

The Status of Insurance Restitution for Holocaust Victims and Their Heirs

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On November 8, 2001, the Committee on Government Reform held the first congressional hearings on the efforts of the International Commission on Holocaust-Era Insurance Claims (ICHEIC) to ensure efficient and appropriate resolution of Holocaust-era insurance claims. The hearing revealed serious deficiencies in the ICHEIC system. Despite spending \$40 million on administrative expenses, the ICHEIC process has resulted in only \$12 million in payments to Holocaust survivors and their families. Out of 77,800 claims received by ICHEIC, settlement offers have been made on only 758 claims.

Witnesses. On panel I, three Holocaust survivors from around the country testified about the difficulties they have encountered in seeking restitution for their unpaid insurance claims. On panel II, ICHEIC Chairman Laurence Eagleburger testified. He was joined by Ambassador Bindenagel, the designated U.S. observer at ICHEIC; Allianz, the largest German insurer; a representative of the National Association of Insurance Commissioners; and representatives of survivor organizations that serve on the ICHEIC governing board.

ICHEIC's Record. The hearing provided an opportunity to review the progress of ICHEIC in resolving the insurance claims of Holocaust survivors and their families. The following facts were disclosed:

- 77,800 claims have been received by ICHEIC, yet German and other insurance companies have made offers on only 758 of these claims. That is a minuscule compensation rate of less than 1% (chart 1).
- In many instances, survivors and their families cannot name the insurance company that provided the Holocaust-era insurance. Even among claims that name specific insurance companies, however, the compensation rate is less than 10% (chart 2).
- German and other insurance companies have provided the names of only 9,000 Holocaust-era policyholders to ICHEIC. This is only a small fraction of the total number of likely policy-holders. According to an ICHEIC task force, Jews were three times more likely to hold insurance policies than the population as a whole. There were 6 million Jews killed in the Holocaust and between 3 and 3.5 million survivors.
- All but one German insurance company have so far refused to participate in the ICHEIC process. In total, the insurance companies participating in ICHEIC represent only a third of the Holocaust-era market.

- To date, ICHEIC has spent over \$40 million on salaries, conferences, advertising, and other administrative expenses. The total amount of compensation that has been paid out to survivors and their families is just \$12 million.

Causes of ICHEIC's Problems. Numerous reasons were provided at the hearing for ICHEIC's meager record. These reasons include the following:

- There are five insurance companies that signed the Memorandum of Understanding (MOU) that established ICHEIC. In general, however, their participation has been marked by delay and obstruction. These companies have failed to provide comprehensive lists of policyholder names. In addition, standards for resolving claims have been ignored or inconsistently applied by the companies. For example, in many cases, they have refused to follow the MOU's requirements regarding relaxed "standards of proof." Furthermore, the companies have not followed ICHEIC rulings issued to clarify the value of policies and ease the acceptance of claims involving confiscated policies and blocked accounts.
- The German insurance companies that are not already members of ICHEIC still have not finalized the terms for their participation in ICHEIC, as required by a U.S.-German agreement to settle all Holocaust-era claims. Key sticking points are unwillingness on the part of the companies to publish comprehensive lists, conduct thorough and independent audits, and allow appeals. The German insurance companies are also insisting that they be reimbursed for their past and future contributions to ICHEIC for administrative operations, which would drain the German Foundation of more than half of the money set aside for insurance payments to Holocaust victims and their families.

Possible Remedies. Several potential measures for improving the ICHEIC process were discussed at the hearing. These remedies included the following:

- Currently, the U.S. government is assisting German insurance companies that are sued by survivors or their families by filing "Statements of Interest" that urge the courts to dismiss cases that could be settled by ICHEIC. This process should be changed so that the United States files these statements only on behalf of companies that are participating in good faith in the ICHEIC process.
- The U.S. government could apply additional pressure on the German government and the German Insurance Association to get German companies to finish negotiations with ICHEIC swiftly and in accordance with existing ICHEIC rules and standards.

- ICHEIC's current deadline for receiving claims is February 2002. This deadline creates a "Catch-22" for survivors and their families: they need to file their claims in the next few months, but they are unable to file effective claims because so few policyholder names have been released. If ICHEIC can secure access to more lists of policyholders from companies, survivors and their families should be given an extension to file claims.
- The Holocaust Victims Insurance Relief Act (H.R. 2693), introduced by Reps. Henry Waxman and Eliot Engel, would require all insurance companies operating in the United States to publish basic information on all policies in effect between 1933 and 1945. Enactment of this bill would ensure that a comprehensive list of names from these companies would be publicly disseminated through a Holocaust Insurance Registry at the National Archives.
- ICHEIC could create rules similar to those found in the Federal Advisory Committee Act (FACA) to ensure open meetings. Transparency and public scrutiny of the ICHEIC meetings and finances could increase confidence in the organization.
- ICHEIC could create an independent monitoring mechanism within ICHEIC to review decisions before they are sent to claimants to make sure they are consistent with ICHEIC rules for accepting and valuing claims. Survivors are elderly and they should not be forced to appeal a rejection they never should have gotten in the first place.