

COMMUNICATION

The Royal Decree, dated last July 31, extends by one year, as from 9 September 2004, the mandate of the Commission for the Indemnification of the Belgian Jewish Community's Assets which were looted or abandoned during the war of 1940-1945.

The Commission takes advantage of this opportunity to comment on the progress of work.

During the period from 9 September 2003 to 6 September 2004, 1,013 dossiers were definitely settled by the Commission. In 79.3% of the cases, the decision was a positive one, i.e. an indemnification was awarded.

Over that same period, more precisely since last May, the Commission's staff figures were increased by five full-time units. The result is that the number of dossiers referred to the Commission for decision is rising.

The Commission states that some claimants do not always grasp the objectives of the Act of 20 December 2001 correctly.

An explanation is necessary

On several occasions, the Commission has recalled that its main legal assignment is to **restore**, on the basis of amounts which have been re-assessed, **assets and goods of which restitution has not been made by the State, by financial institutions or by insurance companies and which have not been the object of any compensation, indemnification or reparation**. (State: coefficient 24.78; financial institutions: 29.10; insurance companies, considering the relationship between the despoilment calculated by the Study Commission and the amount paid by insurers: coefficient 37).

The Commission was neither appointed nor empowered to restore despoiled assets as they existed on the eve of the war. The amounts paid into a special account with the National Bank of Belgium in pursuance of Article 10 of the Act, which are intended to finance the indemnifications awarded by the Commission, were not calculated moreover with that in mind.

By reason of the serious injustice suffered by the members of the Jewish Community during the second world war, the Commission does however make widespread use of the powers given to it by § 2 of Article 8 of the Act, on the basis of considerations of the unfairness that would inevitably arise from a stringent and restrictive application of Article 6 of the Act.

Line of conduct towards persons

Under the provisions of the Act of 20 December 2001, only those persons who expressly submitted a claim come into consideration for the awarding of any indemnification. Consequently, the Commission does not search for beneficial heirs in the event of the death of the person who submitted a claim.

Claims were often submitted by the surviving husband or wife. When that person is the only one to have submitted a claim, there is no difficulty about it and the indemnification is therefore awarded to the surviving spouse.

When other claimants, such as children, are concerned, the Commission assumes, unless proof is produced to the contrary, that husband and wife were living under the system of joint estate. Consequently, it divides the indemnification into two equal shares: one for the surviving spouse, the other according to the provisions of the Civil Code for the beneficiaries of the deceased spouse.

Line of conduct with regard to the sums due

a) Furniture

Strictly speaking, the Commission is not required to award indemnification for looted furniture, since no exchange value was ever obtained by the State, the banks or insurance companies.

The Commission is however aware of the injustice done to the Jewish population by the confiscation of their entire furniture and consequently awards a lump sum of 7,000 euros as indemnification to all those who have not previously been granted relevant compensation within the scope of the German Reparations Act or within the scope of war damage legislation. This amount, rounded up, represents the payment made in pursuance of the German Reparations Acts.

b) Jewels and personal belongings

It is well known that jewels, such as watches or rings, and personal belongings were systematically taken at the time of arrests or deportations.

After the liberation, a certain amount of personal belongings were discovered, in a sealed envelope, in the Dossin barracks in Mechelen. Some of those items were able to be restored to their owners. Others were sold, after fruitless searches, by the Government Estates Department. Investigations made it possible to verify the price and the person to the detriment of whom they were sold. The Commission restores this sum in accordance with the re-assessment coefficient (24.78) laid down by Royal Decree, while increasing, if necessary, the indemnification to the minimum amount of 400 euros.

The latter amount, fixed according to the actual payments made within the scope of the German Reparations Act, is also applied to those cases where the goods confiscated at the time of a deportation or an arrest were neither restored nor were the subject of any compensation in any form whatever (German Reparations Legislation or War Damage Legislation).

The Commission moreover awards compensation on a wider basis than what was stipulated in the provisions laid down by the German Reparations Act and puts the wife on an equal footing with the husband, together with the children over twelve years of age at the time of deportation.

c. Wages of forced labour

A number of Jewish workers mobilised for forced labour, mainly for the building of the “Atlantik Wall”, as it was called, in Northern France, never received the last balance of payment of their wages since, in most cases, they were sent directly to the German camps from the building site.

The Commission has the identity of 2,252 of them. In some cases, the balances owed are also known (awarded by law to the *Oeuvre nationale des anciens Combattants et des Victimes de Guerre* [national institution for ex-servicemen and war victims] in 1958). Compensation for the balance owed is awarded by applying the stipulated coefficient (24.78); when the amount is unknown, a lump-sum payment of 1,229 euros is made, i.e. the average wages re-assessed for an average payment time. In this specific case too, the Commission considers the lump-sum amount as being the basic amount.

d. Financial assets

The few non-refunded assets identified at the *Chèque Postal* (post office savings bank), for example owing to the fact that an account was transferred during the war to the looting bank “*Société française de Banque et de Dépôts*” (S.F.B.D. [French banking and deposits company]), are obviously refunded at their re-assessed value (coefficient 24.78). In a large majority of cases, the Commission based itself on the elements of the dossier: for instance, if an account of a holder deceased during his or her deportation figures on the lists of names of 1949 at the Commission’s disposal, and the amount of that account was not settled, that is considered sufficient proof that the amount was not refunded.

In that case, an indemnification amount of 3,897 euros is paid, i.e. the re-assessed average of the assets of Jewish account holders transferred by the *Chèque Postal* to the S.F.B.D. That amount is also used as a basic amount.

As for the *Caisse Générale d’Épargne et de Retraite (CGER)*, the pre-war savings bank above all others, the Commission had very little or even no data for its investigations. It was however able to state that school savings was particularly widespread practice: pupils did indeed have a school savings book in more than 80% of schools.

Once again, the Commission applies the same procedure, namely indemnification subject to a “banking coefficient” of 29.10, for the assets frozen at the S.F.B.D., identified and not refunded after the war. For any other information about actual despoilment, it provides for a lump sum of 1,006 euros and that amount – once again the basic amount – corresponds to the average despoilment of CGER accounts. In this way, it assumes that school-age children at the time (born from 1926 to 1934) of Jewish citizens who died during deportation, were normally able to have a savings book and that they were unable to recover that book owing to the death of both parents.

The re-assessment co-efficient of 29.10 is also applied for assets considered as “not having been restored after the war”. Whenever it is not possible to ascertain an exact amount, but when circumstances leave no doubt about the actual despoilment, indemnification is fixed according to the average of Jewish assets transferred to a deposit account (re-assessed value: 6,278 euros) or share portfolio

(re-assessed value: 25,537 euros, subject to an in-depth investigation into the content of the despoiled portfolio) at the S.F.B.D.

e. Businesses

In its policy of liquidation of Jewish businesses, the occupying power acted in this way:

- When the occupying power considered that such and such a business was not important, the owner had to go into “voluntary” liquidation; the smallest firms could organise a free sale of their property; the others had to transfer their main stocks of goods and raw materials to the “central goods departments” (for textile, leather, etc.) which paid the proceeds into a frozen account, (mainly) at the S.F.B.D.
- Businesses considered as important from a strategic point of view were placed under the supervision of a “Verwalter”, an administrator supposed to justify his management; when he decided that the firm should go into liquidation, the proceeds were frozen on a S.F.B.D. account.

In practice, it seems that the “dejudification” of firms took place in a rather confused way. The Commission consequently chose the following approach:

- *No trace of the frozen account was discovered in the Sekwester (formerly S.F.B.D.) records, but it seems to be proved that a commercial company did exist (trade register, declaration in 1940, registration in the yearbook of commerce and industry, sufficient information in the dossier ...). The Commission assumes that despoilment did occur in any case, even if it not possible to trace the amount involved.*

Since the Commission is unable to restore the assets in their existing state and since no “amount of which restitution has not been made by the State” has been identified, only lump-sum indemnification may be awarded. The Commission fixed that indemnification *ex aequo et bono* at 1,500 euros.

- *A frozen account has been identified, and the holder of that account did not obtain settlement and neither did he or she renounce that account after the Liberation on the basis of the decree-law of 10 January 1941. (That decree-law made it possible to declare the sale null and void and claim back the goods; in that case, the proceeds of the sale were not assigned). The resulting indemnification takes into account the re-assessment coefficient of 24.78 as well as the minimum amount of 1,500 euros.*

La Commission further bases itself on the identified management accounts of the German administrator in order to award indemnification for the declared management and/or liquidation fees, which were actually a disguised form of despoilment (coefficient 24.78).

f. The diamond sector

The “dejudification” of the diamond sector followed a similar scenario even if it took place slightly later and in a more hidden way. The proceeds of the compulsory sales of diamonds were paid into a frozen account; after the war, the Sekwester

took over the accounts. The “Frensel lists” (named after the German responsible for the diamond sector) proved to be fairly complete.

The Commission pays indemnification on the basis of those non-restored accounts with a re-assessment coefficient of 24.78. Just as for the business sector, lump-sum indemnification, used as a basic amount (2,500 euros), is applied to those cases where a sufficient amount of data indicate the despoilment of a stock of diamonds, even if no frozen account can be identified. The amount of 2,500 euros represents the rounded-up average of the “Frensel accounts” opened.

It is worth pointing out that, after the war, many stocks of diamonds were recovered in Germany and made available to the despoiled persons, through the mediation of the Federation of Belgian Diamond Exchanges. In this case too, the persons concerned had the choice, on the basis of the decree-law of 10 January 1941, between recovering their despoiled property and being refunded the amount of the frozen account.

g. Life insurances

Indemnification for life insurance is made on the basis of the insured capital, by applying a re-assessment coefficient of 37, provided that a non-paid-up insurance policy is identified. If necessary, identification is carried out in co-operation with the “International Commission on Holocaust Era Insurance Claims” (ICHEIC) with which the Commission concluded a data exchange and co-operation agreement in July 2003.

In this context, the Commission bases itself on the initially insured amount. In view of the circumstances, which quite obviously made it impossible for the policyholder to continue paying the premiums in the event of deportation, the Commission does not base itself willingly on the possible reduced value.

The Commission once again decided that, for cases where everything indicates that the insurance policy was despoiled, even if the insured amount cannot be determined, it will provide lump-sum indemnification based on the average insured capital as to 31 December 1939, re-assessed accordingly (24,868 euros).

h. Real-estate sector

As explained in detail in the 2003 report, the occupying power did not succeed in organising the systematic sale of the property of deported Jewish citizens because of resistance by Belgian judicial authorities.

The sales that were actually registered were made in accordance with Belgian legislation owing to the fact that the debt secured by mortgage was not repaid. The net proceeds were blocked by the notary, in most cases with the Deposit and Consignment Office. In this way, the Commission has a basis for calculating any indemnification due (re-assessment coefficient 24.78).

As far as property placed under German supervision and leased by the manager is concerned, the Secretariat searches for the amount of the rental income not restored, which gives rise to indemnification (coefficient 24.78).

i. Cultural assets and Works of art

The special unit “Restitution of looted Jewish cultural assets” of the SPF – Science Policy investigates this aspect on the basis of the claims submitted to the Commission.

Insofar as some cultural assets were able to be brought back from Germany after the war and were sold by the Department for Economic Recovery and the Registration and Estates Department, failing identification of the owner at the time, the Commission may award indemnification for the income from those sales, on the basis of a coefficient 24.78.

There is moreover ongoing and fruitful co-operation between the Commission and the abovementioned Department.

j. “Items of remembrance”, Department of War Victims

This concerns the restitution of items of remembrance, i.e. personal documents, photos, etc. which were discovered in the Dossin Barracks at that time and consigned to the Department of War Victims (SPF – Social Affairs).

The items not returned, in spite of many repeated efforts, were transferred to the Mechelen (Jewish) Museum of Deportation and the Resistance in accordance with an agreement concluded with the Jewish Community.

When the Commission’s Secretariat is investigating claims, it examines which items can still be identified. If necessary, both the beneficiaries and the Museum will be informed of the identification with the intention of returning the items in question.

The Commission has indeed succeeded in finding the trace of a great number of beneficial heirs to whom it was able to hand over the abovementioned “items” of the deceased members of their family.

k. Handing over of “sealed envelopes”

The 2003 annual report refers, among other things, to the agreement concluded between the Jewish Community and the financial institutions on the basis of which the latter handed over sealed envelopes to the SPF Finance. The envelopes in question had been inspected by the German departments at the time and had remained in the safes of banks. The rightful beneficiaries of those sealed envelopes had been unable to find them after the war, despite all their efforts.

That agreement formed the basis of the assignment of the SPF Finance, which was to search for some beneficiaries and those searches did moreover prove fruitful in a number of cases. The Commission’s Secretariat took an active part in those searches by making available a full-time member of its staff.

The Commission continues its work in this spirit.