Justice for Uncompensated Survivors Today (JUST) Act Report: Germany

IN THIS SECTION / OVERVIEW

Overview

Germany has taken commendable steps to confront its role as the perpetrator of the Holocaust and to ensure that Holocaust victims and their heirs receive restitution and/or compensation. Germany also honors and remembers the victims of the Holocaust and has worked to cultivate a culture of remembrance. Its restitution measures range from compensating former owners and heirs for assets wrongfully seized during the Holocaust to making substantial financial contributions to victims' funds and survivors' pensions. From 1945 to 2018, the German government paid approximately $86.8 billion in restitution and compensation to Holocaust victims and their heirs. Germany has also identified Nazi-looted objects – including art works, books, and objects within larger collections – and has returned 16,000 objects to survivors and their heirs over the last 20 years. Thousands more pieces of looted art are still missing worldwide. Rising anti-Semitism throughout Europe including in Germany, and especially in former East Germany, coupled with polls showing the need to increase Holocaust education among Germany's youth, highlight the importance of Germany's continued dedication to fostering a culture of remembrance.

Immovable Private, Communal/Religious, and Heirless Property

In the aftermath of World War II, the United States, France, and the United Kingdom occupied the areas of Germany that in 1949 became the Federal Republic of Germany (FRG). In November 1947, the U.S. military government promulgated Military Law No 59, which became the foundation of the first program of restitution of Holocaust assets. Similar laws enacted in the French and British zones between 1947 and 1949 enabled the return of property that had been seized by the Nazi regime or sold under duress. In September 1951, Chancellor Adenauer delivered an historic speech in the Bundestag during which he asked forgiveness for the crimes of Nazi Germany and stated that he was ready to commence negotiations with world Jewry on the issue of Holocaust reparations.

In October 1951, more than 20 Jewish organizations met in New York and formed the Conference on Jewish Material Claims Against Germany (JCC or Claims Conference). In March 1952, the FRG held negotiations with the Government of Israel and the Claims Conference, which in September 1952 led to two agreements known as the "Luxembourg Agreements." The agreement with Israel provided for the payment of DM 3 billion (approximately $714 million based on 1952 exchange rates) in goods and services to the State of Israel. The agreement with the Claims Conference provided for payment of DM 450 million (approximately $107 million, based on 1952 exchange rates) and obligated the FRG to enact legislation to compensate individuals.

Following those agreements, the FRG passed two landmark pieces of legislation. In 1956, it passed the Federal Compensation Act (BEG), which covered many aspects of compensation for Nazi injustices not covered by the Allied restitution laws for certain groups of persecuted persons. The BEG provided payments to those persons as compensation for physical injury and damage to health, restrictions on personal freedom, harm to economic and professional growth, and damage to personal property. Individual insurance policies have been compensated since 1956 under the BEG in Germany, and many claims had been settled before ICHEIC began its work in 1998. As of mid-2019, approximately 25,000 Holocaust survivors worldwide still received a monthly pension for "damage to health" provided under the BEG. In 1957, the FRG passed the Federal Restitution Law (BRüG), which replaced and filled in certain gaps in the Allied restitution laws. The BRüG attempted to provide appropriate compensation for immovable and movable

property that could no longer be returned. As of 2011, approximately $2.255 billion had been paid out under the BRüG.

While the FRG contributed billions of dollars in compensation to Holocaust victims, the German Democratic Republic (GDR) refused to accept responsibility for the crimes of the Nazis. It provided no restitution to Jews for property confiscated by the Nazis or nationalized during the Communist regime. Following German reunification in October 1990, the FRG passed the Open Property Questions Act, which was essentially a re-privatization law for citizens of the former GDR whose property had been nationalized under the Communist regime. This law also included provisions for Jewish property owners and their heirs to file claims for assets located in the former GDR that were lost or confiscated during the Nazi era. The filing deadline for claims was December 31, 1992, for real property and June 30, 1993, for movable property. The Claims Conference Successor Organization was designated under the law as the legal successor to unclaimed Jewish property lost as a result of Nazi persecution. The Claims Conference used the proceeds it received from the sale of heirless or unclaimed property in the former GDR for social welfare services for needy Holocaust survivors and to support Holocaust education and projects devoted to preserving the memory and lessons of the Holocaust.

Since 1990, German authorities have granted restitution and/or compensation totaling approximately €2.5 billion (approximately $2.8 billion) for property lost as a result of Nazi persecution, primarily to former owners and their heirs. As of mid-2019, the Federal Office for Central Services and Unresolved Property Issues had 5,000 pending claims.

In addition to its private property restitution efforts, the German government also provides more than 50 percent of the maintenance costs for Jewish cemeteries, including $1.1 million annually for the protection of Jewish cemeteries in Central Europe. In 2006, the Claims Conference partnered with the Conference of European Rabbis to establish the *Lo Tishkach* ("Do not forget") European Jewish Cemeteries Initiative. The initiative maintains a comprehensive database of more than 11,000 Jewish cemeteries, mass graves, and burial sites throughout Europe and facilitates their upkeep and improvement.

Movable Property: Nazi-Confiscated and Looted Art

Compensation for and restitution of looted art remains a work in progress. Nazis looted an estimated 600,000 paintings from Jews in Europe during World War II, 100,000 of which remain missing. In 1998, the German government signed the Washington Conference Principles on Nazi-Confiscated Art. In the years since, it has returned more than 16,000 individual objects (including books and objects in collections) to Holocaust survivors or their heirs. On November 26, 2018, Germany hosted an international conference on the 20th anniversary of the Washington Principles to draw attention to the progress made and to generate momentum where implementation of the Principles had fallen short, including in Germany. Germany and the United States also signed a joint declaration during the conference reaffirming their commitment to the Washington Principles and acknowledging the need to improve implementation. Germany pledged that it would improve the procedures of the Limbach Commission on Holocaust-era art claims to require German museums to participate in the proceedings. Germany also committed its federally funded art museums to expediting the provenance research on their collections to determine if they possess any art potentially confiscated by the Nazis.

In 2015, the German government established the German Lost Art Foundation (DZK) in Magdeburg to promote provenance research. The DZK has become Germany's national and international contact partner for all matters pertaining to the illegal seizure of cultural assets in Germany since 1933, with a focus on seizure by Nazis from Jewish owners. The government funds the DZK, which had a budget of $6.86 million in 2018 and $8.95 million in 2019. From 2008 to 2018, the DZK and its predecessor, the Center for Provenance Research in Berlin, supported 273 projects with funding totaling $27.3 million. These projects have examined more than 113,000 objects held in museums to determine their provenance.

The German Lost Art Foundation also maintains an online "Lost Art" database that documents objects proven or suspected of having been confiscated by the Nazis. Heirs can use it to list objects seized from their families. The database currently contains approximately 169,000 detailed descriptions and several million summaries of objects. In 2013, Christie's auction house used this database to determine that two vases consigned for sale had been looted by the Nazis in 1939. Following further investigation, the FBI art crime team organized the return of the vases to the owner's heirs in an August 1, 2019 ceremony at the U.S. Embassy in Berlin. Additionally, the DZK provides financial support for searches that trace relatives and heirs of Holocaust victims in order to return looted art to the rightful owners. The DZK is working to complete a comprehensive database of Germany's federal museums by 2020. Public universities in Bonn, Hamburg, and Munich have established professorships for provenance research.

In 2003, the government established an advisory commission to mediate and provide recommendations on disputed looted art cases upon the request of both parties involved. Thus far, the commission has provided just 16 recommendations, which has led some observers, including the Claims Conference's lead negotiator and the president of the World Jewish Congress, to criticize its effectiveness and lack of transparency. In response to criticism about the lack of Jewish members on the advisory commission, the Commissioner added two Jewish members in 2016. In 2019, the federal government began requiring the federally funded institutions to agree to mediation by the commission at a claimant's request. Previously, both parties had to agree to enter mediation. This change, which benefited claimants, was part of the **November 2018 U.S.-Germany Joint Declaration [4 MB]**. It should be noted that the statutes of limitation also continue to hinder claims for restitution.

The German government maintains possession of the remaining unclaimed objects obtained from "Central Collecting Points" set up by the Allied Forces at the end of World War II. Unclaimed objects include 3,000 works of art, 4,000 coins, and about 6,600 books seized by the Nazi regime or by Nazi officials operating in a private capacity. The government is working to return these items to their rightful owners, but progress is slow.

Judaica and Jewish Cultural Property

Germany is committed to strengthening provenance research on Judaica and deepening scientific exchange in this field. In 2018, the German Center for Cultural Property Losses and the Israel Museum cooperated on a project that added more than 1,100 potentially stolen Judaica items to the German Lost Art database. In 2019, the government sponsored a German translation of the Claims Conference-WJRO *Handbook on Judaica Provenance Research: Ceremonial Objects*. Germany also encourages its public universities to promote Judaica provenance research.

Access to Archival Documents

The German Federal Archives provides access to documents about cultural assets stolen during the Nazi era. In principle, every person has the right to use the federal archives upon request. The federal archives are digitizing a steadily growing portion of their archive holdings and, to the extent legally permissible, making them available online.

The Federal Finance Ministry (BMF) launched a project in August 2018 to create a central interconnected digital portal to find documents from state archives throughout Germany specifically related to Holocaust compensation and restitution. The BMF is also working to create a new database that combines all data concerning individual compensation proceedings and makes it accessible to scientific researchers, as well as to Holocaust survivors and heirs.

The International Archival Programs Division of the United States Holocaust Memorial Museum (USHMM) has been active in Germany for more than 25 years. It has enjoyed excellent cooperation with the German Federal Archives and the political archive of the German Foreign Office, from which the USHMM recently acquired several million pages of Holocaust-relevant archival documentation on microfilm and as digital scans. The Arolsen Archives in Bad Arolsen (formerly called the International Tracing Service) is a separate archive that contains about 30 million documents from concentration and extermination camps, details of forced labor, and files on displaced persons. The Arolsen Archives, which is governed by an international committee and has been fully funded by the German government since 2011, is digitizing its archives to improve accessibility.

At the state level, the USHMM has signed archival access agreements with North Rhine-Westphalia, Brandenburg, and Bavaria. Cooperation with the state of Hamburg has also been excellent, despite the lack of an official access agreement. Access to the State Archive in Berlin yielded the records of more than 150,000 individual trials against Jews and other victims prosecuted by Nazi courts in the Berlin area. The Berlin State Archive recently suspended its cooperation with the USHMM, however, citing data privacy concerns with regard to the reproduction of records. As of mid-2019, the archive was preparing the digitalization of its data, and discussions about access were ongoing. Other states are similarly concerned about data protection, and this has slowed progress. Cooperation with Saxony is underway, while discussions with Bremen and Saarland are pending. The U.S. Embassy in Berlin and U.S. consulates have advocated with local authorities throughout Germany in support of USHMM requests for access to state archives.

Some advocates for Holocaust survivors and descendants of Holocaust victims have pointed out that Property (Asset) Declaration forms completed by Jews in Nazi Germany in April 1938 remain scattered among archives in the different German states and have not been digitized. They add that other files relating to post-war claims for Holocaust-era compensation and restitution are located in more than a dozen archives in the country and are generally not publicly accessible. The German government and relevant NGOs and historians are working to develop a plan for the preservation and collection of these documents for use by historians and others. The sheer volume of these archives and the privacy issues involved complicate their task.

Education, Remembrance, Research, and Memorial Sites

The Federal Commissioner for Culture and the Media takes the lead in identifying and funding Holocaust memorial sites and places of remembrance. The Commissioner's work is guided by the tenet that Nazi crimes against humanity give the federal government and the entire German nation a special responsibility to ensure the constitutionally guaranteed inviolability of the dignity of every person, as well as to stand up against anti-Semitism, discrimination directed at the Roma people, racism, and exclusion. In 2018, there were nearly 5.5 million visitors at federally funded memorial sites.

Both the federal and state governments provide funding to preserve Holocaust memorials, including former concentration camps and Jewish sites of cultural or religious importance. In 2017, the federal government provided a total of $20 million for the maintenance of major Holocaust-related memorials. Individual German states contributed additional funds to these sites. The Foundation Memorial to the Murdered Jews of Europe maintains memorials in the center of Berlin dedicated to those persecuted during the Holocaust, including Jews, homosexuals, Sinti, and Roma, as well as victims of Nazi-era "euthanasia" killings. The federal government fully funds the foundation, which received $3.7 million in 2017. In addition, the German Foreign Office by mid-2019 had provided $6.5 million for Holocaust commemoration sites abroad (including Auschwitz-Birkenau in Poland and Yad Vashem in Israel), as well as Holocaust-related projects, exhibitions, or seminars, including Nazi persecution of Sinti and Roma.

Germany holds numerous annual commemoration events throughout the country at memorials and the sites of former concentration camps. Important remembrance days include International Holocaust Remembrance Day on January 27 and Kristallnacht on November 9, the day in 1938 when Nazis destroyed Jewish property and synagogues and arrested tens of thousands of Jews. The German Bundestag holds an annual commemoration event on International Holocaust Remembrance Day, usually with a Holocaust survivor as a guest speaker.

Holocaust remembrance is an integral part of public school education throughout Germany. As part of the curriculum, which is established at the state level, students often visit one of the 12 former concentration camps in Germany that are now Holocaust commemoration sites. Beyond school programs, the government and NGOs host numerous remembrance and education initiatives. For example, Germany's Foundation for Remembrance, Responsibility, and Future (EVZ) supports projects and educational initiatives, such as the collection of firsthand accounts by Holocaust survivors in the form of interviews and memoirs, as well as educational seminars and the creation of online resources that teach about Nazi persecution. However, certain challenges in educating the next generation remain. A 2017 Körber Foundation poll found that fewer than half of German children aged 14 to 16 years had heard of Auschwitz-Birkenau, demonstrating the need for continued Holocaust education.

The U.S. Embassy in Germany cooperates closely with several NGOs promoting Holocaust remembrance and education initiatives, including the American Jewish Committee Berlin, the Kreuzberg Initiative against Anti-Semitism, and the European Roma Institute for Arts and Culture (ERIAC). ERIAC, which receives $223,000 in annual funding from the German government, promotes Roma contributions to European culture and documents the historical experiences of Roma people in Europe, including their persecution under the Nazi regime.

Germany's six federally funded political foundations also play an important role in promoting Holocaust education and remembrance. The foundations, each of which is associated with a political party represented in the Bundestag, seek to build upon the principles of liberal democracy and work to foster solidarity and tolerance through their activities. They frequently hold events to examine Germany's Nazi past, remember the Holocaust's victims, and work to strengthen Germany's democratic values.

The Welfare of Holocaust (Shoah) Survivors and Other Victims of Nazi Persecution

Although the ability to file compensation claims under the BEG legislation expired in 1969, the FRG provided funding to the Claims Conference in 1980 for the creation of an additional "Hardship Fund." The Fund provides one-time payments to Jewish victims of the Nazis who had been forced to emigrate from Soviet bloc countries. During the last decade, the Fund expanded dramatically to make payments to eligible victims residing in Central and Eastern Europe and in the former Soviet Union. The Fund also recognized the persecution of Jews in Tunisia, Algeria, and Morocco. As of July 2019, more than 521,500 Jewish victims of Nazi persecution had received a one-time payment from the Hardship Fund.

The 1990 treaty uniting Germany obliged the German government to hold negotiations with the Claims Conference on the establishment of new funds for victims of the Nazis who were in need and who had received no or only minimal compensation. In October 1992, Germany agreed to provide funding via what later became known as the "Article 2 Fund." In 1998, the country established a sister program, the Central and Eastern European Fund (CEEF), for victims living in those areas. Since 1990, these funds enabled pensions for more than 130,000 Holocaust survivors.

In July 2000, an interagency team led by Stuart Eizenstat, Special Representative of the President and Secretary of State on Holocaust-Era Issues, concluded on behalf of the U.S. government an agreement with German industry and the German government for 10 billion DM (approximately $5 billion) to settle class action suits filed against German companies in U.S. courts. This agreement included funds for certain slave laborers (most of whom were Jewish laborers who were worked to death); forced laborers (representing the most extensive payments by Germany to non-Jewish citizens in such countries as Poland, the Czech Republic, Ukraine, Belarus, and Russia); unpaid insurance policies, which were passed through to the International Commission on Holocaust Era Insurance Claims (ICHEIC) chaired by former U.S. Secretary of State Lawrence Eagleburger; and a new foundation to be created with German industry support.

To implement the July 2000 agreement, the German Bundestag established the EVZ. After paying $4.9 billion in lump-sum payments to 1.66 million former forced laborers over the course of

seven years, the EVZ concluded its direct compensation activities in 2007.

In 2002, the EVZ paid 550 million DM (approximately $248 million, using 2002 conversion rate) to the ICHEIC to provide compensation for the unpaid Holocaust-era insurance policies issued by German companies. ICHEIC also received funds from settlements with certain non-German insurance companies. Holocaust survivors and their heirs filed approximately 90,000 insurance claims with ICHEIC, and 48,000 claimants received payments. Many claimants did not know the name of the company that had issued their policy. However, ICHEIC used archival research and matching protocols to identify more than 16,000 of these unnamed claims; companies made payments on about 8,000 of them. In total, ICHEIC made $306 million in payments to Holocaust survivors and their heirs. Humanitarian payments were also made to claimants in cases where no policies could be found.

The EVZ set aside $399 million, yielding capital proceeds of about $8.6 million per year, for the "Future Fund" to finance Holocaust remembrance and educational projects, which was thought to be the fund's major task when it was created in the July 2000 agreement. In recent years, a significant portion of the funds have been used for projects dealing with human rights issues not related to the Holocaust.

Today, with funding from the German government, the Claims Conference continues to administer approximately 50,000 Article 2 and CEEF pensions, which amount to several hundred million dollars per year to Holocaust survivors in 80 countries. From 2009 to 2019, the Claims Conference has negotiated more than $9 billion in additional compensation with the German government. Regular negotiations between the Claims Conference and the German government have expanded existing programs and introduced additional ones, including a child survivor fund, a Kindertransport fund, and the provision of home care services for elderly survivors. The latter program has been repeatedly expanded: in 2018, the Claims Conference and the German government negotiated an $83 million funding increase, from $452 million to $535 million. In their 2019 negotiations, the German government agreed to an increase, which raised the total funding level for 2020 to $587 million and included for the first time payments to the widowed spouses of recipients of Holocaust survivor pensions.

U.S. Citizen Claims

The deadlines for many of the restitution funds for Holocaust victims expired many years ago. However, victims who have not yet filed claims can still do so for some funds. The Claims Conference serves as the primary partner for Holocaust victims during the filing process, offering assistance free of charge. Moreover, the Claims Conference and the German government work to identify and contact potential claimants.

TAGS

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