

**RESTITUTION PROCESS OF IMMOVABLE PROPERTIES THAT BELONGED TO
NATIONAL MINORITY
COMMUNITIES AND RELIGIOUS CULTS IN ROMANIA**

In order to improve/accelerate the restitution process, a series of amendments and additions were made to the legislation in the field of the restitution of properties abusively taken over by the communist regime.

I.1. Legislative amendments introduced by the Law No. 103/2016

On 27 May 2016, the Law No. 103 entered into force approving the Government Emergency Ordinance No. 21/2015 amending and supplementing the Law No. 165/2013 on measures to complete the process of restitution in kind or by equivalent of immovable properties abusively taken over during the communist regime in Romania; Article 1 and

Article 3 of the Government Emergency Ordinance No. 94/2000 on the restitution of immovable properties that belonged to religious cults in Romania, as well as Article 1 of the Government Emergency Ordinance No. 83/1999 on the restitution of immovable property that belonged to communities of citizens belonging to national minorities in Romania.

In this law, there were taken over three of the amendments proposed by the Foundation ‘Charity’ (via the Parliamentary Group of the National Minorities), but under the form agreed by the Working Group set up in 2015 upon the request of the Jewish organizations, collective to which took part representatives of the Government and the Federation of the Jewish Communities in Romania.

These amendments cover the following issues:

- ▶ the priority analysis of the applications submitted by the persons certified as victims of the Holocaust by the entities designated by the Romanian state or by other Member States of the European Union;
- ▶ establishment of the presumption of abusive acquisition in the case of buildings listed in the property of the Romanian state, during the communist regime, by donation deeds made by religious cults;
- ▶ continuity recognition of the applicant (the community of a national minority) in relation to the legal entity from which the properties were taken.

I.2. Legislative amendments introduced by the Law No. 111/2017

On 29 May 2017, it entered into force the Law approving the Government Emergency Ordinance No. 98/2016 for proroguing some deadlines, for setting new deadlines, regarding certain measures to complete the activities covered by the contracts concluded under the Loan Agreement between

Romania and the International Bank for Reconstruction and Development for financing the Project on the judicial system reform, signed at Bucharest on 27 January 2006, ratified by Law No. 205/2006, as well as for amending and supplementing certain normative acts.

The amendments to the Law No. 165/2013 on measures to complete the process of restitution in kind or by equivalent of immovable properties abusively taken over during the communist regime in Romania made by the Law No. 111/2017 aim the following aspects:

- ▶ extension of the deprivation deadline in the administrative procedure to 240 days (as compared to the initial deadline of 120 days) for supplementing by documents the dossiers submitted to the Special Restitution Commission (C.S.R.), as well as its extension by another 120 days (the initial deadline was 60 days). This amendment gives religious cults/communities of national minorities the possibility to submit, within a reasonable deadline, the supporting documents necessary for the settlement of restitution claims;
- ▶ priority settlement of dossiers under which decisions proposing the grant of indemnifications/compensatory measures were issued by C.S.R.; such amendment allows the National Commission for Immovable Property Compensation (C.I.N.C.) to prioritise the settlement of the dossiers submitted by religious cults and communities of national minorities.

The legislative amendments made by the Law No. 111/2017 concerns also the method of capitalizing the points awarded by immovable property compensation decisions.

Thus, it was repealed the provision on awarded point capitalization by purchasing, at tenders, immovable properties from the National Fund of Agricultural Lands and Other Real Estate established to compensate the former owners.

The only compensation method for immovable properties is the awarded point capitalization (1 point is equivalent to 1 Leu) by exchanging them into cash (the exchange of points into money has been done since 2017) as follows:

- ✓ within 3 years from the issuance and receipt date of the compensation decision, the holder of points may require their capitalization in cash. For the decisions issued before 1 January 2017, this deadline shall begin to run from that date;
- ✓ the capitalization application shall be submitted, personally/by agent with authentic letter of attorney, at the headquarters of the National Authority for Property Restitution (A.N.R.P.) or shall be forwarded via the postal and courier services, where appropriate accompanied by the original compensation decision or point holder certificate. The point holder certificate shall be issued by the A.N.R.P. only for the persons who have acquired the recognized rights by compensation decision;
- ✓ based on the request of the holder of points, A.N.R.P. issues, during 5 consecutive years, payment orders, as equal annual instalments, within the limit of the value set by the compensation decision. The payment orders shall be issued chronologically according to the issuance date of the compensation decisions;
- ✓ the amount of an instalment may not be less than 20,000 Lei, provided that the amount thus granted shall not exceed the total indemnifications laid down;
- ✓ the amounts listed in the payment orders shall be paid by the Ministry of Public Finance within maximum 180 days from the issuance date.

II. The restitution status of the building known as ‘Batthyaneum Library’:

The building ‘Batthyaneum Library’ located in Alba Iulia, str. Unirii

nr.1-3, județul Alba Iulia, registered with the Cadastral Register under No. 559, topographic No. 1973/1, was included in the Government Emergency Ordinance No. 13/1998 on the restitution of immovable properties that belonged to communities of citizens belonging to national minorities in Romania (position 13).

According to this normative act, the buildings, together with the related land, included in the Annex which was an integral part of the Ordinance, were to be restituted to the holders (the communities of citizens belonging to national minorities in Romania) or their successors.

In order to verify the conditions laid down in the normative act referred to and to draw up the documentation for each individual immovable property, a special commission was established, composed on parity basis of representatives of the government and of the communities.

The transfer of ownership over the immovable properties, listed in the Annex, had to take place subsequently, upon the conclusion of the handover-acceptance protocols between the holders of the immovable properties and the successors established by the commission incorporated by the Government Emergency Ordinance No. 13/1998.

As regards the immovable property under position 13 of the Annex to the Government Emergency Ordinance No. 13/1998, the restitution of the immovable property was subjected to a judicial proceeding,

therefore no handover-acceptance protocols was concluded.

Over time, the Government Emergency Ordinance No. 13/1998 proved to be inefficient, on the one hand, taking into consideration that handover-acceptance protocols were concluded only in the case of three immovable properties out of the 17 listed in its Annex, and, on the other hand, the Ordinance was declared partially unconstitutional, as regards the positions No. 8, No. 11 and No. 12 of the Annex.

Pursuant to the Government Emergency Ordinance No. 94/2000 (applicable to religious cults), the Roman-Catholic Archdiocese of Alba Iulia submitted the restitution claim No. 6458/28.02.2003 concerning the immovable property located in Alba Iulia, str. Bibliotecii nr. 1 (currently str. Gabriel Bethlen nr. 1), which represented the Batthyaneum Library and Astronomy Observatory, as well as the movable properties taken over with the immovable property.

The Decision No. 3509/16.09.2015 issued by C.S.R. rejected the restitution claim abovementioned, as the Roman-Catholic Archdiocese failed to prove its status of owner of the immovable property at the date of abusive take-over by the Romanian state.

The Roman-Catholic Archdiocese of Alba Iulia challenged in court the Decision

No. 3509/16.09.2015; its legality check was the subject matter of the Dossier No. 747/57/2015 on the roster of the Court of Appeal of Alba Iulia.

By the Civil Ruling No. 153/04.07.2018, the Court ascertained the legality of the decision issued by C.S.R. and dismissed the action filed by the claimant, the Roman-Catholic Archdiocese of Alba Iulia.

For the same immovable property, the Roman-Catholic Archdiocese submitted a restitution claim also pursuant to the Government Emergency Ordinance No. 83/1999 (applicable to the communities of national minorities), approved by the Law No. 66/2004.

This restitution claim, registered under No. 62/21.06.2004, was settled by C.S.R. under the Rejection Decision No. 624/24.08.2015.

The reason for the rejection of the restitution claim No. 62/21.06.2004 was that the requesting party, the Roman-Catholic Archdiocese of Alba Iulia, is a religious cult, and not a community of citizens belonging to national minorities entitled to benefit from the provisions of

the Government Emergency Ordinance No. 83/1999, republished, with subsequent amendments and supplements.

That decision was not challenged in court by the Roman-Catholic Archdiocese of Alba Iulia.

