

Dear Ladies and Gentlemen,

I am from a nice country called Lithuania. Litvaks from all over the world come to visit this country and walk in pine tree forests, smell the aroma of the Baltic Sea. They also come to see their buildings and lands which are not theirs any more, because they were seized and have not been returned.

Historically, Lithuania was home to a large and influential Jewish community, which was almost entirely exterminated during the Holocaust. Before the Second World War, there were over 110 synagogues and 10 yeshivas in Vilnius. Before the outbreak of the war, the Lithuanian Jewish population was approximately 160 000, about 7% of the total population. Vilnius (then a part of Poland) had a Jewish community of nearly 100 000, about 45% of the city's total number of residents. However, during the 2005 census only about 4 000 Jews were counted in Lithuania (0.12).

Let me mention the legal acts under which property was taken from Jews in Lithuania.

1. On 10 Mar 1939, Germany's Foreign Minister Joachim von Ribbentrop demanded return of the Memel land to Germany, referring to the ethnic German population of the city as the ground for the return. The part of Lithuania near the Baltic Sea was annexed by Germany, all the Jews escaped; their property was transferred to the German authorities.

2. A part of the real property of Jewish people was nationalised or otherwise expropriated in 1940-1941, that is, during the period of the Soviet occupation. The majority of these unfortunate people were exiled together with their families to Siberia. I will mention only one number: out of 1593 enterprises that were nationalized during the period of 1940-1941 and that had an annual turnover of 500 million Litas, 1320 (83%) were owned by Jews.

3. During the period from 23 June 1941 until 5 August 1941, Lithuania was ruled by the Provisional Government. Upon discussing the Declaration on Economic and Social Issues at the meeting of 30 June 1941, the said Government declared the necessity to carry out nationalization and restore private ownership, though not without exceptions. "The property which belonged to and was owned by Jews or Russians shall remain under undisputed ownership of the State of Lithuania" – this is an extract from the above-mentioned Declaration. At the Government meeting of 4 July, the mentioned wording was somewhat corrected and revised, namely, the provision of a discriminating character in respect of the citizens of the Russian nationality was removed, but members of the former Soviet authorities were included. The Jewish property, also the property which belonged to other persons who used to act against the interests of the Lithuanian nation, formerly nationalized, was recognized as, and was to remain under, the ownership of the State of Lithuania.

4. In compliance with the Decree of 13 October 1941 passed by the Reich Commissar for the Eastern Territory (Verkundungsblatt des Reiche Komissars) (*Reiche Kommissar's Gazette*, pg. 27), “the whole real property as well as movable property of Jewish people shall belong to the German Reich” (the language has not been corrected).

Furthermore, the following instructions were given in the same document: “Prior to the issue of the executive regulations of the Reich Commissar (Article 5 of the Decree of 13 October 1941), the land of Jews shall be administered by the Apartments (Flats) Division”. The administration of apartments, houses and property was defined. Thus, ownership and administration of Jews’ property came under the competence of the county governors and burgomasters of Lithuania, in other words, was transferred to local authorities.

The majority of Jews in Lithuania was killed during the first half of 1941. As of 1 December 1941, the number of shot Jews amounted to 133 346, while those who remained alive distributed as following: 4 500 in Šiauliai, 15 000 – in Kaunas, and 15 000 – in Vilnius.

In the aftermath of the massacres of Jewish people, the entire small towns remained empty. “The matters pertaining to the property held by Lithuanian Jews used to be solved in various ways: movable property was most often distributed or sold to the local population, however, museum and archival valuables were taken to Germany. A considerable number of objects of the real property held by Jewish people remained in the possession of the local administration and were used for its own needs, also went into the ownership of private people.”

The cultural valuables of Lithuanian Jews were registered by the staff of the Rosenberg headquarters, whose branches were established in Vilnius and Kaunas. The most valuable manuscripts, incunabula, museum pieces, collections of Jewish folklore, photographs, newspaper collections and other items were moved to Germany. Less valuable Jewish items were destroyed on the spot; they were burnt and taken to paper mills. The archives of Jewish communities, their libraries were also registered and expropriated; the synagogues were registered all over Lithuania. They fell under the control of local administrations, i.e. local district administrators, elders, burgomasters and other officials, some of them became temporary storehouses of the remaining Jewish property or were transferred to schools and other institutions.

The Commissar General in Kaunas passed a decree according to which the remaining property of Jews had to be recorded. Information was collected about the former Jewish farms, their size, the livestock and other property and new owners. Most Jewish farms were taken over by private individuals. Houses were made available for rent by various institutions, the local residents who had suffered from the war, and other private individuals.

Personal property would be most frequently transferred over to individuals by auction. The property would also be acquired by institutions; it would also be given out to war refugees and to the poor. The most common goods were clothes, housewares, furniture; less common things included sewing machines, bicycles, chandeliers and pianos. Even though the valuables needed to be registered and kept until a special order, they were often misappropriated. The money received upon the sale of Jewish property used to be sent to a special account of the Commissar or head of the district. Jewish medical instruments used to be given over to local dispensaries and hospitals.

5. Today it is quite difficult to guess the exact number of the Lithuanian Jews who managed to survive after the War. It is supposed to amount to approximately 5 per cent. Some Jews who remained alive by a real miracle escaped and came back to Lithuania from concentration camps, however the majority of them, either legally or illegally, moved to Palestine.

Some of those who came back to the Soviet Lithuania after the War escaped in the course of the Soviet occupation. During the period of 1947-1951, approximately several hundreds of Jews were convicted of the attempt to illegally cross the USSR state border. The mentioned figure includes a certain number of Lithuanian Jews. A part of the Lithuanian Jews, who sought to leave the USSR, seized the occasion of repatriation of Polish citizens that took place in 1944-1949. A part of young Jewish women left for Poland as wives of Polish citizens.

Consequently, in practice, the entire property held by Jews remained either ownerless or was held by new owners. After the War, the ownerless property was entered into records. Following the decisions, decrees, minutes of meetings as passed by the executive committees of separate cities and towns, the houses which remained ownerless were to be municipalized.

Taking into account the mentioned circumstances, it is possible to draw a conclusion that Jews' property in Lithuania had been expropriated in the following ways:

1. It was confiscated during the 1939 Germany annexation of the Klaipeda land (the Memel land).
2. It was nationalised or otherwise expropriated in compliance with laws of the USSR (LSSR) – during the Soviet occupation;
3. Following the resolutions passed by the Provisional Government of Lithuania;
4. Under the decrees and other orders passed by the German occupational government and local administration;
5. It was taken into the ownership of the State as ownerless.

I have to emphasise that most property had been seized exceptionally as the Jewish property.

Are there any legal means for Jews to restore their rights on the looted property? My answer is NO.

Under the law, private property can be returned only to citizens of Lithuania and only to those citizens who got their passports before 31 December 2001. That is in contradiction with the decision of the Constitutional Court (of 13 November 2006), which recognized that the provision “provided they have not repatriated from Lithuania” (the wording of 5 December 1991, Official Gazette *Valstybės žinios*, No 36-977, 1991) of subparagraph 1 of paragraph 1 of Article 17 of the Republic of Lithuania Law on Citizenship was in conflict with Article 29 of the Constitution of the Republic of Lithuania and with the Constitutional principle of a state under the rule of law.

Thus, all the survivors who, after escaping from the Nazi concentration camps, settled in Israel, were considered as repatriated according to the Law on Citizenship and could not obtain citizenship prior to 31 December 2001 are not entitled to regain their property.

I do not know how many of them are still alive, but I will mention only a few of my clients:

1. Liza Alisa Noz Umansky (b. 25 October 1919). Her father had a building in Vilnius. He was murdered in the Vilnius Ghetto. Mrs. Umansky lost her entire family, husband, parents, brothers and sisters in the Vilnius Ghetto. She herself was exiled to Estonia, later to Schuttoff. Mrs. Noz is actually a citizen of Lithuania, but she was not able to obtain the citizenship of Lithuania prior to 30 December 2001, because such was a legal restriction. After she applied to court asking to extend a time limit to submit an application for return of property, the Vilnius municipality wrote a number of complains to the Ministry of the Interior of Lithuania with the request to cancel her Lithuanian citizenship in order to avoid returning her property.
2. A professor of the Johns Hopkins University. His father Dr. Elhanan Elkes, a personal physician of the Prime Minister of Lithuania, built a building in the centre of Kaunas in the 1920s. Dr. Elhonen Elkes was the chairman of the Juderant of the Kaunas Ghetto, who died in Dachau. On the building, there was a sign fixed saying that it belonged to Dr. Elchonen Elkes. The Kaunas municipality did not return the property.
4. The property has not been returned to Mr. Zilberman, who had been exiled to Siberia together with his Lithuanian neighbours. The difference is that he succeeded to make aliya, therefore he was considered a repatriate and did not get his property back.

5. The property has not been returned to such families as large property owners Salamonas, Israelit, Mordels, because they had not only been exiled to Siberia, but also later left to Israel, to the Frankel family, because they got their passports too late, etc.

No law is in force in Lithuania which would permit the return of communal and ownerless property.

It is well known what enormous effort had been made by international Jewish organizations to encourage Lithuanian authorities to return the property of Jews. We all know the contents of the resolutions of the Washington Conference, the Stockholm Forum declaration, the Vilnius Forum one, the Helsinki Commission report, etc.

60 years later, Lithuania does not have any ideology regarding the Holocaust and looted property. We have to admit that the Holocaust restitution does not exist in Lithuania in any form. No legal and ideological conceptions of restitution of Holocaust victims (private, communal and ownerless property) have been created.

Officials emphasize that restitution of the Jewish property will incur bad consequences and that it will raise anti-Semitism. That is stated in the explanatory note to the draft Law on Compensation for the Existing Real Property of Jewish Communities. This means that the homework has not been done and Lithuania's society is not ready to accept the Holocaust restitution. This means that Lithuania's society is not aware of what happened in the past, of the fact that property had been looted, afterwards people were killed (kill and steal), and that property owners were killed only because they were Jews.

We, the Jewish community of Lithuania, together with our international partners were on the wrong road ourselves. We had made a claim only in respect of the communal property. We had tried to amend the entire Law on the Restoration of the Rights of Ownership to the existing religious property by amending a few articles of the law; in trying to obtain property, we had divided into religious and secular communities; we had never required the Government to return to Jewish owners their private property; we had never claimed return of the ownerless property; we had played all kinds of games; we had been conformists and in the end we got nothing. As a lawyer, I myself applied to the European Court of Human Rights in Strasbourg on behalf of my clients and I also applied to the Constitutional Court of the Republic of Lithuania stating that the requirement of the Law on the Restoration of the Rights of Ownership of Citizens to the Existing Real Property to be a citizen of Lithuania to be entitled to return of property is in conflict with the Constitution of Lithuania and the international law.

There is not too much hope that the small Jewish community, which constitutes only 0.12 per cent of the population of Lithuania, will succeed in a favourable law being passed. I can also see that over the past 20 years, international Jewish organizations have been asking, begging, encouraging, calling on governments without any tangible results. Unresolved issues concerning the Holocaust restitution exist in many post-communist countries.

Therefore, I suggest that our Prague conference should apply to the European Union with the initiative to adopt a regulation or directive which would obligate all the EU Member States to return the confiscated Jewish property – private, communal and ownerless – to its former owners. As you all know, regulations or directives of the European Union have direct effect in the legal systems of the Member States and override the national legislation.

We, Lithuania's Jews, want to be equal among other people in Lithuania. We do not require any special attitude. However, the Holocaust restitution is a special issue. We had been robbed in a special way as Jews, so we have to be satisfied in a special way as Jews.

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