

**TESTIMONY OF GIDEON TAYLOR
TO THE GOVERNMENT REFORM COMMITTEE MEETING
HOUSE OF REPRESENTATIVES
CONGRESS OF THE UNITED STATES
STATUS OF INSURANCE RESTITUTION FOR HOLOCAUST VICTIMS AND
HEIRS**

16 September 2003

Thank you for giving me this opportunity to testify before you today. The holding of this hearing clearly reflects your commitment to the pursuit of justice for Holocaust survivors and their heirs, which has long been an important value held by the US Government.

The International Commission on Holocaust Era Insurance Claims (ICHEIC) was established in 1998 with the aim of making payments to Holocaust survivors and their heirs for unpaid holocaust era insurance policies. We are already five years into the process and I would like to reflect upon some of the achievements as well as the areas of difficulty. Let me open by acknowledging the tremendous efforts that Lawrence Eagleburger, as Chairman of ICHEIC, has made on behalf of claimants and Holocaust survivors. His dedication and commitment have, despite the huge challenges, brought great progress in an issue that for over 50 years has seen only obfuscation and denial.

1. Focus of ICHEIC efforts

Firstly, let me comment on the focus of ICHEIC.

The International Commission has directed most of its efforts in main three areas:

Notification of the ICHEIC process to claimants and informing potential claimants that they may have a claim through the publication of lists. ICHEIC launched an extensive

media campaign in February 2000 and with the recent incorporation of potentially hundreds of thousands of names of unpaid Holocaust era insurance policies, ICHEIC again placed advertisements worldwide to ensure that potential applicants were aware of the process. Efforts to ensure that companies provide lists of unpaid policyholders had been the cornerstone of many of the recent agreements. A total of over 500,000 names of policy holders are now available on the ICHEIC website.

Assisting claimants in achieving a positive resolution of their claims by establishing relaxed standards of proof and a fair valuation system, conducting research to assist claimants by finding proof of their claims in governmental archives and establishing procedures to assist in the identification of positive claims through effective matching techniques. ICHEIC has to date spent significant funds on conducting research in governmental archives. For example, Jews in Austria had to give the Nazis a list of their property in April 1938 – just after the Anschluss. Researchers paid by ICHEIC scoured approximately 50,000 Jewish Property Declarations in the Austrian State Archives for mention of insurance and the results were placed on the website.

ICHEIC also was unique in developing a protocol for the matching of names. For example an applicant might note that his grandfather, Max Schwartz was born in Lodz in September 1904. The insurance company will look in its records for proof of the policy but there are numerous spellings of “Schwartz” and of “Lodz” and the date of birth could easily be incorrect (for example, is the applicant using the American date or European date ? ; perhaps the grandfather told the authorities a different date of birth to avoid military conscription, was the Gregorian calendar used, etc.? – the search must take into account all these factors to be comprehensive and certain variations and inaccuracies should not disqualify a claim). The Chairman has issued a protocol to all companies and it is vital that all companies follow the protocol. This is indispensable to ensure that claims are paid.

Verification of the decisions of the companies was instituted to ensure that the claimants have trust in the system. It comprises three components: (i) ICHEIC internally monitors

the responses of the companies (ii) independent audits into processes of the companies are conducted and (ii) an independent appeals system has been established.

(i) *Monitoring*: ICHEIC recently established a policy of reviewing all company decisions. We believe this is vital. Whilst we applaud this development, we believe that it is important that ICHEIC now goes back and ensures that past decisions of companies, also be reviewed. Cooperation from the companies will be essential in this regard.

(ii) *Audit*: The first stage audit looked at the systems adopted by each of the companies – did the relevant company list all their subsidiaries?, had the company searched for and found all relevant archives?, what databasing had that particular company undertaken? was the company work flowchart consistent with ICHEIC rules? Compliance has been achieved by most of the companies so far. The second stage of the audit will however be critical. It will consist of a sample of the claims processed by each company and will verify whether the company is complying with ICHEIC rules.

(iii) *Appeals*: The number of appeals has not been large – some could not commence until the audit was complete. However, the appeals judges are highly respected members of the international community and we anticipate that the appeal system will be comprehensive and will enhance the process.

2. Problems Encountered to Date

Secondly, I would like to mention some of the problems encountered to date.

Despite the best efforts of all, there have been problems in the processing of claims. The main problems are a consequence of delays in the processing and difficulty in establishing and proving claims.

Delays in Company Processing

The system established by ICHEIC has been dependent upon the companies processing the claims. Many of the companies did not dedicate sufficiently qualified staff to the processing. In particular, the monitoring to date indicates that in some cases there are insufficient staff that can thoroughly understand the rules established by ICHEIC. It is to be hoped that the newly published ICHEIC processing guide will assist the companies in more efficiently processing claims. Clearly it is not adequate that more than 3 years into the process a large number of the claims have not been processed by the companies. We believe that it is necessary that the companies hire additional staff in order that the process can be concluded without further delay.

Delays at Indemnification Archives

In addition, many of the claims on policies issued in Germany must be checked in the German Indemnification archives to see if a prior payment on the policy was made within the framework of the Federal Indemnification Law (BEG). If a prior payment was made on the claim in the 1950s, then the company does not have to pay the claim within the ICHEIC process. Unfortunately, we have seen claims in which companies have waited for a long time for an answer from the BEG – which is a great burden for the claimants.

Data Protection Difficulties

The publication of lists has in many instances been hindered by Data Protection laws in Europe. For example, although lists of unpaid policies may be available in France and Belgium, a complex system has to be established in order that publication does not breach relevant laws. ICHEIC has been recently studying this issue in depth and we look forward to the development of creative mechanisms to overcome the difficulty.

Lack of Information

Claimants generally have no documents and have very little detailed knowledge of the assets of their parents. Very few cases are documented or able to name a company. A combination of limited information on the part of claimants and incomplete records of the insurance company has led to a situation in which it is extremely difficult to process successful claims – even with relaxed standards of proof.

Could the system have been better and cheaper? Perhaps. But it is important to note that the vast majority of expenses of ICHEIC were used for processes that assist claimants or to process claims. Each claim obtained by ICHEIC must be sent to the relevant company and if no company is mentioned, sent to each company. There must be a call center to answer calls from claimants. A decision was made to undertake research in Government archives to locate the names of potential unpaid Holocaust era insurance policies. A decision was also made to monitor claims, conduct an audit and have independent appeals. Each one of these items is costly. ICHEIC is not at all unique – the Swiss Bank settlement has also incurred significant costs with an audit costing hundreds of millions of dollars. All these costs reflect the difficulty of trying to verify and reconstruct something that is 60 years old, where documents are scarce – if they exist at all – and where it is sometimes unclear whether all the parties to the process are equally committed to resolving these issues.

3. Current Situation.

Finally, I would like to make a few comments on the current situation.

At present over 3,000 claims have received offers totaling \$40 million. However, it is hoped that this number will increase due to the following factors:

- a) Many companies that have good records, particularly Generali, still have a significant number of claims to process.

- b) In recent months over 360,000 names for potentially unpaid Holocaust era insurance policies issued in Germany were published as were an additional 12,000 names of unpaid Generali policies. This brings us to a total of over 500,000 policy holder names. It is anticipated that as a result of the April agreement with Winterthur, AXA and Zurich, additional names will be published – these should result in further successful claims.

- c) ICHEIC recently established a uniform protocol for the matching of claims with company lists and adoption of this protocol should increase the number of successful claims.

Although about \$40 million has been offered to claimants, it is vital to note that agreements with insurance companies have generated almost half a billion dollars (this is primarily the combined amount of the insurance component of the German Foundation Agreement, the agreement with the Generali, the agreement with the Winterthur, AXA and Zurich companies and the provision in the Austrian General Settlement Fund).

This almost half a billion dollars will be used to pay claims on unpaid Holocaust era insurance directly from the companies to the claimants, to make ICHEIC humanitarian payments to certain claimants who cannot name an insurance company and whose claims are not found by the matching process but have sufficient anecdotal evidence (8A1 claims) and for projects such as the provision of homecare, medical assistance and food that will assist Holocaust victims living in dire conditions in 31 countries across the world including here in the United States. Since insurance was common in Jewish families throughout Europe, it is highly likely that the families of many of these needy Holocaust victims probably had insurance but either the victims do not know of the policies, they could not be found or perhaps the victim is too frail to even apply. It is achieving a measure of rough justice.

Of course the Holocaust era insurance restitution process is too little, too late. All Holocaust restitution is too little, too late. There is still much to do and we must and will continue to pursue the effort for a small measure of justice for survivors of the Holocaust and their heirs.