting of civil rights obtained upon the enrolment of Jews into the Romanian Army in the 1916–1918 campaign, the Balkan wars, the War of Independence, and enshrined in the Constitution from 1923 on the one hand, while a gradual increase in different anti-Semitic trends thereafter transformed into veritable discrimination and exclusion measures, population dislocations, forced deportations, and mass murder on the other hand.

Beginning with 1938, the implementation of an active anti-Semitic policy may be observed in Romania through numerous regulations and measures affecting the

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<sup>1</sup> This study is an expanded version of the author's lecture presented at the conference with the title *Changes in the Ownership of Church Property in Romania* organized by the Balassi Institute – Hungarian Institute Bucharest on 10 February 2020.

Jewish population, imposed by the Goga-Cuza government, by the governments of the royal dictatorship, or by the authorities of the Antonescu dictatorship.

## **2. State-Sponsored Anti-Semitic Measures of the Interwar Period and Their Effects**

Active anti-Semitic policies started during the royal dictatorship through Law no. 169 passed by the Goga-Cuza government on 21 January 1938 on the revision of citizenship for members of the ethnic Jewish minority, signed into law by Carol II of Romania and the President of the Council of Ministers, Octavian Goga. Practically, 225,000 of the 750,000 Jews living in Greater Romania lost their citizenship in this way. This act affected hundreds of thousands of Jews who gained citizenship after 1919, mostly Jews from Bukovina and Bessarabia. The loss of citizenship would later allow their deportation to Transnistria during 1941–1942, which claimed a disastrous toll in lives. As a result of these anti-Semitic actions, many Jews converted to Christianity in order to escape persecution, especially in Transylvania and Banat.<sup>2</sup>

On 8 August 1940, Carol II of Romania approved Decree-Law no. 2650, elaborated by the Ion Gigurtu government, on the legal status of Romania's Jewish inhabitants and Decree-Law no. 2651 on the prohibition of marriages between Romanians by blood and Jews. These are the first race laws of an overtly fascist nature which limited the civil rights of the Romanian Jewish population.

Pursuant to the Decree-Law of 8 August 1940, Jews could not obtain ownership over rural properties or rural industrial enterprises in Romania. This decree was amended by Decree-Law no. 3347 of 5 October 1940, which denied Jews the right to own, acquire, or possess rural properties in Romania under any title or quality. Rural properties, together with their entire inventory, dead or alive, grain and nutrient stocks passed into state ownership. Practically, economic Romanianization entailed the transfer of goods into state ownership and administration and then into the property of ethnic Romanians.

Anti-Jewish legislation applied in Romania between 1940 and 1944 was abolished by Law no. 641 of 19 December 1944.

In his book with the title *The Economic Destruction of Romanian Jewry*, Jean Ancel mentioned that: 'Committed "without receipt" and by employing force, torture, arms and bats, the theft of Jewish property by the Legionnaires has never been truly evaluated.'<sup>3</sup>

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2 Stan 2012. 66.

3 Ancel 2007.

The Jewish population of Romania was practically reduced by half after the war. Of the 780,000 Jews in 1938, the number of Romanian Jews had decreased to approximately 375,000 by 1945, increasing to 420,000 in 1946 due to the numerous Jews deported from different countries, who temporarily settled in Romania.

*Law no. 641 on the Abolition of Anti-Semitic Legislative Measures* answered most of the Jewish demands of the time:

- reinstatement to their previous workplaces (from which they were laid off, starting with September 1940); readmission to chambers of liberal professions: education, health, the bar association;

- annulment of sales contracts concluded under duress.

In the document *Note regarding the Echo Produced by the Laws on the Amendment of Law no. 19 of December 19, 1944 on the Abolition of Anti-Semitic Legislative Measures*,<sup>4</sup> it was pointed out that Law no. 641/12.19.1949 had caused serious disturbance and agitation both within the Jewish population and within the entire democratic public opinion of the country, while the decrees of 24 April 24 and 4 May 1945 were diametrically opposed to the solutions adopted on 19 December 1944, comprising provisions that seem to have stemmed from manifest hostility towards Jews, victims of dispossession regimes applied by the National Romanianization Council (NRC), and to protect the beneficiaries and profiteers of those regimes.

### **3. The Aftermath of the Abolition of Anti-Jewish Measures – Nationalization Instead of Restitution**

The law on the abolition of anti-Semitic legislation was the result of a compromise between the Rădulescu government and the representatives of the Liberal and National Peasant Party, and it provided for regaining occupancy over homes Jews were evicted from by means of a judicial procedure. However, to this end, moving deadlines were granted to certain categories of National Romanianization Council tenants, and these deadlines were later not complied with. Jewish clerks could be reintegrated to their previous jobs only through a judicial procedure and only within the limits of the capacity of the enterprise concerned.

The restitution of incomes collected by the NRC, the payment of sums owed for sold, destroyed, or consumed goods as well as compensation of any kind and the sums that the state – if governed by the rule of law – might have owed with any

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<sup>4</sup> Document reference number P000218\_011, Pătrășcanu and other war criminals, People's Tribunal.

title to members of the Jewish population were postponed for an indeterminate period.

The Ministry of Justice postponed the moving deadline to 23 April 1945, stating that this was a unique and exceptional deferral measure. However, at the beginning of April, Minister Nicolau made a statement in the name of the Government at a meeting held in the Izbânda Room and thereafter broadcast to the media, declaring that the deferral deadline for NRC tenants was postponed to 11 May 1945 due to the Easter holidays.

Contrary to the statement made on 24 April 1945, Decree-Law no. 314 on the application of articles 39 and 42 of Law no. 641/1944 was passed, which granted the NRC tenants the right to move not only into the homes occupied by Jews as tenants but also into homes where they were only tolerated. The punishment provided for resisting the measure was a fine of 1–5 million lei or correctional imprisonment from 6 months to 5 years.

On 4 May 1945, the law regulating the relationships between owners and tenants was published in the Official Journal of Romania, which granted the majority of NRC tenants the right to renew their lease agreements for another year, until 23 April 1946, and thus court decisions pronounced for the reintegration of Jewish tenants were annulled.

These laws increased the disquiet of the Jewish population, whose members considered that their legitimate rights were now being disregarded. Almost all lawsuits based on Law no. 641/1941 were retried.

Instead of causing remorse in those who expelled the Jews from their homes, the laws that granted privileges to profiteers caused remorse in those who did not take advantage themselves of the benefits granted by the NRC.

On 15 November 1945, Dr W. Filderman, President of the Union of Romanian Jews, and Attorney-at-Law Emil Focșăneanu were heard by the Ministry of Justice, Lucrețiu Pătrășcanu, where they presented a memorandum concerning the provisions of Law no. 314 of 24 April 1945 that allowed compulsory subrogation in favour of all NRC members. Filderman also requested the amendment of the Law on invalids, orphans, and widows of war in order to allow the assimilation of invalids and their survivors, victims of the massacres in Iași and Bucharest, as well as of invalids and the survivors of persons deported from Transnistria to invalids of war for purposes of their retirement.<sup>5</sup>

Jewish reactionary circles took advantage of this change in attitude of the Government towards the Jewish problem, causing distrust among Jews towards equality between nationalities. Distrust in internal political factors directed the attention of some Jewish people to external support.

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5 Document reference number 3690074\_03003927, 15.11.1945 Filderman to Pătrășcanu, Disk no. 3, Filderman Fund, Yad Vashem Institute.

The reinstatement of Jews to their rights was slow and partial, followed by a long chain of lawsuits. Since many properties had been abusively taken over and people had left their homes without having the right to take anything from them, many Jews were not able to prove their ownership with documents in areas where no land registers existed. The issues of assets left without heirs (those who never returned from deportation) and of granting legal status to the survivors of pogrom victims and to victims of deportation to concentration camps have remained unresolved. Many did not receive any help with recovering their homes or with their reconstruction, which resulted in several lawsuits. Since up to 2019 most of the archives were classified, the exact number of lawsuits filed between 1945 and 1948 is not known.

However, between 1944 and 1948, Romanian Jews were financially aided by the Joint Distribution Committee (JDC) to rebuild their synagogues, ritual baths, to build cafeterias, and to distribute aid during the 1946 drought, including to the Romanian population.

Communism declared itself to be a new civilization, superior to capitalism, considering itself the embodiment of ‘absolute humanism’, a society free of any distinction on grounds of class and in which people could live in complete freedom.

Discussions and promises regarding *restitutio in integrum* had not yielded any results, but Jews were employed – for the first time – in the state apparatus because they did not have a fascist past and they had professional qualification. However, their access to state jobs was not well received as they were considered usurpers. Jews were gradually integrated into Romanian cultural life.

Lacking popular support, the Romanian Communist Party adopted the *national front* strategy between 1944 and 1947, accepting to function within the framework of a multi-party political system, gradually abolishing all political structures, including the structures of minorities, until 1963.

On 29 November 1947, the UN voted the creation of a Jewish state, Eretz Israel. The instability following the famine and the fear of war determined the Jewish population to massively immigrate to this new state of Israel.

In 1948, the communist regime issued Decree no. 113 of 29 June 1948 on assets left behind Jews who fell victims to persecution and died without heirs, which stipulated that the Federation of Jewish Communities became the owner of these assets. These assets were taken into property after inventorying the assets and rights retained from Jews during the Holocaust. Persons possessing assets that belonged to Jews had to submit a declaration concerning these assets to the tribunal, subject to the penalty of imprisonment from 1 to 5 years. Yet, these people were hard to find as there was no information about all the persons who were deported to concentration camps and died.

By Decree no. 177 of 4 August 1948, which was in fact the new law on religious denominations, the state took over the management of the issue of religious denominations, and the Ministry of Religious Affairs became a supervisory and control authority.

In 1949, the transfer of social institutions into the property of the Ministry of Labour and Social Provisions as well as the transfer of medical institutions into the property of the Ministry of Health were decided by a decision of the Council of Ministers: 18 hospitals, 3 maternity wards with 1,742 beds, 24 dispensaries, 4 dental ambulatories, 71 soup kitchens with 20,189 assisted people, 27 homes with 13,340 boarders, and 8 schools with 42 well-equipped professional sections, where 2,270 students were studying. Confiscation was carried out, ostensibly, in order to 'ensure full equality for the Jewish population',<sup>6</sup> as an 'advantage' for the Jewish population. Jewish communities were only left with the administration of the religious necessities of Jews as well as the administration of synagogues and Jewish cemeteries.

On 1 June 1949, the new powers determined the approval of the new Statute of the Mosaic Cult, highlighting the strictly religious nature of Jewish communities and forcefully merging different rites.

All this time, different Zionist Jewish organizations were organizing the emigration of Jews to other places in the world. Many were asking for approval for emigration, but, because of the uncertain situation in Romania, many Jews managed to emigrate illegally. In 1948, the Communist Party raised the issue of Jewish emigration, but it had a moderate discourse on this topic. According to the report of the Central Committee of the Jewish Democratic Committee on emigration among the Jewish population during 1950,<sup>7</sup> approximately 50,000 Jews emigrated to Israel.

Upon the request of the political leadership, the Ministry of Internal Affairs elaborated a programme which established the criteria for emigration to Israel, based on individual requests. Since the requests were individual, many families were separated as only one family member could obtain a favourable opinion and therefore an exit visa, while others could not. The requests submitted by technicians, whose leaving could have affected the production process, were rejected. The state leadership was surprised by the great number of requests. In spite of the attempts to stop emigration, the Jewish population continued this process up until the 2000s. Today, the Jewish community in Romania counts only approximately 8,000 members.

The communist leadership revoked the Romanian citizenship of emigrants, and they lost their right of property over the assets they had once possessed in Romania. These assets were transferred into state property.

6 National Council for the Study of the Securitate Archives, Romanian Intelligence Service (SRI) fund D.d. 3067/1949, sheet 95, Report of 9 April 1949.

7 National Archives Central, Committee of the People's Republic of Romania, fund, d. 50/1950, sheet 319.

The collectivization process lasted from 1949 to 1962, and party structures, the militia, the Securitate, the army, border patrol troops, and paramilitary formations were all involved in it.

The Groza government had taken measures for a housing census since 1948 already, at the level of the entire country, an initiative which could have been justified by the need to evaluate the consequences of the war (at a demographic level, by counting the dead and the missing; furthermore, assessing the destruction and abandonment of immovable property).

On 8 January 1949, the Central Service of Assets within the Ministry of Internal Affairs elaborated and put into circulation a series of instructions for establishing 'which parts of an immovable property' could be considered to exceed the 'normal needs' of its owners. A family made up of a wife and husband was assigned one room. The next step was taken by means of the nationalization decree in 1950 (Decree no. 92/1950). In 1951, Decree no. 111 on abandoned assets was adopted. Although the network of services implementing the nationalization process encompassed the entire country, the result did not satisfy the communist leadership.

Thus, until 1989, the extension of cities and the forced urbanization of rural localities (so-called systematization) had been carried out by means of expropriations, many of them abusive. Jewish communities were expropriated of different land parcels or buildings by means of decrees which stipulated pecuniary compensations, which, however, were not always paid.

## **4. Post-Communist Norms for Restitution and Their Effects**

The Revolution of 1989 brought about major changes in the legislation of the state with respect for private property being enshrined in law. Successive laws were adopted for the restoration of property rights, including for religious denominations. Law no. 18/1991 on the land fund stipulated the right to property over land. This law limited restitution to a maximum of 10 hectares per applicant. Law no. 112/1995 regulated the legal status of certain immovables used for housing. Law no. 169/1997 settled the issue of the restitution of forested land only for natural persons.

In 2000, different normative acts entered into force which concerned the immovable properties belonging to national minorities and implicitly to the Federation of Jewish Communities in Romania (Government Emergency Ordinance no. 101/2000 on the Amendment of the Annex to Government Emergency Ordinance no. 21/1997 on the Restitution of Immovable Property That Belonged to the Jewish Communities in Romania; Decision no. 1334 of 14 December 2000 on the Amendment of the Annex to Government Emergency Ordinance no.

83/1999 on the Restitution of Immovable Property That Belonged to Communities of Citizens Belonging to National Minorities in Romania).

Later norms included Law no. 501/2002 on the Approval of Government Emergency Ordinance no. 94/2000 on the Assets of Religious Denominations and Law no. 66/2004 on the Approval of Government Emergency Ordinance no. 83/1999 on Community Assets.

In 1998, the Charity Foundation (in Romanian: *Fundația Caritatea*) was established by the Federation of Jewish Communities of Romania together with the World Jewish Restitution Organization with the aim of acquiring ownership of – as well as reclaiming, possessing, protecting, administering, and capitalizing – Jewish immovable properties to be restituted by the competent authorities to the Federation of Jewish Communities in Romania.

Law no. 10/2001 was enacted in order to remedy certain problems occurring in judicial practice that could not be resolved. This law regulated the situation of immovable property taken over abusively by the state or any legal entity during the communist period as well as property taken over based on the law on requisition, because the courts gave contradictory decisions on the legality of the Nationalization Law, and a possible exceeding of the competency of courts in this field was also taken into consideration.

In order to resolve the great number of restitution requests, the National Authority for Property Restitution was established by Government Decision no. 361/2005, an entity without legal personality, under the authority of the Office of the Prime Minister. This new institution absorbed the Authority for Monitoring the Unitary Application of Law no. 10/2001 but also the staff and the activity of the Department for the Application of Law no. 9/1998 from within the Office of the Prime Minister.

After the establishment of the National Authority for Property Restitution, another structure was created: the Property Fund for ensuring the resources necessary for compensations. Those descendants whose lands confiscated by the communist regime could not be restituted were compensated with shares in this fund. Initially, the state was the sole shareholder of this fund and owned shares with a value of almost 13 billion RON.

In 2007, Government Emergency Ordinance no. 25/2007 granted legal personality to the National Authority for Property Restitution and placed it under the authority of the Ministry of Economy and Finances.

The directorate for the coordination of the technical secretariats of the Special Restitution Committee has been established by Government Decision no. 1068/2007, and it is competent to resolve cases related to restitution claims submitted by former owners (religious denominations and communities of citizens belonging to national minorities).

Until 2008, former owners only received shares of this fund from the National Authority for Property Restitution. Then, they also received money. Everything went very slowly. People lost their patience and trust in the Romanian state, so applications started to flow to the ECHR. Over 2,000 such files stacked up on Strasbourg judges' desks.

The ECHR took a stance and issued a pilot decision against Romania.<sup>8</sup> The state was obliged to find – within maximum six months – a generally valid solution for all files in which the restitution of confiscated land was requested. Without a quick solution, the state was risking the suspension of its right to vote in the European Council.

The classification of national archives represented a big problem until the entry into force of Law no. 53/2019 on certain measures for studying the history of the Romanian Jewish Community. Documents to prove ownership over property that was subject to restitution were requested. Given that during the Holocaust the assets of Jews were confiscated and the titles of ownership were in large part destroyed or lost in the concentration camps, and then during the Communist period and immediately after the Revolution of 1989 many highly influential politicians were shown by documents to have benefitted from nationalization, the reconstruction of ownership titles for numerous movable and immovable assets became impossible.

Other norms concerning the restitution of Jewish property were enacted both in Romania and in the international field. These include: The Paris Peace Treaties of 1947; Decree no. 113/1948 on Assets Left Behind by Jews Who Fell Victims to Persecution Measures and Died Without Heirs; Government Emergency Ordinance no. 36/2002 (updated) on the Regulation of the Property Rights of the Federation of Jewish Communities in Romania; Law no. 489/2006 on Religious Freedom and the General Legal Status of Religious Denominations; the Terezin Declaration of 30.06.2009, to which Romania is a signatory; European Parliament Resolution of 14 December 1995 on the Return of Plundered Property to Jewish Communities; European Parliament Resolution of 16 July 1998 on the Restitution of Property Belonging to Holocaust Victims; European Parliament Resolution of 17 January 2019 on Cross-Border Restitution Claims of Works of Art and Cultural Goods Looted in Armed Conflicts and Wars.

## 5. Conclusions

As we have seen, the restitution of property stolen, looted, or nationalized from the Romanian Jewish community remains an ongoing process with many hurdles. Such hurdles are partly due to state interference, partly to non-unitary

<sup>8</sup> In the case of *Maria Atanasiu and Others v Romania*, applications nos. 30767/05 and 33800/06. <http://hudoc.echr.coe.int/eng?i=001-100989> (accessed on: 10.03.2020).

jurisprudence, and partly to unwillingness. It is hoped that in the wake of the pilot decision in the case of *Atanasiu and Others v Romania* passed by the European Court of Human Rights, this process may at last unfold, resulting in the restitution of a small part of the assets of which the Jewish inhabitants of Romania have been violently dispossessed.

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