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# Restitution of agricultural and forest land in the Republic of Serbia[2]

## Abstract

*This paper examines the solutions provided by the Serbian legislator for the restitution process, with a specific focus on agricultural and forest land. It traces the origins of this process to state interventionist measures such as agrarian reform and confiscation, which led to the creation of an agrarian fund used for land redistribution in line with socialist ideology. Although initial signs of the restitution process appeared in the early 1990s, no significant progress was achieved until the early 2000s. Rather than adopting a single, uniform law on restitution, the Serbian legislator chose to regulate the process through three separate laws: one addressing confessional restitution, another one dealing with general restitution, and a third one governing the return of property confiscated from Holocaust victims to Jewish communities. This paper outlines the key substantive and procedural provisions of these restitution laws and addresses certain contentious issues that have arisen during their practical implementation. The analysis is supported by the case law of the Restitution Agency and domestic courts. The conclusion emphasises that, despite its duration, the restitution process has yielded considerable results, particularly with respect to the restitution of agricultural land, where restitution in kind has been achieved in the vast number of cases.*

**Keywords:** agrarian reform, confiscation, denationalisation, restitution, eligibility criteria.

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2 | *The research and preparation of this study was supported by the Central European Academy.*

Sloboda MIDOROVIĆ: Restitution of agricultural and forest land in the Republic of Serbia. *Journal of Agricultural and Environmental Law* ISSN 1788-6171, 2024 Vol. XIX No. 37 pp. 251-275



https://doi.org/10.21029/JAEL.2024.37.251

## Historical context of nationalisation

Following World War II, the establishment of a new social order in Yugoslavia required a fundamental shift in property regulations, signalling a departure from the individualistic approach to property relations traditionally associated with private ownership. Instead, a collectivist concept was favoured, which was manifested in people's, state and social property.[3] This shift was aligned with the prevailing socialist ideology of the era, which sought to reduce class and economic disparities among citizens by minimising differences in property status.

Certain indications of these profound changes in property relations could already be discerned during World War II. In liberated territories, members of partisan units began implementing revolutionary laws. As a result, the properties owned by individuals suspected of collaborating with the occupiers and labelled as enemies of the people were confiscated and integrated into the People's Liberation Funds, which were managed by the People's Liberation Committees.[4]

After the war, these tendencies became even more pronounced as efforts to build a new classless society sought to break ties with the legacy of the old bourgeois system. This process involved a complete departure from the previous legal order, including the regulation of property relations. Consequently, the post-war period was marked by various measures that led to the mass collectivisation of property. These measures played a pivotal role in establishing socialist self-management, the communist regime that gradually took shape in what became known as the Second Yugoslavia.[5]

Agricultural and forest land naturally came under the impact of these measures. The ultimate goal of seizing such land was to create an agrarian fund from the properties taken from those deemed to possess more than necessary, specifically beyond the established land maximum. Subsequently, the land acquired in this manner would be redistributed and allocated to landless individuals, settlers, and those lacking sufficient land.

Establishing a new social order overnight was a formidable challenge. Therefore, the collectivisation of property unfolded gradually, involving the adoption, amendment and supplementation of numerous regulations.[6] Agricultural land was primarily seized under the laws regulating agrarian reform and colonisation. Nevertheless, a significant portion of agricultural land was confiscated under a supplementary measure imposed on the purported enemies of the people who allegedly collaborated with the occupying forces.

3 | Gavella in: Gavella et al. 2007, 7-11.
4 | Nikolić 2020, 95.
5 | Slijepčević & Babić et al. 2005, 49.
6 | Art. 2 of the Law on the Return of the Seized Property and Compensation from 2011 lists 41 various legal bases upon which the property was seized.

## 2. Principal legal sources governing the seizure of agricultural and forest land

Among the laws that enabled the seizure of agricultural land, the *Law on Agrarian Reform and Colonisation* (LARC) of 1945 stands out.[7] This law introduced the agrarian maximum[8], and any land exceeding that maximum was involuntarily taken from its owners and redistributed to those who lacked land, those without sufficient land, or individuals who settled in the country through the colonisation process.

The underlying principle of this law was that: "Land shall belong to those who till it" (Art. 1 of the LARC). Through the LARC, agricultural land was taken not only from farmers and possessors of land who did not till it themselves above the prescribed maximum; it was also confiscated from banks, enterprises, religious institutions, and secular foundations. The LARC explicitly stipulated that land would be taken from its owners without any compensation (Art. 4, para. 1), the only exception being cases where the agrarian surplus – land above the prescribed maximum – was taken. In such cases, the owner would be compensated in an amount equal to one year's revenue per hectare (Art. 6, para. 1).[9]

The agricultural land that was seized based on the *AVNOJ* (Anti-Fascist Council for the National Liberation of Yugoslavia) *Decision on the transfer of enemy property into state ownership, state administration of the property of absent individuals, and the sequestration of property forcibly alienated by the occupying authorities* of 21 November 1944, was also incorporated into the agrarian fund (Arts. 10 and 18 of the LARC). This Decision stipulated the confiscation of property, including agricultural and forest land, from citizens of the German Reich and German nationals in Banat, Bačka, and Srem. The seized land was intended to be distributed to colonists – combatants of the Yugoslav army – who would inhabit and cultivate the land with their families (Art. 16 of the LARC).

During the war and in its aftermath, the confiscation was widespread. It involved the mandatory seizure, without compensation, in favour of the state, of either the entirety or a portion of the property owned by an individual or legal entity. This measure was regularly implemented as an accompanying sanction for those convicted of criminal offenses. Nevertheless, it was not uncommon for confiscation to occur without any prior proceedings, based on regulations of a general

7 | Official Journal DFY, No 64/45, Official Journal FPRY, No 16/46, 24/46, 99/46, 101/47, 105/48, 19/51, 42-43/51, 21/56, 52/57, 55/57, 10/65.

8 | The agrarian maximum varied depending on the type of landholder: large landowners, farmers who tilled their own land, farmers who leased their land, or those who subcontracted workers to till it. For more details, see Nikolić Popadić 2020, 111-113. If family members cultivated the land, the agrarian maximum was determined based on the number of family members, the quality of the land, and the crop cultivated (Art. 5, para. 1 of the LARC).

9 | Slijepčević & Babić et al. 2005, 52-53.

nature.[10] In practice, it "served the communist authorities to, through orchestrated judicial processes, declare big capitalists the enemies of the people, sentencing them to lengthy imprisonment and seizing their entire property."[11]

The confiscation was largely performed under the *Law on Confiscation and Execution of Confiscation* (LCEC) of 1945.[12] This law stipulated that upon the finality of the decision pronouncing the confiscation sanction, the state became the owner of the confiscated property (Art. 8 of the LCEC). Confiscation was often coupled with prior sequestration, understood as the temporary takeover of property that could be confiscated (Art. 10 of the LCEC). This temporary measure was intended to secure such property from alienation, damage, or diminution of its value (Art. 11, para. 1 of the LCEC).

Agricultural land was also converted into social property through the *Law on Combating Unauthorised Trade, Unauthorised Speculation, and Economic Sabotage* (LCUTUSES) of 1946.[13]

When it comes to forests and forest land, seizure was performed based on the LARC and other laws, whereas the use of seized forests was regulated by the *Basic Law on the Use of Expropriated and Confiscated Forest Estates* as of 1946.[14]

In total, the agricultural and forest land seized under all applicable legal sources encompassed over 1,600,000 hectares.[15]

The profound changes in property relations resulted in numerous disruptions in the regulation of proprietary relationships. The far-reaching consequences of these measures, even seven decades later, continue to leave their traces and pose challenges for legislators in certain areas of real estate property law to this day.[16]

## 3. Preliminary outline of the restitution process

State intervention measures, justified by the ideological reorientation of society, constituted a significant injustice to those forcibly losing their property without adequate compensation. Therefore, in the early nineties, as the Serbian market gradually shifted back toward the principles of a market economy, a reverse

10 | Slijepčević & Babić et al. 2005, 53.
11 | Marinković 2012, 141.
12 | Official Journal FPRY, No 40/45, 56/45 (Autentično tumačenje), 70/45, 61/46 (prečišćen tekst), 74/46, 105/46, 11/51, 47/51.
13 | Official Journal DFY, No 56/46.
14 | Official Journal FPRY, No 61/46.
15 | Marinković 2012, 140.
16 | One of the relics of the post-war property transformation has not yet been overcome. The issue stems from the conversion of urban construction land into exclusive social, and later state, ownership, where private owners of buildings erected on that land were granted the right of permanent use. The legal basis for converting the right of permanent use into ownership was established in 2009, but to this day, despite significant progress, this process has not been concluded. For more see: Cvetić 2021, 93-111; Cvetić & Midorović 2021, 744-745.

process began, involving property reprivatisation and restitution. Denationalisation was incremental and initially very limited in terms of personal eligibility and the types of property to which it pertained.[17]

In the initial phase of denationalisation, two laws stand out due to their significance. The first one, the *Law on the Mode and Conditions of Restitution of Property Acquired through the Labour and Business Activities of Cooperatives after 1 July 1953* enacted in 1990[18] primarily addressed the return of property to cooperatives. This law stipulated that property acquired through the labour and business activities of cooperatives and their members after 1 July 1953, which had been transferred without compensation to other beneficiaries, should be returned to those cooperatives or their legal successors. The second law, the *Law on the Method and Conditions for Recognition of Rights and Return of Land that had been Transferred into Social Property based on the Agricultural Land Fund and Confiscation due to Unfulfilled Obligations from Mandatory Purchase of Agricultural Products*, was enacted in 1991.[19] This law provided for the restitution of agricultural land that was in social ownership at the time of the submission of the request. Requests could be filed within a 10-year period starting from the enactment of this law (Art. 3).

## 4. Suboptimal sequence of steps in the denationalisation process

Although the need for property transformation seemed inevitable, the manner in which it was implemented was far from optimal. The problem arose because the privatisation process in Serbia began before restitution, resulting in the sale of substantial portions of the property intended for restitution during the privatisation process.[20] While restoring private ownership as the predominant form of ownership necessitated the implementation of both privatisation and restitution processes, the sequence of steps chosen by the Republic of Serbia was suboptimal. Despite the widely recognised fact that a considerable amount of private property was seized from its owners through state intervention after World War II, segments of that property underwent privatisation instead of being returned to the former owners (and potentially their heirs) first.[21] With a view to accelerating the property transformation process, the state began selling social and state enterprises, including those established and developed by the individuals who had been forcibly deprived of them without compensation in the post-war period. If restitution had been addressed either before or, at the very least, concurrently with

17 | Veselinov 2023, 113.
18 | Official Gazette RS No 46/90.
19 | Official Gazette RS, No 18/91, 20/92, 42/98.
20 | Cvetić 2003, 156, 157; Slijepčević & Babić et al. 2005, 107-110.
21 | Veselinov 2016, 589-591.

the privatisation process – rather than nearly two decades later – the property intended for restitution would not have been subject to sale during the privatisation process.[22]

Today, private ownership is the predominant form of property, while social ownership has largely disappeared. The most essential resources vital to the state and its functioning still remain under state ownership.[23]

## 5. Key legal instruments in the restitution process

### 5.1 Law on Reporting and Registering of Seized Property

The first law heralding the state's intention towards comprehensive restitution was the *Law on Reporting and Registering of Seized Property* (LRRSP), which entered into force on 8 June 2005.[24] This law created legitimate expectations among former owners and their heirs/legal successors that the state would adopt measures to address the long-standing issue of returning property seized after World War II.[25] The LRRSP prescribed the procedure for reporting and registering property taken from former owners within the territory of the Republic of Serbia without market value or fair compensation, whether through nationalisation, agrarian reform, confiscation, sequestration, expropriation, or other regulations enacted and applied after 9 March, 1945 (Art. 1 of the LRRSP).

According to this law, former owners[26] of seized property, their heirs, or legal successors were required to report any seized property to the Republic Directorate for Property of the Republic of Serbia no later than 30 June 2006 (Arts. 3 and 6 of the LRRSP). Initially, the law stated that "reporting of the seized property under this law does not constitute a claim for the exercise of the right to restitution of the seized property or compensation for it, but is merely a condition for submitting a return request in accordance with a special law" (former Art. 8). However, during that period, this special law had not yet been enacted. Consequently, unless the seized property was reported and registered by the cut-off date, the interested party would lose its potential right to claim restitution, even though such a right did not exist at that time, but was merely intended to be granted by the state.[27]

22 | Veselinov 2023, 108-112; Veselinov 2016, 589.
23 | Slijepčević & Babić et al. 2005, 49.
24 | Official Gazette RS, No 45/2005, 72/2011.
25 | Samardžić 2012, 445, 446.
26 | The law explicitly mentioned only natural persons (Art. 3 of the LRRSP), which raised questions about the eligibility of legal persons to report seized property. This illogical solution was rectified through interpretations by the competent state bodies, which concluded that this stipulation should be extended to include legal persons as well.
27 | This abrogation, however, was not well thought out, as Article 8 of the LRRSP was repealed while the legislator apparently overlooked the need to abrogate Article 9, paragraph 2 of the same law. This

While the enactment of this law was justified to allow the state to assess the extent of the property to be returned and the financial resources required for this purpose, it is clear that the requirement for the prior reporting and registering of the seized property as a condition for restitution requests was inadequately considered. This is why this provision was abolished with the introduction of a comprehensive restitution law – the *Law on the Return of Seized Property and Compensation* (LRSPC) of 28 September 2011 (Art. 41, para. 3 and Art. 66 of the LRSPC).[28]

### 5.2 Cascade Restitution

Regarding the restitution process, the state has opted for a so-called "cascade restitution," which is performed incrementally based on the subjects entitled to it.[29] Consequently, the state has dedicated separate legal sources to: 1) *confessional* restitution, which involves the return of seized property to churches and religious institutions; 2) *general* restitution; and 3) restitution of property seized from Holocaust victims. Accordingly, confessional restitution is governed by the *Law on the Return of Property to Churches and Religious Communities* (2006)[30]; general restitution is governed by *the Law on the Return of Seized Property and Compensation* (2011); and the return of property seized from Holocaust victims is addressed by the *Law on Eliminating the Consequences of Property Seizure of Holocaust Victims Without Living Legal Heirs* (2016)[31].

It was somewhat unexpected that the law on confessional restitution preceded the law on general restitution,[32] as one would logically anticipate the enactment of a general restitution law first, followed by special provisions for ecclesiastical restitution.[33] This issue was challenged before the Constitutional Court, which found that "[a]ccording to the case law of the European Court of Human Rights, states generally enjoy a wide margin of appreciation in choosing measures and methods to achieve a legitimate goal. In the case of denationalisation in Serbia,

provision stipulates that a restitution request, governed by a separate law, can only be submitted if the confiscated property was reported by the specified cut-off date.

28 | Official Gazette RS, No 72/2011, 108/2013, 142/2014, 88/2015 - Odluka Ustavnog suda, 95/2018, 153/2020.

29 | http://www.ustavni.sud.rs/page/view/sr-Latn-CS/0-101423/inicijative-za-ocenu-ustavnosti-zakona-o-restituciji-imovine-crkvama-i-verskim-zajednicama-nisu-prihvacene 26 November 2023.

30 | Official Gazette RS, No 46/2006.

31 | Official Gazette RS, No13/2016.

32 | The logical sequence of enactements entails art. 18, para. 2 of the Law on the Return (Restitution) of Property to Churches and Religious Communities, which provides that in case the restitution is achieved through pecuniary compensation, the state bonds are to be issued under the conditions and within the time limits set by the general law on restitution, which was enacted five years later.

33 | Samardžić 2012, 449; Veselinov 2023, 118, 119.

this has been accomplished by regulating property changes as a complex process through multiple laws enacted over an extended period."[34]

*5.2.1 Law on the Return of Property to Churches and Religious Communities*

In 2006, the *Law on the Return of Property to Churches and Religious Communities* (LRPCRC) was enacted. This law envisaged several principles for confessional restitution, with the most important being the principle of equal treatment for all churches and religious communities (Art. 2). Furthermore, the law stipulated a preference for restitution in kind. Where restitution in kind is not possible, the priority is given to the return of an adequate substitute property over pecuniary compensation at market value (Art. 4). The provision allowing for substitute restitution is limited exclusively to confessional restitution, which has been identified as a significant shortcoming in the context of secular restitution under the general restitution law.

Agricultural land, as well as forests and forest land, which were owned by churches and religious communities at the time of their seizure, are also among the types of property to be restituted under the LRPCRC (Art. 9).

The LRPCRC prescribed the cut-off date for submitting restitution requests as 30 September 2008 (Art. 25). The law also established a special organisation – the Directorate for Restitution – tasked, among other responsibilities, with deciding on restitution requests (Arts. 21 and 22). It was the first state body dedicated entirely to the restitution process. On 1 January 2012, the Restitution Agency succeeded the Directorate, taking over its duties (Art. 63 of the LRSPC).

According to LRPCRC, the entity obligated to return the seized property or make a monetary compensation is the Republic of Serbia, a business entity, or another legal entity that, at the time of the entry into force of this law, is the owner of the seized property. Nevertheless, if a company which owns the property to be restituted, at the moment of the entry into force of LRPCRC, may prove that it acquired such property by a transaction for value (*quid pro quo* transaction), the Republic of Serbia shall pay out the compensation to the former owner/his-her heirs (Art. 7).

*5.2.2 Law on Return of Seized Property and Compensation and the Associated By-law*

As referred to previously, the general, umbrella law governing restitution is the LRSPC, which was enacted in 2011. This law specifically addresses the restitution of agricultural land, forests, and forest land (Arts. 24-26). Given the importance of these provisions to the topic, they will be discussed in detail.

34 | http://www.ustavni.sud.rs/page/view/sr-Latn-CS/0-101423/inicijative-za-ocenu-ustavnosti-zakona-o-restituciji-imovine-crkvama-i-verskim-zajednicama-nisu-prihvacene

In addition to this law, one significant by-law related to the restitution of agricultural and forest land is the 2018 *Regulation on Criteria for Determining the Surface Area of Agricultural and Forest Land in the Process of Returning Seized Property.*[35] This Regulation applies when a request for restitution involves agricultural or forest land that underwent land consolidation following its seizure. This is of particular importance as a substantial portion of the seized agricultural land was subject to consolidation – a policy aimed at merging numerous small, irregularly shaped parcels into larger, more regular-shaped ones to improve agricultural efficiency.[36] As a result, the parcel numbers, boundaries, and shapes of these lands were altered. In such cases, experts play a decisive role in the restitution process, determining, in accordance with the criteria set forth in the Regulation, which land from the state fund can be returned to claimants.[37]

The provisions of the aforementioned Regulation are also relevant in cases where a portion of agricultural land cannot be returned due to the erection of a structure on it. This specifically pertains to the portion of the land required for the regular use of the constructed object.

#### *5.2.3 Law on Eliminating the Consequences of Property Seizure of Holocaust Victims without Living Legal Heirs*

A significant portion of agricultural and forest land that was previously seized has been returned to Jewish communities under the *Law on Eliminating the Consequences of Property Seizure of Holocaust Victims without Living Legal Heirs* **(LECPSHV)**, which was enacted in 2016.[38] This Law provides tailored solutions for the restitution of property seized from Holocaust victims, making Serbia the only country in Central and Eastern Europe to establish a specific law addressing this issue.[39]

## 6. Restitution modalities

When it comes to the modes of reparation, the title of the Law on general restitution indicates that reparation can take place in one of two ways: 1) **effective restitution**, which involves the return of the seized property (*in-kind restitution*), or 2) *compensation*, which entails the payment of a specified amount of money, either in cash or through state bonds, depending on the awarded compensation amount.

35 | Official Gazette RS, No 29/2018.
36 | Stanković in: Stanković & Orlić 1999, 121; Nikolić Popadić 2020, 116, with further references stated there.
37 | Agency for Restitution 2022, 221 (hereinafter: Agency Report 2022).
38 | Official Gazette RS, No 13/2016.
39 | Agency Report 2022, 199.

### 6.1 Restitution in Kind and its Exceptions

Restitution *in natura* has played a significant role and has been implemented to the greatest extent possible with respect to agricultural land, as a substantial portion of this land was in state ownership prior to the commencement of the restitution process. Although Article 8 of the LRSPC establishes the principle of priority for *in natura* restitution, certain public interests (Art. 18) and the respect for lawfully acquired rights (Art. 10) necessitate some exceptions to this principle. Furthermore, exceptions to in-kind restitution are also specified for land that was sold or acquired during the privatisation process (Art. 18, point 9).

Three exceptions to the effective restitution of agricultural and forest land are provided for in the LRSPC. Specifically, if on the day the LRSPC entered into force: 1) immovable object(s) that are in use were erected on the land, the portion of the cadastral parcel necessary for the regular use of such immovable object(s) may not be restituted; 2) if the land intended for restitution shall be subject to land parcelling to allow for an access road to the land for which restitution is requested; and 3) land in social or cooperative ownership that was acquired through a legal transaction for value (Art. 25 LRSPC).

If agricultural or forest land that was seized underwent land consolidation after its seizure, the former owner has the right to reclaim land obtained from the consolidation process (Art. 24, para. 2 of the LRSPC).

According to the LRSPC, in-kind restitution can only be applied to property that is considered public property, is owned by the Republic, is an autonomous province, or a local self-government. Consequently, the debtor responsible for in-kind restitution can be one of the following entities: the Republic of Serbia, an autonomous province, or a local self-government unit, or a public enterprise, business entity, or other legal entity established by these public entities, regardless of their status – whether active, under bankruptcy, or in liquidation (Art. 9, para. 1 LRSPC).

It is noteworthy that according to the Law on confessional restitution (LRPCRC), the scope of obligated parties for effective restitution is broader compared to the Law on general restitution (LRSPC). As previously mentioned, in the case of general restitution, the obligated party for returning property is limited to public entities: the Republic, an autonomous province, or a local self-government unit, as well as entities established by these public entities. In contrast, under confessional restitution, the obligated party can include any business entity or other legal entity that, at the time the Law entered into force, was the owner of the seized property. However, this obligation does not apply if the legal entity can prove that it acquired ownership of the formerly seized immovable property through a transaction at market value. If such proof is provided, the legal entity that owns the property in question will retain it, while the Republic of Serbia commits to compensate the restitution claimant (Art. 7, paras. 1 and 2 of the LRPCRC).

As previously mentioned, the relevant Law regarding confessional restitution establishes the priority of in-kind restitution. However, if this is not feasible, the Agency will first assess whether an adequate substitute property can be provided. Compensation will only be considered when neither in-kind restitution is possible, nor can substitute property be found (Art. 4 of the LRPCRC).

According to the decennial report of the Restitution Agency, which covers the period from 2012 to 2022, "a total of 117,972 hectares, 91 ares, and 17 square metres of agricultural land, as well as 38,606 hectares, 96 ares, and 52 square metres of forest land were returned *in natura* under all three restitution laws."[40]

### 6.2 Compensation Mechanisms

When in-kind restitution is not feasible, reparation will be made through compensation, provided either in the form of state bonds issued by the Republic of Serbia or in cash.

The sole debtor of compensation, whether in bonds or cash, is the Republic of Serbia (Art. 9, para. 3 of the LRSPC). In all cases, the amount to be compensated will be expressed in euros, based on the official average exchange rate of the National Bank of Serbia on the day of assessment (Art. 31, para. 1 and Art. 32 of the LRSPC).

Cash payments will occur in the following cases: 1) as an advance payment for compensation, which will equal 10% of the total compensation amount, but is not to exceed 10,000 euros per applicant (Art. 37, paras. 1 and 3); or 2) when the compensation does not exceed 1,000 euros per applicant (Art. 30, para. 1 of the LRSPC).

For compensation payments, Serbia has allocated an amount of two billion euros (Art. 31, para. 1 of the LRSPC). This means that applicants will not be reimbursed for the full value of the seized property but rather proportionately. Specifically, the amount to be compensated will be calculated by multiplying the *compensation bases* by a certain *coefficient*.

The *compensation bases* represents the value of property on the day of assessment, based on its location and condition at the time of seizure (Art. 32, para. 3 of the LRSPC).

The key responsibility for assessing the value of agricultural or forest land, in determining the compensation basis, lies with the Tax Administration, specifically the competent organizational unit of the Tax Administrative Body. According to the *Instructions for Determining the Value of Seized Immovable Property at the Request of the Restitution Agency* issued by the Tax Administration, the assessment of agricultural land, forests, and forest land must rely on the cadastral municipality in which the land is located, as well as the value of adjacent or neighbouring cadastral parcels with the same or similar use (fields, orchards, meadows, forests, etc.). The quality of the land will also be taken into account, expressed in classes

40 | Agency Report 2022, 220.

(first, second, third, etc.).[41] The determined value is subject to corrective factors of ±10%, depending on various criteria such as the land's location, proximity to roads and infrastructure, and to populated areas.[42] If land that was agricultural at the time of seizure has since been converted into construction land, its value will be determined according to construction land prices.[43]

The compensation coefficient is calculated by comparing the allocated amount of two billion euros to the total sum of the compensation bases determined by the Restitution Agency's decisions on the right to compensation, while taking also into account the estimated undetermined bases – those yet to be assessed by the Restitution Agency (Art. 31, para. 1 of the LRSPC). According to the Conclusion of the Serbian Government of 21 January 2021, the compensation coefficient is set at 0.15. This means that applicants receiving monetary compensation, instead of in-kind restitution, will receive only 15% of the total value of the seized property. This places applicants who may not be restituted *in natura* at a significant disadvantage compared to those who receive restitution in-kind, as the latter can sell their returned property at market value. Moreover, the compensation amount is not only far below current market value, but it will also be paid out over a 12-year period, starting from the bond issuance date. The Law, however, provides exceptions to the 12-year payment period for two categories of applicants: 1) those aged 70 or older on the date the law came into force, who will receive their compensation within five years; and 2) those aged 65 or older, who will be compensated over a 10-year period (Art. 35, para. 5 of the LRSPC).

Moreover, the LRSPC sets a cap on the total compensation that may be paid to a single applicant to 500,000 euros (Art. 31, para. 3). The rationale behind this cap is to maintain macroeconomic stability and the economic growth of the Republic of Serbia. This limit applies to each applicant in two ways: 1) an applicant cannot be awarded more than 500,000 euros, regardless of how many potential grounds for compensation (s)he has (e.g., agrarian reform, nationalisation, confiscation, sequestration, or expropriation); 2) an applicant cannot receive compensation exceeding 500,000 euros, even if they inherited property from multiple predecessors who were deprived of their property (Art. 31, paras. 3 and 4 of the LRSPC).

The compensation scheme is not provided for in the *Law on Eliminating the Consequences of Property Seizure of Holocaust Victims without Living Legal Heirs*. Accordingly, this Law allows only for in-kind restitution. If in-kind restitution is not possible due to third parties' rightfully acquired interests in the property, the request for restitution will therefore be considered unfounded.[44]

41 | Instructions for determining the value of the seized real estate at the request of the Restitution Agency issued by the Tax Administration No. 464-273/2012-18, of 6 November 2013.
42 | Ibid.
43 | Ibid.
44 | Agency Report 2022, 205.

# 7. Eligibility and conditions for restitution

## 7.1 The Statutory Time Limits for Filing a Restitution Request and its Key Elements

According to the LRSPC, restitution requests could be filed within two years from the date the Restitution Agency published a public call on the website of the ministry responsible for financial affairs (Art. 42, para. 1). This timeframe began on 1 March 2012, and expired on 3 March 2014. Requests submitted after that date were considered untimely and were rejected accordingly.

Under the LRPCRC, the deadline for filing restitution requests was 30 September 2008 (Art. 25). In practice, attempts to circumvent this deadline have been observed through the submission of so-called 'expanded' requests, which were later found to be unrelated to the original requests filed within the specified timeframe. As a result, these 'expanded' restitution requests were rejected as untimely. The Supreme Court of Cassation of the Republic of Serbia held that "the extension of property restitution claims beyond the statutory deadline (30 September 2008), as stipulated by Article 25 of the Law on Restitution of Property to Churches and Religious Communities, to include properties unrelated to those specified in the initial request, may be considered an abuse of rights and, therefore, may not be allowed."[45]

The restitution request must include detailed information about the former owner, the seized property, the former owner's ownership of the property, the legal basis, the date, and the legal act by which the seizure was executed. Additionally, it must provide details about the applicant and their legal connection to the former owner, all of which must be substantiated by appropriate evidence. If the property was seized through confiscation, a final court decision on rehabilitation, or evidence that a request for rehabilitation was timely filed, must also be submitted (Art. 42 of the LRSPC).

## 7.2 Legal Bases for the Seizure

To exercise the right to restitution of seized property or to seek compensation under the LRSPC, it is essential that the property was originally seized under one of the 41 legal grounds specified in Article 2 of the Law. If the property was seized under a ground not included in this list, the Agency lacks the legal basis to proceed, and such a request will be rejected.

45 | Supreme Court of Cassation of the Republic of Serbia, Judgment No. Uzp 220/2021, 26 November 2021.

### 7.3 Legal subjects entitled to file a request for restitution

When discussing eligibility for restitution under the LRSPC, the following persons are entitled to request restitution: 1) domestic natural persons – individuals holding Serbian citizenship from whom the property was seized, and, in the event of their death or declaration of death, their legal heirs (heirs according to law, not those who qualify as heirs through a will)[46] as per the inheritance law of the Republic of Serbia; 2) endowments from which the property was seized or its legal successor; 3) former owners – individuals who have regained ownership of their previously seized property through a legal transaction for value; 4) individuals who entered into a sales contract with a state authority between 1945 and 1958, provided that a court proceeding has established that the seller was disadvantaged by the sale price. In this case, the applicant is entitled only to compensation reduced by the amount of the sale price paid; 5) foreign natural persons – foreign individuals and, in the event of their death or declaration of death, their legal heirs, subject to the condition of reciprocity (Art. 5, para. 1). However, foreign citizens will not be entitled to restitution if they are compensated by a foreign state under an international treaty, or if they have already received compensation or had their right to compensation recognized by a foreign state, regardless of the absence of an international treaty.

According to the LRSPC, the right to restitution cannot be granted to natural persons who were members of the occupational forces operating in the territory of the Republic of Serbia during World War II, nor to their heirs (Art. 5, para. 3). To enforce this exception, the Restitution Agency has established close cooperation with the Military Archives, resulting in the creation of a database of members of occupation forces on the territory of Serbia during the war.[47] By consulting this database, the Agency can determine whether an applicant or their descendants are ineligible for restitution. However, the relationship between this exception and the *Law on Rehabilitation*[48] has presented practical challenges. Specifically, there was uncertainty regarding the Agency's decision-making if an applicant is identified as a member of the occupation forces by the Military Archives, yet has also been rehabilitated under the *Law on Rehabilitation*. Initially, the Restitution Agency rejected requests from such applicants if evidence confirmed their affiliation with the occupation forces. In contrast, the Administrative Court has ruled that the Agency cannot disregard the legal effect of a final rehabilitation decision, which establishes that a former owner was not a member of the occupation forces and was neither a war criminal nor a public enemy. Consequently, all legal

46 | Veselinov 2016, 598.
47 | Agency Report 2022, 18.
48 | Official Gazette RS, No 92/2011.

consequences stemming from military court decisions are considered null and void, including confiscation orders, thereby reopening the path to restitution.[49]

*7.3.1 Examining Reciprocity for Foreign Applicants*

As previously stated, the LRSPC stipulates that seized property shall be returned *in kind* or through compensation to foreign citizens and, in the event of their death, to their legal heirs, subject to the condition of reciprocity. Reciprocity is presumed to exist if a Serbian citizen can acquire ownership rights and inherit real estate in the country of the applicant's origin (Art. 5, point 5, and para. 2). This condition also applies to the restitution of agricultural land.

It is noteworthy that this solution significantly deviates from the provisions contained in the *Law on Agricultural Land*[50] (LAL), which states that "the owner of agricultural land cannot be a foreign natural person or legal entity, unless otherwise specified by this law in accordance with the Stabilization and Association Agreement" (Art. 1). Specifically, the LAL allows for the acquisition of agricultural land in *state* ownership through transactions for value only under certain conditions, one of which is that the acquirer – if a natural person – must *hold citizenship of the Republic of Serbia* (Art. 72a, para. 2, point 1).[51] In contrast, agricultural land in *private* ownership can be alienated only to EU citizens, provided that strict conditions outlined in Art. 72dj of the LAL are met.[52] This (almost hypothetical)[53] possibility was introduced in 2017 through amendments to the LAL, aimed at aligning with EU requirements set for Serbia as a candidate country under the *Stabilization and Association Agreement*. Prior to these changes, there was an absolute ban on foreign citizens acquiring agricultural land, whether through *inter vivos* transactions or inheritance.[54]

This solution implies that the LRSPC deviates from the otherwise applicable provisions regarding the acquisition of agricultural land by foreign citizens. It significantly extends the possibility for a foreign citizen, not only an EU citizen, to become the owner of such land under the sole condition of reciprocity (Art. 5, para. 2 of the LRSPC). Consequently, the LRSPC should be regarded as *lex specialis* in relation to the LAL.

49 | See Judgment of the Administrative court 12 U 2847/15, 2 December 2016.
50 | Official Gazette RS, No 62/2006, 65/2008 (drugi zakon), 41/2009, 112/2015, 80/2017, 95/2018 (drugi zakon).
51 | Živković 2022, 255.
52 | Baturan 2017, 1136; Nikolić Popadić 2020, 226-228; Dudás 2022, 27, 28.
53 | The situation is almost hypothetical, as the conditions set are highly restrictive, meaning that very few, if any, EU citizens are likely to meet the foreseen criteria. Živković rightly concludes that "meeting these requirements [...] is almost impossible for a foreign national in real life". Živković 2022, 256. The same conclusion has been reached by Dudás in: Dudás 2021, 71.
54 | Stanivuković 2012, 546, 551.

The Restitution Agency is *ex officio* obliged to examine whether the reciprocity condition is met (Art. 5, para. 5 of the LRSPC). When assessing reciprocity, the legislator distinguishes between countries that have regulated the process of property restitution – such as Croatia, Slovenia, Montenegro, Macedonia, Hungary, Bulgaria, and Poland – and those that have not.[55] In countries where the restitution process is regulated, the rights of foreign nationals to property restitution and compensation are determined by that country's regulations concerning the restitution procedure and the possibility for Serbian nationals to exercise their rights to property restitution and compensation.[56] Conversely, if a country has not regulated the restitution process, it is presumed that reciprocity exists with such countries, provided that a domestic citizen can acquire property rights and inherit real estate there (Art. 5, para. 2 of the LRSPC).

An illustrative example demonstrates how this condition has been examined in practice. In one case before the Restitution Agency, the applicant seeking restitution was a foreign national who was a collateral relative of the former owner. Upon examining reciprocity, the Agency found that the regulations governing restitution in the applicant's country of origin recognized restitution only for first-degree heirs, while the applicant in this case was a second-degree heir. Consequently, due to the absence of reciprocity, the request for restitution was rejected. This decision was confirmed by the Constitutional Court in response to the applicant's constitutional complaint, where the Court emphasized that *substantive*, not merely formal, reciprocity is required.[57] Therefore, the key consideration is not whether the country of origin generally permits restitution to Serbian citizens, but rather if, in an equivalent situation, a Serbian citizen could pursue the right to restitution in the applicant's country. As stated by the Constitutional Court of the Republic of Serbia: "For the realisation of the rights of a foreign citizen to restitution or compensation, formal reciprocity is not sufficient, as it guarantees equality in treatment, excluding discrimination based on citizenship. What is required is substantive reciprocity, which ensures full international balance in terms of enjoying certain rights."[58] Substantive reciprocity also implies that the condition of mutuality should be considered concerning specific types of land. For instance, if the country of origin does not recognize the right of foreigners to restitution of agricultural and forest land, applicants from that country will not be granted restitution in that case either, even though domestic law on general restitution does not impose such a restriction.[59]

55 | Agency Report 2022, 133.
56 | See Notification of the Ministry of Justice and Public Administration on the existence of reciprocity with regard to the right of foreign citizens to return property and compensation, number 762-02-2988/2012-07, dated 03.07.2013.
57 | Decision of the Constitutional Court of the Republic of Serbia No. Už-3218/2015, 9 November 2016.
58 | Decision of the Constitutional Court of the Republic of Serbia No. Už-3218/2015, 9 November 2016, p. 7.
59 | Agency Report 2022, 137.

To assess the scope of agricultural and forest land restituted until 1 August 2022, data from the Restitution Agency reveals that foreign nationals have been granted restitution for a total area of 15,902 hectares, 53 ares, and 66 square metres of agricultural land, along with 74 hectares, 48 ares, and 25 square metres of forest land.[60]

*7.3.2 Position of Endowments as Restitution Applicants*

When considering endowments as legitimate entities for asserting claims for restitution and compensation, it is important to note that the legislator has established different rules based on the type of endowment. *Church* endowments fall under the scope of the Law governing confessional restitution (LRPCRC), while *secular* endowments have the right to reclaim seized property in accordance with the Law governing general restitution (LRSPC).[61]

It took some time to clarify the material criterion for qualifying an endowment as a church endowment. Specifically, the question arose as to whether an endowment qualifies as a church endowment only if the church was its founder, or also when it was established by a natural person and then entrusted to the church for management purposes. This ambiguity was resolved by the Administrative Court of Novi Sad in 2012,[62] which stated that, with regard to the LRPCRC, only those endowments established by the church could be characterised as church endowments. This stance was later confirmed by the highest state court.[63]

Comparing the regulations on church and secular endowments, substantial deviations can be identified. As a result of these divergences, church endowments undeniably enjoy preferential treatment regarding restitution.[64] The most striking difference concerns the ability of church endowments to seek an in-kind substitution (Art. 4 of the LRPCRC)[65] when the seized property itself cannot be restituted. In contrast, secular endowments in the same circumstances are entitled only to compensation, which is capped at 15% of the total value, with an overall limit of 500,000 euros as previously mentioned.[66]

While church endowments have succeeded in recovering their property, some secular endowments have encountered significant obstacles in realizing their

60 | Ibid, 65, 66.
61 | Veselinov 2023, 121-124.
62 | Judgment No. III-2 U. 11496/12, 21 December 2012.
63 | Supreme Court of Cassation judgments Uzp 175/2019, 27 June 2019 and Uzp 66/2016, 15 June 2016.
64 | Due to these considerable differences, as already highlighted, an initiative for the constitutional review of the LRPCRC was submitted in 2011, which, as mentioned earlier, was not accepted. http://www.ustavni.sud.rs/page/view/156-101423/inicijative-za-ocenu-ustavnosti-zakona-o-restituciji-imovine-crkvama-i-verskim-zajednicama-nisu-prihvacene 25 November 2023 All relevant differences in regulation are listed in: Veselinov 2023, 122-126.
65 | Samardžić 2012, 455.
66 | Veselinov 2023, 122-126.

right to restitution. One of the most striking examples is the Endowment of Bogdan Dunđerski. After World War II, the endowment's property was seized, preventing it from fulfilling the purpose for which it was established. This inability to achieve its goal was directly caused by the state's intervention in seizing its assets. However, the Restitution Agency rejected the claim for restitution, citing an alleged lack of continuity between the original endowment, whose property was seized, and the newly registered endowment under the Business Registers Agency.[67] The reregistration of the endowment was necessary to comply with updated regulations, and the fact that it could not pursue its goals due to state action should not have been an obstacle to the restitution of its property.[68]

When discussing the restitution of endowment property, it is important to emphasize that the LRSPC provides for the return of property only to independent endowments – those having their own legal personality. This means that restitution is not available in cases where endowment property has been entrusted to another legal entity, such as an association, with instructions to use it for a specific purpose, as associations are not listed among the eligible applicants.[69]

*7.3.3 Rehabilitation of Persons from whom the Property was Confiscated*

Former owners whose property was confiscated after 9 March 1945, or their legal heirs, may request restitution provided that the former owner has been rehabilitated through a final court decision. Alternatively, if a timely request for rehabilitation was filed, it must be attached to the restitution request (Art. 6 of the LRSPC).

The rehabilitation of individuals criminally convicted for political or ideological reasons was first governed in Serbia in 2006 with the adoption of the *Law on Rehabilitation* (LR).[70] This law aimed at addressing the totalitarian past by allowing what is termed "special rehabilitation" for individuals convicted for political or ideological reasons. This type of rehabilitation is distinct from "ordinary rehabilitation," which concerns the elimination of legal consequences for convictions

67 | This issue is vividly illustrated by the case of the Endowment of Bogdan Dunđerski, which is administered by Matica Srpska, the oldest Serbian cultural, scientific, and literary institution. In accordance with agrarian reform regulations, the entire agricultural land allocated by the founder of the Endowment of Bogdan Dunđerski for the establishment and operation of an Academy for Agricultural Education was seized. As a result, the smooth operation of the endowment was severely hindered. The administrator of the endowment has pursued restitution efforts before the Restitution Agency in an attempt to recover the seized property, though significant challenges remain. For more on the restitution efforts of the administrator of this endowment before the Restitution Agency, see: Veselinov, 2022, 141-156.
68 | Veselinov 2023, 16.
69 | Veselinov 2016, 592-595; Veselinov 2023, 126-130.
70 | Official Gazette RS, No 33/2006.

based on legitimate legal grounds.[71] Although the 2006 LR had numerous deficiencies, it signalled the state's intent to distance itself from the past injustices and seek redress for victims of political repression.[72] While it was clear that this law opened the door for property restitution, it took the state another five years to adopt a comprehensive law on restitution.[73] In 2011, the original LR was replaced by a new law with the same name.[74]

The primary purpose of the rehabilitation process and the resulting decision on rehabilitation is to annul the legal acts and consequences by which a person was deprived of life, liberty, or other rights for political, religious, national, or ideological reasons. This applies regardless of whether the penalty was carried out with or without a formal court or administrative decision (Art. 1 of the LR). If such a decision had been made, it must have violated the principles of the rule of law and universally accepted human rights and freedoms (Art. 1, para. 2 of the LR). One of the legal consequences of rehabilitation is that the rehabilitated person becomes entitled to restitution of confiscated property or compensation for such property (Art. 3, para. 2 of the LR).[75] However, members of occupying forces that held parts of the territory of Serbia during World War II, as well as members of collaborationist formations involved in war crimes, are explicitly excluded from rehabilitation (Art. 2, para. 1 of the LR).

## 8. Selected questions with regard to the lrspc

### 8.1 Pre-emption Right of Public Entities

The LRSPC allows for the free disposal of restituted property (Art. 62, para. 3). However, when an owner disposes of such property for the first time, (s)he is required to offer it to the Republic of Serbia, an autonomous province, or the local self-government unit, which may exercise their pre-emption right. This provision has raised several concerns. Firstly, there is uncertainty regarding the interpretation of the term "disposing." The pre-emption right, as stipulated by law, can only be exercised when the owner opts *to sell* the property to which this right pertains. However, the term "disposing" could be interpreted more broadly to include not only sales but also exchanges, gifts, and other gratuitous contracts. This suggests that the legislator should have been more precise in the language of this provision

71 | This distinction was introduced into Serbian legal doctrine by Stefan S. Samardžić. For more details, see: Samardžić 2021, pp. 113-114. The author provides a detailed description of the rehabilitation procedure according to the 2006 Law, as well as its successor, the 2011 Law, on pages 137-192.
72 | V. Midorović 2008, 559.
73 | Ibid, 561.
74 | Official Gazette RS, No 92/2011.
75 | A suitable example can be found in the court's decision on rehabilitation of Đorđe Dunđerski: Samardžić 2015, 192.

to eliminate potential misinterpretations. Secondly, the formulation does not clarify whether the holders of the pre-emption right are the Republic, the province, and the local self-government unit simultaneously, or if it is sufficient for the offer to be made to only one of these entities. In the case of the local self-government unit, it seems logical for the entity governing the territory where the agricultural land is located to be recognized as the holder of the pre-emption right.

Moreover, this provision raises questions regarding its correlation with the *Law on Transfer of Immovable Property*[76] (LTIP). The LTIP grants pre-emption rights to the owner of adjacent agricultural land (Art. 6 of the LTIP) and to co-owners of such property (Art. 5 of the LTIP), with the owner of the adjacent land being prioritized after the co-owners of the land being sold (Art. 6, para. 3 of the LTIP). Consequently, in the event of selling (for the first time) the restituted agricultural land, a conflict arises between the two laws: the LTIP and the LRSPC. If we consider the LRSPC as *lex specialis*, the public entities listed would have precedence in exercising their pre-emption rights. However, if we focus on the underlying purpose of granting pre-emption rights – namely, to expand agricultural land for more efficient cultivation in the case of adjacent land, and to simplify ownership complexities among co-owners – the LTIP should take precedence. Domestic legal doctrine provides a solution for co-ownership by prioritizing the co-owner over public entities in such cases. In other words, the provisions of the LTIP should take precedence over the relevant provisions of the LRSPC when it comes to co-ownership. Nonetheless, if the public entity is also one of the co-owners, it should exercise its pre-emption rights according to the general rules established in the LTIP.[77]

### 8.2 Acquisition of a Co-ownership Share of Agricultural Land

Although it may seem surprising, there has been uncertainty in practice regarding whether the Restitution Agency has the authority to award the applicant the right to an ideal part – a co-ownership share of agricultural land. Initially, it appeared that there were no obstacles to recognizing, at the request of the restitution applicant, his/her ownership right to an ideal share of agricultural land. However, in several cases, the Administrative Court adopted the contrary position, asserting that if the restitution applicant is entitled only to an ideal part of an agricultural parcel, restitution cannot occur until the physical division of the land parcel is executed. In other words, the Administrative Court's understanding suggested that ownership rights to an ideal share of the agricultural parcel necessitate the prior extraction of that share into a separate land parcel, which must then be designated as such in the cadastre before restitution can take place. With regard to this, the Supreme Court of Cassation rightly emphasized that this interpretation is

76 | Official Gazette RS, No 93/2014, 121/2014, 6/2015.
77 | Samardžić 2012, 463, 465; Baturan 2015, 1966-1968.

legally unfounded. It affirmed that an ideal share can be recognized and returned to the rightful owner without requiring the physical division of the land parcel.[78]

### 8.3 Position of a Lessee after the Restitution in Kind

Restitution *in natura* refers to the process of returning possession of the restituted property to the rightful owner. Therefore, in cases where agricultural land has been leased by the state, the position of existing lessees is significantly affected by the restitution process. Upon the restitution of agricultural land, a lessee utilizing such land for business activities may continue to do so under the terms of the applicable lease agreement. This continuation is permitted until the lease agreement expires, but it is limited to a maximum of three years from the enforceability of the restitution decision. This provision ensures that lessees can maintain their business operations while the ownership of the land transitions back to the original owner. For specific types of crops, the regulations provide further protections for lessees. In the case of perennial crops or vineyards, if the lessee has established their lease agreement based on a pre-emptive lease right, they may continue to use the land for a more extended period – 20 years for perennial crops and 40 years for vineyards.[79] These time frames are established in accordance with Article 20 in conjunction with Article 26 of the LRSPC.

Reports indicate that this legislative solution has led to considerable dissatisfaction among farmers who had previously leased agricultural land from the state for duration of 10 years or more.[80] Initially, the state sought to prevent agricultural land, designated for restitution, from remaining uncultivated during the restitution process. To achieve this, the state began leasing the land. Originally, these lease agreements were set for only one year due to the ongoing restitution efforts. However, this arrangement proved to be suboptimal for both farmers and the state. Consequently, the state extended the leasing periods to 10, 12, and even 15 years. As a result of this change, a farmer who leased land for 10 years may discover, shortly after the lease agreement's conclusion that the land has been returned to its previous owner through the restitution process. In such cases, the farmer cannot

78 | Supreme Court of Cassastion Uzp 397/2014 from 5 February 2015.

79 | It has been foreseen by the Law on Agricltural Land in art. 64a, para. 13: "The preemptive lease right for agricultural land in state ownership (hereinafter referred to as the preemptive lease right) is granted to a legal or natural person who: 1) is the owner of an irrigation, drainage, fishery, agricultural facility, greenhouse, or perennial crops (orchards and vineyards in production) located on agricultural land in state ownership, registered in the Register of Agricultural Holdings, and has been in active status for at least three years; 2) is the owner of domestic animals, and is also the owner or lessee of a facility for breeding those animals within the territory of the local self-government unit where the preemptive lease right is exercised, registered in the Register of Agricultural Holdings, and has been in active status for at least one year."

80 | https://www.rts.rs/lat/vesti/drustvo/5271456/restitucija-obestecuje-stare-vlasnike-poljoprivrednog-zemljista-a-stocarima-sa-pravom-preceg-zakupa-zadaje-muke-.html 25 November 2023.

fully rely on the lease agreement to cultivate the land until its original expiration, as they are limited to an additional maximum of three years of cultivation. This situation could have been managed more effectively to prevent adverse impacts on farmers who invest time and resources into cultivating the land. Ultimately, the lessee will continue to pay the contracted rent to the former owner to whom the land has been restituted. Needless to say, based on the principle of freedom of contract, the former owner and the lessee have the option to negotiate a different agreement.

## 9. Procedural rules

The Restitution Agency is structured to address various grounds for returning seized property. The agency includes the following specialised units: the Confessional Restitution Unit, which handles cases related to confessional restitution; the Unit for Holocaust Victims without Heirs, which manages requests from Jewish communities for property confiscated from Holocaust victims; and the General Restitution Unit, which conducts general restitution through four regional units in Belgrade, Novi Sad, Niš, and Kragujevac. The competent unit is determined by the former owner's last permanent residence at the time of property seizure (Art. 44 of the LRSPC).

The procedure for asserting the right to recover seized property and seek compensation is an administrative one, meaning that the *Law on General Administrative Procedure*[81] applies subsidiarily (Art. 11, para. 1 of the LRSPC). However, the procedural rules vary based on the specific law under which the restitution request is submitted.

For confessional restitution requests, the Confessional Restitution Unit of the Restitution Agency is responsible. While appeals against decisions made by this unit are not permitted, administrative litigation can be initiated against such decisions (Art. 32 of the LRPCRC). Although the right to appeal is excluded in the administrative procedure, this is balanced by the option to access the Supreme Court of Cassation (Art. 49, para. 2, point 3 of the Law on Administrative Litigation).[82]

The LRSPC and the Law on Holocaust victims provide the same procedural rules. Initially, the appropriate unit of the Restitution Agency is responsible for handling restitution requests. Decisions made by this unit can be appealed to the ministry in charge of finance. Against the second-instance decision, administrative litigation may be initiated before the Administrative Court (Art. 48 of the LRSPC and Art. 20 of the LECPSHV).

81 | Official Gazette RS, No 18/2016, 95/2018 (Autentično tumačenje), 2/2023 (Odluka Ustavnog suda).
82 | Official Gazette RS, No 111/2009.

## 10. Concluding remarks

This paper examines the efforts of the Republic of Serbia to rectify the injustices inflicted after World War II through state intervention measures, including agrarian reform and confiscation, which resulted in the deprivation of agricultural and forest land from former owners. The focus of the paper is on the regulations that facilitated the seizure of this land and the subsequent legal framework governing its restitution.

In Serbia, the restitution process has evolved gradually, guided by three distinct laws depending on the entities authorized to claim restitution: church and religious communities, Jewish communities, and domestic and foreign natural persons and endowments.

This paper analyses the methods of reparation, highlighting that substantial portions of agricultural land were returned in kind. It underscores the discrepancies between applicants who have been effectively restituted and those who are entitled to compensation. Specifically, the latter group only receives 15% of the value of the seized properties through state bonds, which come with long maturity periods of 12, 10, or 5 years. If 15% of the value of the seized property exceeds 500,000 euros, the compensation is capped at 500,000 euros in accordance with the legally imposed limit.

Despite the evident shortcomings in the legislative solutions discussed in this paper, an overall assessment suggests that Serbia has made significant efforts to regulate and efficiently implement the restitution process. After more than a decade of applying restitution regulations, considerable progress is evident in the return of agricultural land to both domestic and foreign citizens, as well as in the number of compensation decisions rendered.

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