

Property Restitution and Compensation in Post-Communist Europe: A Status Update



September 10, 2003

Briefing of the
Commission on Security and Cooperation in Europe

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The Commission consists of nine members from the United States Senate, nine members from the House of Representatives, and one member each from the Departments of State, Defense and Commerce. The positions of Chair and Co-Chair rotate between the Senate and House every two years, when a new Congress convenes. A professional staff assists the Commissioners in their work.

In fulfilling its mandate, the Commission gathers and disseminates relevant information to the U.S. Congress and the public by convening hearings, issuing reports that reflect the views of Members of the Commission and/or its staff, and providing details about the activities of the Helsinki process and developments in OSCE participating States.

The Commission also contributes to the formulation and execution of U.S. policy regarding the OSCE, including through Member and staff participation on U.S. Delegations to OSCE meetings. Members of the Commission have regular contact with parliamentarians, government officials, representatives of non-governmental organizations, and private individuals from participating States. The website of the Commission is: <www.csce.gov>.

PROPERTY RESTITUTION AND COMPENSATION IN POST-COMMUNIST EUROPE: A STATUS UPDATE

SEPTEMBER 10, 2003

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SEPTEMBER 10, 2003

COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WASHINGTON, DC

The briefing was held at 3 p.m. in Room 334 Cannon House Office Building, Washington, DC, Hon. Benjamin L. Cardin, Ranking Member, Commission on Security and Cooperation in Europe, moderating.

Panelists present: Hon. Randolph M. Bell, Special Envoy for Holocaust Issues, U.S. Department of State.

Mr. CARDIN. Let me welcome all of you here today to a briefing on property restitution issues. Chairman Smith is engaged in other congressional business at this moment and will hope to be here. However, he has instructed us to get started on the briefing so we have a maximum amount of time.

I am Ben Cardin. I am the ranking Democrat on the Helsinki Commission. I am joined by Alcee Hastings, Commissioner from the State of Florida. We are joined today by Ambassador Randy Bell, who is one of our real champions on these property issues. He has been the Department of State Special Envoy for Holocaust Issues. He has more than 30 years experience in the Foreign Service and extensive experience throughout Europe. He has worked tirelessly on issues related to World War II and the Holocaust. In his capacity as Special Envoy, he has developed a tremendous understanding of a painfully complex subject and has command of both the big picture and dealing with specific issues.

I am sure the ambassador is aware that our Commission has held several hearings on the property restitution issues. In fact, I think we have held three hearings in recent times. It has been a matter of high priority for the work of our Commission. In just about every delegation that we have met when our Parliamentary Assemblies are meeting bilaterally with other countries that are involved in property restitution problems, we have raised the issue.

I must tell you, Mr. Ambassador, I know it has been frustrating for you. It has been frustrating for us. As we make progress, we seem to find additional roadblocks that are put in our way, whether they are residency requirements or citizenship requirements or dealing with the administration of funds and the role that our government can play in the administration of those funds under the domestic laws of the countries involved. We have found that we have gotten commitments from leaders of countries, only to find that those

commitments are not really carried out in fact because of roadblocks put in the way by either their legislatures or their courts.

It has been a difficult period. It has been more than a decade since the fall of the Communist countries in Eastern and Central Europe, and of course now more than 60 years since the end of World War II and we still are confronting issues of individuals unable to get just compensation or the return of their properties. We would hope that in this briefing we would have a frank discussion. I know that there is much interest regarding Poland, the Czech Republic, and Romania. We welcome your observations as you may see fit to proceed on briefing us as to the current status of property restitution issues.

At the conclusion of the ambassador's comments, and our ability to try to clarify the points, we would invite for a limited period of time comments from those in the audience.

Amb. BELL. Thank you, sir. I am very grateful for this opportunity to address the Commission on what we agree is a very important subject. As you know, I have long believed that the Commission is crucial to the conduct of U.S. foreign policy generally. I am very grateful for the work that it does in sustaining U.S. interest in promoting human rights in the world.

My office and my colleagues in the European Bureau at the State Department work to bring justice, however late it may come, to Holocaust survivors and to other victims of World War II, and to ensure that the rights of victims of communism and fascism are respected. This is very much a team effort that rests on close cooperation among the Congress, the Departments of State and Justice, the governments of former eastern-bloc countries, and many dedicated and highly professional nongovernmental organizations. In that connection, I would like to stress the enormously important work of the American Jewish Committee, of the Conference on Jewish Material Claims, of the American Joint Distribution Committee, B'nai B'rith, the World Jewish Congress and the Polish-American Congress, among many others. Our NGOs are a force for good in the world and we should all be very proud of them.

The United States has rightly stressed that uniform, fair, and complete restitution is a prerequisite both to adequate establishment of the rule of law and to the safeguarding of religious and minority rights and freedoms. Property restitution is a key element in the reforms many countries in the region are undertaking as they seek places in multilateral institutions, and thereby membership in the community of values these institutions comprise. But it is an especially difficult, challenging and controversial aspect of those reforms that combines history, law, religion, budgetary politics, and in many instances, recognition of past wrongs and of complicity in major injustices. While leaders may achieve our praise for facing these issues, they often gain little or nothing in the way of parliamentary support at home for doing so, especially in countries that are already severely challenged economically because of history.

When I appeared here last year, I outlined some essential ingredients in successful restitution programs. I stressed the need for restitution of both communal and private property, of open access to archival records, of uniform and nondiscriminatory enforcement of laws, of clear and simple procedures, of provisions for current occupants of restituted property, and of other elements. I can provide greater detail on these and other aspects of restitution processes when and if you prefer.

I also noted that there are, of course, limitations on what the U.S. Government can do, especially in view of the international legal prohibition against having our own or any other government espouse individual claims except in very specific circumstances. Against

this background, we have registered some significant successes over the past year, but there remain some very significant areas where we do not have successes to report.

I have continued to travel widely and to meet frequently with ranking government officials, as have my colleagues from the NGOs and as have Commissioners and Commission staff. Among positive developments, on communal property most countries continue to make slow, but measurable progress in the return of communal property. In this regard, an agreement between the Jewish community and Macedonia last year was particularly notable. Some have nearly completed their communal property programs, and that includes Slovakia, Slovenia and Bulgaria.

In the area of private property, Estonia has, for all intents and purposes, completed private property restitution, and there have been other individual successes such as the return of the Suborna Street property in Sofia, Bulgaria, to the Jewish community.

Let us turn for a moment to the areas where progress is needed. After many years of delay, Romania of course enacted legislation on private and communal property restitution in recent years, but the legislation is complex, the application process is cumbersome, and the processing of claims is both slow and opaque. Claimants have reported that they were unable to obtain from Romanian authorities basic documents needed to substantiate their claims. The requirement to show that the applicant had not benefited from prior claims agreements with the United States also delayed the process. We are now analyzing data that Romania has just recently passed to us, in fact we got it just yesterday, to get a better view of what has happened there.

Poland has made significant progress on communal property returns, although recent delays in that process, at least as it affects Jewish communal claims, are somewhat puzzling. But Poland has not enacted private property legislation, despite assurances from the highest levels of the government that it would do so. We fully appreciate the political and budgetary problems that this issue poses, but are encouraging that country to come up with an equitable solution. To delay action will only make it more difficult to address this issue down the road.

In Lithuania, we continue to encourage the government and the Jewish community to come to an agreement to resolve that country's communal property issues.

I have distributed to you a carefully updated version of our informal country-by-country report, and I would be happy to take any questions on that report or on any other matter to the best of my limited abilities.

Thank you very much.

Mr. CARDIN. Thank you very much, Mr. Ambassador.

We are joined by Commissioner Anne Northup.

Let me just start, if I might, going over some specific countries and trying to get a better understanding of, perhaps, discussions that have taken place that we may not be aware of. Let me first start, if I might, with Poland. We were informed when we met with leaders of the Polish Government that a draft private property compensation law would be ready by the beginning of this year. Obviously, that deadline has come and passed. We are interested as to whether there has been active consultation with the international community by the Polish Government about what is happening to provide adequate laws on property restitution.

Amb. BELL. Thank you, Congressman. Yes, that is a very important point. We, the U.S. Government, obviously are in continual contact with the Polish Government about this issue. I will not attempt to speak for the nongovernmental organizations, but to my cer-

tain knowledge, several of them have been very actively engaged with the Polish Government also.

What I have urged when I have been in Warsaw and what my colleagues have urged is that Poland make good on its publicly declared intention to pass a private restitution law, and that law provide for fair, just and equitable restitution. Now, what form that will take, I do not believe the Polish Government has even yet specified. It would be premature of me to try to guess what it will be. I have also noted that if they move in the direction of creating a compensatory fund, then it would also be desirable alongside that to put in place a package of administrative measures that could expedite the *in rem* or in-kind restitution process in Polish courts, so that these would be additional in-kind restitution to accompany the compensation track, if indeed that is the direction in which it goes. But we agree with you, this has been publicly declared at a very high level and needs to be realized.

Mr. CARDIN. Let me just follow up on that point, on the property issue, I have visited several countries in which we have had property restitution issues and I understand the complexities in returning *in rem* property, but there are cases where that can be done. I was involved in a case in Romania that went on for years, where there was a clear title to property; there was no question about it; the person had actually won in the courts a couple of times, and still was unable to get the property returned because the government was using it for its own purpose. It was not a complicated situation. There was no other third party involved other than the Government of Romania. Ultimately, we were successful in getting the property itself returned because of the international publicity regarding that issue.

It would seem to me that it may be pragmatic for a country to establish a fund to compensate victims, but it should not be to the exclusion of returning the specific property itself, wherever such return is possible. I would hope that would be our position. I am concerned when I hear these countries are looking at establishing a fund that may very well be inadequate in size, but may also distract from the ability of a person to give claim to a specific property.

Amb. BELL. Congressman, that is exactly our position. We agree with you entirely. Obviously, the best solution in any historical situation where restitution is required is the actual return of the properties themselves to the maximum extent. As a matter of analysis, often governments either in part or in whole resort to compensation because of budgetary strictures, because of the disruption that occurs if many families are put out of their houses because of the absence of alternative properties either for that purpose, for rehousing current occupants, or for the purpose of providing like-kind restitution, which, while not the same thing as the actual property, might approach that kind of settlement.

Mr. CARDIN. Could you give us an update as to the return of church property or claims by church groups? I know there have been, in some cases, conflicting cases to the same properties, but there is no question of the legitimacy of properties being taken by various church groups, and there have been difficulties in getting these issues resolved.

Amb. BELL. I would be happy to do so, Congressman. How would you like me to proceed? I can do it country by country if that would be helpful.

Mr. CARDIN. I think that would be helpful.

Amb. BELL. OK. Let us look at Bulgaria, take them in order. There have been many communal properties returned. As we understand it, they are still among outstanding claims, however, 17 Muslim properties, slightly more than 10 Catholic properties, and a

very few Protestant properties. Most of the Jewish properties that the Jewish community there has claimed have been returned. The process continues, and I know that the NGOs and we are all in touch with the Bulgarian Government about this matter.

We did get that Suborna Street property returned. That is not a place of worship, but it belonged to a religious community. It was a joint effort on the part of the U.S. Government and the nongovernmental organizations. They had taken the position that the owner of the property, which was a nationalized company, had an interest in the matter, and we stressed to the Bulgarian Government that truly the Bulgarian Government's interest was in restituting the property, and thereby achieving further goodwill and further credentials to the effective rule of law.

In Croatia, there is a very slow pace in that country in both private and communal returns. In private property, there is a law in Croatia dating from 1990, which was amended in 1991 and again in 1993. They passed a law in 1996 on Communist-era restitution, but that was struck down, at least the amendments to it posed in 2002. So there has been a certain amount of turgidity on the laws. We need to remember in all of the successor states to the former Yugoslav federation, that in the 1960s there were two claim settlement agreements with the United States. So a very large restitution, whether communal or private, actually did occur back in that era, too.

The government in Croatia claims that it has restituted 19 percent of all communal properties. We cannot verify that.

Mr. CARDIN. Do you believe that is accurate, though?

Amb. BELL. It seems reasonable, yes. In 1998, the Croatian Government concluded a concordat with the Vatican. That concordat provided that all church property was to be restituted or compensated. So far, some properties have been restituted. There has been no compensation undertaken. The church in April of this year requested 43 properties and so far none of those have been restituted.

Mr. CARDIN. Is that because the monies have not been appropriated, a system has not been developed?

Amb. BELL. I cannot give you a specific answer to that. It is a political decision in which we do not participate. However, I would imagine that it has to do with economic considerations, as well as the current occupants of the buildings. The Orthodox Church has requested several hundred properties and reports that it has received approximately 10 percent of these back. The Jewish community has received some properties in Zagreb and outside Zagreb, but none since March of 2000. There are approximately 20 additional properties in Croatia. There is at this time a negotiation between the Croatian Government and the Jewish community to try to expedite that process.

In the Czech Republic, as you know, the chief outstanding communal issue is the Roman Catholic property, where essentially nothing has happened. When I have traveled there and raised the issue, the difficulty that has been pointed out to me is that the church is asking for the complete or nearly complete list of its pre-war properties, and that if the government is to deal with the issue, they will somehow, they say, have to deal with a shorter list. The 700 buildings that the Catholic Church is requesting and the 175,000 hectares of land constitute therefore the largest communal property issue in that country.

I have, as have my colleagues from the NGO world, extensively talked with both the Czech Government and the Czech Jewish community about this problem, and we all hope for further progress.

Mr. CARDIN. I am going to interrupt you there, because I know you have other countries you want to go through. I notice I have the summary of your findings that are before us. I may come back to a couple of other specific countries before we complete this. I want to give Commissioner Hastings a chance at this point.

Mr. HASTINGS. Thank you very much, Mr. Ranking Member, Chairman-Acting.

Ambassador Bell, thank you very much. I find your summary in my cursory review of it to be comprehensive and very instructive.

I am mindful, as are all of us, that this briefing will not be covering some significant related issues. This is not a question, just an observation, that Swiss bank holdings of Holocaust-era assets, monetary reparations to Holocaust survivors and forced laborers' restitution, which is one of the more interesting ones in the world, I think, of Nazi-looted artwork, which in my travels through Central Asia, Russia and other places, I have been astounded at how much of that is scattered, and hopefully there will be recoupment, and then European insurance companies' failure to honor Holocaust policies.

I liken that to my own state and many places in this nation, where people of my race find that insurance companies overall have not been forthcoming. In Florida, there was active pursuit by then-insurance Commissioner, now Senator, Nelson, that was very helpful. I do not think it is instructive or even an analog makes much difference.

One question that I have, or maybe I have two, it appears at one time that Russia did in fact have a restitution commission. During that period from 1993 until it was instructed, at least until 1993 when then-Prime Minister Kasyanov instructed them to cease, they seemed to have been making, if not rapid progress, modest progress. I am curious. Has such a restitution commission been reinstated in Russia, or are they operating under a different modality at this time? Because there does not seem to be as rapid progress as there was previously. I am just curious about that.

Amb. BELL. I think you have described the situation relatively accurately, Congressman. Yes, there was a restitution commission. It was abolished in 2001. During the time of its existence from 1993 until 2001, some 3,500 properties were returned to the Orthodox Church, primarily. There have been some restitutions of other properties. The Omsk Synagogue was rededicated in 1996. In June of this year, the Oryol Synagogue was returned. So the additional restitutions have taken place as individual decisions.

Mr. HASTINGS. All right.

Amb. BELL. There have been other species of restitution in Russia, the return of religious items, 15,000 Judaica pieces, etc.

Mr. HASTINGS. OK.

Amb. BELL. But Russia and Ukraine both operate outside the framework either of any specific restitution laws or of any such body as you have just described.

Mr. HASTINGS. All right. I thank you for the correction and appreciate it very much. My final question would be that some property claims have gone before the European Court of Human Rights and only a few of those have been successful. My question to you is, does the Council of Europe or the European Union play a significant role in getting these issues resolved? Are there false expectations perhaps regarding the ability of these organizations to compel governments to adopt and implement property restitution or compensation laws? That will be my final question.

Amb. BELL. Regarding the European Court of Human Rights, yes there are cases when cases are brought. In the case of Romania, I believe there have been three, and in two of those cases there were quite large sums of money required to be paid by the Romanian

Government in settlement. Regarding the other institutions, the Council of Europe obviously focuses heavily upon human rights and the maintenance of the rule of law, and in a general and more admonitory fashion is helpful in this regard. The European Union works through the closing of chapters in the matter of accession. It is a process that the European Union itself conducts.

Mr. CARDIN. We are being interrupted because Jerry Grafstein, our colleague from Canada and an officer of the OSCE Parliamentary Assembly, has joined us. It is always a pleasure to have our fellow Parliamentarian from Canada here.

Amb. BELL. One of the chapters that, as they say, must be closed to move the process of accession to the European Union along deals with the subject of land tenure and having a functioning system of land tenure and laws. I know when I have spoken, for instance, with the Slovenian authorities, they have stressed to me that such a requirement has indeed provided to them an impetus to move ahead on the completion of their own restitution program, which they hope to do by the end of 2004.

Mr. CARDIN. Ms. Northup?

Ms. NORTHUP. Mr. Chair, I am going to pass at this time, since I am a new member. I am just eager to hear the discussion.

Mr. CARDIN. We welcome your participation and thank you for being here.

Mr. Ambassador, I am reading briefly, quickly the summaries you have of the different countries. To me, it is noteworthy of the different progress among many former Communist countries, or dominated countries, that many have made tremendous progress. They have done a really good job in returning communal property and dealing with property restitutions, and are certainly proceeding in good faith to try to resolve all open issues. In fact, it looks as if probably half the countries, if not more than that, would fall into that category. Some are rather large countries with rather complicated problems.

Mr. Hastings mentioned Russia. Russia has made—at least on communal properties, it looks as if Russia has done a pretty aggressive job of trying to deal with the return of property. Yet there are some noteworthy countries that are really lacking. I am following the advice of our Chairman, Chairman Smith, when he says that we have to start naming countries and naming practices, because we cannot let this continue. The current situation is not acceptable in Poland or in Romania or in the Czech Republic. The Czech Republic, as I understand it, still may have obstacles concerning citizenship or residency. We do not know if that has been resolved yet.

Amb. BELL. If that is a question, then on a specific aspect of it, I can tell you, in telling any Commission that employs Erika Schlager anything about the Czech Republic may be unnecessary, because Erika is one of the world's true authorities on this matter. The Czech authorities, and I have spoken with Deputy Prime Minister Rychetsky on this at some length, maintain that they have completed so large a portion of their private restitution program under the relevant laws, which are primarily the old Czechoslovak laws from 1991, as changed and amended thereafter, a legal framework that does, to our great frustration, incorporate discrimination according to citizenship, that, they say, to undo it now would be unfeasible. In other words that they would have to go and kick out, let us generalize, more distantly related heirs to put the more proximate heirs who are now U.S. citizens into place.

We continue to raise this with them as a serious matter. They also, as you know, provided a window of relief where it appeared they would, in the matter of the 1928 Bancroft Treaty as it is called. These are treaties that the United States went and negotiated back

in the 1920s, and a number of countries that dealt with the issue of dual citizenship, essentially making it impossible. By the time the Czech Government had decided to abrogate that agreement or eliminate that barrier, the deadline for making private claims had already passed. So the only other window of relief that U.S. citizens have obtained has been a peculiar provision of the law that prevailed during the Communist era, whereby Americans who were naturalized during a period when the Communists felt that the treaty was inoperative were able to make application.

Now, there are Americans who have achieved restitution in the Czech Republic. It is not the case that no one has. Largely through that latter window I just mentioned, but it is a significant outstanding problem. Otherwise, the Czech Republic has proceeded rather efficiently in the matter of restitution, with the exception that many of the processes are in the hands of local, rather than federal, authority. In the matter of communal property return, for example, that has been sometimes a retarding feature in that local authorities do not necessarily do that which the central authorities might do.

Mr. CARDIN. I appreciate that explanation. My question, though, would be what was the difference between the countries that were able to proceed and resolve these issues? Is there a different attitude among their leaders?

Amb. BELL. In the case of the Czech Republic, the fear has attached to the historical legacy of the Sudeten Germans. The Czechs have maintained that, as did the Czechoslovak Government previously, that if they did not maintain a citizenship barrier, that they would be inundated with claims posed by Sudeten Germans who were expelled under the Benes decree. So that is a specific species of a more generic problem, to wit that specific historical circumstances are not the same in each country, and sometimes do weigh in the political process that defines restitution.

Mr. CARDIN. Another reason to resolve the issues more quickly, rather than allowing them to continue over decades.

Amb. BELL. Yes.

Mr. CARDIN. I have talked to many of the leaders of these countries, and they tell you one thing, and then it looks like when they get back to their countries or after we leave, they do not have quite the same commitment to the local political constituencies. I take it that in each of these countries that this may have a political tone, that it is not popular to move forward on property restitution issues.

Amb. BELL. To say the least. Any subject which combines law, religion, budgetary politics, the general economic development of the country, often the definition of what the culture and population are, gets into questions of historical complicity and guilt is really very explosive stuff. It is very hard for many of these countries, particularly at a somewhat fragile time in their development, to deal with it. So you rightly say as you look through, yes, there has been very significant progress. It is the classic glass half or more filled, and we need to focus on both halves of the glass.

Mr. CARDIN. Let me just assure you and assure all that are present here that our Commission will continue to use your assessment and work in our meetings with our OSCE partners. Our delegation, I believe at every meeting in the last six, seven, eight, nine years, have raised issues of property restitution in our general document, as well as in our bilaterals with countries that do not have an appropriate record. So we believe that putting a spotlight on it is very important. We can assure you that as long as issues remain unresolved, we will continue to press these issues in our bilateral meetings and with our colleagues collectively in our documents in the work that we do.

Amb. BELL. Thank you, Mr. Chairman.

Mr. CARDIN. Mr. Grafstein, would you like to make a comment?

Sen. GRAFSTEIN. Yes. First of all, I apologize, Mr. Chairman, very much for arriving late. I was here with a group of 150 Canadians from my hometown, coming to show solidarity with the American Government with respect to its position in the world. So I have broken away for an hour or two to come and deal with my first priorities, which is my parliamentary responsibilities including my work with our distinguished Chairman, and the Chairman of this meeting, Mr. Cardin, who by the way has just been elected to a most prestigious post at the OSCE. We look forward to working with him. I am on the bureau with him, and he has been a great colleague not only in promoting human rights in America, but also around the world. So I just wanted to go on record saying that.

This particular Commission and the work of this committee at this time is very important because I think that support of clearing the record, cleansing the historical record is important so we can move forward together through each of these countries. I have been involved in two or three of them, and these are very delicate and difficult issues. But I think it is important for us to move the agenda forward, as we have at the OSCE, to in effect move forward in history. We have to cleanse the past before we can move forward in history. I want to commend the American Commission at the OSCE, the Helsinki Commission, for doing a superb job of leadership, and particularly our colleague Mr. Cardin.

So I am here to participate and to listen and to learn. Unlike many of the senators in Canada, I believe that America is our best and foremost ally.

Mr. CARDIN. I appreciate that. We appreciate your help and support in our work on the OSCE and in our help in this country.

We have some time, a brief amount of time if there is a question for the ambassador from any of the individuals who are in the audience, if you would come up and use the microphone and identify yourself. The only thing we request is that your question or comment be brief, so that we can give maximum opportunity for people to participate.

QUESTIONER. My name is Laszlo Hamos. I am president of the New York-based Hungarian Human Rights Foundation, which is an NGO that has been in existence for 27 years, following closely the developments relating to Hungarians who are minorities in four countries surrounding Hungary, altogether three million people. My question is to Ambassador Bell, but not only to Ambassador Bell. First, I would like to warmly commend Ambassador Bell and his very able assistant, John Becker, for the expert, very knowledgeable and very effective work that they have done for the past years in following property restitution issues.

My question relates to the prospect, which is now a reality, of NATO enlargement and whether that process has been effective or has been helpful at all in encouraging the governments, for example the Romanian Government, to restore properties in a more rapid pace. Of the 2,140 Hungarian church properties, for example, in Romania, only 62 have been, at least on paper, restored. Even those cases will be tied up for more than likely years in the courts.

My question also perhaps of Commissioners is whether the Congress may not impact beneficially on this issue of these unresolved property claims by becoming more vocal on the reluctance of these governments, especially since these are NATO-designee countries, specifically Romania and Slovakia, whether you might not benefit, Ambassador Bell, from more vocal support as countries belonging now or soon to belong to a community of shared political values. Perhaps we could use this process more constructively in the

future. I wonder, though, if it has had any positive impact in the past months or years since the prospect of NATO enlargement arose.

Amb. BELL. Thank you very much. That is an important and very apt question. Let me say generically, yes. It has had very beneficial effect, but it has effect if it is consistently applied, that is, the influence, the leverage of accession. What we have said in the context not only of my travels there, but of the travels of my colleagues from the Department of State and from the Department of Defense and from the National Security Council, and what our partners such as Rabbi Baker sitting out there from the NGO world have said, is this is a process. We expect, as you move toward accession into the alliance, to see progress on all of the issues relating to the past, to the war era, to the Communist era, to restitution, both before your accession and after your accession.

Our position was not you must do all of this now, immediately in order to qualify for alliance membership. That would be both impractical and probably self-defeating, but rather that there has to be real and tangible progress. The progress has not been even. Some countries have done more than others. You raise again specifically the matter of Romania, if I might just digress for a moment to provide a few more details about the situation in that country. Communal properties, that is non-religious properties of ethnic groups, have as yet not been directly addressed by the law.

There was a law passed last year on the non-religious buildings of religious communities, that is things that would amount to office buildings. That was a law of last June. To date, I am not aware that anything has been returned under it. There was a decree or ordinance in June of 1999 under which there were 36 properties returned, 12 to the Jewish community, 15, I believe to the Hungarian Catholic community, 4 to the German ethnic community, 2 to the Greek community, and 1 each to the Ukrainian, Slovak and Serbian communities. That is one of the most significant events in a slow history of communal returns in that country. We have consistently stressed to Romania that this process must accelerate.

In other instances, there have decidedly been decisions taken by governments, specifically with reference to their own NATO prospects. I mentioned things the Bulgarian Government has done, as an example. But we continue, and we have made clear to our interlocutors in the countries that both this time and the last time acceded or campaigned to accede to the alliance that in our case, when the Senate votes, that is not the end of the process. The issue will definitively arise again and we have told them that it will arise not only in the context of the branches of the U.S. Government, but also vocally from civil society.

Mr. CARDIN. I think it is in part our responsibility to elevate this issue in these discussions. We appreciate your comments, because I do think there is a whole series of issues that get involved and sometimes the human rights issues do not get as high up on the agenda as we would like to see it. One of the priorities of our Commission is to sensitize our negotiators to take a higher priority on property restitution and other human rights OSCE issues.

QUESTIONER. I am Dr. Ioan Paltineanu. I would like to thank Representative Smith and Senator Campbell for keeping this problem in the attention of this Commission. Also I would like to thank them for the briefing. I would like to address directly to the Romania problem. As I am of Romanian origin, and I am right now an American citizen, this problem will never be solved unless our government, our Congress will pressure the Romanian Government to start doing serious business with this problem.

Now, most of the forests, and I am talking 4.7 million hectares of forest, are in the hands, used to be private, now are in the hands of the Romanian Government. They will never give it back. All these laws they have written are nothing for them. They exploit them and they want to hold them. Out of 220,000 claimants of property, houses, buildings, whatever, only hundreds have been returned at the pressure of the international community.

Now, the Romanians have to go to the European Court of Human Rights to ask for their rights. Only two dozen of those lengthy processes have been solved. Recently in July, the president of Romania, trained in Moscow, who is a profiteer for 50 years of the national property of Romania, he declared that the Jewish people, and that was a declaration, should not ask for their properties to be given back. As a general statement, he said why today's Romanians should be skinned to give these properties back. It does not matter the work of the proper owner of anything which is in Romania. They will never give it back until the pressure is put on these officials.

Now, if we give them more money from different sources, American taxpayer money, international money with the taxpayer money, they will never consider this. I have material here ... [Inaudible]. The progress in Romania which was, let's say, very small at the beginning, is not any more. I want you to consider this and please consider thousands of Romanian-Americans who are claiming property. That is not a small number. [Inaudible] ... the Government of Romania is here to ask for funds for whatever, they are asking mostly for funds because our ambassador, Michael Guest, over there, every day is fighting with these corrupt officials. He is in a crossfire from the prime minister, from the president from the greater Romanian party, and from the president himself, as to why does he interfere in internal problems of Romania. But these are not Romanian problems.

Mr. CARDIN. Let's give the ambassador a chance to respond to this. We have mentioned Romania several times. I mentioned it in my opening comments. Over a period of time, we have found different obstacles in the Romanian system. When we have seen some political leadership, it seems like the Parliament would not appropriate the money, and then we had problems with the courts in carrying it out, or the government carrying out the orders of the court. It seems to be going around in many different circles.

The ambassador already did give a brief summary of the current status in Romania. I do not know if he wants to add to that or not.

Amb. BELL. Let me only say, the situation is hardly one of rapid progress. That is putting it pretty diplomatically, I think. To my knowledge, there are something in excess of 210,000 private claims of which approximately 6,300 have been returned. There are perhaps some 38,000 that the government authorities have said are documented, which means that they have met the documentary requirements as currently being interpreted. That is a large number of cases. We have constantly stressed to the Romanian Government that we see no evidence that they have the administrative wherewithal to deal with that backlog and that it is urgent that they do so.

One thing that I believe might be useful in this regard, this is simply to offer in this public forum a suggestion which U.S. Ambassador Michael Guest and I have made to the Romanian Government in the past, is if they were to create an ombudsman whose responsibilities were the implementation of these laws which at long last we have had, who would be available to address these matters directly, at least to the constituted group of claimants so that there was better information available as to what is required.

One of the challenges which quite evidently many claimants face is knowing what is required of them and where to obtain the many documents that they need. Another problem that has faced many applicants is the somewhat late publication of implementing regulations for these laws. One of the implementing regulations put out this year with regard to Law 10, the private claims laws, held that people who sold their properties as a condition for emigration in the Communist era were ineligible for restitution. Well, that would certainly include a great many American citizens, and we would hope that implementing regulation is not to remain as a condition for private restitution.

Mr. CARDIN. Thank you, sir.

Are there any other comments? Yes.

QUESTIONER. My name is Milan Kravanja from the Slovenian Owners of Property, or rather American Owners of Property in Slovenia. I notice the statistics of 81 percent that the Slovenian Government has given as being solved. My question is, how many of these were solved negatively? The question is of a special interest because some time ago the Slovenian Government passed around a directive to the various offices which were dealing with restitution, encouraging them to deny as many claims as possible and write them off as being solved. So I would hope that in the future, the U.S. embassy will be asking to divide these statistics into how many positively, how many negatively solved. I notice the Poles have given how many solved and how many denied.

Second one, I have noticed that the 81 percent compares with only 57 percent of the American citizens that have property in Slovenia, so there is a certain amount of discrimination in it, and I hope that the embassy would be encouraging them to solve these as well.

Finally, there is no transparency in these activities. Nobody knows the names. The Slovenian Government has consistently refused, even though asked, to give the names of who are these claimants in the United States, so we do not know how to contact them or how to help them.

And finally, I understand that the consul from the U.S. Embassy in Slovenia is going to be meeting with the justice minister in the next week or so, so hopefully at that conversation these things might be brought up.

And finally, I would like to thank Mr. Bell and Mr. Eizenstat for the effort that they have done. I used to be in the Yugoslav underground and landed in German concentration camps, and it was through your efforts and Eizenstat's that I first was recognized and got some compensation.

Thank you very much.

Amb. BELL. Thank you for raising those important points. I have traveled to Ljubljana and raised those myself, and I can assure you our consul will be raising all of those issues next week, and continually in the discussions, as the rest of us do when we raise this important issue with the Slovene authorities.

One of the things in Slovenia, where indeed, judged against the background of the region, there has been some progress. One of the things that colors that progress is the denial rate, which you rightly raise. One of the problems that we have raised in our discussions with the Slovene authorities is the system whereby a positive decision can be appealed. That is, I think, at the heart of what you are talking about, because it happens in that system that when a positive decision has been taken on a claim a government representative has the wherewithal to appeal in the court system for its reversal. That has happened in a number of instances, and that is a unique situation which we have indeed raised, especially on behalf of our own citizens.

Sen. GRAFSTEIN [of Canada]. Yes, I have a brief question of the ambassador, and again I want to add my words of support for his really pioneer efforts, together with Mr. Eizenstat to meet this important international issue. Without the energy of these two gentlemen and the American Government and our colleagues here at the Helsinki Commission, I do not think this issue would have progressed as rapidly as it has been, even though it is slow.

My question to you, ambassador, is this. As an officer on the parliamentary side at the OSCE, the second officer, what role has the ministerial side of the OSCE played in assisting you with your efforts, having in mind that we have very strong resolutions, again, on the table to promote this work. I am delighted that we have been able to, the staff has done a great job of drawing these out of our long resolutions and bringing this to our attention. So tell us, since Mr. Cardin and I will be going to meetings this fall to deal with relationships between the parliamentary side and ministerial side, what efforts have been done by the ministers to implement these parliamentary resolutions following your leadership?

Amb. BELL. Let me just note that it is my experience, and please, Mr. Chairman and my friends on the Commission staff, correct me if I am wrong, but I think we have all been working hard to make sure that the parliamentary and intergovernmental track in OSCE are mutually reinforcing. I think we have some successes to point to in that regard. In June, following a decision at last year's OSCE ministerial in Porto, there was an intergovernmental meeting on combating anti-Semitism. That is not a meeting on property restitution, but in the context of talking about the combating of that species of racial hatred, one talked about the need to rebuild the Jewish community in Eastern Europe. I in my own remarks at that, I was a member of our delegation, at that meeting was able to raise these issues, particularly during a discussion at an evening session hosted alongside that meeting by the American Jewish Committee.

Increasingly, I think as we look at the issues related to what we are doing here, we are trying to make sure that the parliamentary track and the intergovernmental track fully inform one of the other, and are mutually reinforcing.

Mr. CARDIN. Yes?

QUESTIONER. I have a question about the property restitution in Serbia. In Serbia, your report mentioned how the effort to privatize, the effort to reconstitute property, thereby allowing property on which there are claims to be sold to someone else. The International Crisis Group and others have reported continued corruption in Serbia as well, despite the state of emergency earlier this year, and corruption may make the privatization effort all the more difficult for those with property claims. Can you elaborate on how corruption may be making the situation worse for claimants in Serbia?

Mr. CARDIN. Could you just identify yourself please?

QUESTIONER. My name is Lauren Smith and I am with the Helsinki Commission.

Mr. CARDIN. OK.

Amb. BELL. There is a gap between what the new democratic Government of Serbia said when it took office, and what has happened. The Serbian Government said they were going to reconstitute property seized during the Communist era. As yet, there is no law permitting that. Now, the Serbian Government is working on a denationalization law which it says it hopes to have through Parliament by the end of this year. In Montenegro, under consideration is a restitution law which that republic says should be through its Parliament by the end of the year.

You are speaking to a question of analysis: what is slowing it down; how come we have not gotten there yet; and is corruption part of it. I have no statistical base from which to answer that. I could only say as a general matter of analysis, in the entire region we have focused heavily on anti-corruption. We mentioned Michael Guest doing that in Romania, where our Ambassador Michael Guest has made that a very special emphasis, but we have emphasized it everywhere. When our teams have traveled to the countries that have sought to accede to NATO, we have laid special emphasis on that, and in our relations to Serbia we have done the same.

So does corruption slow down the processes of things like restitution? Inevitably. The two are important aspects of getting toward international standards of rule of law. There are people in the Serbian Government, the Serbian-Montenegro Government, who really are serious about reform and who will work on that, but it is a big and difficult struggle.

I think what we need to look at next in that country is what kind of law is coming out, what it looks like in terms of its nondiscriminatory and process points. It is my understanding, though I cannot be certain, that the Serbian Government is looking at a compensatory mechanism for dealing with restitution, rather than an in rem or in-kind mechanism. We would hope that it would have elements of both.

Mr. CARDIN. We will take one final question.

QUESTIONER. Rabbi Andrew Baker with the American Jewish Committee. I would like to acknowledge Ambassador Bell, the work you have done, how appreciative we are, and to Congressman Cardin and others particularly on this Commission, in addressing this issue. I think without question, if it were not for the repeated and continued emphasis on this matter that has been placed by you and others here in the U.S. Government, the kind of progress, however limited it may appear to be, would be far, far less.

If I could, I just wanted to make an observation based on some of my own experience from the nongovernmental side in dealing with these issues, in some cases in direct negotiations, and certainly in advocating for restitution. It might be useful to see the responses in different countries. I think we have noted in Ambassador Bell's report not only the different levels of progress, but in some ways the different means by which property restitution is addressed, that there are different issues countries or political leaders confront.

I think the most problematic for us is those places where the issue of restitution is itself a political issue, and often being used or manipulated by political leaders for their own internal political purposes. The gentleman here made reference to Romania. I think we have seen in a rather alarming example when the president himself addresses this matter in a way I think by most analysts would suggest for domestic political purposes, are making the efforts here that much more difficult. I think there has been overall a reduction of this in the countries in this region. I think it was more common a few years ago than now, but it is still there. I think that needs to be clearly identified and addressed.

In other cases, we know the problem is a difficult one economically and politically, even if there is a genuine interest in addressing it. I do think there might be more success if people were able to look at it in, for lack of a better word, a more creative way. I think in many countries it is simply a matter viewed as a zero-sum game, and if you do anything you lose. So it is only a question of how much you lose.

You, Congressman Cardin, raised the issue of Poland at the beginning. When the Polish Government even privately was discussing new legislation which, as has been noted,

has not been presented, there was no consideration given for the restitution of any property. I in fact asked one Polish official, well, why not at least make a distinction for those properties that are still being held that are of no actual value to the government? It was ironic that even in cases where holding onto those properties was a liability, no one was considering alternatives. So the second area is a way of trying to get countries that are at least willing to make the move, to look more expansively on how it can be done and to find ways to be supportive of a process.

Finally, we do recognize that it is ultimately an issue of economics and of money, but it becomes very important therefore to get the political leadership in these countries to speak positively even routinely. This is part of the process of becoming an open democratic society, part of the family of Western nations. There are other costs that government has undertaken that they recognize are part of that process. I think in places where people have come to articulate that this, too, is one of those necessary steps to be taken, it has not engendered public opposition, in many cases even public support for righting some of these historic wrongs.

So looking at a way of dealing on the political avenue alongside the tangible steps that are taken, particularly in the way that this Commission and its members can work, I think would be a very useful counterpart to the kind of work that the State Department and the office that Ambassador Bell directs deals with it day to day.

Thank you.

Mr. CARDIN. I think that is a very good summary. Thank you for your comments. Ambassador?

Amb. BELL. May I respond to that? I would just like to note that Andy Baker, Rabbi Baker is one of the most active participants in the NGO world in the effort to bring restitution further along. I think his comments are extremely apt. I think in particular the point that he has just made about the need to have governments comment positively on their own experiences is an important one, and that is something which I think both the Commission and we in the State Department can carry forward.

Mr. CARDIN. Mr. Ambassador, let me thank you once again for the time that you have given us today, but most importantly for the work that you have done on behalf of this issue internationally. As I said at the outset, this is a briefing of the Helsinki Commission for us to get an update of the current status. This has been an ongoing priority of the U.S. Helsinki Commission and the congressional members. We have had many briefings and hearings on this subject. I can assure you this will not be our last.

This issue will continue to be on our agenda until we accomplish the objectives of transparent laws in all of the states that provide fair and just compensation for the properties that were unlawfully taken during the Nazi and Communist years. So this will be a continuing issue for our Commission.

The information that has been presented today will be extremely helpful to us as we develop our agenda for our meetings that are taking place as early as this fall, but also the continuing meetings of the OSCE, as well as in our bilateral meetings with our partners who are involved on these issues.

If there is no further comment, our session will stand adjourned.

Thank you.

[Whereupon the briefing ended at 4:35 p.m.]

APPENDICES

PREPARED STATEMENT OF HON. CHRISTOPHER H. SMITH, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

The question of how to redress the wrongful confiscation of property by the Nazi and Communist regimes is one of the most complex issues the Helsinki Commission has ever examined. These seizures took place over decades; they were part of the modus operandi of repressive, totalitarian regimes; and they affected millions of people. The passage of time, border changes, and population shifts are only a few of the things that make the wrongful property seizures of the past such difficult problems to address today.

But, while I recognize that many obstacles stand in the way of righting these past wrongs, I do not believe that these challenges make property restitution or compensation impossible. On the contrary, I believe much more should have been done—and can still be done now.

The Czech Republic continues to have an anti-American restitution framework that singles out for exclusion all those who found refuge from Nazism or communism in this country. Romania's effort to pass and implement property restitution laws has revealed nothing less than a rule-of-law crisis in that country. And Poland's inability even to pass a law that provides for private property restitution or compensation stands out as a singular failure. I hope today's briefing will not only shed light on these problem areas, but help point the way towards a resolution of them.

Thus far, the Helsinki Commission has convened three hearings on property restitution and compensation issues, most recently in July of last year. Today's briefing will give us an opportunity to revisit this important subject and hear about the progress in the various countries—or lack thereof—since we received last year's testimony.

Finally, I want to give special thanks to the Department of State's Special Envoy for Holocaust Issues, Ambassador Randolph M. Bell, for his contribution to this briefing. I was privileged to be with him in June at the OSCE's Conference on Anti-Semitism and can bear testimony to his deep personal dedication to these issues. The Commission benefits tremendously from his command of this complex issue, his sensitivity to specific nature and dimension of the problems in various countries, and his perspective on these issues.

**PREPARED SUBMISSION OF
AMBASSADOR RANDOLPH M. BELL**

**SUMMARY OF PROPERTY RESTITUTION
IN CENTRAL AND EASTERN EUROPE**

BULGARIA

- Important communal properties remain under litigation.
- Agreed to restitution of Suborna Street property.
- Numerous other properties have been returned.

PRIVATE PROPERTY

Bulgaria was one of the first Eastern European countries to pass property restitution legislation. In contrast to other former Communist countries, Bulgaria did not generally nationalize land, but instead nationalized businesses using the land, while owners retained title to the land. Current restitution law stipulates that both Bulgarian citizens and non-Bulgarian citizens are eligible to receive property confiscated during the fascist and communist periods. A successful claimant who is not a Bulgarian citizen, however, must sell the property. Only Bulgarian citizens can receive restituted forest and farmland.

COMMUNAL PROPERTY

NGOs and certain denominations claim that a number of communal properties confiscated under the Communist government were not returned. For example, the Muslim community claims prior ownership of at least 17 properties. The Catholic Church claims six buildings in Sofia, three buildings in Plovdiv, several buildings in other towns, and three monasteries. In addition, the government reportedly retains properties of several Protestant groups.

Most property that belonged to the Bulgarian Jewish community has been restituted. One of the only remaining restitution issues is the case of the Rila Hotel in Sofia. The land on which the Rila Hotel was built in the 1960s belonged to the Jewish Consistory prior to the Holocaust. A 2001 Bulgarian court decision held that the Bulgarian Jewish organization “Shalom” is the successor to the Jewish Consistory. Currently the organization has regained just under half of the contested land. The Bulgarian Government, which owns half of the Rila Hotel, privatized its share of the company that operates the hotel, further complicating the already difficult issue.

A long-standing Jewish property issue that was successfully resolved in 2002 is the property at 9 Suborna Street in Sofia. After negotiations between high-level government officials and Bulgarian and international Jewish groups, the Bulgarian Government agreed to the restitution of the Suborna Street property to the Bulgarian Jewish organization “Shalom.”

A central problem facing all claimants of communal property is the need to demonstrate that the organization seeking restitution is the organization (or its legitimate successor) that owned the property prior to September 9, 1944. This is difficult because Communist hostility to religion led some groups to hide assets or ownership, and because documents have been destroyed or lost over the years.

CROATIA

- Pace of private property restitution remains slow.
- Communal properties remain unrestituted.

PRIVATE PROPERTY

Due to Croatia's turbulent past, there is a large amount of disputed property throughout the country. Croatia passed a property restitution law in 1990, and subsequently amended that law in 1991 and 1993. Implementation of the law has proceeded very slowly.

The 1996 "Law on Restitution/Compensation of Property Taken During the Time of the Yugoslav Communist Government" prohibited non-Croatian citizens from making claims. But in a 1999 ruling on the law, the Constitutional Court struck down six clauses deemed to discriminate against foreigners. After a long delay, the Croatian parliament in July 2002 amended the law to extend to foreigners the right to claim nationalized property or receive compensation in accordance with existing bilateral agreements. The amended law pertains to the Communist era only, and not to the 1941–1945 period or to the civil unrest after the breakup of Yugoslavia. The law initially created a six-month period from July 2002 until January 2003 in which non-Croatian citizens were eligible to file claims. Croatia subsequently waived that deadline after determining that it does not have an appropriate bilateral agreement with the U.S. or any other country that would allow non-Croatian citizens to file claims.

A number of individuals of Croatian descent, who were not U.S. citizens when their claims against Croatia arose but have since become American citizens, currently have outstanding property claims. United States citizens also have claims arising from the early 1990s war following the break-up of Yugoslavia.

Two previous U.S.–Yugoslav settlement agreements compensated many claims by American citizens. The first agreement pertained to property expropriated between 1939 and 1948. The second agreement, entitled the "Agreement between the USG and SFRY Regarding Claims of US Nationals," became effective on January 20, 1965 and covered the years from 1948 to 1964. The claims process under these two agreements ended in the 1960s. To be able to claim compensation under current Croatian law American citizens must establish that they did not receive compensation under these two agreements.

Under current Croatian law, heirless property devolves to the state, rather than to the religious community of the former owner, as is the practice in some European countries.

The issuance of permits by local governments for construction on land with disputed titles complicates the restitution process.

COMMUNAL PROPERTY

The government has worked separately with the various religious communities to resolve communal property restitution issues. Usually agreements between the government and the individual communities govern the communal property restitution process. The government maintains that 19 percent of all communal property restitution claims have been resolved.

The government employs three methods to restitute communal property to religious communities: natural restitution (*in rem* restitution of the actual property that was taken), replacement restitution (transfer of like-kind property when the original property cannot be restituted), and monetary compensation.

In 1998, the government signed a concordat with the Vatican that provided for the return of all Catholic Church property confiscated by the Communist regime after 1945. This agreement stipulates that the government would return seized properties or compensate the Church where return is impossible. Some returnable properties have been restituted, but there has been no compensation to date for non-returnable properties. In April, 2003, the Catholic Church specifically requested the restitution of 43 properties. As of September, none had been restituted. Of all the religious communities, the Catholic Church is the largest holder of property.

The Orthodox community filed hundreds of requests for the return of seized properties, but the community has received only ten percent of what it claimed. A recently signed agreement between the Orthodox community and the government established a commission to address property claims.

Jewish groups in Croatia have received some of their claimed property in Zagreb, but no properties have been returned to the Jewish community since March 2000. An estimated 20 additional Jewish property claims are still pending throughout the country. The Jewish community is in the process of negotiating an agreement with the government. The agreement will deal with property restitution, among other issues. The community identifies property return as one of its top priorities. The Jewish community comprises approximately 2000 members; more than half live in Zagreb.

The Muslim community of approximately 100,000 has not filed any claims. It is not clear whether the Baptist church has claimed any property.

CZECH REPUBLIC

- Rychetsky Commission resolved several issues including transfer of some 200 Jewish properties, return of 7,500 art works, and creation of a \$7.5 million Holocaust Fund.
- Catholic Church property claims remain outstanding, and no progress has been made in the past year. The Church is unwilling to submit a list of specific properties, and the government is unwilling to proceed without such a list.

PRIVATE PROPERTY

The first restitution laws, enacted in 1991, covered confiscations during the period 1948-1989 and were primarily concerned with private property, farmland, artworks and property of religious orders and sports associations. A 1994 amendment (Act 116/1994) provided for the restitution of property taken by the Nazis from Holocaust victims between 1938 and 1945. The amended law still required that private property claimants be Czech citizens.

The citizenship requirement effectively disallowed property claims by Czechs who became American citizens, since a 1928 treaty between the United States and Czechoslovakia banned dual citizenship. The United States renounced the treaty in the 1990s, and in 1999 a new provision in Czech law ended the ban on dual citizenship for Czech-Americans, allowing Americans to reapply for Czech citizenship. By that time, however, the filing period for restitution claims had closed. It is unlikely that there will be any additional change in the restitution laws affecting Czech-Americans since much of the property claimed by Czech-Americans has already been restituted to other family members who remained Czech citizens. The Czech Government maintains that 97 percent of all private property restitution claims have been resolved, but there is no way to verify this independently. Many American claimants maintain that the Czech Government has acted arbitrarily and unfairly in adjudicating their property claims.

Beginning in November 1998, a national commission headed by Deputy Prime Minister Rychetsky reviewed property restitution claims arising from the Holocaust. Following the commission's recommendations, Parliament in June 2000 enacted legislation that authorized the government to transfer approximately 200 additional properties to the Jewish community and allowed individual claims for formerly Jewish agricultural property. The law also restituted to the Jewish community 70 works of art housed in the National Gallery and provided for the return of an estimated 7,500 works of art in Czech Government museums and galleries to Holocaust victims and their heirs. Unlike previous Czech restitution laws, the claimants of looted art held by state institutions are not subject to a citizenship requirement. The Czech Government has created an internet site with information and photographs of the works. In 2002, Parliament extended the deadline for filing artwork claims from the end of 2002 to the end of 2006.

In 2001, the Rychetsky Commission also helped to establish a Holocaust fund of approximately \$7.5 million. A third of the fund will be dedicated to providing compensation to non-citizens and others previously unable to regain real property seized by the Nazis. The rest of the fund will be dedicated to the restoration of Jewish sacred sites and to Jewish community life in the Czech Republic. In September 2000, the Chamber of Deputies of the Parliament of the Czech Republic approved the transfer of state money to the Endowment Fund for Victims of the Holocaust (EFVH) to mitigate property injustices which occurred during the Nazi occupation.

COMMUNAL PROPERTY

Progress in resolving outstanding communal property restitution claims by churches remains slow, partially because of the difficulty of verifying the title of hundreds of claimed properties. The Social Democratic government in 1998 created two national commissions to address church-state related issues and to develop legislation on the return of income-generating property claimed by the Catholic Church and other property claimed by Protestant churches. The Commissions have not yet issued their reports. The Catholic Church seeks around 700 buildings and 175,000 hectares of land; local authorities hold most of this property. As of August 2003 these claims remain unresolved due in part to the reluctance of the Catholic Church to provide a list of the properties to which it is still entitled, and the government's refusal to continue the process until it has a clearer picture of what properties are under review.

The Czech Republic's decentralized property restitution system does not require municipalities to return communal property in accordance with national policies. Thus the Jewish community has received most of the communal property once held by the Czech national government and the city of Prague, but properties held by local authorities remain unrestituted.

ESTONIA

- Private property claims resolved.
- Communal property returned.

The restitution of property in Estonia has been completed in an exemplary manner and there are no pending property claims or disputes. Estonia has returned communal property to religious communities. Private property owners who filed their claims before the appropriate deadline have also been able to reclaim their property, irrespective of

present citizenship. Title to heirless property passes to the local municipal administration of the area in which the property is located. The administration is free to sell the property or retain it for its own use.

HUNGARY

- Private and communal property laws being implemented.
- No law governing heirless property.

COMMUNAL PROPERTY

Hungary's restitution process began in 1991 with the enactment of a law enabling religious organizations to apply for compensation for real estate nationalized after January 1, 1946. Twelve major religious groups submitted 8026 property restitution claims; 1383 claimants received property, 2670 claims were denied, 1731 claimants received cash payments (totaling \$271.3 million or HUF 67.843 billion) and 968 cases were settled without government intervention. As of December 31, 2001, there were 1274 claims, valued at \$187 million (HUF 46.770 billion), awaiting adjudication. The final adjudication deadline is in 2011.

In 1997, the Hungarian property restitution law was amended to allow religious groups to apply for a government-funded annuity as compensation for unrestituted properties. Between 1997 and 1998, the Hungarian Government signed compensation agreements with several religious organizations (Catholic, Jewish, Protestant and Orthodox) in order to implement fully the 1991 law and the 1997 amendment. The compensation agreements determined the monetary value of unrestituted properties and specified the amount of the government-funded annuity to be given to each organization. The specific amounts are in the chart below.

ORGANIZATION	AMOUNT OF ANNUITY		PROPERTIES WAIVED	VALUE OF WAIVED PROPERTIES	
	US\$	HUF		US\$	HUF
Catholic Church	9.2 million	2.3 billion	1150	168 million	42 billion
Jewish Community	2.4 million	608 million	152	54 million	13.5 billion
Calvinist Church	5.2 million	1.3 billion	392	26.6 million	6.65 billion
Lutheran Church	2.8 million	700 million	74	17 million	4.27 billion
Budapest Serb Orthodox	179,000	44.9 million	2	3.4 million	848 million
Hungarian Baptist Church	80,000	20 million	2	484,000	121 million

In early 2003, the Hungarian Government concluded an agreement with the Jewish community to provide compensation payments of about \$1,750 to Hungarian survivors of the Holocaust, or their heirs. The number of beneficiaries is expected to be around 150,000. The agreement could close a nearly decade-long dispute between the local Jewish community and the Government of Hungary over the level of compensation to Holocaust survivors.

PRIVATE PROPERTY

The 1991 law also allowed for partial compensation for private property. Successful claimants could receive a voucher for up to \$21,000 as compensation for their confiscated property. The vouchers, issued in lieu of cash payments, could be used to buy shares in privatized companies or to buy land at state land auctions. According to government statistics there were 1,431,740 claims, of which 1,263,033 were approved for payment; 168,666 claims were denied. Payments in vouchers totaled HUF 81.02 billion. In addition, there were payments of HUF 3.77 billion for the purchase of agricultural land. Many claimants maintain that adjudicators delayed decisions and made arbitrary rulings on claims.

Under the current law, heirless properties devolve to the state, rather than to the deceased's community. Data privacy laws and limited access to archival resources hinder the research necessary to document claims. The deadlines for filing claims for both private and communal property are now passed.

LATVIA

- Both private and communal property restitution nearing completion.

PRIVATE PROPERTY

Latvian law provides for the restitution of confiscated property, both private and communal, to former owners or heirs. The law does not discriminate on the basis of citizenship or residency. In most cases, municipal authorities make the final decision on property restitution; if they deem a property non-returnable, they may offer alternative property or compensation in the form of vouchers. Claimants, however, may be reluctant to accept alternative property because of the difficulty in establishing comparative values. Claims for private property occupied by economically productive facilities have been particularly difficult to resolve.

COMMUNAL PROPERTY

The Government of Latvia is prepared to restitute Jewish property to both the observant and non-observant Jewish communities. The current arrangement within the Jewish community provides for the return of communal religious properties to the observant community (about 136 people), but not to the significantly larger non-observant community. Thus the observant Jewish community has received 16 religious properties and compensation for two others. Approximately 200 communal properties remain to be restituted to the non-observant community. In the late summer of 2002, the leaders of the observant and non-observant communities reached a cooperation agreement, which could end the impasse within the Jewish communities and lead to the restitution of additional communal property to the non-observant community. The agreement is currently pending approval by the boards of both Jewish communities.

With this notable exception, most Jewish and Christian property cases have been resolved and the restitution process is nearing completion.

LITHUANIA

- Lack of alternative property delays private property restitution.
- Government developing communal property law.

PRIVATE PROPERTY

The Lithuanian Government has restituted to private claimants most of the property that can be returned. Resolution of the remaining private property claims will require the identification of alternative property or the payment of compensation, estimated at approximately \$500 million. The established deadline for paying compensation for land, forest, and bodies of water is 2009, and 2011 for houses and apartments.

Under the current program the Lithuanian Finance Ministry may pay compensation only to Lithuanian citizens, but citizens qualify regardless of their place of domicile. The deadline to submit applications for property restitution was December 2001, the deadline to prove kinship to the original owner was December 31, 2002. During the application period, from 1991 through 2001, the Lithuanian Government received approximately 9,500 claims for private houses and over 57,000 applications for the return of land. In March 2002, the Parliament amended the restitution law to provide that restitutable land not being used for public purposes and located in urban areas must be returned to its former owners.

On October 2, 2002 the Cabinet decided to compensate owners of nationalized property with shares in large state-owned energy, telecom, and shipping companies. The total value of the shares is some \$19 million. Currently, more than 12,000 owners claim some \$10 million, and this figure is expected to exceed \$100 million as more owners claim compensation rather than request the return of their property in kind.

COMMUNAL PROPERTY

From 1991 to 1996, the observant and non-observant Jewish communities claimed and received a total of 28 buildings, mostly synagogues (three in Vilnius, five in Kaunas and the balance in small towns). A 1995 law permits only the observant part of a religious group (as opposed to the non-observant) to apply for the restitution of communal property. The practical effect of this has been that only the orthodox Jewish community, comprising five percent of Lithuania's current Jewish population of approximately 4,000, is able to apply for property owned and used by Lithuania's pre-war Jewish population of over 200,000. Since the passage of the law, the non-observant community has not been able to obtain additional property, whereas the observant community has received a number of properties.

In June 2002, a government commission, comprised of cabinet ministers, commenced a review of Jewish communal property issues. Lithuanian and international Jewish groups are currently developing a list of unrestituted Jewish communal properties throughout the country. These Jewish organizations plan to form a foundation to assist in managing restituted property and in aiding Jewish citizens in pursuing claims.

In September 2002, the government drafted amendments to the existing property restitution law. The amendments would change the 1995 law to broaden the definition of communal property and to establish a fund to pay compensation for property on which buildings no longer exist. The amendments would not change the restriction on the restitution of land, water bodies, forests and parks to religious communities. Parliament will consider the amendments after the Jewish community submits to the government its list of property claims. As of September 1, the Jewish Community has not completed its list of restitutable property.

Restoration of Jewish Quarter: on September 18, 2002, the Lithuanian Government approved a plan to restore parts of the historical Jewish quarter in Vilnius. The project will include the restoration of commercial buildings, such as service offices and workshops, Jewish hotels and residential buildings. The government's plan also includes the possibility of the rebuilding of the Vilnius synagogue. Although no final cost estimate has been completed, the Vilnius municipality has agreed to cover the costs of the first stage of the project, while Lithuanian and international groups and the Lithuanian Jewish Cultural Heritage Foundation have agreed to sponsor the remaining two stages. The restoration is scheduled for completion in 2008.

MACEDONIA

- Almost all property used for religious purposes has been restituted.
- A 2002 restitution program established a fund to compensate for heirless property and to reconstitute communal property.

PRIVATE PROPERTY

Preoccupied with the Kosovo crisis and the 2001 insurgency, the Macedonian Government did not have the political will or resources to implement fully its 1998 property restitution law until the latter half of 2002. The law provides for the issuance of bonds as compensation. The bonds have declined to about 50 percent of face value. The appraisal system used to determine valuations results in payments equal to about half of the market value. In urban areas, only state-owned land can be returned, and then only if the property is vacant.

As of June 2002, claimants had submitted 4540 restitution requests; 3359 (74 percent) had been resolved; 2068 (61.5 percent) were granted, one-fifth of which resulted in physical restitution; 12.5 percent were denied; payments in bonds amounted to approximately \$5 million.

HEIRLESS PROPERTY

In May 2000, the Macedonian Parliament passed a law mandating that heirless property of Jewish Holocaust victims be given to a special-purpose fund for the construction of a Holocaust memorial museum. The government established a four-person steering committee, comprised of two government and two Jewish community representatives, for the project. The steering committee began its work in 2002 identifying some heirless properties eligible for this program.

COMMUNAL PROPERTY

Following more than six years of talks, pursuant to the 2000 law the Macedonian Government signed a restitution agreement with the Jewish community in August 2002. The agreement returns to the Jewish community three buildings in Bitola and one piece of real estate in Skopje. The agreement also provides the Macedonian Jewish community with bonds, valued at 176 million denars (\$2.7 million), to be issued over a period of ten years. Finally, the agreement provides 29 million denars (\$461,000) for the Holocaust Fund, established to administer heirless property. A six-member board (three government officials and three from the Jewish community) manages the fund, which will receive heirless property. The Fund will create a regional Holocaust Museum Education Centre, finance the repair, restoration, and upkeep of Jewish heritage sites and fund additional education and tolerance programs.

A major success of Macedonia's restitution program is the return of virtually all churches and mosques to the appropriate religious community, although most non-religious properties have yet to be adjudicated. Claims for unrestituted properties are complicated by the fact that the seized properties have changed hands many times and have been developed since the time of their seizure. Due to limited government resources, it is unlikely that the religious communities will regain these additional claimed properties.

POLAND

- Government has not yet drafted private property legislation.
- Communal property restitution well advanced, but slowing.

PRIVATE PROPERTY

There is no legislation governing the restitution of private property in Poland. Parliament has made several attempts to enact such legislation and did pass a law in early 2001, but President Kwasniewski vetoed it because of its budgetary implications. The legislation imposed a citizenship requirement that would have made most American citizens ineligible to from file a claim. In 2002, Prime Minister Miller assured American Jewish leaders that the government was preparing draft legislation for submission to the Parliament in 2003, presumably without citizenship restrictions, but that now appears unlikely. Some claimants for the restitution of private properties have successfully acquired their property in Polish courts.

In June 2002, a U.S. federal district court judge ruled in *Garb v. Poland* that the Government of Poland had immunity under the Foreign Sovereign Immunity Act for suits to recover property seized by the Communist Polish Government following World War II. The U.S. Government filed a brief and appeared at oral argument in the Second Circuit Court of Appeals to support Poland's claim of sovereign immunity. In July 2003, the Second Circuit Court of Appeals asked the two parties to submit additional information to the court. As of early September 2003 it was not clear what the next step in this case would be.

COMMUNAL PROPERTY

During the 1990s, Poland passed legislation to provide for the restitution of property held before the war by Poland's major religious organizations. The legislation established five separate commissions, comprised of representatives of the government and the affected communities, to process the restitution claims. The Catholic Church acquired approximately 2000 properties, the Lutheran Church 210 and the Orthodox Church eight. In some instances, the churches received compensation instead of the actual property. The following table provides details of the current status of communal property claims:

RELIGIOUS ORGANIZATION	CLAIMS	RESOLVED	(AMICABLE SETTLEMENTS)	(DENIED)
Catholic	3,054	2,780	1,325	582
Orthodox	120	57	49	4
Lutheran	1,200	709	233	370
Jewish	5,236	414	153	159
Other	110	10	0	10
Total	9,720	3,960	1,760	1,075

The Orthodox figures are as of May 2002. Others are as of June 1, 2002. "Other" includes Baptist, Pentecostal, Methodist, Muslim and smaller groups.

As of June 2003, the commission had ordered the return of 898 Catholic properties, four Orthodox properties, 93 Lutheran properties and 190 Jewish properties (including 27 substitute properties.)

The Orthodox Church, Poland's second largest denomination with over a half-million adherents, filed a low number of claims because of a short (three months) filing period. By comparison, the Catholic Church had two years and the Jewish community five years. The Parliament and the government are reviewing the possibility of reopening the filing period for the Orthodox Church.

Processing of Jewish claims remains active. Thousands of Jewish communal properties served Poland's 3.5 million Jews before the Holocaust. The law governing the restitution of Jewish communal property went into effect in May 1997 and provided a May 2002 deadline for restitution applications. Because of the large number of properties and the small size of the current Polish Jewish community, the community sought the assistance of the World Jewish Restitution Organization (WJRO). A joint foundation between the Polish Jewish community and the WJRO was established in late 2001. The joint foundation, known as the Foundation for the Preservation of Jewish Heritage in Poland (FPJHP), was registered in early 2002. The founding agreement provided that the Polish Jewish community would file claims in certain geographic areas, and the FPJHP would do so in areas not reserved for the Polish community. The Polish community filed nearly 2000 applications by the deadline, and the FPJHP filed nearly 3,500 claims.

Many of the properties to be restituted are "heritage properties," primarily cemeteries. The maintenance of these properties represents a potential cost of considerable magnitude. The Foundation and the community may sell properties not needed by the community in order to meet these expenses.

Since early 2003, there has been a noticeable slowdown in the processing of Jewish communal claims.

ROMANIA

- Implementation of Laws 10/2001 (private property) continues at a slow pace.
- Implementation of Law 501/2002 (religious property) began late, and is proceeding slowly.
- Greek Catholic Church claims remain unresolved.

PRIVATE PROPERTY

Romania was the latest of the former Communist countries to pass formal property restitution legislation. For the first decade following the fall of the Ceausescu regime, a series of court decisions, laws and decrees governed the return of property seized during World War II and under Communist rule. These decisions, laws and decrees were frequently contradictory and led to considerable confusion.

In February 2001, Romania enacted Law 10 to govern private property restitution for properties confiscated between 1945-1989. While this law provides a systematic approach to private property restitution, it is complex and places a considerable burden on claimants. Initially, the law provided an application period of just six months. There was no notification program outside of Romania, so potential claimants had no way of learning about the possibility of filing applications.

At the suggestion of the United States, the Romanian Government extended the deadline, first to November 2001 and then to February 14, 2002. But the overseas notification program was not implemented until late 2001, making it difficult for claimants to meet

the application deadline. Law 10 does not allow for the restitution of agricultural or forested properties, which were covered by laws 18/1991 and 1/2000, and whose deadlines have expired. Law 10 does not cover the restitution of properties belonging to religious communities or minority groups. Article 16 of Law 10/2001 stipulates that properties used for public purposes will not be restituted in kind and former owners will receive monetary compensation. The government estimated that about 5,000 buildings would not be restituted in kind.

Law 10 required that applicants submit claims to municipal authorities through a court having jurisdiction over the property in question. This made it difficult for applicants who left Romania at an early age or for heirs to know where to submit applications. Despite these difficulties, 210,000 claims were filed; of these, 128,000 claimants requested restitution in kind and 82,000 requested financial compensation or other reparation measures. Only 38,400 were completely documented. A recent Romanian Government report indicated that approximately 9,200 properties had been returned by the end of August 2003.

The deadline for documenting claims was extended from February 14 to July 1, 2003. In May 2003, the government published reformulated implementing regulations. The late publication gave applicants little time to comply prior to the July 1 deadline. These regulations provide that individuals who “sold” their property to the Communist-era government in order to emigrate would not be compensated. Claimants also had to submit official documentation showing that they did not receive any compensation under prior claims agreements (such as the 1955 and 1963 U.S.-Romania Claims agreements.)

Government emergency ordinance 10/2003 (passed into law by Parliament in June) provides that documents that were not submitted by July 1 cannot be used by former owners or their families in subsequent lawsuits.

Processing of claims has been very slow. How long it will take to adjudicate claims, and how transparent that process will be, is not clear.

Over the past several years, the European Court of Human Rights has ruled on over 25 Romanian property restitution cases in favor of the former owners, ordering the Romanian state to pay sizeable damages unless the buildings in question were returned.

RELIGIOUS AND COMMUNAL PROPERTY

In late June 2002, Parliament approved Law 501/2002 governing the restitution of religious property. The law covers buildings (such as schools and hospitals, not houses of worship themselves) that belonged to the religious denominations and were confiscated by the state between March 6, 1945 and December 22, 1989. It does not cover the period between 1940 and 1945, when large numbers of Jewish properties were seized, nor does it cover the restitution of Greek Catholic churches confiscated by the former Communist regime. It also refers only to buildings that still exist and does not provide compensation for buildings that were demolished. Implementation regulations were promulgated in November 2002. The law replaces one of the five government acts (four emergency ordinances and a decision) adopted between 1997 and 2000 and restituting buildings to religious and national minorities.

Under Law 501/2002, religious denominations had requested restitution of 7,568 properties by the March 2, 2003 deadline, as follows:

Orthodox Church	770
Roman-Catholic Church	902
Greek Catholic Church	2,207
Reformed Church	809
Jewish faith	1,809
Evangelical Church	690
Other denominations	201

In two June 2003 meetings, the National Commission for the Restitution of Religious Property decided to return 70 properties to the following religious organizations:

Greek Catholic Church	4	
Armenian Church	2	
Roman-Catholic Church	4	(German-speaking)
Evangelical Church	3	(Augustinian)
Orthodox Church	11	
Jewish congregations	3	
Hungarian Churches	43	(Catholic, Reformed Evangelical)

A foundation established by the Federation of Jewish Communities in Romania and the World Jewish Restitution Organization to follow restitution issues has received approximately 40 properties, restituted by the four government acts passed between 1997 and 2000. The Jewish community was able to take actual possession of only 28 of them. Documenting ownership has been difficult for the foundation because of the lack of access to archives. The Jewish community so far has received only three of the 1,809 properties claimed under Law 501/2002. In addition, under Laws 18/1991 and 1/2000, the Jewish community received 17 pieces of land in Iasi (sites of former synagogues and schools).

The same four government acts returned 33 buildings to the historical Hungarian churches. The Hungarian churches were able to take full or at least partial possession of only 20 of those properties. Under Law 501/2002, the Hungarian churches so far have received 43 of the 1,450 reclaimed buildings.

Finding new premises for current occupants has slowed the restitution of private, religious and communal property in Romania.

The Greek Catholic Church was able to obtain only 146 of the over 2,600 churches and monasteries confiscated by the Communists and handed over to the Orthodox Church. Under Law 501/2002, the Greek Catholic church received back only four of the 2,207 reclaimed buildings.

A draft law on property restitution to ethnic communities is currently being debated in Parliament. The draft law covers properties seized by the Communists regime from entities representing national minorities.

Romanian law does not provide compensation for claimants of communal property if that property cannot be returned in kind.

RUSSIA

- 4000 communal property buildings returned.

COMMUNAL PROPERTY

Despite considerable progress in this area since 1991, a number of religious communities remain concerned about unrestituted religious property confiscated during the Soviet era. According to the Presidential Administration, the Russian Government's Restitution Commission returned approximately 4,000 buildings between the time the decree on communal property restitution went into effect in 1993 and March 15, 2001 when Prime Minister Kasyanov ordered the commission to cease its activities.

Approximately 3,500 of the restituted buildings were returned to the Russian Orthodox Church. Smaller numbers of buildings and houses of worship were returned to non-Orthodox Christian, Jewish, and Muslim communities. One example of the latter is the synagogue in Omsk, the largest in Siberia, which was rededicated in May 1996. In June 2003, the city of Oryol approved the restitution of a synagogue in that city. For several years, the local Jewish community had petitioned for the return of the building. Even with these modest successes, the Jewish community faces the same obstacles as other religious communities in obtaining the restitution of properties seized during the Communist era. Some Jewish communities assert that they have recovered only a small portion of the total properties confiscated under Soviet rule, and are seeking additional restitution.

The Russian Government has returned approximately 15,000 religious articles, including icons, Torahs and other items, to religious groups. For example, in May 2000, the government turned over 61 Torah scrolls to the Jewish community. However, many other religious artifacts remain in state museum collections.

SERBIA AND MONTENEGRO

- Private property restitution has not begun pending passage of necessary laws.
- Communal property restitution also awaits legislation.

PRIVATE PROPERTY

Due to the breakup of Yugoslavia and the military conflicts of the 1990s, Serbia has yet to pass a property restitution law. The democratic coalition that gained power in Serbia after the ouster of Slobodan Milosevic in October 2000 promised to return or compensate for property nationalized during the Communist era. Several drafts of restitution legislation have been proposed, but none has come before parliament for a vote. Legal systems and enforcement are separate in the two republics; claims are addressed at the republic level.

Individuals of Yugoslav descent, who were not U.S. citizens when their claims arose but have since become American citizens, have outstanding property claims. Embassy Belgrade is aware of 19 such claims in Serbia and four in Montenegro. Many American

claims for Yugoslav property were compensated under two previous settlement agreements between the United States and Yugoslavia. The first agreement pertained to property expropriated between 1939 and 1948. The second agreement, entitled the "Agreement between the USG and SFRY Regarding Claims of US Nationals," became effective on January 20, 1965 and covered the years from 1948 to 1964. The claims process under these two agreements ended in the 1960s. Under these agreements, SFRY paid a total of \$20.5 million. The old agreements do not hold Yugoslavia or its successor states harmless from claims of all current American citizens. The agreements only applied and provided access to settlement to those who were American citizens at the time their property was taken and prior to 1964.

In Montenegro, all agricultural land and most other undeveloped land that was not controversial has been returned. Montenegro passed a restitution law in June 2002, but the Constitutional Court declared 13 articles unconstitutional, making the law impossible to implement. Montenegro is preparing a new restitution law, which should be passed by the end of 2003. The basic restitution policy in Montenegro is restitution in kind when possible, with cash compensation or substitution of other state land when physical return is not possible. The new draft law envisions a set claims period, after which no further claims will be possible.

A draft Serbian denationalization law is undergoing inter-ministerial review, after which it will be released for public comment. The government has stated that it expects to have a law passed by the end of 2003. The draft law provides for equal treatment of domestic and foreign citizens. The draft excepts only those foreign citizens who were compensated, or eligible for compensation, under any of 29 bilateral claims agreements.

Property claimants frustrated with the failure of the government to put a legal framework for restitution in place, including several U.S. citizens, formed an NGO—the League for the Protection of Private Property and Human Rights—to press for restitution. In June 2003, the group was successful in placing its own draft law before the Serbian parliament by using a provision in the Serbian constitution that permits citizens to introduce legislation by collecting 15,000 petition signatures in seven days. In what appeared to be an attempt to intimidate the group and prevent its success, the police raided and closed the group's office during the petition drive.

A major difference between the Serbian Government and claimants on a restitution law is the form of compensation. Claimants are seeking as much *in rem*, or physical return of actual properties, as possible. The Serbian Government position is that the fair solution is monetary compensation, unless the property of all claimants of a certain type of property (housing, land, commercial) could be physically returned.

Several U.S. (dual) citizens have claims on commercial properties involved in the privatization process. In the absence of a restitution law, Embassy Belgrade has intervened with host country authorities on several occasions to request deferral of planned sales of claimed property. Claimants have accused the government of delaying a restitution law until claimed assets have been sold. Serbian officials have expressed concern that restitution would significantly delay completion of privatization. The Serbian privatization law provides that 5 percent of all privatization revenues go to a denationalization compensation fund. The Embassy has raised restitution repeatedly with officials at the municipal, republic and state union levels, urging authorities to move ahead with a fair restitution law. Several EU member state embassies have also become engaged on behalf of their citizens.

Heirless property reverts to the state.

COMMUNAL PROPERTY

In post-WWII Yugoslavia, religious communities were limited to possessing 10 hectares of land or 30 hectares of religious sites of cultural importance. There is no law providing for communal or church property restitution in either Serbia or Montenegro. In Montenegro, such property will be covered by the new restitution law now under preparation, with communities given the same rights as individual claimants.

The Serbian Ministry of Religion has prepared a draft law on restitution of church property. The Christian Democratic Party of Serbia has also submitted a draft law to the Serbian parliament on return of church and religious community property. Neither law has received approval by the government or parliament.

The Christian Democrat draft law envisions return of church and monastery property as well as land and residential and commercial properties owned by religious communities. The draft law provides that only the state and legal entities (companies), but not individuals, would be required to reconstitute communal property. According to the proposal, if physical return is not possible the government would be required to provide compensation in the form of equity in the state share fund or government securities. The lack of state budget resources to fund compensation is one factor delaying a law. With the exception of the Igumanova Palace, which was returned to the Serbian Orthodox Church by Milosevic as a goodwill gesture, no church properties have been restituted in Serbia.

SLOVAKIA

- Majority of religious property returned.
- Government and Jewish community agreed in 2002 on restitution package for heirless property.

COMMUNAL PROPERTY

Slovakia took over the laws passed by Czechoslovakia in 1990 and 1991 for the restitution of Jewish and non-Jewish properties confiscated by the Communist regime. A 1993 law covered communal religious property, so that both private and communal property became eligible for restitution. The implementation of these laws led to the restitution of a majority of eligible property throughout Slovakia, with a few important exceptions.

The Orthodox Church received six of its seven claimed properties. The Catholic Church received about 60 percent of its claimed properties, the remaining claims were denied since the properties were undeveloped at the time of their confiscation but have since been developed. The major obstacles facing Slovakia's outstanding restitution claims are the government's lack of financial resources to pay compensation, current tenants occupying restituted property and bureaucratic resistance to specific claims.

HEIRLESS PROPERTY

In April 2000, the government and the Slovak Jewish community established a Joint Commission to discuss heirless property, among other restitution issues. The commission consisted of Slovak Government representatives and ten Jewish representatives: seven from the Slovak Jewish community, including the Union of Jewish Religious Communities in the Slovak Republic (UZZNO), two representing the American Jewish Committee (AJC) and B'nai B'rith International, and one representing the World Jewish Congress and the World Jewish Restitution Organization.

Following an agreement reached in the inaugural meeting, experts reported that heirless Jewish movable property and real estate, excluding agricultural lands, was valued at approximately 8.5 billion Slovak Crowns (\$185 million). The Slovak Jewish community agreed to accept ten percent of this amount, equal to 850 million Slovak crowns (\$18.5 million), as payment for the unrestituted property.

In September 2002, the Cabinet agreed to this proposal. Final negotiations between the government and UZZNO concluded in July 2003. The entire amount has been deposited at the Slovak National Bank. One-third of it was made available immediately due to the advancing age of Holocaust survivors. The Jewish community will draw interest on the account for 10 years before receiving the remaining principal. The community intends to use the funds for compensation to some community members as well as to fund social, educational, and cultural programs.

MONETARY COMPENSATION ISSUES

In 1998, UZZNO won a ruling for the reimbursement to the Slovak Jewish community of the Slovak Jewish deposit, the forced deposit of Slovak Jewish money and gold into the national bank in 1940. The deposit (\$600,000) is being used for a retirement home in Bratislava and a day care center in Kosice, both of which serve Holocaust survivors.

SLOVENIA

- 19 percent of private property claims remain unresolved.
- Bulk of communal property returned.

PRIVATE PROPERTY

Slovenia passed and began implementing a law on the restitution of property (the Denationalization Act) in 1991, soon after independence. As of the end of 2002 (the latest information provided by the government), the government had completed processing 30,914 cases (81 percent) of the 38,126 property restitution claims filed. U.S. citizens filed 482 cases. The Government of Slovenia reports that 276 cases (57 percent) filed by U.S. citizens had been completed, by the end of 2002. The government expects to complete the processing of all claims by mid-2004.

Unresolved cases include those in which the courts have not reached a final decision and those pending appeal. Court backlogs, a lack of trained judicial and administrative personnel, amendments to the Denationalization Act, and inadequate records of land ownership have slowed the processing of claims. Claimants have complained of a general lack of transparency and procedures that are inconsistent with the law. Heirless property currently devolves to the state. Almost all private property claims by Jews are resolved. Remaining to be adjudicated are claims by private Slovene citizens and claims by non-citizens.

COMMUNAL PROPERTY

Under current regulations, communal property claims are treated in the same manner, with the same rights to appeal and compensation. The unresolved communal property claims of the Catholic Church are currently being litigated in the Slovenian courts. In July 2001, the Ministry of Agriculture returned over 8,000 hectares of land in the Triglav forest to the Catholic Church. The Ljubljana Administrative Court annulled this decree in May 2002, ruling that roads built on the land were public goods and therefore not

restitutable. Following the annulment, the Minister of Agriculture stated that he still expects to return to the Church all but about one percent of the land in question.

The Jewish community in Slovenia has never been very numerous and remains small today, numbering around 150. The limited population led to only a small number of Jewish private and communal property restitution claims. Restitution of Jewish communal property in Slovenia has been completed. In the summer 2003, the president of the Slovene Jewish Community reported having participated in productive meetings with Slovene Government representatives in which they explored ways of dealing with heirless property of Holocaust victims. This property could provide a source of income for the Jewish community.

UKRAINE

- The majority of places of worship have been restituted.
- Ukraine has no legislation governing the restitution of private property.

PRIVATE PROPERTY

Ukraine has no laws or decrees governing the restitution of private property, nor has the government made any proposals in this regard.

COMMUNAL PROPERTY

Ukraine has no state religion, although the Ukrainian Orthodox Church and the Ukrainian Greek Catholic Church predominate in the east and the west, respectively. These churches can exert significant political influence at both the local and regional levels and many smaller religious groups allege governmental discrimination in favor of these churches with regard to restitution issues.

Registered religious organizations are the only entities permitted to seek restitution of property confiscated by the Soviet regime, and these organizations are limited to receiving only those buildings and objects necessary for religious worship. A 1992 decree commenced Ukraine's restitution program for religious buildings. In May 2001 three amendments were offered to the "Law of Religion and Freedoms of Conscience". The amendments would change the registration procedures, codify presidential decrees on property restitution and expand the types of religious property eligible for restitution to include religious schools and administrative buildings. The Rada (Parliament) did not pass the amendments in 2001. The Cabinet has revised and resubmitted the amendments, but the Rada has not yet acted on them.

In September 2002, the Cabinet approved an action plan designed to return religious buildings to the religious organizations that formerly owned them. A working group has responsibility for settling issues pertaining to the use of certain religious properties. The authorities are considering the return of several additional properties to church organizations.

According to the State Committee for Religious Affairs (SCRA), during 2002 the government transferred ownership of 187 buildings that were originally constructed as places of worship to religious communities, for a total of 8776 since independence in 1991. In addition, during 2002, religious communities received ownership of 358 premises that were then converted into places of worship and another 524 religious buildings that were not designated for worship (schools, hospitals, etc.) More than 10,000 religious objects

have also been returned to religious communities. Statistics for the first half of 2003 are not yet available.

Intra-communal competition for particular properties complicated the restitution issue for both Christian and Jewish communities. The slow pace of restitution is also a reflection of the country's difficult economic situation, which severely limits funds available for the relocation of the occupants of seized religious property. Although the program has made progress, restitution is not complete, and all of the major religions have outstanding claims. Many are for properties identified as historical landmarks or are occupied buildings. Relocation of current residents of claimed property is prohibitively expensive.

Various religious groups throughout the country have cited discrimination and deliberate delays in the restitution process at the local level. For example, the Kiev Patriarchate of the Orthodox Church and the Greek Catholic Church have complained of harassment by local authorities in the predominantly Russian-speaking eastern region, while the Moscow Patriarchate of the Orthodox Church complained that local governments ignored the appropriation of its churches by Greek Catholics in the western region. In addition to the disagreement among the Orthodox churches, the Roman Catholic Church has unrealized restitution claims in various cities including Kiev and has claimed that local authorities have blocked a land claim in Chernihiv. Jewish community representatives report that some progress has been made, although, restitution is proceeding slowly. Additionally, different Jewish groups have laid competing claims to the same property.

The US Embassy in Kiev actively monitors restitution of religious property, and regularly meets with representatives of Ukraine's religious communities in Kiev. These representatives also frequently visit Washington.

**PREPARED SUBMISSION OF
VLADISLAV BEVC, EXECUTIVE OFFICER
AMERICAN OWNERS OF PROPERTY IN SLOVENIA**

Mr. Chairman and Members of the Commission:

I wish to bring to the Commission's attention the issue of omitting from the Department of State's Annual Reports on the Observance of Human Rights the violations of the human right to own property and freedom from being arbitrarily deprived of one's property. The purpose is to elicit the interest of the Congress in this issue so that the Department of State may be directed to comply with Congressional mandate.

One of the major impediments to the resolution of the property restitution problem in the reorganized Communist countries of Eastern and Central Europe is the fact that the Bureau of Democracy, Human Rights and Labor of the Department of State does not consider violations of property rights of sufficient importance to be included in its reports. The Bureau, moreover, contends that Congress in enacting 22 USC 2304 did not expressly mandate reports on violations of this human right.

Violations of the human right to own property free from arbitrary government interference are occurring on a massive scale in the countries of Central and Eastern Europe (Slovenia, Slovakia, Czech Republic, Hungary, Croatia, Poland, Lithuania, Latvia, Estonia, Bulgaria) where the Communists have expropriated millions of people quite a few of whom are now American citizens. The outstanding claims for the return of the property confiscated by the Communists are estimated between \$150 billion and \$500 billion.

If these violations were reported as required by law, United States security assistance to the above Central and Eastern European countries would have to be suspended. This would represent an embarrassment to the Department of State in its efforts to line up the so-called "new democracies" as allies in the restructured Europe.

On the other hand, in enacting Section 2304 [22 USC 2304—Human Rights and Security Assistance], Congress declared that observance of human rights is a principal goal of American foreign policy. This policy conflicts with the practices in the reorganized Communist countries. We are petitioning the Congress to uphold its policy without exceptions and reservations.

Although the Department of State makes statements of its human rights policy these are not sufficiently specific as to what the practices and procedures in preparations of the annual human reports are. Under 5 USC 552, the Freedom of Information Act, such practices and policies should be set forth in writing and be publicly available. So far no documentation has been released.

From the *2002 Country Report on Human Rights Practices for Slovenia*, it is seen that the Department of State recognizes the following human rights as worthy of reporting:

1. Freedom from: (a) Arbitrary or unlawful deprivation of life; (b) disappearance; torture or other cruel, inhuman, or degrading treatment; (d) arbitrary arrest, detention, or exile; (e) denial of fair public trial; (f) arbitrary interference with privacy, family, home, or correspondence.
2. Respect for civil liberties: (a) Freedom of speech and press; (b) freedom of peaceful assembly and association; (c) freedom of religion; (e) freedom of movement within the country, foreign travel, emigration and repatriation.
3. Respect for political rights: The right of citizens to change their government.

4. Governmental attitude regarding international and nongovernmental investigation of alleged violations of human rights.
5. Discrimination based on race, sex, religion, disability, language and social status: (a) status of women; (b) status of children; (c) disabled persons; (d) status of ethnic minorities.
6. Worker rights: (a) the right of association; (b) the right to organize and bargain collectively; (c) prohibition of forced or compulsory labor; (d) status of child labor; (e) acceptable conditions of work, (f) trafficking in persons.

From this it is seen that the report covers a considerable range of human rights, including some economic rights not referred to in the statute.

The right to own property without arbitrary interference from the government is at least as important as the right to acceptable conditions of work. I have taken this point up with Attorney Blanck in the Department of State as inquiries of this kind invariably are routed to a group of attorneys in the Department of State whose task is to justify withholding consular assistance to persons who have claims against foreign government if they were not United States citizens when their property was confiscated. Attorney Blanck stated that the position of the Department of State is that property rights and, consequently, the right to shelter are not human rights.

In support of its exclusionary practice the Department of State maintains that it is only required to report on violations of those human rights specifically mentioned in 22 USC 2304 (d), viz.:

- (1) the term "gross violations of internationally recognized human rights" includes torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, and other flagrant denial of the right to life, liberty, or the security of person;

Because the published reports contain subjects listed under Items 1 through 6 above, at least some of which are not expressly mentioned in 22 USC 2304 (b), it appears that The Department of State is making its own decisions which human rights are worthy of inclusion in its reports on the basis of political expediency.

It appears that 22 USC 2304 (b) is the statutory authority to which he referred. That statute, however, calls for a "full and complete report ... with respect to practices regarding the observance and respect for internationally recognized human rights in each country proposed as a recipient of security assistance."

Moreover, the Universal Declaration of Human Rights, Article 17, states:

- (1) Everyone has the right to own property alone as well as in association with others.
- (2) No one shall be arbitrarily deprived of his property,

Therefore, the report on human rights practices should include a description on how this particular human right is observed as well.

Unfortunately this will not happen unless Congress specifically direct the Department of State to include reports on property violations in its annual reports. Obviously,

the Department of State deems that such reporting would run contrary to the policies of countries of Central and Eastern Europe listed above, which are now considered desirable allies and members of the North Atlantic Treaty Organization. Finding that these countries are violating human rights on a massive scale could interfere with their benefiting from the aid receiving from the United States.

I respectfully request that the Department of State be directed by Congress to monitor, evaluate and report on the violation of the human right to own and enjoy property along with the reports on other human rights violations.

American Owners of Property in Slovenia is a group of United States citizens with property interests in the Republic of Slovenia who are trying to obtain restitution of or compensation for their property under the restitution legislation enacted in Slovenia in 1991. Its executive officers are Dr. Vladislav Bevc (Danville, California), Dr. Edi Gobetz, Slovenian Research Center of America (Willoughby Hills, Ohio), Mr. Borut Prah (Oakland, California) and Mrs. Vida Ribnikar (San Francisco, California).

American Owners of Property in Slovenia is affiliated with the Association of Owners of Expropriated Property with headquarters in Ljubljana, Slovenia (Združenje Lastnikov Razlaščenega Premoženja, at Adamic Lundrovo Nabrezje 2, P.O.Box 584, 1101 Ljubljana, Slovenia). The Association represents the interests of approximately 10 percent of the Slovenian population or about 200,000 people. Its President and Chief Executive Officers are: Professor Inka Stritar, President, Zdenka Goriup and Peter Logar, Vice Presidents. The Association's objective is to secure the restitution of or compensation for expropriated properties. It also seeks recognition of property rights as a basic human right under Article 17 of the Universal Declaration of Human Rights (adopted by the General Assembly of the United Nations on December 10, 1948) and the Resolution of the Council of Europe No. 1096, "On Measures to Dismantle the Heritage of Former Communist Totalitarian Systems," approved June 27, 1996.

COOPERATING ORGANIZATIONS:

Savez Udruzenja Za Zastitu I Unapredenje Vlasnistva I Vlasnickih Prava U Republici Hrvatskoj [Croatia]; Lega Nazionale D'Istria Fiume Dalmazia [Italy]; Zdruzenje Lastnikov Razlascenega Premozenja [Slovenia]; American Owners of Property in Slovenia [USA], Focus Group [USA and Canada]; Committee for Private Property Inc.[USA]; The Czech Coordinating office [Canada], International Democracy Action Council [USA], Te Dehna Te Shkurtera Te Aktivitetit Te Shoqates Kombetare Te Te Shpronesuarve Pronesi Me Drejtesi [Albania]; Lietuvos Zemes Savininku Sajunga [Lithuania], Association for Restitution of Private Property in Macedonia [USA], Hrvatska udruga vlasnika otudene imovine za vrijeme fasistickog i komunistickog rezima [Croatia]; Bund enteigneter/arisiertes Juden durch die Bundesrepublik Deutschland [Germany].

**PREPARED SUBMISSION OF
JEHUDA EVRON, PRESIDENT,
HOLOCAUST RESTITUTION COMMITTEE**

We are sorry to inform the Honorable Helsinki Commission that there is nothing positive to report regarding the property restitution in Poland. The Honorable Ambassador Bell briefing will confirm this statement.

In fact since our testimony before the Commission in July 2002 the situation of restitution in Poland has deteriorated. Set forth below are recent developments:

1. Last year the Polish Prime Minister, Mr. Miller and the Polish Minister of Foreign affairs, Mr. Tsimoczewicz, committed before the Jewish leadership here in New York to have a restitution law in place by the beginning of 2003. In spite of this commitment there is no restitution law in Poland and this subject has been all but ignored and abandoned by the Polish authorities.
2. The Polish Government continues and even has intensified the sale of Jewish properties to private investors without even offering the right of first refusal to the legal owners of those assets. This action of the Polish authorities makes the recovery of those assets in Court impossible.
3. A very close friendship between the United States and Poland has developed since the war in Iraq. Unfortunately, the Polish Government is giving a wrong interpretation to this friendship by believing that it gives them the right to continue to violate the basic human right of private property.
4. As a result of this wrong interpretation, the Polish authorities do not even answer letters of the Helsinki Commission, Congressmen, Senators and Jewish leaders.

We think that this close friendship between the governments of the United states and Poland should be used to help our cause of human rights. The United States has the necessary leverage to convince Poland that taking away the homes of Holocaust survivors is unacceptable violation of human rights that has to be corrected.

We therefore respectfully request that the Helsinki Commission should take the following steps on this subject:

1. Initiate a meeting with high-ranking White House and State Department staff and ask them to intercede on our behalf.
2. Escalate this issue to a hearing and resolution in Congress and Senate.
3. Continue the contacts with the EU parliaments and governments and ask for their support to correct this terrible injustice in Poland.

**PREPARED SUBMISSION OF
LÁSZLÓ HÁMOS, PRESIDENT,
THE HUNGARIAN HUMAN RIGHTS FOUNDATION**

The Hungarian Human Rights Foundation (HHRF) welcomes the opportunity to submit written testimony to the Commission on Security and Cooperation in Europe on church and communal property restitution to Romania's 1.5 million-strong Hungarian minority. HHRF is deeply grateful to the Commission for the sustained attention it has paid to this



unfortunately still timely unresolved human rights issue affecting the very underpinnings of democratic and free society. Romania's failure to meaningfully address this issue represents a fourfold breach of Helsinki commitments. By failing to undertake property restitution 13 years after the fall of communism, the government (1) curtails religious liberties, (2) violates the sanctity of private property, (3) encroaches on the rights of minority communities, and (4) denies the material resources to build civil society.

Shortly before the Commission's July 16, 2002 hearing on this issue, the Romanian parliament adopted Law No. 501/2002 on restitution of properties illegally confiscated from religious denominations under communism in the period 1945–1989 ("Law on the Adoption of Government Decree 94/2000 on the Restitution of Certain Properties Formerly Belonging to Religious Denominations in Romania"). Thirteen years in the waiting, adoption of the law on June 25, 2002 filled the four historic Hungarian Churches (Roman Catholic, Protestant, Lutheran and Unitarian), and the community they serve, with expectation and hope that the restitution process would finally begin, and the 2,140 properties confiscated from these Churches would be returned. But the process has been protracted and marred by obstacles.

In a July 16, 2002 submission to the Commission, HHRF analyzed the numerous deficiencies of the law, which was not prepared in consultation with the affected Churches as requested. Since the overdue October 17, 2002 adoption of the law's implementing provisions, the Hungarian Human Rights Foundation has issued six documents monitoring developments. In January 2003, in consultation with the affected historic Hungarian Churches themselves, we identified twelve minimum measures which the Romanian government needs to take in order for the restitution process to begin.

HHRF is deeply concerned over the failure to undertake a genuine process of restitution of Hungarian minority church properties. The law is grossly deficient, major remedies are warranted. Beyond these shortcomings, still other government-imposed impediments prevent progress.

RESTITUTION WOEFULLY INADEQUATE

- The Special Committee set up to implement Law No. 501/2002 met on June 18 and 27—several months past the deadline mandated by the law-ruling on a total of 70 claims out of 7,568 submitted by the March 2 deadline. The total claims approved at these meetings for the four historic Hungarian churches amounted to a mere 49 (see chart below) of the 1,974 submitted enumerating 2,140 properties. However, the churches have still not regained title to or occupancy of even these 49 properties. In an unexpected move, the Special Committee announced on June 27 that instead of issuing written decisions immediately- thereby allowing the claimants to register title to, and regain occupancy of their confiscated properties-it would do so within only 30 days. But it failed to keep that promise as well: It was only at its September 2 meeting that the committee announced it had finalized the resolutions after failing to meet in the intervening months as it had previously planned. Now, the committee has promised that it will mail the decisions this week and meet again on September 9 to decide a further 40 claims. At its current pace, it will be nine years before the Special Committee merely processes the claims.
- The Special Committee’s failure to meet deadlines is because: (1) Committee members serve in only a part-time capacity; (2) Committee meetings are sporadic; and (3) the Committee has an administrative staff of only three. So far the government has not indicated that it will compensate the Churches for its failings. In a September 4 interview with Hungarian-language daily *Romániai Magyar Szó*, Attila Markó, the Democratic Alliance of Hungarians in Romania (DAHR) representative in the five-member Special Committee conceded that it needs to be restructured, but no indication has been given of the nature or time frame for doing so.
- Following the March 2 submission deadline, the Special Committee deemed 90 percent of all the claims submitted to be “incomplete,” demanding “updated” title deeds for all claims submitted in 2002, as well as “legal status certificates” from the local authorities in all 7,568 cases! Not only is this step redundant and a deliberate effort to inject further delays, but the Special Committee does not have the power to constrain local authorities to comply. Moreover, in the majority of Hungarian cases, the local authorities have a vested interest in not providing any documentation, since they stand to be disadvantaged by the return of property currently in their possession. Committee member Markó has also conceded that the Churches faced, and continue to face, obstruction from local authorities in procuring documentation proving their claims, but did not indicate that the committee would withdraw this requirement (id.).

LAW FRAUGHT WITH DEFICIENCIES

- A major shortcoming of the law is that it does not address the issue of properties also confiscated under Communism from minority communities (“communal properties”), thus leaving this a still unresolved issue. In May 2003 a proposal for drafting such a law, based on two former government decrees (Nos. 13/1998 and 83/1999), was submitted to the Romanian cabinet by the then-Ministry for Public Administration. The government has yet to even consider the document, much less introduce the promised bill in Parliament. The affected communities should be included in the drafting process.

- Another significant deficiency of the law is that it fails to establish the principle of “restitutio in integrum” as the first order of restitution (as recommended by Council of Europe Parliamentary Assembly Resolution 1123/1997) which would restore ownership and all rights emanating from ownership across the board.

The law provides for “simple ownership,” without bestowing the attendant rights (such as the right by the legitimate owners to retroactive compensation once restitution has occurred), in cases of buildings currently occupied by public institutions, which is the situation with 90 percent of the properties. In these cases—namely properties currently occupied by educational, research, health and socio-cultural institutions, political party headquarters, international organizations and foreign missions—occupancy by the rightful owners can be delayed for up to five years! (While this time period was reduced from 10 years as a concession to the churches, it is still excessive considering the fact that 13 years have already passed since the dictatorship was overthrown. The time-frame should be reduced to one year.) Thus, it is important to bear in mind that in only nine of the 49 properties approved by the Special Committee in June 2003 will the rightful owners regain actual occupancy in the near future. During the five-year period, the restored owners can either enter into a lease agreement (the amount of which is to be determined unilaterally by the state); or accept compensation under guidelines set by another law (No. 10/2001), in the form of state company stock certificates. Both options are financially detrimental to the churches. Moreover, at the end of the five-year period, the only obligation the current tenants have is to hand over the property in the condition it was at the time of the Special Committee’s final decision, completely disregarding the fact that the Churches were deprived of buildings in most cases in excellent condition at the time of confiscation. Lastly, the law does not give any guidance on who evaluates the current state of the property, which could lead to future misunderstandings.

- A further major flaw is that the Special Committee’s word is not final! (Art. 2/6.) Current occupants and owners can initiate legal action against decisions made by the committee, paving the way for endless legal quagmires, as witnessed in the case of the majority of the buildings never de facto restored via government decrees. The possibility of legal challenge and defeat is a probability based on the many negative precedents that exist surrounding the failure to implement the prior government decrees. It bears mentioning that in all the thirteen cases where the Hungarian Churches regained occupancy, it occurred despite legal action lasting several years.
- The Law needs to be amended to establish an equitable formula for compensating the churches for demolished properties.

STILL FURTHER OBSTACLES IMPOSED

- In those cases where the Churches have regained title but not occupancy, they have nevertheless had to assume the unfair burden of paying property taxes on the property they still cannot occupy. This practice should cease and refunds issued. One example is the Gheorghe Sincai High School in Cluj/Kolozsvár, which the Hungarian Reformed Church was able to partially reoccupy in December 2002. The Church has been forced to pay 70,000,000 ROL (\$2,300) in taxes each year for property it cannot use.
- The Law needs to be amended to specifically exclude the practice of requiring monetary compensation from the Churches to cover state costs for maintenance and “improvement” of the buildings since their confiscation in the late 1940’s. Precedents for

exactly these types of charges being applied are the cases of the Zsuzsanna Lorántffy High School, restored to the Hungarian Reformed Church and the Roman Catholic Bishop's Palace, both in Oradea/Nagyvárad.

- Church Assets: The law on restoring to their rightful owners ecclesiastical objects, baptismal records and church archives seized by Communist authorities needs to be implemented (see chart below).

CONCLUSION

Thirteen years after the fall of communism, only 62 (including 13 under five previous government decrees) of 2,140 properties illegally confiscated from the churches between 1945-1989 have been restituted. Only when the rightful owners finally regain title to, use of and compensation for these properties will the ongoing, major blow to religious freedom, civil society and the 1.5 million Hungarians ability to maintain community and church life be reversed.

NUMBER OF CLAIMS APPROVED FOR THE HISTORIC HUNGARIAN CHURCHES BY THE SPECIAL COMMITTEE SINCE THE MARCH 2, 2003 SUBMISSION DEADLINE			
Name of Denomination	June 18, 2003 Special Committee Meeting	July 27, 2003 Special Committee Meeting	Sub-Total
Roman Catholic:			
Roman Catholic Archdiocese Alba Iulia/Gyulafehérvár	3	7	10
Roman Catholic Diocese of Timi- soara/Temesvár	4	0	4
Roman Catholic Diocese of Oradea/ Nagyvárad	6	5	11
Evangelical- Lutheran Church	0	5	5
Hungarian Reformed:			
Hungarian Re- formed District of Transylvania	2	6	8
Hungarian Re- formed District of Királyhágómellék	3	1	4
Unitarian Church	4	3	7
Total	22	27	49

CLAIMS SUBMITTED BY HUNGARIAN CHURCHES (UPDATED APRIL 9, 2003)	
Roman Catholic Archdiocese Alba Iulia/Gyulafehérvár	400
Roman Catholic Diocese Oradea/Nagyvárad ¹	181
Roman Catholic Diocese Satu Mare/Szalmár	150
Roman Catholic Diocese Timisoara/Temesvár	134
Roman Catholic Diocese Iasi	6
Premonstrant Order of Oradea/Nagyvárad	43
Minorite Order	8
TOTAL Roman Catholic	922
Hungarian Reformed District of Transylvania ²	630
Hungarian Reformed District of Királyhágómellék ³	319
Total Hungarian Reformed	949
Unitarian Church	84
Total Unitarian	84
Evangelical-Lutheran Church	19
Total Lutheran	19
TOTAL Protestant	1,052
<i>Total Historic Hungarian Churches</i>	1,974
<p><i>Note:</i> The number of claims submitted by the historic Hungarian churches before the March 2 deadline was publicly reported by State Secretary Attila Markó of the Ministry of Public Administration as 1,799. The numbers shown here are based on updated, accurate information received from the churches on the number of claims they actually submitted. Discrepancies occur in three cases:</p> <p>¹ The Roman Catholic Diocese of Oradea submitted 181 claims, not 141.</p> <p>² The Hungarian Reformed District of Transylvania submitted 630, not 609.</p> <p>³ The Hungarian Reformed District of Királyhágómellék submitted 319 claims, not 207.</p>	

INVENTORY OF PROPERTIES ILLEGALLY CONFISCATED FROM THE HUNGARIAN HISTORICAL CHURCHES IN ROMANIA (PREPARED MAY 2002)									
Confiscated Property Type	Roman Catholic Church			Hungarian Reformed Church		Unitarian Church	Evange- lical- Lutheran Church	Total	
	Alba Iulia Arch- diocese	Oradea/ Nagyvárad Diocese	Satu Mare/ Szalmar Diocese	Timisoara/ Temesvár Diocese	Trans- sylvania District				Királyh- gómellék District
<i>Buildings</i>									
Nurseries	1	6	1	1	3	6	—	18	
Elementary Schools	173	56	18	58	354	166	4	864	
High Schools	24	8	7	9	22	5	—	80	
Hostels	6	2	1	3	4	1	1	18	
Community Centers	4	4	5	3	60	14	—	102	
Hospitals	—	2	2	1	3	—	—	8	
Orphanages	6	—	6	—	2	1	—	15	
Asylums	5	—	2	—	3	—	—	10	
Places of Worship	13	9	4	2	9	5	—	43	
Monasteries	20	7	12	8	—	—	—	47	
Parish Houses	11	3	3	1	14	10	—	42	
Bishop's Palace	—	1	—	—	—	—	—	1	
Libraries	1	—	—	—	—	—	—	1	
Admin. Buildings	10	3	4	—	9	1	1	25	
Agricult. Buildings	—	69	—	—	—	—	—	69	
Forest Buildings	—	2	—	—	—	—	—	2	

INVENTORY OF PROPERTIES ILLEGALLY CONFISCATED FROM THE HUNGARIAN HISTORICAL CHURCHES IN ROMANIA (PREPARED MAY 2002) (Cont'd)										
Confiscated Property Type	Roman Catholic Church				Hungarian Reformed Church			Unitarian Church	Evange- lical- Lutheran Church	Total
	Alba Iulia Arch- diocese	Oradea/ Nagyvárad Diocese	Satu Mare/ Szatmár Diocese	Timisoara/ Temesvár Diocese	Tran- sylvania District	Királyh- gómellék District				
Mills	1	1	1	—	15	—	—	1	—	19
Apartments	250	98	79	23	180	181	—	36	13	748
TOTAL	525	266	145	119	028	346		92	19	2,140
<i>Other Property</i>										
Cemeteries	9	3	1	—	1	4	—	—	—	18
Agric. Land (hectares)	—	2,663.71	—	—	9,450.27	1,424.27	—	—	519.24	14,060.91
Forests (hectares)	—	2,971.91	—	—	6,322.17	210.70	—	—	222.32	9527.10
Incunabula (pre-1501 Printed Works)	—	224	—	—	—	—	—	—	—	224
Oil Paintings	—	38	—	—	—	—	—	—	—	38
Pictures	—	2	—	—	—	—	—	—	—	2
Engravings	—	213	—	—	—	—	—	—	—	213

**PREPARED SUBMISSION OF
MARKO S. RAKOCEVIC, FOREIGN CLAIMS DIRECTOR,
THE RURAL-URBAN ALLIANCE**

Mr. Chairman, and respected members of the Commission:

October 5, 2000 was a day of new hopes for the global community. On that date the people of Serbia rose up, physically occupied the halls of state, and ended the reign of Europe's last Communist dictator. Having suffered the nightmare of Nazi occupation followed by a half-century of Communist misrule, it finally seemed that a new government of the people would take power in Belgrade.

Three years later, Serbia is the only country in Eastern and Central Europe that does not have a single law governing communal or private property restitution. No property claims have been resolved and no property has been returned. Despite successes on the international level, domestic Serbian laws remain those dictated by the Communist party during the 1940's and 1950's. DOS (the ruling coalition of former opposition parties) has maintained and further developed the inherited structure of Communist laws, which favors dictatorial one party rule. Co-Chairman Christopher H. Smith stated before this Commission in July 2002, "... governments still cannot bring themselves to part with most of the loot stolen by their undemocratic predecessors." In Serbia, the government not only refuses to return stolen property, it likewise refuses to part with the anti-democratic Communist-era laws that made such plunder possible.

While other transitional countries that this Commission examines are critiqued for their unwillingness or inability to enforce existing restitution laws or for the inadequacy of these laws in addressing international claims, Serbia still lacks any laws on restitution or denationalization. American claimants, who have so far registered over 500 million dollars in claims with the United States Embassy in Belgrade, have absolutely no access to the Serbian court system which continues to function exactly as it did under 50 years of Communism.

The potential legal rights of American claimants are further exacerbated by the Serbian government's passing of several new laws that allow for and promote the right to use and develop seized assets. The government has launched a two-pronged attack to unjustly liquidate nationalized property before a law on restitution is passed: firstly, the Privatization Program and secondly, the sponsorship of new laws that further augment Government control over real estate. Enhanced government control of property facilitates the transfer of state ownership into the hands of government insiders. It has become clear, especially since the July 2003 report by The International Crisis Group, (ICG) titled "Reforms in Serbia stall again" that the Serbian privatization program is simply a cover for the laundering of Milosevic era dirty money and a means for current politicians to illegally acquire government controlled assets. A small group of roughly 50 individuals and companies have so far purchased over 70 percent of prime nationalized assets offered for sale though the "privatization" program.

According to the aforementioned ICG report of July 17th 2003, "Some of the individuals and companies are well known to average Serbs: (15 companies listed) ... Because of the support they gave to Milosevic ...many of these individuals or companies have at one time or another been on EU visa ban lists, while others have had their assets frozen in Europe or the US ...they and their companies were associated with the Milosevic regime and benefited from it directly ...Few of the Milosevic crony companies have been subjected to legal action ...Most disturbing ...at a time when the economy is worsening—

these companies' positions of power, influence and access to public resources seem to have changed very little."

The increasing economic power of this criminal clique and their strong links to the current government's plundering of nationalized assets is further defined in the ICG July 2003 report as follows, "The oligarchs have managed the transition from the old regime to the new with relative ease because of their ability to finance Serbia's political parties, both ruling and opposition enjoying the oligarchy's financial largesse, there is less and less momentum inside the government for reform." Lower level bureaucrats are silenced in this corrupt loop through kickbacks and bribes that favor certain bidders in the privatization process. American citizens have reported such solicitation for bribes to our Embassy in Belgrade.

Because the Serbian Privatization Program has become a land-grab for insiders, no provisions have been made to address possible claims to nationalized property. Ambassador Randolph Bell, Special Envoy for the Department of State addressed the importance of potential claims in privatization programs before this Commission on July 16, 2002 stating, "Changing the ownership and use of buildings and land from one party or purpose to another can cause major disruptions that already economically challenged countries can ill afford. In encouraging restitution, we try to keep in mind the following considerations: ... Privatization programs should include protections for claimants."

The Serbian government not only fails to provide for claimant protection, it compounds this disregard for fiscal and moral responsibility through the communication of officials lies purporting nonexistent provisions for claimants. One such fabrication frequently seen in official communications from the Serbian government is the contention that 5 percent of monies from sales of state controlled assets is being set aside to retribute potential claimants. Independent organizations have not been able to verify this claim. Published Serbian government budgets do not list such a fund. These illusive resources are not listed on any government accounting records and no Ministry will vouch for the amount of money that has been "collected."

US Diplomats have been directly lied to in official Serbian government communications regarding restitution provisions. I contacted Mr. James E. Stephenson, Director of USAID in Serbia and Montenegro, for advise on how American claimants could better represent their interests in Serbia. He wrote back to me July of this year stating that the Serbian Government had officially informed USAID that an intra-ministerial group had been set up to deal with restitution issues. He suggested that I contact this group. After numerous unsuccessful phone calls, I sent registered mail to multiple Ministries of the Republic of Serbia. I finally received a reply from the Ministry of Finance and Economy numbered 023-02-00251/2003 and dated 15.08.2003 from which I quote, "Regarding your letter of 05.08.2003, directed to this Ministry asking about the formation of a special intra-ministerial group dealing with the privatization process and restitution, or the restitution process alone, we inform you that no such special intra-ministerial group has been formed."

One must conclude, from the previously mentioned ties to criminal money and the blatant lies told to American Diplomats that the current Serbian government vehemently opposes any form of restitution or compensation to American and domestic claimants. This intransigence is creating political instability in Serbia as approval ratings for the current government plummet to single digit levels. Ironically, the main campaign promise of the current Serbian Government during the year 2000 election was speedy enactment of a law on restitution and denationalization.

The Serbian government is clearly ignoring the majority will of its citizens. Marten Board Intl., a licensed partner of the British Market Research Bureau of London in conjunction with “Blic” a local Serbian daily newspaper conducted a large survey of Serbian voters in July of 2002 where 73.1 percent of voters polled were in favor of the restitution of Communist seized properties—the highest voter consensus on any single issue in the Republic. Polls over the last decade in Serbia have shown that voter support for a law on restitution consistently reaches the 70 to 80 percent level.

One possible hope for American claimants is the grassroots support that restitution and denationalization enjoy among the Serbian people. It is necessary to consider the economic history of Serbia prior to the Second World War to understand just how popular a restitution law would be. When Serbia achieved autonomy from Ottoman Turkish occupation, families inhabiting newly liberated Serbia were invited to claim as much land as they could farm. Due to centuries of Ottoman brutality the population had been reduced to a level too small to claim all available acreage. As late as the mid 1930’s the Kingdom of Yugoslavia was still giving away 100-hectare parcels of untitled farming land in Serbia to any individual or family that could effectively farm such a large area. In the years immediately prior to World War II, Yugoslav tax records and census documents show that small farming households constituted 90 percent of the population of Serbia and privately owned over 85 percent of total land assets in Serbia. Hence by 1940, land was universally owned.

This uniquely equitable distribution of land was erased by subsequent Communist laws that gradually depopulated the countryside, with the execution of almost 300,000 Serbian farmers between 1945 and 1950 and the forced resettlement (over a period of several decades) of the majority of the rural population into Stalinist style apartment ghettos in urban areas, such as “New Belgrade.” Farmland was placed under the control of state run agricultural collectives. Private property, as known in the West, ceased to exist.

Serbia went from a society where almost every family owned and farmed their own land to a country of landless socialist workers crowded into inhuman housing blocks. With past ownership statistics in mind, it is quite reasonable that most Serbian citizens today support immediate enactment of a law on property restitution. A large majority of the citizenry would directly benefit from the denationalization of hundreds of thousands of hectares of state controlled land.

An event of great importance for the democratization of Serbia occurred in June of this year, offering further proof of the average Serbian’s desire to see a law on restitution and denationalization enacted. An existing but never before used Serbian law allows a group of citizens to author and directly sponsor a bill before the Republican Parliament if they obtain a legally specified amount of signatures for the bill within seven days. Parliament is technically required to vote on a successfully submitted citizen-bill. Within six days of June 7th 2003 a small group of human rights workers collected over 100,000 signatures, more than enough, to enter two bills into Parliamentary procedure. The two proposed laws, which must be voted on this autumn, would freeze the current status of seized properties and set up legal procedures for restitution and denationalization allowing American citizens to file claims.

I strongly urge this Commission to monitor the status of these two citizen-bills in Serbian Parliament, not only because the proposed laws do not discriminate against American claimants or community owned property but also to support this fundamental expression of the democratic spirit by the people of Serbia. Chairman Ben Nighthorse Campbell stressed the importance of such laws before this Commission during the July 2002 hearing, stating, “Property restitution and compensation are important steps forward in the

economic and political development of post-Communist states. Successfully responding to property claims means establishing the rule of law in these societies.”

Two American claimants that participated in the signature drive for the two bills were harassed during the process. Heirs to vacant prime building lots in central Belgrade, “Tri Lista Duvana“ and the “Srpski Kralj“ emplacement, they were frustrated by their inability to protect the unencumbered nature of their properties. Despite repeated diplomatic intervention by the U.S. Embassy, through diplomatic notes and actual State Department officers appearing at the contested locations, Serbian officials refused to stop the insider auctions that sold the right to build on these properties to dubious investors. Ministry of Interior Police detained both of these American Citizen claimants on June 9th, 2003 while they were collecting signatures for the citizens’ sponsored bill on restitution, at a designated signature collection point for which they had obtained a legal permit.

Civil and human rights action by local groups in Serbia may be the only means of truly democratizing Serbian society, both in legal and economic ways. The reestablishment of clear-titled property would return the illegal assets amassed by ex-Communist bosses and dubious reformers to rightful owners—the people of Serbia. Without passage of a just and equitable restitution law in Serbia, the feudalization of Serbian society will continue. The impoverishment of Serbian citizens will bring further political instability because, in the end, desperate people will fight to obtain basic necessities needed to sustain human life.

I would like to thank the distinguished members of this Commission for allowing me to testify before you. The best hope for American claimants is to petition our government to support NGO’s and grassroots movements in Serbia that actively support passage of a restitution law. Unfortunately, we cannot expect cooperation from the current Serbian Government. I would also suggest that issues such as NATO acceptance, Most Favored Nation Trading Status and US funding be linked to the Serbian government’s passage of a fair and just law on restitution and denationalization. I would like to end with an excerpt from an open letter sent to the Secretary General of the Council of Europe Mr. Walter Schwimmer on August 6th, 2003 by The Belgrade Association of Citizens for the Restitution of Confiscated Properties, “We, the ordinary citizens of Serbia need your help to create a European and international forum to help us dismantle the anti-democratic plutocracy that now sells and controls most of Serbia’s economic assets. Members of our group collected over 100,000 signatures in six days this summer to legally and directly sponsor two citizens’ law bills on fair property restitution before the Serbian Parliament. We feel that the only way to return Serbia to the path of true democratic reforms is to guarantee property rights in accordance with international norms. Our proposed law would allow Serbian and foreign claimants access to the court system to legally redress ownership disputes. We need your monitoring of the Serbian Parliament this September so that this bill is honestly discussed by Parliament and not secretly vetoed out of existence without any public debate. If Serbia is to overcome the last decade of criminal misrule and be truly democratic, every claimant must have the legal right to regain economic control over his or her confiscated property and thereby take it out of the hands of the criminal oligarchy. We would prefer to see a Serbia where, once again, 90 percent of the population controls 85 percent of the wealth rather than today’s Serbia where less than .01 percent of the population is buying up 90 percent of state nationalized assets while most Serbian citizens live on less than 150 euros a month.”

**PREPARED SUBMISSION OF
MR. ISRAEL SINGER, CO-CHAIRMAN,
WORLD JEWISH RESTITUTION ORGANIZATION,
PRESIDENT, CONFERENCE ON JEWISH MATERIAL CLAIMS
AGAINST GERMANY**

It is gratifying to see the continued interest on the important issue of compensation and restitution of Holocaust era properties in Eastern Europe by the US Congress and by the Helsinki Commission in particular. The holding of this briefing with Ambassador Bell illustrates your commitment to maintaining a focus and pressure on this critical moral issue.

The World Jewish Restitution Organization was established in 1992 to seek compensation and restitution from countries other than Germany and Austria. The Claims Conference, established in 1952, has as its mission obtaining compensation and restitution from Germany and Austria. The WJRO has played a central role in securing Holocaust restitution and compensation from numerous countries in Europe and in particular was pivotal to the agreement with Swiss Banks in 1998.

The international world scene has changed immeasurably since the last formal hearing on this issue in July 2002. Our country has continued to fight terrorism with unparalleled vigor and has won a war in Iraq. Alliances with certain countries have been strengthened and others have become more fragile. However, all our battles and challenges are derived from our commitment to fundamental rights and values. Rights and values that must be at the forefront of all our efforts and endeavors.

We have also seen the composition of European institutions change. We all agree that integration into the united Europe is, and must be, more than fulfilling certain economic agreements and military pacts. A country must take its place in sharing and implementing certain basic values concerning human rights, democracy and the rule of law. Clearly all countries that seek to participate in a united Europe are obligated to pursue a course of action that will result in a measure of justice for the victims of the Holocaust.

It has been recognized that the method in which a country establishes and implements a law or mechanism for the restitution of private and communal Jewish property seized by the Nazi regime (or its allies) is indicative of that country's commitment to securing for itself a place in Western world. Unfortunately, the limited attempts made to enact property restitution in former Communist countries are often more indicative of a lack of political will than economic constraints.

The US Government, both through the US administration and the US Congress, has consistently set the benchmark for restitution in Central and Eastern European countries. Most recently Deputy Secretary of State Richard Armitage has declared that "following the fall of the Berlin Wall, possibilities opened for the US Government and others to resume work on securing justice for Holocaust victims ...we are convinced that the greatest effort we can make is to try to make a measure of justice to the survivors of the Holocaust. The United States Government remains committed to work for the human dignity that is the hallmark of our country."¹

In addition, in April 19, 1995 a letter signed by Newt Gingrich (Speaker of the House), Richard Gephardt (House Minority Leader), Benjamin Gilman (Chairman, House Com-

¹ Speech of Deputy Secretary of State Richard Armitage at the Board Meeting of the Claims Conference on July 2001.

mittee on Foreign Relations), Lee Hamilton (Ranking Member, House Committee on Foreign Relations), Robert Dole (Senate Majority Leader), Thomas Daschle (Senate Minority Leader), Jesse Helms (Chairman Senate Committee on Foreign Relations), and Claiborne Pell (Ranking Member, Senate Committee on Foreign Relations) stated:

It is the clear policy of the United States that each [Belarus, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Moldova, Poland, Romania, Russia, Slovakia and the Ukraine] should expeditiously enact appropriate legislation providing for the prompt restitution and/or compensation for property assets seized by the former Nazi and/or Communist regimes. We believe it is a matter of both law and justice.

The Organization for Security and Cooperation in Europe has consistently advocated for all member states to deal with this issue in a comprehensive and non-discriminatory way. In fact in July 2001 at the Paris Meeting of the OSCE, it urged:

The OSCE participating States to ensure that they have implemented appropriate legislation to secure the restitution and/or compensation for property loss by victims of Nazi persecution and property loss by communal organizations and institutions during the National Socialist era to Nazi victims or their heirs(s), irrespective of the current citizenship or place or residence of victims or their heir(s) or the relevant successor of communal property.

However, as you are aware our struggle is far from over. During the 14 months since your last hearing, we have seen only minimal progress from the status that we outlined in July 2002. We urge the Commission to remind both those OSCE participant countries that are not fulfilling their obligations as to the necessity for comprehensive private and communal property restitution and in addition, to ensure that this important issue is raised is placed on the agenda of US Congressional hearings relating to the implementation by newly accepted NATO countries of their responsibilities. In addition, this issue should be raised at the forthcoming meeting of the OSCE in Poland where human rights will be discussed and that this issue is constantly monitored by the Helsinki Commission through the holding of frequent hearings. We look forward to working together to ensure progress in a timeframe that will deliver a measure of justice to Holocaust survivors and their heirs.

**PREPARED SUBMISSION OF
PROF. INKA STRITAR, PRESIDENT,
THE SLOVENIAN ASSOCIATION OF FORMER OWNERS OF EXPROPRIATED
PROPERTY (SAFOEP)**

**DENATIONALIZATION IN THE REPUBLIC OF SLOVENIA CAUGHT IN A VISE OF LEFT-WING
POLITICAL FORCES**

The Slovenian Association of Former Owners of Expropriated Property (SAFOEP) is a civil society organization with over 4000 members which has been representing the interests of 200.000 expropriated Slovenians and their immediate families since 1990.

The denationalization and privatization processes are two foundation stones of the successful transition in the Republic of Slovenia. Regarding the denationalization, the SAFOEP must unfortunately once more confirm that the implementation of the law is not well-intentioned and that the efficiency of the Denationalisation Act is again in decline because of the strengthening of political forces and ideas inherited from the period of communist totalitarianism.

- The implementation of the passed legislation and the adoption of new acts in the Republic of Slovenia do not comply with the principles of the European *acquis communautaire*.
 - The EU representatives do not react decisively enough to the legal provisions which in a discriminatory way continue to violate the right to private property and legalize again the unfounded privileges from the previous regime.
 - For 12 years, expropriated Slovenians have been fighting for their rights with their own country which, after World War II, contrary to all civilized norms, brutally expropriated them, dislodged them from their own homes, banished them from the country or even killed some of them in order to take their property. So far, in the Republic of Slovenia no one has ever been accused of, let alone punished for, all these actions which can be classified as criminal and often even genocidal. The Republic of Slovenia has never publicly condemned the manipulations of the former authorities nor has it offered a single word of apology to its own persecuted and expropriated citizens!
 - Instead of justly and voluntarily restituting at least the remaining part of the once nationalized property to the expropriated owners in the period of transition, the Republic of Slovenia tries, with various administrative hindrances, unbelievable procrastination and propaganda campaign in mass media, to return as little property as possible to the lowest possible number of expropriated persons. And not only that: the property which was formally “restituted” is—in some cases—under the statutory restraint still being used by individuals privileged by the former Communist regime and is not available to the original and now again lawful owner.
 - The SAFOEP expects the EU representatives to get acquainted before 1 May 2004 with the erroneous actions of the Republic of Slovenia, particularly in the field of legislation and its implementation, and to force the new Member State with appropriate measures to comply with the European *acquis communautaire* and with the fundamental human rights concerning private property.
- The SAFOEP therefore determined:

1. The restitution of the unjustly nationalized property is extremely politicized. The left-wing faction, which follows the ideas of the 50-year-lasting Communist period, is again occupying all the important positions in the state, and its influence is increasing. The opposition and obstruction of the restitution of property is a genuine political task for all governing structures in the country against which the expropriated persons have no real power.
2. The interpretation of the current Act itself is negative and malevolent (e.g. regarding citizenship), which also holds true of the parallel legislation (e.g. the Housing Act, the Hunting Act, etc.). Even more: over the years the arrogant left-wing parties have produced quite a methodology pursuant to which the property shall not be restituted. In December 1993, the deadline for filing restitution claims expired, the law provided that claims must be resolved within a year of their filing but to this day processing of numerous claims has not yet begun and are caught in a maze of jurisdictional appeals. This deliberate violation of human rights and mockery of the legal process is abetted by left-wing oriented ministries such as the ministries of Culture, Environment and Space, and Energy). In the administration of property restitution gross discrimination is practised against the claimants whose claims are the blockades in the process and subjected to innumerable chicaneries.
3. The Republic of Slovenia does is not complying with the Resolution No. 1096 of the Parliamentary Assembly of the Council of Europe regarding the abolition of heritage of former totalitarian Communist regimes.
 Enactment of new laws (e.g. the Housing Act or the Hunting Act) is not based on the European *acquis communautaire* because it does not take into account either private property or owner rights. It simply rests on the Communist practice by carefully safeguarding all the unjustified privileges related to having at disposal other persons' property. The system of privileges conferred to the supporters of the former Communist regime is in force in the areas of pensions, housing, land-ownership, culture and many other fields.
 The restitution of property is particularly hindered in cases where the once nationalized property is still being used as a privilege (e.g. denationalised apartments, forests, business premises, agricultural land, etc.). For this reason there is a continued propaganda against the restitution and, due to the keeping in the position of the left-wing electoral body, this propaganda is also substantially supported by all instruments of the authority.
 The revival of Communist symbols and celebration of events from the Communist period point out the dangers which threaten the state pursuant to Point 3 of the Resolution No. 1096 of the Council of Europe. Such policies preclude any accountability for the crimes committed in the Communist period.
4. Slovenia is the future full member of the EU and NATO. Expropriated Slovenians are surprised at the fact that the European institutions allow with such tolerance the re-spreading of Communist methods in the Slovenian territory. Unhappily we must mention that the EU representatives do not try to get in touch with the civil society in Slovenia, but contact only the representatives of the authorities regarding transition issues. This is of course simpler and less conflicting, but it is also completely ineffective in establishing a democratic and legal state.
 Empty promises by the authorities regarding a fair denationalization, respect for private property, abolition of Communist privileges and introduction of the European *acquis communautaire* are far from being a common practice.

Bland remonstrances of the representatives of the European Union directed at the government of Slovenia government will not speed up the restitution of the nationalized property.

5. Finally, it has to be mentioned that, within the framework of the EU accession, the Slovenian government committed itself to complete the entire denationalization process by the end of 2002. Unfortunately, this was not accomplished. It is still unknown whether and when this process will be completed.

In Ljubljana, 17.6.2003
For Presidency of the SAFOEP
Professor Inka Stritar

**PREPARED SUBMISSION OF
MIHAI A. VINATORU, PRESIDENT,
COMMITTEE FOR PRIVATE PROPERTY, INC.**

The Committee for Private Property, Inc. a New Jersey non-profit organization, with more than 2,450 members, including over 1,000 American citizens of Romanian origin in its membership. For the past 7 years we have documented and informed through letters and our web site <<http://www.romhome.org>> the abuses perpetrated by the Romanian Government and Parliament against American Citizens of Romanian origin who are attempting to regain confiscated property in Romania.

The situation of rightful owners even worsened since your last hearing. The Romanian Government modified the Law 10, approved in 2001, to the disadvantage of the rightful owners, by means of emergency ordinances. These include supplementary limitations of owner rights and represent an interference of the executive power into the legislative one.

So the ordinance 184/18.12.2002 abolishes par. 16 (4) of the mentioned law, which stipulated that real estate, used by state educational, health, social-cultural institutions, party or diplomatic residences, confiscated without legal title, should be restituted to the rightful owners. This represents a new nationalization in 2002 of properties belonging to owners, the rights of which had been formerly recognized by the law 10/2001.

The Application Rules (AR) has introduced major alterations to the disadvantage of rightful owners.¹ Here are some of them:

- One of the principles stated by the AR is that restitution should prevail over compensation. But in fact, due to the numerous exceptions to restitution provided by the law and to the additional exceptions contained in the AR, the restitution rate will be very limited. Even the responsible Authority admits that only 24 percent of confiscated real estate (50,000 cases from 210,000 requests) will be restituted in kind.² We consider that even this figure is largely overestimated.
- Another AR declared principle is the conservation and the respect of the rights of “good faith purchasers”. As a consequence, the AR introduced a prevalence (priority) of the title of the purchaser (who bought from the illegal owner the State) over the title of the rightful owner and limits the good faith to the good faith of the purchaser (instead of including also the good faith of the vendor). The result of this “principle” is that rightful owners, whose real estate has been sold to tenants or to private societies, will not get back their properties or will be involved in endless litigation, with an uncertain outcome.
- The AR declare the alienation of real estate to tenants before the publication of the Law 213/1998 always as valid, independently of the good faith of the purchaser, while for alienations after the apparition of this law, the good faith of the purchaser should be decisive. Such a differentiation has no legal justification and is not mentioned in the Law 10/2001.
- Although confiscation laws infringed upon the Constitution and the Civil Code in force at the moment of their issue,³ the AR considers the title conferred to the State as valid. This infringes the title of the law, who declares all these actions as abusive.

¹ AR: Normele metodologice de aplicare unitară a Legii nr. 10/2001, Hotărârea Guvernului nr. 498/2003 published in the *Monitorul Oficial* nr. 324 din 14 mai 2003

² From “Autoritatea pentru urmarirea aplicarii unitare a Legii nr. 10/2001. Stadiul aplicarii legilor de restituire a proprietatilor imobiliare preluate in mod abuziv” pt. IV Aa

³ Constitution of 1948, art. 6, 10, 11.

- The AR requires from the petitioners new, supplementary documents.⁴ As authorities deliver them only after long periods of time (sometimes not at all), the probable intention is to deny requests as being incomplete. At the same time, many elderly owners lost their property rights, because they are no more able to accomplish these costly and weary restitution procedures. The responsible authority estimates the denial rate at 20 percent; the actual figure will be probably higher.⁵ Is a restitution law, which generates a denial rate of 20 percent and endless litigation an equitable law?
- The law stipulates that real estate abusively confiscated by the state should either be restituted, or compensations paid to the rightful owners. The AR, contrary to the law, deny these rights to owners who, before leaving Romania in a legal mode, were forced to cede their real estate to the state and received a symbolic compensation.
- The AR formula for compensations converts the value of real estate at the moment of confiscation from ROL in US\$. This last value is reconverted in ROL at the moment of payment. This way, the devaluation of the US \$ during the last 40 years (about 7 times) is not taken into consideration, this way the value of compensations is strongly reduced.
- The AR do not mention private societies, who are actual beneficiaries of confiscated real estate, as is if they were not obliged to retribute it to rightful owners. The consequence: rightful owners, whose real estate had been transferred to privatized societies, would not receive the compensations provided by the Law 10/ 2001. The Romanian President says that the Romanian citizen is poor and has to fight against scarcity of money. The reality is that the protégés of the regime continue to profit of the best real estate they “bought” at minimal prices and the impoverished people has to pay the bill!

As a consequence of the pressure exercised by the Minister of Justice over the courts, the immense majority of the decisions are against the rightful owners. As for now, after 2 1/2 after the issue of the law, (September 6, 2003) only about 3 percent of the requests in Bucharest (<<http://www.pmb.ro>>) have been solved (1.236 from 40,302)!

The law concerning compensations has not yet been issued. Most of them will be paid in form of stocks of societies not yet privatized or of “value titles,” their value being very doubtful. The rightful owners do not accept them. The limited payment of monetary compensations will be spread out over ten years as stipulated in the project of the law.

Taking into account the above mentioned facts, we would ask you to make use of the influence of the US authorities to urge the Romanian government to repair this injustice and declare the effects of confiscation laws as null and void. In fact, if the Romanian State restituted real estate to the rightful owners and paid compensations to the buyers after 1990, the illegalities against rightful owners would be repaired and the state had to pay only a fraction (under 10 percent) of compensations (because new buyers have paid under 10 percent of the market value for the real estate bought).

⁴ E.g.: the petitioner has to prove his ownership quality at the moment when the state took over the real estate; he has to bring costly expert evaluations.

⁵ See document footnote 2, pt. IV B

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