

FINDING CLAIMANTS AND PAYING THEM:
THE CREATION AND WORKINGS OF THE
INTERNATIONAL COMMISSION ON
HOLOCAUST ERA INSURANCE CLAIMS

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The fall of the Berlin Wall in 1989 made it easier to explore the fate of the unclaimed assets of Holocaust victims and to bring a measure of justice to survivors and their heirs. In the Cold War era, thousands of Holocaust era insurance policies had gone unpaid or unclaimed because potential claimants could not gain access to records and file claims with relevant companies or government authorities. With a new era in Eastern Europe and declassification of certain U.S. war-time intelligence records, previously undocumented stories could be verified, and people who had been precluded from filing claims could seek restitution.

In the 1990s, U.S. insurance regulators sought the most effective means to address issues raised by Holocaust survivors seeking the proceeds of unpaid pre-war life insurance policies. The insurance regulators recognized that for the highly sensitive and emotionally charged issue of Holocaust era assets, the litigation route presented significant barriers, given the understandable challenge of documentation, the length of time that had passed, and the effort and costs involved.

Thus, regulators explored routes other than litigation to resolve unpaid claims. By conducting interviews, researching the historical background, and organizing informational hearings across the country, the National Association of Insurance Commissioners (NAIC) sought to better understand the issues raised by potential claimants. Working through its U.S. insurance regulator members, the NAIC then identified the companies most likely affected and worked with those companies to arrive at a means of resolving the conflict outside the courts.

With a better understanding of the defining characteristics of pre-war life insurance markets in Europe as well as the geographic limitations and procedural shortfalls of prior compensation programs, U.S. regulators, European companies and Holocaust survivor representatives from around the world created a memorandum of understanding that established the International Commission on Holocaust Era Insurance Claims (ICHEIC) in August 1998. The Commission selected former U.S. Secretary of State Lawrence S. Eagleburger as its chairman.

Working largely by consensus, ICHEIC established processes to identify claimants, locate unpaid insurance policies, and assist Holocaust survivors and their families in resolving claims. Survivors and their heirs, most of whom could provide no documentation beyond anecdotal information, were able to submit claims to insurers and partner entities, at no cost. ICHEIC, in close cooperation with 75 European insurance companies and a number of partner entities, resolved more than 90,000 claims.

To build on the information provided by claimants, ICHEIC conducted archival research to locate documents related to Holocaust era life insurance policies. Working with all available relevant archives in 15 countries, ICHEIC researchers located almost 78,000 policy specific records. This research was used by ICHEIC's members to augment the often limited information provided with claims. Working closely with European insurance companies, ICHEIC established protocols that ensured that information provided by claimants was matched to all available and relevant surviving records in the companies' possession.

Claims that identified the issuing company were sent to that company or its present day successor. Claims on policies written by Eastern European companies that were nationalized or liquidated after the war and have no present day successor were reviewed and settled via ICHEIC's in-house process. To ensure the broadest possible reach, anecdotal claims that did not identify a specific insurance company were circulated to all companies that did business in the policyholders' country of residence. Having located unpaid policies, ICHEIC's settlement process determined present values based on negotiated guidelines that provided historical currency conversions. Anecdotal claims which, despite ICHEIC's relaxed standards of proof and its research efforts, could not be linked to a specific policy were reviewed through ICHEIC's humanitarian claims process.

ICHEIC's mission – to identify and compensate previously unpaid insurance policies – defined the Commission's structure. Participants established processes to locate claimants and identify unpaid Holocaust era policies, and created a series of rules and guidelines to ensure that claims were settled equitably. The Commission's oversight structure provided for a series of checks and balances. In addition to financial oversight, agreements called for independent third-party audits of claims review and decision-making processes of participating companies and partner entities. Claimants who sought a second review for decisions rendered in their individual claims could participate in a separate appeal system.

The claims process was comprehensive in terms of participants, those it served, and how it addressed historical, legal and operational complexities. It was a comprehensive process, but it was about people and about justice. Consider, for example, George Sachs, the only member of his family to survive the Holocaust, but without documents at war's end. He remembered efforts to secure payment on his father's life insurance after his father was killed in Gestapo custody in 1939. Not until the creation of the International Commission on Holocaust Era Insurance Claims, almost 60 years to the day of his father's death, did Mr. Sachs find an avenue to collect on these policies and seek some form of justice.

Mr. Sachs and claimants like him were the driving force behind the creation of ICHEIC. Their stories of personal tragedy and frustrated attempts to recover assets illustrated the urgent need to bring full closure to outstanding claims. Through ICHEIC's efforts, a total of \$306 million was offered to 48,000 Holocaust survivors and their heirs. More than half of this amount was awarded on policies located as a result of ICHEIC's archival research, successful matching of claimants to policy information, and the Commission's humanitarian claims processes. The Commission also committed more than \$169 million for humanitarian programs, such as social welfare benefits (including healthcare and home-services to assist recipients with basic daily tasks) that benefit Holocaust survivors worldwide.

INTRODUCTION: MISSION DRIVES COMMISSION – FIND CLAIMANTS AND PAY THEM

For 60 years following the end of World War II, thousands of Holocaust era insurance policies had gone unpaid or unclaimed. George Sachs' story illustrates how and why. Born in Prague, Czechoslovakia, Mr. Sachs lived there with his parents and older brother until 1939. A neighbor falsely accused them of hoarding food and denounced them to the Gestapo. Mr. Sachs' parents were taken into custody. His father was found drowned in the river Moldau two months after his arrest, with bruises indicating torture; his mother was released from Pankrac prison in Prague one month later. The family was not permitted to investigate his father's death. Mr. Sachs remembers their fruitless efforts to secure payment on his father's life insurance in 1939, submitting the policy and the death certificate.

Mr. Sachs was sent to a concentration camp with a small suitcase of clothes and no other possessions. Imprisoned first in Theresienstadt, then Zossen and subsequently Schnarchenreuth, he was the only member of his family to survive the Holocaust; his mother died in 1942 and his older brother was killed in Theresienstadt in late 1944. At the time of liberation, all he owned were the tattered rags on his back and a threadbare blanket.

A young adult when the war started, Mr. Sachs knew a little about his parents' financial affairs. But without documents, at war's end, he had only his memories, and thus no means to prove what was rightfully his. He moved to the United States, built a new life for himself, but never forgot his father's efforts to provide for the family. On a trip to Europe in 1990, he tried without success to settle his father's unpaid policy directly with RAS, his father's insurer. In 1998, he tried filing a claim with the Holocaust Claims Processing Office, established by New York state.

The U.S. regulators viewed Mr. Sachs and claimants like him as the reason for creating the International Commission on Holocaust Era Insurance Claims (ICHEIC). Their stories of personal tragedy and frustrated attempts to recover their assets illustrated the need for an exhaustive review, and a fair and just resolution of outstanding claims. Renewed interest in the pre-war European insurance market and the fate of Holocaust era life insurance policies was sparked by the end of the Cold War in 1989. This event allowed access to records and people in Eastern Europe, and the increased declassification of war-time intelligence documents in U.S. archives. Previously undocumented stories could be verified, and people who had been precluded from filing insurance claims could seek restitution. In response, the German government revisited past compensation programs and made restitution and indemnification for suffering sustained at the hands of the Nazi regime available to residents of the former Eastern Bloc.

Recognizing that litigation was a costly, time-consuming and often inadequate means of settling claims, U.S. insurance regulators via the National Association of Insurance Commissioners (NAIC) sought to find an alternative means.¹ By conducting interviews, studying the past, and organizing hearings across the country, the NAIC (through its U.S. insurance regulator members) sought to better understand the issues raised by potential claimants, identify the companies most likely affected, and work with those companies to arrive at a means of resolving claims outside the courts.

These efforts led to the creation of ICHEIC through a memorandum of understanding signed in 1998 by U.S. insurance regulators, six insurance companies, the Claims Conference, the World Jewish Restitution Organization, and the state of Israel. Through this commission, stakeholders and representatives agreed on a process to identify and ultimately settle valid and previously uncompensated Holocaust era insurance claims at no cost to claimants.

KEY POINTS

ICHEIC was created to develop a process to identify claimants, locate their unpaid insurance policies, and assist individuals, like Mr. Sachs, in resolving claims. As a result of ICHEIC's efforts, a total of \$306 million was offered to more than 48,000 claimants. More than half of this amount was awarded on policies located as a result of ICHEIC's archival research, successful matching of claimants to policy information, and the Commission's humanitarian claims processes. In addition, more than \$169 million was committed for humanitarian programs that benefit Holocaust survivors worldwide.

ICHEIC's claims process was comprehensive in scope and the people it reached. Holocaust survivors and their heirs, regardless of their location or the type of information (if any) they possessed, were able to submit claims to insurers and partner entities at no cost. ICHEIC's archival research involved 15 countries, and the Commission published these research results, as well as more than 500,000 potential policyholder names. ICHEIC's equitable settlement process determined present values for unpaid Holocaust era policies while simultaneously ensuring that ICHEIC's rules and guidelines were applied consistently.

The following chapters summarize the defining characteristics of pre-war life insurance markets in Europe and the geographic limitations and procedural shortfalls of prior compensation programs. We then describe in detail how ICHEIC defined and met its mission: to identify and compensate previously unpaid Holocaust era life insurance policies.

¹ *The National Association of Insurance Commissioners (NAIC) is the organization of insurance regulators from the 50 states, the District of Columbia and the five U.S. territories. The NAIC provides a forum for the development of uniform policy when uniformity is appropriate. With offices in Kansas City, Missouri, New York and Washington, D.C. the NAIC staff provides support to insurance commissioners. For more information, see www.naic.org.*

WHY WAS ICHEIC NEEDED? MISSION: ILLUSTRATE THAT THERE ARE UNPAID INSURANCE POLICIES

To understand the complexities faced by the Commission in establishing a claims process, it is necessary to appreciate the economic and political situation that existed when claimants' families first purchased their policies. In the inter-war period, Europeans turned increasingly to life insurance policies to secure their families' financial future, having experienced World War I and subsequent economic upheaval (bookended by hyperinflation and world-wide economic depression). These policies were intended to cover the costs of sons' educations, daughters' dowries, to secure retirement funds, or cover burial expenses. Multiple policies for the same insured were common. With the exception of a few highly developed insurance markets (such as Austria, Czechoslovakia, and Germany) small values were the norm.

The political turmoil following the Great War added another layer of complexity. With the dissolution of the Austro-Hungarian Empire, borders were redrawn to create the new states of Central and Eastern Europe. While people stayed put, countries moved around them and official languages changed, as did currencies. Whereas the Empire's mint had printed bank notes in eight different languages, the new states circulated their own local currencies. An example of how this affected claims is the case of a prominent rabbi's wife, who bought a dowry policy for her daughter in Kerecky, Czechoslovakia; by the time this girl was 3 years old, the family lived in Hungary, without ever having left their home. Premium payments previously owed in one currency were now due in another.

HISTORICAL BACKGROUND

The German and Austro-Hungarian Empires had financed war efforts by printing paper currency. As a consequence, Austria, Germany and Hungary suffered through periods of hyperinflation between 1919 and 1924. Germany faced the most severe situation. By 1923, a postage stamp cost what a villa in a fashionable quarter of Berlin had cost in 1890. Salaries, paid twice a day, had to be collected in wheelbarrows.² The victorious Allied powers sought to stabilize the currencies and economies of the countries most deeply affected.

The mid- to late 1920s saw a period of relatively short-lived prosperity. The crash of the New York stock market in 1929 was followed by global economic depression, de-stabilizing the financial sector in Central and Eastern Europe, beginning with the collapse of the Austrian Creditanstalt in May 1931. The 1931 banking crisis ended the availability of new loans and credit on the international financial markets for countries in the region. Across Europe, countries effectively abolished the gold standard. Germany restricted currency convertibility and placed foreign exchange transactions under the aegis of the Reichsbank. Other countries adopted similar measures in an effort to stem further capital flight.

² Gordon Craig, *Germany, 1866-1945* (New York: Oxford University Press, 1980), pp. 450-451.

THE EUROPEAN INSURANCE INDUSTRY BETWEEN THE WARS

Given the economic uncertainty of the period, the purchase of term life insurance policies (and related products, such as dowry and endowment insurance) became a primary method of savings for many people in Europe during the inter-war years, though not always a successful one. The case of an Austrian claimant illustrates this well. Her father bought a policy for 10 million Austro-Hungarian crowns from Magyar-Francozia, a Hungarian insurer; by 1927, the policy was worth only a tiny fraction of the original amount. Given this experience, insurance denominated in hard foreign currencies (or gold) sold by foreign insurance companies seemed to provide a security lacking in national currencies and/or national banks.

Unlike foreign banks, agents for foreign insurance companies were readily accessible. The Italian insurers Assicurazioni Generali and Riunione Adriatica di Sicurtà, both based in Trieste, had a particular competitive advantage in the territories of the former Austro-Hungarian Empire, as did Vienna-based companies such as Anker and Phönix, and as a result had a large share of the insurance market in Czechoslovakia, Hungary, and parts of Poland. German insurance companies, such as Victoria zu Berlin, had a sizable presence in the Balkans and in Czechoslovakia, as well.

GERMANY

The German insurance industry went through a period of consolidation during the 1920s and 1930s. By the end of this period, the German market was dominated by a few very large companies (with many differently-named subsidiaries), large numbers of policies sold, and premiums primarily denominated in Reichsmarks.

AUSTRIA

Insurance companies based in the great cities of the Empire (Vienna, Prague, Budapest, Trieste) had grown accustomed to seeing the entire Empire as their natural sales territory, with shared principles of insurance, regardless of territorial, linguistic, or ethnic differences among their customers. After the breakup of the Empire, Austrian companies faced competition from new companies in newly independent states. The Austrians and Czechs signed a bilateral agreement in Prague that was finally ratified in 1927, which permitted Austrian companies to sell insurance in the Czechoslovak Republic.³

Although the insurance industry was generally less unstable than the banking industry, an exception was the Austrian Phönix insurance company, which collapsed in February 1936. Because Phönix was the third largest company in Europe and did business in 22 countries, its collapse caused major upheavals in the insurance industry across the continent. The Austrian state stepped in to

³ Miroslav Marvan and Alois Moser, “Die Neuordnung der versicherungswirtschaftlichen Beziehungen, 1918 bis 1927” in Teichova and Mathis, *Österreich und die Tschechoslowakei*, p. 221.

liquidate the financial side of Phönix; it also required that the Austrian business community (and some prominent foreign insurance companies, such as Generali and Munich Re) participate in the formation of a successor company called Österreichische Versicherungs-AG (ÖVAG).

As for Phönix's many foreign operations, various countries dealt with the situation in different ways; in Germany, a new company, Isar Lebensversicherungs AG, was established to take over Phönix life insurance policies. In Czechoslovakia and Hungary, the state and the insurance industry combined to consolidate the assets of the Czech and Hungarian branches of Phönix.

CZECHOSLOVAKIA

In 1925 (before the insurance agreements between Austria and the Czechoslovak Republic) there were a total of 23 domestic and 13 foreign companies selling life insurance in Czechoslovakia. Phönix was the second largest, behind only the domestic Slavia.⁴ Before the German occupation of the Sudetenland in October 1938, the only German company with a significant presence was Concordia. The rest of the Sudetenland's insurance business consisted mostly of small, local Sudeten-German companies and branches of the larger Czech companies based in Prague.

In November 1938, the local Sudeten companies joined to form the Sudetendeutsche Union Versicherungs AG and proposed, along with Concordia, to take over and split the portfolios of Czech companies in the area. They did not remain alone in the market, however; other German companies were permitted to operate in the Sudetenland and to purchase the portfolios of Czech companies.⁵

After the German occupation of Bohemia and Moravia on March 15, 1939, the administration of the Protectorate proclaimed in June 1939 that all policies signed prior to October 10, 1938, in the territory of the former Czechoslovakia (minus the Sudetenland) were the responsibility of the insurance companies in the Protectorate, provided their headquarters had been established in the protectorate prior to December 31, 1938, and the insured person or property was also in the protectorate prior to this date.⁶ Finally, insurance contracts that were in territories then ceded to Hungary, Poland, or the newly independent Slovak state were separated from those held in the Protectorate.

⁴ *Ibid.* p. 223.

⁵ *Ibid.*, pp. 303-304.

⁶ Tomas Jelinek, "Insurance in the Nazi Occupied Czech Lands: Preliminary Findings", *Proceedings of the Washington Conference on Holocaust-Era Assets, November 30-December 3, 1998*, p. 609.

HUNGARY

In 1943-1944, there were 36 insurance companies listed as doing business in Hungary, a number somewhat reduced from pre-war levels, due to the large number of British insurance companies no longer able to operate in the country. Once Hungary declared war on Britain, the offices of these companies were closed and their assets transferred to the remaining companies (mostly Austrian and German, with two Italian companies, Assicurazioni Generali and RAS, also prominent).⁷

POLAND

The Polish insurance market in 1939 was comparatively small, a result of Poland being a largely agrarian country with a less developed market: 79 companies, of which 52 sold some form of reinsurance, 15 were joint-stock companies, five were publicly owned, not including the PKO (the postal savings bank) which also participated in the insurance market, and six were foreign firms. Of the foreign companies, two were English (Alliance and Prudential), two were Italian (Assicurazioni Generali and RAS), and two were German (Bayerische and Aachener & Münchener).

CONFISCATION OF ASSETS

Not long after the Nazi seizure of power in Germany in January 1933, the authorities began programmatically plundering and confiscating Jewish assets. The process began most quickly in Germany, but was carried out in every country occupied by the Germans (and in the territories of many of its allies.)

The initial confiscations tended to be largely indirect: Jews were forbidden to practice their professions and subject to punitive taxation. Many policyholders cashed in insurance policies (and other financial assets) to make payments on bills or taxes that were mandated before they could emigrate. Often, the proceeds of these repurchased insurance policies were either transferred directly to the relevant government finance offices or placed into blocked accounts that were subsequently seized by the government. One historian estimates that most German Jews holding insurance had cashed in their policies prior to 1940.⁸

By 1941, the focus shifted from indirect to direct confiscation: the 11th Decree of the Reich Citizenship Law made banks and insurance companies liable for reporting assets owned by emigrants and the value of insurance policies held by Jews remaining in Germany. It also mandated the

⁷ Dr. Tamás Földi, "Insurance Claims in a Historical Context with a Special Regard to the Holocaust in Hungary," *Proceedings of the Washington Conference on Holocaust-Era Assets, November 30-December 3, 1998*, p. 636.

⁸ Professor Gerald Feldman, in "Confiscation of Insurance Assets, Special Issues", *Proceedings of the Washington Conference on Holocaust-Era Assets, November 30-December 3, 1998*, p. 600.

SECTION 2

confiscation of blocked accounts in the name of all who had left the Reich (a definition that included those who had been deported to camps). A subsequent decree of 1943 stipulated that the assets of deceased Jews also would be the property of the Reich.

Despite the reporting requirements, it is unclear whether companies were actually able to comply with this mandate, considering that in 1941, 89 insurance companies operating within the German Reich were responsible for a total of 5 million insurance policies. Many faced severe manpower shortages that made it difficult to go through their records to identify “Jewish” policyholders. Instead, it is likely that the Gestapo gathered lists of policyholders and policy numbers from the declarations of Jewish assets⁹ and forwarded these to the companies for the calculation of repurchase values now owed to the state.¹⁰

The plunder of assets took similar forms in Austria and the Protectorate of Bohemia and Moravia. Insurance policies were either directly confiscated, or repurchased by their owners with the proceeds going into blocked accounts that were, as in the German case, subsequently seized by Nazi authorities. The Germans also began the direct confiscation of assets belonging to all those who had emigrated, regardless of whether they had left before or after the German occupation. Those who were unable to emigrate had to sign over the rights to all their property, including the proceeds of insurance policies.

Slovakia, a nominally independent puppet-state, also adopted the German practice of requiring Jews to fill out asset declarations (including insurance policies), which were used to target assets for seizure after their owners had, in most instances, been sent to their deaths.

Hungary, which was not directly occupied by the Germans until 1944, had a slightly different trajectory. Laws restricting the role of Jews in professions and the economy and identifying Jews in racial (rather than religious) terms were passed in May 1938 and May 1939, but Jewish citizens were still able to hold, repurchase and pay premiums on insurance policies until fairly late in the war.

The situation in Poland was more complex; half the country was occupied by the Soviets from September 1939 until June 1941. The Soviets carried out seizures and confiscations from Poles and Jews alike based on the principle of class warfare; thus many individuals had already lost many of their assets by the time the Germans arrived. In German-occupied Poland, the practices of spoliation, seizure, and murder were adopted from the beginning of the war.

As for Western Europe, the authorities in occupied France, Belgium, and Luxembourg issued laws in 1941 and 1942 providing for the seizure of Jewish assets belonging to those who had emigrated or fled.

⁹ *Jews resident in Germany and Nazi occupied countries were required to report their assets in excess of RM 5,000. Some allies of the German regime also introduced similar asset reporting requirements.*

¹⁰ *Feldman, in Proceedings of the Washington Conference, p. 603.*

POST-WAR NATIONALIZATION OF INSURANCE INDUSTRY IN EASTERN EUROPE

In the newly Communist states of Eastern and Central Europe (Poland, Czechoslovakia, Romania, Hungary, Bulgaria) nationalization of private enterprises, including insurance companies, began almost simultaneously with liberation by the Red Army. As a result, insurance companies lost control of their assets and claimants were largely precluded from making claims on pre-war policies. The speed and mechanics of nationalization varied by location, but the effect for claimants was the same, as the following examples illustrate.

HUNGARY

In Hungary, nine German- and Austrian-owned insurance companies (including the Hungarian branches and subsidiaries of Allianz, Anker and Victoria) were taken over in 1945 by the Russian-owned Hungarian-registered East European Insurance Company. The East European Insurance Company was transferred to the Hungarian state in 1954 and eventually merged into the Hungarian State Insurance Company. In 1950, the insurance and real estate holdings of the two Italian insurers, RAS and Generali, were liquidated and seized by the Hungarian government.¹¹

For claimants such as George Gottlieb, however, such events made no practical difference. George, then 15 years old, had been told by his older brother that their father had a life insurance policy written by Generali Trieste. Mr. Gottlieb's brother (later killed at Auschwitz) had been a student at the Italian Secondary School in Budapest before the war; the family had business and personal ties to Italy, and Mr. Gottlieb can remember his parents' trips to the French Riviera with detours to Trieste for business. In retrospect, he presumes these detours were for business with Generali. The only related item that survived the war was a letter from his father, hidden in a jar at the bottom of a well, in which he summarized his assets. Unfortunately, by the time Mr. Gottlieb was able to retrieve it, the seal had leaked. He had no means to document his family's policy and, until the Commission was created, no effective way to assert a claim.

POLAND

In Poland, private insurance agencies, some already in liquidation, lost their right to conduct business in 1947. Only two pre-war insurance companies (Warta and the PZU) were given licenses to conduct business, although they were both nationalized. The PZU, the Polish State Insurance Institute, took over the management and property of the liquidated insurance companies. The policyholders of the English insurers Alliance and Prudential and of the Italian insurers Generali and RAS

¹¹ Dr. Tamás Földi, *Proceedings of the Washington Conference*, pp. 637-638.

were told to contact the headquarters of these companies in London, Trieste, and Milan respectively, although this proved futile. Eventually, in the 1960s, the Polish state covered payments to current policyholders of these companies, provided that the policyholders still resided in Poland.^{12,13}

A claimant in New York, originally from Poland, was a 5-year old boy when the Nazis invaded. During the next six years, his grandfather, mother, and nearly every other member of his family perished in the Warsaw ghetto and the Nazi death camps. The boy survived and was reunited with his father at the end of the war. In 1947, his father contacted Riunione Adriatica di Sicurta about the policies of his deceased father-in-law. He was informed that by decree of the Polish government, he should submit his application to the PZU instead. Nothing further came of his inquiries.

CZECHOSLOVAKIA

Czechoslovakia, in 1948, was the last country in Eastern and Central Europe to become a one-party state. At this time, private insurance companies were nationalized and insurance was administered by a state authority. Payments to policyholders were blocked until 1953 when they were officially cancelled.¹⁴ A New York claimant originally from Czechoslovakia encountered the nationalization argument when she approached Der Anker in Vienna in 1994 with her policy, issued by the Czech branch of this Austrian insurer. She had discovered her dowry policy and premium receipts inside a book belonging to her deceased father, a rabbi whose library had been scattered during the war. It was pure chance that this book had survived and the rabbi's daughter had recovered it. Despite the fact that she was able to provide both the policy and premium receipts as proof of payment until 1944, Der Anker referred her to the Czech government as the appropriate successor of the company's nationalized Czech interests.

AGREEMENTS WITH THE UNITED STATES

After Joseph Stalin's death in 1953, some East European governments concluded agreements with the United States and other Western countries to compensate for losses suffered by former nationals now living in the West. These agreements provided for lump sum payments by the governments of these countries to the Western government in question; the former property-owners then applied to their own governments for redress. Although some Jewish insurance policy holders received pay-

¹² Elzbieta Turkowska-Tyrlik, *Proceedings of the Washington Conference*, p.661-663.

¹³ Based on Prudential's surviving records, 4,623 policies were in force in Poland at the outbreak of World War II. Over 36% of these policies have been settled since the early 1950s despite significant gaps in Prudential's records. Policyholders or relatives of former policyholders who believe they have a valid claim can contact Prudential directly; details regarding the claims process can be found at www.prudential.co.uk/prudential-plc/aboutpru/preww2polish/

¹⁴ Vojtech Mastny, "The Impact of Post-World War II Nationalizations and Expropriations in East Central Europe on Holocaust-Related Assets", in *Proceedings of the Washington Conference*, pp. 656-657.

ments through these plans, the lump sums provided by the East European governments were often not large enough to compensate adequately for the property lost.

A Czech Holocaust survivor who fled to the United States in 1939 attempted to claim the proceeds of his Czech insurance policies from the U.S. government's Foreign Claims Settlement Commission (FCSC) in the early 1960s. His claims were recognized as valid; the five insurance policies were compensated at a significantly reduced exchange rate. It was left to his son to apply for the full value of the policies through ICHEIC 40 years later.

RESTITUTION OF INSURANCE ASSETS

ALLIED LEGISLATION

The January 1943 "Inter-Allied Declaration Against Acts of Dispossession Committed in Territories Under Enemy Occupation or Control" established the principle on which postwar restitution would be carried out. Under this declaration, the transfers of property, rights, and interests carried out by the Nazis would be considered to be invalid, whether "such transfers or dealings have taken the form of open looting or plunder, or of transactions apparently legal in form, even when they purport to be voluntarily effected."¹⁵

In July 1949, the Office of the Military Government United States Area of Control (OMGUS) issued Law No. 59, which addressed the issue of confiscated property and general provisions on restitution. Holocaust survivors filed claims under Law No. 59, but the German post-war restitution process was carried out by the government of the Federal Republic of Germany (formed in 1949 from the zones of pre-war Germany occupied by Britain, France, and the United States).

LUXEMBOURG TREATY

The Luxembourg Treaty of 1952 between the Federal Republic and the state of Israel provided for the establishment of the Conference on Jewish Material Claims Against Germany (Claims Conference), to which the Federal Republic pledged 450 million Deutsche Marks. In addition, the Federal Republic agreed, as successor to the National Socialist regime, to provide the state of Israel with 3 billion Deutsche Marks in goods over the course of the next 12-14 years. Payments to Israel, particularly in the form of goods, recognized that Israel bore a tremendous financial burden in providing for the many victims of Nazi persecution who had settled there. Monetary payments to the Claims Conference were designed to aid Jewish organizations throughout the world in resettling Jews. Furthermore, the Federal Republic agreed to pass laws to compensate individuals and their heirs and Jewish organizations for several categories of loss.

¹⁵ "Inter-Allied Declaration Against Acts of Dispossession Committed in Territories Under Enemy Occupation or Control", January 5, 1943.

GERMAN FEDERAL COMPENSATION LAW

The first federal compensation law, the “Supplementary Federal Law for the Compensation of the Victims of National Socialist Persecution”, was passed in 1953, and followed by the Federal Law for the Compensation of Victims of National Socialist Persecution (Bundesentschädigungsgesetz - BEG) of 1956, which substantially expanded the scope of the 1953 law. The “Final Federal Compensation Law” enacted in 1965 increased the number of persons eligible for compensation, as well as the assistance offered. The BEG laws compensate individuals persecuted for racial, religious, or ideological reasons and also apply to persons who were persecuted because of their nationality. The laws focus on payments for physical injury and damage to health, restrictions on personal freedom, harm to economic and professional growth, and damage done to personal property. They include provision for compensation to artists and scholars whose work disagreed with Nazi tenets, and to people who were persecuted because they were related to or friendly with victims of the Nazis. Finally, they guarantee assistance to the survivors of the deceased victims.

GERMAN FEDERAL RESTITUTION LAW

Property that had belonged to victims of racial and political persecution was returned to former owners and, in cases where owners had perished, to heirs or successor organizations. For objects that no longer existed in their original state and could not be returned, compensation was paid according to the Federal Restitution Law (Bundesrückerstattungsgesetz – BRüG), passed in 1957. The BRüG legislation was further developed in four supplementary laws, the last of which was enacted in 1969. Compensation for lost property was made according to the estimated replacement value as of April 1, 1956. The BRüG legislation was also applicable to property confiscated outside the territory of the Federal Republic of Germany, provided that at the time of confiscation it was brought into or held in territory covered by BRüG legislation.

SPECIFIC INSURANCE ASSET COMPENSATION

Specifically with regard to insurance assets, the German government assumed responsibility for paying out insurance policies (rather than shifting the burden to the insurance companies themselves). Insurance companies’ holdings in government bonds were rendered nearly worthless by the 1948 currency reform. Because the calculation of insurance benefits under the compensation law was to be made as if the policyholder had continued to hold the policies,¹⁶ the insurance companies would have been required to pay out too many obligations to remain solvent. By 1998, according to figures reported by the German Ministry of Finance, postwar German compensation and restitution programs had paid out 102.1 billion Deutsch Marks to survivors.¹⁷

¹⁶ *Unpaid premiums and payments made directly to the policyholder were deducted from compensation, but any payments to government authorities, blocked accounts or seizures were compensated.*

¹⁷ *Rudolph Gerlach, Proceedings of the Washington Conference, p. 626.*

Despite this seemingly comprehensive program of restitution, the post-war German compensation process contained major gaps. First, only citizens of Germany within the boundaries of 1937 could submit claims for property losses (such as insurance) and those losses had to have taken place within those boundaries.¹⁸ This left many Holocaust survivors unable to receive payment under insurance policies they had been forced to liquidate or that had been seized.

Moreover, claimants whose losses were sustained in the post-1945 German Democratic Republic were often unable to document their losses and were, therefore, unable to file valid compensation claims. The claim of Eva Slonitz helps illustrate this. Originally from Nordhausen in Thuringia, East Germany, her father, Heinrich Stern, was a lawyer who had II insurance policies with a number of different companies. While Eva Slonitz was aware that her father had purchased life insurance, she could not provide documents. The information necessary to confirm these contracts was contained in her father's Holocaust era tax returns. While they had survived, they were locked away in a state archive behind the Iron Curtain.

Some policyholders left out by the provisions of the BEG were able to apply for compensation under the German Lastenausgleichsgesetz (LAG), a federal program established to compensate some of the 12 million Germans who had suffered property losses when expelled from Czechoslovakia and Poland at the end of the war. However, because the LAG did not deal with Nazi persecution, former Czech and Polish Jewish policyholders who received LAG compensation received far less than what they would have been entitled to had they met the citizenship requirements of the BEG.

1990S: THE SECOND ACT

With the end of the Cold War in 1989, Holocaust era asset restitution issues returned to the international agenda. The contrasts in compensation received by survivors or the heirs of victims in Western vs. Eastern Europe were now starkly evident. With the former Eastern Bloc increasingly accessible and residents of the countries formerly behind the Iron Curtain more mobile, additional information became available.

¹⁸ *Claims for other types of compensation (loss of life, liberty, damage to health, etc.) were not geographically limited in the same way.*

Unification of Germany led to updated restitution and compensation laws.¹⁹ The resulting increased awareness coincided with document declassification dates in Western archives 50 years after the end of World War II. By 1997, with the publicity surrounding the restitution of Holocaust era assets from Swiss banks, and the Mauerbach sale²⁰ of looted art, the issue of unpaid insurance policies began to draw increased attention. A growing body of public evidence suggested that several major insurance companies had sold policies to European Jews in the 1920s and 1930s, and that for many of these policies, claims were still outstanding.²¹

INITIAL COMPANY RESPONSES

Insurance companies complained that it was unfair to compare them to Swiss banks or, what is worse, Nazi looters. They were vocal in asserting that, unlike the dormant accounts in Switzerland, the insurance issue involved many countries, each with its own specific historical, political, and legal context, not to mention the complexities inherent in insurance itself. Allianz, having been named in a lawsuit in New York in March 1997, established a toll-free helpline with call centers in North America, Europe, and Israel in April 1997 and encouraged potential claimants to contact them directly. Moreover, Allianz hired the accounting firm Arthur Andersen LLP to conduct an independent audit of relevant file inventories, and invited Professor Gerald Feldman of the University of California, Berkeley, to research the company's history and publish his findings.

¹⁹ West German compensation laws excluded from eligibility victims of Nazi persecution resident behind the Iron Curtain. In 1990, after German reunification, Germany continued the established West German policy on restitution and made available additional funds for persons who had received little or no compensation due to the circumstances of the Cold War. On May 1, 1992, the "Law on Compensation for Victims of National Socialism in the Regions Acceding to the Federal Republic" (*Gesetz über Entschädigungen für Opfer des Nationalsozialismus im Beitrittsgebiet*) was enacted. It superseded, in a modified version, the compensation legislation of the German Democratic Republic. This law established a framework for the return of assets taken from individuals and associations between January 30, 1933 and 1990. In cases where restitution is not possible, compensation will be made for the loss of property in eastern Germany. Part of the regulations applying to people persecuted by the Nazis were negotiated with the Claims Conference and are now set out in the "Law on Compensation and Adjustment" (*Entschädigungs- und Ausgleichsleistungsgesetz*), which went into force on December 1, 1994.

²⁰ In 1996, Christie's, on behalf of the Federation of Austrian Jewish Communities in Vienna, auctioned more than 8,000 items. Prior to the 1996 sale, the confiscated works of art had been stored for more than 40 years in a 14th century monastery in the Austrian town of Mauerbach, just outside the city of Vienna. The lots, most of which were confiscated from Jewish homes by the National Socialists between 1938 and 1945, included an extensive and varied range of Old Master and 19th century pictures and drawings, as well as carpets, tapestries, furniture, arms and armor, coins, and literature. The Federation of Austrian Jewish Communities established an honorary committee to oversee the distribution of funds from the sale for the benefit of victims of the Holocaust worldwide.

²¹ *Proceedings of the Washington Conference, 1998.*

INITIAL NAIC INVOLVEMENT: CREATION OF A WORKING GROUP

Insurance companies with U.S. business interests sought conversations with their respective U.S. insurance regulators in an effort to address concerns of Holocaust survivors and their heirs. In mid-summer 1997, three NAIC members—from Missouri, New York and Washington state—reached out to the World Jewish Congress. By September 1997, at a public hearing held at a quarterly NAIC meeting in Washington D.C., the NAIC voted unanimously to establish a Working Group on Holocaust era insurance issues.

The Working Group's priorities were two-fold: (1) to investigate and communicate with Holocaust survivors to determine the scope of the problem; and (2) to start a dialogue with European insurance companies to determine how best to establish a process for resolution of these issues. Its mission statement was:

“To pursue justice on behalf of both victims and survivors of the Holocaust and their heirs, consisting of a full accounting by insurance companies that sold policies to Holocaust victims and survivors, and by fully recovering the insurance policy benefits owed to them. The Working Group recognizes that injustice has gone unanswered for more than a half century. Thus, action must be taken as quickly as possible. This requires careful coordination and strong cooperation among all state insurance departments to accomplish this mission.”

Twenty-six states²² and the District of Columbia joined the Working Group and coordinated informational hearings in late 1997 and early 1998 in Washington D.C.; Skokie, Ill.; Chicago; Miami; Seattle; Los Angeles; Philadelphia; and New York City. At the informational hearings, several Holocaust survivors presented firsthand recollections of their parents having bought life, property, or dowry policies. Many of the policyholders had died at the hands of the Nazis. Their children, unable to resolve their insurance claims, were now willing to speak publicly about their experiences both during the war and after, when they sought to redeem what they believed to be rightfully theirs.

At the hearing in New York City on President's Day, 1998, one of the survivors spoke eloquently about her parents, their life in pre-war Czechoslovakia, and of her mother's efforts to keep up payments on the dowry policy purchased for her, the baby of the family. She brought with her a copy of her dowry policy and the premium receipts that had survived in one of her father's books, and a photograph of the family in happier times.

The hearings were powerful events, with regulators, insurers and potential claimants fighting through emotions to tell their stories and arrive at proposals for further action. The Working Group, having heard from public officials, insurers and Holocaust survivors, determined that the companies most likely affected were also represented in the U.S. insurance market.²³ From the outset, these

²² *Arkansas, California, Colorado, Delaware, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Missouri, Nevada, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Vermont, and Washington.*

²³ *Allianz, AXA, Generali, Gerling, Basler, Swiss Re, Winterthur, and Zurich.*

SECTION 2

companies acknowledged an obligation to review survivors' claims. The call to recognize a legal obligation was met with resistance, however, as were the regulators' requests to review the companies' books and records, and to release policyholder names from the relevant period. In February 1998, however, Allianz agreed to provide access to the company's books and records, provided it could be done under the auspices of the German regulator. AXA, Generali, Winterthur and Zurich offered similar pledges shortly thereafter.

In March 1998, the Working Group assisted individual states with their community outreach and processing of incoming claims. Meanwhile, state insurance departments contacted survivor communities and encouraged potential claimants to submit claims and supporting documentation. Expanding the mission of New York State's Holocaust Claims Processing Office (HCPO) was an example of this effort. Originally established as a division of the state's Banking Department, under the direction of the superintendent of insurance the HCPO quickly expanded its mission to include potential insurance claims.

At its meeting in Salt Lake City, in March 1998, the Working Group established a subcommittee, chaired by the California insurance commissioner, tasked with researching three areas the U.S. insurance regulators deemed priorities: claims processing, preparation of a draft memorandum of understanding (MOU) to define the role and responsibilities of the NAIC and European insurers, and first steps towards developing a national database of potential claims. The Working Group also identified a number of areas that would require further work by its members. Principally, these were:

- Documentation—while some survivors had been able to salvage policy documents, and others had been able to reconstruct policy details such as numbers, insured sums, etc., the question of what might be established via company records needed to be addressed in greater detail.
- Coordination of NAIC members' efforts—discussion was needed to identify how best to harness the resources of NAIC's members to bring about an international commission.
- Valuation of policies—in the absence of documentation and sufficiently detailed research, the aggregate value of policies affected was unknown. The Working Group stressed that this issue had to be addressed prior to finalizing any settlement mechanism.
- Heirless claims—the disposition of heirless claims, and the need to trace heirs, was a major component of the discussion.
- Nationalization issues—these issues presented by the companies would require additional research, as well as close cooperation with European governments and regulators, in an effort to understand how this might have affected companies and, consequently, individual policy claims.

MEMORANDUM OF INTENT – APRIL 1998

In early April, insurance regulators from New York and California, four insurers (Allianz, AXA, Generali and Zurich) and the World Jewish Congress, the World Jewish Restitution Organization and the Claims Conference met to negotiate and sign a six-point memorandum of intent (MOI).

NAIC TASK FORCE

On April 30, 1998, the NAIC voted unanimously to establish a task force of nine states to succeed the Working Group. Named the International Holocaust Commission Task Force, its specific mandate was to work towards the establishment of an international commission to resolve unpaid claims by Holocaust survivors and the heirs of Holocaust victims.²⁴ Reflecting the importance the NAIC ascribed to this committee, its chair was former Insurance Commissioner of North Dakota and NAIC President Glenn Pomeroy; its vice chair was New York State Superintendent Neil Levin. One of the task force's first meetings was with European insurance regulators from Austria, France, Germany, Italy and Switzerland to discuss proposed efforts to address potential claims from Holocaust victims and their heirs. There was a subsequent meeting to bring together U.S. insurance regulators and their Central and Eastern European counterparts to discuss issues related to Holocaust era insurance claims.

DRAFTING THE MOU

In early May 1998, the newly created NAIC task force met in New York and consulted with representatives of Jewish groups, led by Rabbi Israel Singer of the World Jewish Congress and Roman Kent, President of the American Gathering of Jewish Holocaust Survivors. The consensus was that results should be as swift and comprehensive as possible, because for Holocaust survivors still living there was little time for further litigation or debate.

The U.S. insurance regulators and Jewish groups agreed that dialogue with the companies, not confrontation, had to be the cornerstone of the proposed commission. It was understood that the issues to be tackled were not academic or abstract; they concerned the lives of real people, who lived, worked and dreamed—dreams that they sought to fund in part with the purchase of an insurance policy. The core issue, as so many survivors had testified, was not about money; it was about justice.

Through the summer of 1998, the U.S. insurance regulators worked with representatives of the Jewish groups and the major companies to arrive at a memorandum of understanding (MOU). Signed by the U.S. insurance regulators, six insurance companies (Allianz, AXA, Basler, Generali, Winterthur and Zurich²⁵), as well as the WJRO, the Claims Conference and the state of Israel in August 1998, it established ICHEIC with a stated goal of working by consensus, to the extent possible. Efforts were made to ensure that membership reflected a representative balance of interests.

In addition to a chair, ICHEIC was composed of three members designated by the U.S. insurance regulators, two members designated by non-governmental Jewish survivor organizations, one desig-

²⁴ *The nine states that constituted the task force were California, Connecticut, Florida, Louisiana, Missouri, New York, North Dakota, Pennsylvania, and Washington.*

²⁵ *The six companies represented—Allianz, AXA, Basler, Generali, Winterthur and Zurich—had US business interests and had been among the companies named in the various class action lawsuits filed in courts around the country. One company, Basler, left the process in the course of negotiations, and participated later not as a major ICHEIC company but only through its membership in the German insurance association.*

SECTION 2

nated by the state of Israel, and six members designated by the European insurance companies and regulators. In addition, there were eight alternates: two nominated by the U.S. insurance regulators, two by non-governmental Jewish organizations and the state of Israel, and four by the European insurance companies and regulators. Five observers (three nominated by global Jewish organizations and the state of Israel, in addition to a representative from the EEC and a representative from the U.S. Department of State) rounded out ICHEIC's membership. In addition, while the MOU contemplated that the insurance regulators from Italy and Germany would join as members, they ultimately became merely observers. The original number of members was therefore 11; in May 2000, the Dutch association of insurers was added as a member.

As a practical matter, while there were only 12 members of the Commission, alternates participated fully, as did others on occasion. There were times when, depending on the issue under discussion or the technical nature of the topic, there were nearly 100 people in attendance. Given the many interested parties, and the amount of high level attention, it was clear that the Commission would need a knowledgeable and prominent Chair experienced in negotiating. Lawrence Eagleburger, former U.S. Secretary of State, was selected. The companies also pushed for a European vice chair to head up the Commission's London office. The choice was Geoffrey Fitchew, a former Chairman of the Building Societies Commission in the United Kingdom, who had worked as a senior civil servant in HM Treasury, the Cabinet Office, and as a Director General for financial institutions and company law in the European Commission in Brussels. Subsequently a new vice chair, Diane Koken, then Pennsylvania Insurance Commissioner, was appointed from the U.S. insurance regulator representatives.

FIRST COMMISSION MEETING

The Commission's first meeting was on October 21, 1998, in New York City. The mission was defined early: to develop a fair and comprehensive process that would identify claimants, locate unpaid insurance policies, and assist claimants with resolving claims for such policies. ICHEIC promised a claims driven process, with relaxed standards of proof that acknowledged the passage of time and the practical difficulties inherent in locating relevant documents. ICHEIC also announced the creation of two funds, one for humanitarian purposes and another to handle nationalized claims and claims against companies no longer in existence and with no present-day successor.

Once the commitment was made by relevant insurers to review and make payment on valid Holocaust era insurance policies issued to victims, Commission members were faced with the daunting task of defining how the claim process would work and the value of the policies in today's currencies would be calculated.

BUILDING THE PROCESS

The claimants who had testified before the U.S. insurance regulators' Working Group were the few who were able to provide policy documents. Many others were less fortunate. Although Louis Fox knew his Austrian father had a life insurance policy with Victoria, he had no way to prove its existence. All that survived was his memory of the red folder embossed with the company logo in which his father had kept the policy. Most ICHEIC claimants were not even able to name the insurance company that had written the policies they sought. The nascent commission had to figure out how to define and build the necessary parts of an effective claims process, regardless of what documentation claimants could provide.

WORKING COMMITTEES

The task ahead was to develop a consensus on how best to identify and settle unpaid Holocaust era insurance claims. Among MOU signatories were CEOs of some of the world's largest insurance companies, leaders in the international Jewish community, and U.S. insurance regulators from several large states. This group could address many of the overarching political concerns of the stakeholders, but they would need to designate others to work at the details of the claims process.

The ICHEIC articles of association allowed for the creation of committees for these tasks. Delegates of signatories to the MOU (e.g., staff of insurance commissioners' offices), and staff representing others, sat on the committees. The process of obtaining consensus could be difficult. The participants were constantly juggling the need for speedy resolution (given the advanced age of survivors) with the importance, intricacies, and need for fairness and justice in the issues being discussed.

Committees were formed to allow ICHEIC's members to identify and focus on the various critical facets of the process simultaneously, with an eye toward moving issues forward on parallel tracks. The first such committee, and perhaps most important at the start, was the Claims Monitoring Group (CMG). The CMG was charged with building the claims process, designing the claim form, and defining outreach. Parallel to the CMG, a Valuation Committee was created to help define guidelines for assessing the present-day value of Holocaust era insurance products. The Audit Mandate Support Group (AMSG) commenced discussions on the different aspects of the necessary audits to determine the location and content of surviving company records and to ensure comprehensive screening of processes for handling claims.

These three groups were responsible for building consensus around (1) how ICHEIC reached its potential claimants and gathered information from them; (2) which rules and guidelines would be necessary to evaluate this information appropriately; and (3) what audits would be necessary to ensure that companies had investigated claims properly.

THE CLAIMS MONITORING GROUP AND THE ICHEIC CLAIM FORM

When setting out to construct ICHEIC's claim form, the CMG had a sound basis from which to operate. The work done by the NAIC (particularly staff within the insurance regulatory offices in the states of California, Florida, Illinois, New York, Pennsylvania, and Washington) to obtain information on a variety of Holocaust era asset classes from their constituencies prior to the creation of ICHEIC provided sample claim forms. Moreover, Generali's Policy Information Center (PIC) and Allianz had short forms used for claims submitted directly to the companies in the years prior to ICHEIC. These were assessed for their ability to elicit the necessary information and provided a starting point for the CMG's discussions.

As a result, the CMG drafted the ICHEIC Question & Answer document and claim form packet. The materials were made available in more than 20 languages, since Holocaust survivors and their families had fled to all parts of the globe. The form sought to elicit as much detail as possible about the insured, policyholder and beneficiary, the type of insurance policy being claimed, the company that might have issued it and location where issued, as well as any previous attempts at seeking restitution.

In addition to specific structured questions, the form included a "catch-all" request for any other relevant information and an opportunity to elaborate on data provided in earlier sections. Many claimants used this space to reiterate their belief in the existence of a policy or policies. Others enclosed documentation or a separate narrative with their claim forms. The multitude of languages used by claimants resulted in the need for extensive translation services in the processing of the forms. All this additional information was reviewed and recorded by ICHEIC for use in the claims process, and shared with the relevant companies.

Given the constraints imposed by data protection laws, ICHEIC required claimants to sign a Declaration of Consent. In signing this document, claimants agreed to transfer their personal information to companies, partner entities, and archives solely for the purposes of research and analysis by ICHEIC or its partners, in an effort to resolve their particular claims.

ICHEIC also established a 24-hour call center based in New York, with extensive language capabilities necessitated by the global nature of the claims process and claimant populations. The call center could be reached from across the world via toll-free local numbers. It provided to claimants a convenient way to request a claim form and to ask specific questions about the filing process. Forms submitted to ICHEIC were forwarded to an outsourced claims processor, Capita London Market Services (CLMS) in Gloucester, England. CLMS had a multilingual staff trained to review the claims, register the information electronically, and prepare the information for distribution to participating insurers.

GLOBAL OUTREACH

From its inception, ICHEIC devoted great effort and significant resources to identifying as many potential claimants as possible and having them file a claim, even when these potential claimants lacked detailed information regarding their family's insurance coverage.

To do this effectively, ICHEIC sought to define the target audience. The challenge was that potential claimants could be found in all parts of the world. Working closely with the same experts who had conducted outreach for the Swiss Bank Settlement's Claims Resolution Tribunal, ICHEIC made extensive use of free and paid media. These outreach initiatives included a call center and grassroots efforts through global Jewish communal and survivor organizations and representatives of other victim groups (e.g. the Jehovah's Witnesses and the Roma and Sinti communities in Central Europe).

ICHEIC distributed packets to survivor communities and Jewish organizations that included press releases, posters, and guidance on how to request a claim form (through the 24-hour ICHEIC call center), and how best to complete the claim form. In addition to working with grassroots organizations, ICHEIC supported the U.S. insurance regulators' efforts to reach out to claimants and assisted claimants in filling out ICHEIC claim forms and understanding how their claim or claims would be handled.

To supplement its work with survivor and Jewish groups and the regulatory community, ICHEIC launched a global press and media campaign to publicize the process. ICHEIC ran ads in major and parochial media markets and capitalized on as much free media as outside institutions were willing to provide. It did this not only at the launch, but also when announcing the last deadline extension, alerting potential claimants via all means available including a live webcast with Chairman Eagleburger. Thanks to the success of its outreach, ICHEIC received more than 100,000 claim forms from more than 30 countries in more than 20 languages in the five years that it accepted claims.²⁶

SETTING A CLAIMS FILING DEADLINE

While conducting its outreach, ICHEIC initially publicized a claims filing deadline of January 31, 2002. Subsequently, as the Commission's archival research efforts generated more information that ICHEIC published on its website, this claims deadline was extended several times, with the final date set as December 31, 2003.²⁷ Claim forms requested by December 31, 2003, and returned to ICHEIC by March 31, 2004, were deemed to have been timely filed. By setting this final cut-off point, ICHEIC was able to finalize its claims database. A complete claims database was needed to fully match information provided by claimants to the policyholder data compiled in the research database. Companies needed the results of this matching exercise for review and adjudication of claims. Thus, setting the March 31, 2004, final cut-off for return of claim forms allowed companies to complete their decision-making process on ICHEIC claims by June 30, 2006.

²⁶ ICHEIC received 120,000 claim forms. Of these, 40,000 were ineligible for the ICHEIC claims process as they referenced bank claims, slave labor claims, etc.

²⁷ Deadlines were set at the following dates: January 31, 2002; February 15, 2002; September 30, 2002; March 30, 2003 (new names published on March 8, 2003); September 30, 2003 (new names published April 30, 2003); and December 31, 2003 (with claim forms to be received by March 31, 2004).

POMEROY-FERRAS REPORT

Having identified the building blocks of the process, the Commission sought macro-level guidance on the overall volume and estimated value of potential claims. In October 1999, Chairman Eagleburger appointed Glenn Pomeroy (then North Dakota Insurance Commissioner, and former President of the NAIC) and Philippe Ferras (then Executive Vice President, AXA France) as joint chairmen of a task force to report on the estimated number and value of insurance policies that Holocaust victims had held. The task force, staffed by outside experts as well as ICHEIC members, met on a number of occasions in October and November 1999 and reported the results of its research to Chairman Eagleburger by the end of that year.

The Pomeroy-Ferras report determined how the relative maturity of the various markets might have affected the local populations' access to insurance. The report provided an overall view of what total damages might be by trying to determine the Jewish population's respective rates of participation in the life insurance market and to estimate the average value of life insurance policies, based on the scope of the insurance market and the size of the Jewish population in each country. The task force also discussed what proportion of policies in each market might be deemed to have remained unpaid, and presented a range of values, given members' differences on what constituted an "unpaid" policy. The task force found itself in largely uncharted waters, working within a very tight time frame, with considerable initial uncertainties regarding how best to quantify the necessary elements of analysis.²⁸

ICHEIC RULES AND GUIDELINES

ICHEIC's agreements with companies were solidified on the basis of this historical analysis and through negotiations that incorporated the guidelines by which claims policies were evaluated. These guidelines were developed through a parallel process, reflecting the combined efforts of the CMG and ICHEIC's Valuation Committee. Between them, the CMG and the Valuation Committee were tasked with (1) determining whether to distinguish between claims that identified an insurer and those that did not name a company and, if so, how; (2) finalizing the company-country matrix, an extensive table used to identify which present-day companies were responsible for which pre-Holocaust era insurance portfolios; (3) defining relaxed standards of proof; (4) solidifying guidelines on how policies would be valued once they were located in company archives; and (5) agreeing on a set of succession guidelines.

²⁸ *In 1999, the various national commissions working to assess their particular situations had not yet published their findings. Subsequently, however, these commissions have confirmed the task force's work. For example, the Dutch Commission's data showed the insured sum of all policies surrendered to the Nazi authorities to be within 5% of the task force's midrange value for Jewish policyholders. The Belgian Commission (which actually cited the task force's work) found results very close to ICHEIC's numbers. The French Commission, when defining the policies that could have belonged to victims of the Holocaust, generated a number that fell within the midrange of the task force's number for France.*

CLAIMS THAT NAME A COMPANY (NAMED CLAIMS) VS. CLAIMS THAT DO NOT IDENTIFY A COMPANY (UNNAMED CLAIMS)

Participants recognized that the majority of claims submitted to ICHEIC would contain only anecdotal information. Many claimants were unable to identify the insurance company that had written the original policy. Others, while able to name an insurer, had no supporting information. Individual companies' records could supplement anecdotal claims. Clearly, the broadest possible circulation of so-called unnamed claims would be critical. The CMG concluded that, while named claims would be sent to the appropriate present day successor, unnamed claims would be circulated to all companies that had done business in the policyholder's country of residence as well as to appropriate partner entities. Subsequently a decision was made to circulate named claims in the same way, to ensure that the naming of a company did not disadvantage claimants working with limited knowledge. As a result, claims submitted to ICHEIC were assured the widest possible review.

COMPANY-COUNTRY MATRIX

The company-country matrix, a fundamental component of the claims process, served as the foundation for ICHEIC's distribution of claims to participating insurers. For claimants naming companies still in existence, finding the appropriate successor was relatively straightforward. But for others, such as Alice Bogart, determining the successor was more complicated. Mrs. Bogart grew up in Prague, Czechoslovakia, and is the only one of an extended family of 43 to have survived the Holocaust. A box of family documents, including her father's will, was hidden with non-Jewish friends, and survived the war. Thus, she knew of two policies written by Czech Phönix and one written by Czech Star. When she first tried to submit claims under these policies in 1945, she was told that they had lapsed when premium payments ceased at deportation. With Phönix having gone bankrupt in 1936 and Star having been nationalized by the Czech government in 1948, she was left with no information regarding the appropriate successor companies.

ICHEIC's company-country matrix illustrated historical portfolio transfers. It summarized in matrix format company activity by country across pre-war and Holocaust era Europe. With one axis representing the company responsible for life insurance policies during the relevant period and the other axis indicating the country of issue, the point of interception identified the current-day successor responsible for specific pre-war and Holocaust era portfolios. In keeping with other Holocaust era asset restitution agreements (such as those sections of the German Foundation Agreement that dealt with looted property, the Swiss Bank settlement, or the Austrian General Settlement Fund), an insurer's ownership needed to exceed 25% in order to be deemed responsible for a given portfolio or subsidiary.²⁹

²⁹ *The chairman's decision memorandum of June 16, 2003, explains one exception to this definition: Eastern European subsidiaries in which Generali had a minority shareholding of between 25% and 50%. The chairman held that, for such subsidiaries, Generali should accept responsibility only for Moldavia Generali Securitas and Generali Port Polonia, as well as the claims on policies issued by Phönix (Hungary) in those years for which Generali specifically accepted responsibility. Approximately 200 claims on other subsidiaries were reviewed within ICHEIC's humanitarian processes. The chairman reached this conclusion because, in several of these companies, there were other shareholders with holdings equal to or larger than that held by Generali.*

SECTION 3

The research required for an accurate company-country matrix was extensive and, thus, ICHEIC relied heavily on participating insurers to provide information on the Holocaust era portfolios for which they took responsibility. Building on the information provided by insurers, ICHEIC further compiled and expanded the matrix on the basis of information derived from the claims process, as well as the research database. The final version of the company-country matrix included 340 companies and enabled ICHEIC to determine which companies and/or entities were responsible for processing claims such as that filed by Mrs. Bogart referencing her father's Czech Star and Phoenix policies, or the Czech Anker dowry policy about which the U.S. insurance regulators had heard testimony.

RELAXED STANDARDS OF PROOF

The CMG was responsible for achieving agreement on a set of relaxed standards of proof that applied equally to companies and claimants. Life insurance is a promise to pay a specific amount under certain circumstances and at a future point in time, certified on a piece of paper. Standard documents—such as death certificates and proof of coverage—are required under normal circumstances and, in the ordinary course of business, there are statutes of limitation and legitimate document-destruction policies that apply to the issuing companies.

Understanding that, in many instances, little documentation would have survived the ravages of war and the passage of time, the group sought agreement on what types of evidence would be admissible. An initial survey of participating insurers' records illustrated that the level of detail varied significantly from company to company, further underscoring the difficulty in arriving at a unified set of guidelines. For example, Generali's surviving documents in Trieste include the so-called *Stato Fine* records, providing a full accounting for the years 1936 through 1944. Similarly, the entire central card registry had survived at Allianz in Stuttgart, Germany. Meanwhile, RAS, an Allianz subsidiary in Milan, had virtually no policy records. Victoria in Berlin similarly lacked information.

An early review of claim forms received by the U.S. insurance regulators and companies revealed comparable disparities. Some claimants had extraordinary documentation, ranging from actual insurance policies, to premium receipts, to tax and other legal documents from the period. Other claimants had less formal historical documentation: extracts from contemporary diaries or letters from relatives detailing efforts to secure assets, including insurance policies. Others submitted affidavits filed after liberation outlining their losses. One claimant, formerly a Czech resident, had inherited from his father a briefcase of papers hastily assembled in Prague on the eve of the family's flight to the United States. Among these documents was a premium receipt. In contrast, Louis Fox had only the recollection of his father's red leather folder embossed with the Victoria logo. George Sachs had only the memory of negotiating with his father's insurer in 1939.

This review and the ensuing debate within the CMG led to agreement on ICHEIC's relaxed standards of proof, which presented a balance between the special circumstances involved and the potential for fraud. Claimants were expected to submit all relevant evidence in their possession. Companies agreed not to reject any evidence as insufficiently probative of any fact necessary to establish the claim if the evidence provided was plausible, and not to demand unreasonably the

production of any document or other evidence that more likely than not had been destroyed, lost, or rendered inaccessible to the claimant.

The relaxed standards of proof also provided a catch-all to ensure that the ICHEIC process would consider whether any other document or statement, in addition to those specifically identified, would be sufficient to substantiate the existence of a policy or the details surrounding the insurance contract. All parties agreed, and the German Foundation Agreement explicitly stated that the relaxed standards of proof were to be interpreted liberally in favor of the claimant—which is why they were drafted with “wide latitude and flexibility.”³⁰

THE ICHEIC VALUATION GUIDELINES

Next ICHEIC needed to address how to value fairly the unpaid life insurance policies it had identified. To that end, the Valuation Committee looked at historical records and specific cases to establish valuation guidelines that took into account the realities of economic history. The group began by reviewing cases pulled from a pilot claims process using claims provided by the U.S. regulators offices and the state of Israel.

In reviewing individual cases, the Valuation Committee soon reached agreement on the components of the policy terms required for any calculation: the insured sum, the duration of the policy, and the date of the insured event. Building on these three pieces of information, the committee proceeded to consider how geographic location, currency conversions, and historical events impacted the many different scenarios presented by the claims reviewed.

It quickly emerged that any final guidelines would need to account for whether and when the insured perished or survived the Holocaust, what currency the underlying policy had been written in, whether any adjustments had been made to the insured sum prior to the Holocaust (such as loans or voluntary reductions of the sum insured), and whether there were any relevant laws of general application during the period for the various countries involved that would affect the terms of the policy.

UNKNOWN VALUES AND DEEMED DATES

The majority of claims submitted to ICHEIC contained little or no information. In some instances and despite best efforts, ICHEIC was unable to supplement such claims with research. In others, research confirmed a policy, but without enough detail to reconstruct the policy terms. This was compounded further by the absence of documentation in the company archives. The Valuation Committee established rules and guidelines that would permit appropriate assumptions in lieu of documented policy terms or details regarding the fate of the policyholder.

Drawing on the findings of the Pomeroy-Ferras report, the group arrived at an agreement regarding country-specific average policy values, as well as so-called deemed dates that provided ac-

³⁰ *German Foundation Agreement, Part B, p. 5.*

cepted assumptions regarding confiscation of assets and dates of death of policyholders. As a result, ICHEIC's Valuation Guidelines contain dates that identify the start of the Holocaust by country, the start of persecution by country, and the start of confiscation.

CONFISCATION

The issue of confiscated policies, or policies paid into blocked accounts that were subsequently confiscated, proved to be particularly sensitive. From the companies' vantage point, these were policies that they had paid and, therefore, attempts to seek an award from them via the ICHEIC process were perceived as attempts at "double-dipping," even though claimants had not received the funds. The Valuation Committee termed these types of scenarios "paid but not received," acknowledging that the companies had made payment, but that such payment had not been received by the appropriate beneficiary. The beneficiary thus remained eligible for an ICHEIC award, and such payments were made from humanitarian funds.

PREVIOUS COMPENSATION

An issue of particular significance regarding the German market was how previously compensated policies would be treated. After much discussion, the Valuation Committee agreed that specific policies that had been the subject of a BEG decision, whether compensated via the BEG or denied payment under that German government program, could not be reconsidered via ICHEIC. To ensure that the claim covered the actual policy, companies together with the association of German insurers and the assistance of the German Foundation³¹, conducted extensive archival research aimed at ascertaining whether a particular policy had been covered by a previous BEG decision.

Other forms of previous compensation did not preclude an ICHEIC award. One claimant, whose father had received a settlement from the U.S. government's Foreign Claims Settlement Commission in 1962, was nonetheless eligible for an ICHEIC award. The value of this award, however, was reduced in an amount equal to the prior compensation.

EXCHANGE RATES

Once the group reached agreement on the fundamentals, it proceeded to create guidelines for the various scenarios in the countries across Europe. This was a laborious process that sparked extensive debate regarding the applicability of a variety of economic indicators such as long-term bond rates as a benchmark measure for post-war interest. The group conducted country-specific analyses in an effort to ensure that the final numbers reflected the realities of economic history and the devaluation of Eastern European currencies after the war.

³¹ *The German Foundation "Remembrance, Responsibility and the Future" (Stiftung "Erinnerung, Verantwortung und Zukunft"), known as the German Foundation.*

The question of how best to value policies denominated in so-called hard currencies or purchased abroad received particular attention. With the assistance of the team working on the Pomeroy-Ferras report, the Valuation Committee researched local laws of general application in countries across Europe prior to and during the Holocaust era. Where local laws called for the conversion of policies into local currency, such conversions were accounted for in the valuation of policies, provided these laws predated the Holocaust era and/or were not discriminatory.

SUCCESSION GUIDELINES

Arriving at agreement on appropriate succession guidelines was critical to finalizing ICHEIC's rules. The question of who should rightfully inherit raised considerations that were both legal and, for claimants, highly emotional. For insurers doing business in multiple countries, each with its own applicable inheritance laws, the need for clearly articulated guidelines was critical. For claimants, any limitation on entitlements was hard to accept given the wholesale destruction of families during the Holocaust. In support of their position, survivor representatives and the state of Israel argued for the broadest possible definition of terms, basing their request on Israeli law. After considerable discussion, the CWG turned to New York law as a compromise solution. Given New York's narrower entitlement based on specified familial relationships, the group added a catch-all clause that was intended to minimize inequity.

Specifically, the Succession Guidelines state that "Arbitrator(s) shall not apply the Succession Guidelines in circumstances where: the application of the Succession Guidelines would result in an outcome which is contrary to the principles of justice; or a Claimant can show that there are special circumstances as a result of which it would be inappropriate to apply the Succession Guidelines. Where the Arbitrators consider that it would be inappropriate to apply the Succession Guidelines they shall determine the right of Claimants in accordance with the principles of fairness and justice."

A PILOT CLAIMS PROCESS

Having achieved agreement on the broad outline of the standards of proof, valuation guidelines, and succession guidelines, ICHEIC launched a pilot program in February 1999, ahead of the full-scale claims process. Limited to well-documented claims provided by the U.S. regulators and the state of Israel, the CMG anticipated that these pilot claims would help iron out the wrinkles in the process and that any issues could be settled quickly, although there were not yet final valuation guidelines or, in fact, final agreements with companies in place. The pilot was useful in helping ICHEIC identify areas of the valuation guidelines that required fine-tuning and improve operational efficiency.

AGREEMENT ON SETTLEMENT AMOUNTS

Having successfully reached out to claimants, determined how claims would be processed and how eligible policies should be valued, ICHEIC needed to formalize its guidelines and agree to the transfer of

funds from participating insurers. Determining who owed what, and how much, became a top priority. The Pomeroy-Ferras task force's work provided a useful backdrop to ICHEIC's negotiations. It helped to assess the number of unpaid and uncompensated Holocaust era life insurance policies for which ICHEIC might expect potential claimants, as well as to estimate the amounts that might be involved.

After the task force completed its report, Generali was first to the negotiating table. The German insurers as well as AXA, Winterthur, and Zurich (comprising the French and Swiss markets) soon followed. In sum, ICHEIC formalized with all participating companies claims-handling procedures, overall rules and guidelines, oversight and appeals structures, and received a total of \$550 million. These funds were earmarked for three purposes: (1) claims and appeals payments (from "claims funds"); (2) humanitarian claims payments and humanitarian program allocations (from "humanitarian funds"); and (3) administrative costs. All funds went to ICHEIC after agreements were signed and ICHEIC reimbursed companies for claims payments as they were made. In so doing, ICHEIC was able to ensure adequate expenditure and accounting for these funds.

THE GENERALI AGREEMENT AND THE GTF

As part of its agreement with ICHEIC, Generali contributed \$100 million to ICHEIC's overall settlement amount, with \$85 million allocated to claims payments and the residual to ICHEIC humanitarian activities (including humanitarian claims payments). Generali's contribution was large in comparison to other participating insurance companies, due to its extensive activities in Eastern Europe prior to World War II. Moreover, many claimants who sought payment on policies purchased in these countries were not able to avail themselves of post-war restitution or compensation programs, either by virtue of where they lived (given residency restrictions of some post-war programs) or by virtue of where the policies were written.

A critical component of this agreement was the outsourcing of Generali's claims processing operation to an implementing organization, the Generali Trust Fund in Memory of the Generali Insured in East and Central Europe Who Perished in the Holocaust (GTF). As a result, rather than transfer Generali-related claims to the company's headquarters in Trieste, Italy, ICHEIC agreed to send such claims to the GTF in Jerusalem.

Unfortunately, despite ICHEIC's best efforts—which included providing extensive technical assistance to the GTF, and repeated attempts to reconcile claims processing and payments data by an ICHEIC team on site—the entity was unable to maintain established standards. After exhausting efforts to assist the GTF in increasing the effectiveness of its operations, particularly regarding ICHEIC's claimants, and following a troubling draft report from the Israeli state comptroller's office, Chairman Eagleburger, in consultation with Generali's CEO, terminated its contract with the GTF on November 30, 2004, for cause. As a result, ICHEIC claims handling was returned from the GTF to Generali's in-house claims-processing operation, the Generali Policy Information Center (PIC) in Trieste, Italy. All pending and subsequent appeals on Generali decisions were transferred to the ICHEIC Appeals Tribunal based in London. Generali worked to increase the PIC's staff to handle and process remaining outstanding ICHEIC claims as promptly as possible. To help Generali

devote available resources to finalizing decisions on claims, payment operations on these claims, previously handled by the GTF, were transferred to ICHEIC, until June 2006, when Generali resumed payment operations after its \$100 million deposited with ICHEIC under its agreement was exhausted.

THE GERMAN MARKET AND A TRILATERAL AGREEMENT

Allianz, the largest German insurer and one of the original signatories of the MOU, chose a different path. Rather than negotiate with ICHEIC individually, the German insurers chose to do so as a collective body, represented by their trade association,³² the German government, and Allianz. The German insurance industry contributed \$350 million to pay Holocaust era claims issued by German companies or their foreign subsidiaries and for humanitarian purposes.

As with the earlier Generali settlement, the German agreement included important operational components, particularly regarding the processing of claims naming German companies, and other policies written in Germany during the relevant period. Moreover, the German agreement secured audit and appeals structures for the entire German market and defined how ICHEIC claims could best be matched to available German records. As noted earlier, this agreement was not the German government's first effort to provide compensation in these cases; a variety of compensation programs were available to survivors and the heirs of Holocaust victims and survivors living in Germany and Western Europe in the early sixties. The agreement reached through ICHEIC was made in addition to monies that were paid out for uncompensated policies in that period.

THE SWISS MARKET AND THE AWZ AGREEMENT

With the trilateral agreement, three of the original MOU signatory companies had arrived at an agreement regarding their operations in the German market, but had not yet settled their exposure regarding the rest of Europe. AXA, Winterthur, and Zurich reached agreement with ICHEIC in May 2003 to pay \$25 million for eligible claims and for humanitarian purposes. This sum reflected the fact that the agreement captured the companies' non-German portfolios (i.e., policies written in Belgium, France, and Switzerland, as well as Bohemia, Moravia and Slovakia). Concluding this agreement was ICHEIC's final step in solidifying financial arrangements with participating companies. It also represented the final formal agreement with ICHEIC companies on operating terms, rules, and guidelines.

³² *Gesamtverband der deutschen Versicherungswirtschaft (GDV)*

OPERATING AGREEMENTS WITH PARTNER ENTITIES

With agreements inked, a pilot program underway and ICHEIC sorting through boxes of newly received claims, ICHEIC was also receiving claims that were the responsibility of other compensation and restitution entities. ICHEIC's mission to identify as many potential claimants as possible meant that ICHEIC received claims on Austrian companies that were within the purview of the Austrian government's General Settlement Fund (GSF)³³, Dutch companies for which the Sjoa Foundation in the Netherlands was the appropriate addressee, Swiss companies covered by the Claims Resolution Tribunal (CRT)³⁴ in Zurich, Switzerland, and others.

ICHEIC was not responsible for claims that similar entities had agreed to handle. Given that these other compensation entities had their own processes in place, and some planned to be in operation for decades, ICHEIC needed to identify how best to ensure that claims initially filed with ICHEIC but belonging elsewhere were sent to the appropriate entities and that operating agreements were in place related to the transfer of such claims.

ICHEIC reached separate operating agreements with the Sjoa Foundation (the Netherlands), the Buysse Commission (Belgium), and the Austrian General Settlement Fund. These partner entities were responsible for handling claims on insurers or their subsidiaries in their respective countries. The operating agreements outlined how claims would be transferred, the timeline for such transfers, and how these entities would communicate with ICHEIC claimants regarding the transfer and the investigation of claims.

Although ICHEIC transferred some of the claims it received to partner entities for resolution, such entities had their own guidelines for valuing policies that they identified. This meant that there were inevitably some discrepancies between and among partner entities in the valuation techniques they applied. ICHEIC tried to minimize these discrepancies wherever possible. For example, Sjoa Foundation valuations resulted in lower payments than ICHEIC's valuation

³³ Although there were both statutory and voluntary compensation measures after 1945, it was the General Settlement Fund Law of 2001 that created the legal basis for dealing with the still open financial claims of Holocaust victims. The Austrian Insurance Association (VVO) and its more than 70 member companies passed a unanimous resolution in April 2001 to contribute \$25 million to the GSF. The GSF has assumed the task of processing the financial claims of victims and their heirs. (see: www.en.nationalfonds.org/index.html)

³⁴ The CRT in Zurich, Switzerland, as part of the Swiss Banks Settlement Insurance Claims Process, provides Nazi victims and their heirs the opportunity to have claims concerning policies purchased from certain insurance companies between 1920 and 1945 adjudicated by an independent and impartial body. The insurance claims resolution process derives from three important documents: (1) the Settlement Agreement in the Holocaust Victims Assets class action litigation in the US District Court for the Eastern District of New York, Chief Judge Edward R Korman presiding; (2) the Final Order and Judgment of the Court approving the Settlement Agreement of July 26, 2000 (as corrected on August 2, 2000); and (3) the Plan of Allocation and Distribution proposed by Special Master Judah Gribetz and approved by Judge Korman on November 22, 2000. Under this Agreement, up to \$50 million has been set aside for the payment of unpaid Holocaust-era Swiss insurance claims. (see: www.crt-ii.org/index_en.phtm)

guidelines required. ICHEIC stakeholders nevertheless recognized that the Sjoa Foundation's calculations would have to stand because they had been agreed to by Dutch companies, the Dutch Federation of Jewish Communities, and local survivor representatives. Similarly, while the Austrian federal law that created the GSF specifically cited the applicability of ICHEIC's valuation guidelines, the total funds available to that entity were capped at \$210 million, with only \$25 million earmarked for insurance claims.³⁵ The law called for application of ICHEIC's rules and guidelines, but also determined that pro-rata payments were appropriate.³⁶

CONSISTENCY OF ICHEIC GUIDELINES BETWEEN AND AMONG COMPANIES

ICHEIC sought to ensure fairness through the broadest possible application of ICHEIC's rules and guidelines. In the view of ICHEIC members, consistency was essential. Subsequent chapters discuss in greater detail ICHEIC's efforts to ensure the correct application of these rules and guidelines through a rigorous set of checks and balances, including internal verification programs, the audit process, and the appeals system.

³⁵ *The Washington Agreement of January 17, 2001, determined that the Republic of Austria would set up the General Settlement Fund for Victims of National Socialism, with \$210 million allocated to the General Settlement Fund. The respective federal law went into force on May 28, 2001. Section 5 (2) of the law states that "Of the funds available for payments to entitled persons, the equivalent in Schillings of 25 million US Dollars shall be allocated for payments for insurance policies. In the event that this amount is exhausted, and this is certified by the Claims Committee, in consultation with representatives of the plaintiffs' attorneys recommended by the Government of the United States, an amount of up to 5 million US Dollars from the amount allocated to the claims-based process may be used to pay insurance claims."*

³⁶ *Section 18 (2) "In taking decisions on insurance policies (§ 14, Subparagraph 5), the Claims Committee shall apply mutatis mutandis the ICHEIC claims-handling procedures, including those pertaining to valuation, standards of proof, and relevant decisions by the chairperson. In doing so, particularly prior compensation measures shall be taken into account according to § 16 Paragraph 2." And Section 18 (3) "If the Claims Committee determines that all conditions for the approval of an insurance claim are met, it shall authorize in accordance with the principles of § 16 Paragraph 1 the disbursement of a payment from the capital of the Fund allocated pursuant to § 5 Paragraph 2. All funds used to pay approved insurance claims shall be distributed on a pro rata basis."*

ICHEIC'S MISSION: FIND CLAIMANTS AND RESOLVE OPEN CLAIMS

ICHEIC's mission was to find potential claimants, identify unpaid Holocaust era insurance policies, and settle valid claims at no cost to claimants. Among the challenges was that many claimants were unsure which of their relatives might have been insured. For those who had been children during the Holocaust, it was often impossible to accurately identify insureds, beneficiaries, or policyholders. Even where claimants were able to name the insured, they were often unable to name the company that had insured their families, let alone document their claims. Ernest Spillar, whose uncle perished in Auschwitz and whose grandfather died in Prague in the early days of the Nazi occupation, filed an insurance claim for his father, uncle and grandfather. He did not know which companies might have issued the policies, but listed "Riunione, Generali or Winterthur" as the issuing companies. ICHEIC's research revealed the existence of policies with Merkur, Generali, Slavia, Star, Phönix, and Union Prague for all three individuals. The Commission also was able to locate policies for other relatives for whom Mr. Spillar had not known to submit claims.

ICHEIC'S EFFORTS TO LOCATE POLICYHOLDERS

ICHEIC sought to maximize opportunities to identify policies, and "match" policies with claims, even when claims submitted to the Commission might have contained little accompanying documentation. Consistent with ICHEIC's mission to find claimants and augment their claims, representatives agreed that both ICHEIC and the companies should evaluate claims received and (1) supplement them with any relevant archival information that ICHEIC identified through research; (2) match the information against relevant policyholder lists through agreed-upon procedures; and (3) ensure that variations in name spellings did not affect search results.

ICHEIC's research and matching work identified thousands of policies related to claims where the claimant was unable to name a company. In fact, more awards were made on policies matched via the ICHEIC process than on policies specifically cited by claimants.

ARCHIVAL RESEARCH

Inevitably, war and persecution resulted in extensive loss of documentation. Recognizing that survivors faced enormous difficulty in locating the information necessary to establish valid claims, ICHEIC was committed to conducting additional research. Such research would be required to establish basic information needed for many potential claims, and could be carried out effectively only at an institutional level. To collect as much relevant information as possible, ICHEIC commissioned experts to research in archives and repositories in Central and Eastern Europe, Israel and the United States. Their combined efforts created a database used by companies and ICHEIC together to increase the chance of identifying policies on submitted claims.

By publishing this database, ICHEIC made it available for public review, further research, and educational purposes. This had an additional, unanticipated result: at least two family reunions. In

both cases individuals who had assumed they were their family's sole survivor discovered living relatives presumed dead for 57 years.

Initially commissioned in 2000 for a six-month period, the ICHEIC archival research project was extended multiple times to allow for investigations in all available and relevant archives. ICHEIC hired Yoram Mayorek (Jewish Historical and Genealogical Research in Jerusalem)³⁷ and Frank Drauschke (Facts & Files in Berlin)³⁸ to conduct research in 15 countries, reviewing essentially three types of records. The first type consisted of Nazi-era asset registration and confiscation records. Files pertaining to the post-war registration of losses made up the second category. The third, and smallest, category was comprised of insurance company records located in public and regulatory archives.

In securing access to archives in 15 countries (including the United States and Israel), the team investigated and compiled the most extensive record of information on Holocaust era insurance policies. Access was secured in a variety of ways. For German archives, a 2002 change in federal legislation made previously unavailable tax records accessible. The support of Czech authorities ensured the broadest possible access not only to public archives but also to governmental repositories throughout the Czech Republic. And in Poland, an agreement with the State Archives allowed for research to be conducted by local staff in 27 institutions. In addition, a September 2001 agreement with the Polish State Insurance Institute made internal records regarding unpaid Holocaust era life insurance policies written by RAS and Generali available to ICHEIC.

Wherever possible, documents were scanned into a database. As a result, 82% of the documents reviewed by the historians were available in electronic format and readily accessible to companies regardless of location, as well as to the ICHEIC claims and appeals teams in England and ICHEIC's U.S.-based staff.

German sources provided more than half—54%—of the policies identified. This was primarily caused by (1) the wealth of material generated by the Nazi bureaucracy; (2) excellent cooperation with the German archival system; and (3) the high number of policies per capita in Germany as compared to Central Europe. In addition to German policy-specific records, German archival sources also provided information on Austrian, Czech, Polish, Serbian, and other policyholders.

The research teams located a total of 77,518 policies for 55,079 individual policyholders. Records noted an additional 16,579 individuals as beneficiaries or insureds connected to these policies. Only 40% of the individuals located were identified further with a date of birth; only 29% by date and place of birth. This is relevant, given that more than a first and last name is required to identify a policy. Information came from 11 countries: Austria (14,921 policies), Bulgaria (10,235 policies), the Czech Republic (7,384 policies), Germany (41,540 policies), Israel (1,159 policies), Lithuania (109 policies), Poland (1,499 policies), Slovakia (10,534 policies),

³⁷ www.research.co.il/

³⁸ www.factsandfiles.com

Switzerland (67 policies), the Ukraine (678 policies), and the United States (5,800 policies). Research in four other countries (Greece, Hungary, Romania and the Russian Federation) yielded insignificant policy information.³⁹

ICHEIC's archival research, structured to maximize the identification of policyholder details, proved extremely valuable. In addition to rounding out company records where available, in many instances ICHEIC's research database provided the only record of a policy. For some claims, the policies located were written by companies no longer in existence, for which there was no present-day successor. These claims were handled via the Eastern European Humanitarian Claims Process. Not all policies located through these processes automatically qualified for awards, however. Some claims with documentation secured via ICHEIC's research database were declined for cause, including previous post-war compensation payments on the same policy.

COMPANY RECORDS

In keeping with the agreement that both ICHEIC and participating insurers should do everything possible to identify and augment potential claims, the insurance companies and ICHEIC's partner entities—most notably the German Foundation—sought to identify the appropriate subsets of information in the records available to them. Prior to the creation of ICHEIC, European insurers received many appeals for publication of all policyholder names, despite their legal obligation to comply with data protection requirements. The insurers indicated a reluctance to provide data for publication, a response that in turn was perceived by advocates for survivors as a willful attempt to withhold critical information. Once they had joined ICHEIC, however, member companies committed to making potential policyholder names available for use within the ICHEIC process.

HOW TO IDENTIFY PERSECUTEES IN COMPANY RECORDS?

A means needed to be found to identify which policyholders in the relevant period might have been Holocaust victims or persecutees. ICHEIC took as its definition of a persecutee the

³⁹ *To maximize the potential returns, ICHEIC focused on archives most likely to contain records relevant to Holocaust era life insurance policies. This decision has been criticized by some who have asserted that the record groups contained in the International Tracing Service's archives located in Bad Arolsen, Germany, were of relevance. This repository operates as an arm of the Red Cross and contains approximately 50 million file cards with information on 17.5 million individuals. Access has been limited for the past 60 years to survivors, their relatives and legal representatives. The ITS has responded to 11 million requests since 1940; it processes in excess of 200,000 requests for information a year. While the collection of materials in Bad Arolsen is unique in its details and contains information relating to individual prisoners, it does not assist with determining policy details other than health insurance or Social Security information, categories of claims that were not eligible under ICHEIC's process. And, while the personal details are of great historical interest, ICHEIC's relaxed standards of proof, section 6 of the succession guidelines, combined with the valuation guidelines (and specifically the assumptions regarding deemed dates of persecution and confiscation) were designed to make such meticulous documentation unnecessary.*

German federal indemnification legislation's (BEG) definition. Therefore, a Holocaust victim was defined as anyone who:

was deprived of their life; suffered damage to their mental or physical health; was deprived of their economic livelihood; suffered loss or deprivation of financial or other assets; suffered any other loss or damage of their property; as a result of racial, religious, political or ideological persecution by organs of the Third Reich or by other Governmental authorities in the territories occupied by the Third Reich or its Allies during the period from 1933 to 1945.

Having agreed to this definition, ICHEIC companies had to identify which policyholders might potentially fit within it. For companies with many surviving records, this presented a considerable challenge. There was no simple means of identifying the appropriate individuals. In most instances, insurance companies did not identify policyholders based on racial, religious, political or ideological factors. While a small subset of policies in one German company might include the notation "Jude" [Jew], these were usually post-war notations affixed as a result of review for the purposes of BEG compensation.⁴⁰

Filtering on the basis of last names also was impossible given the inability to differentiate many German last names from distinctly Jewish names. Professor Feldman cited a vivid example to illustrate why this method was unreliable in Germany. The name Rosenberg, often believed to be a typical Jewish surname, was in fact also the last name of one of the Nazi party's highest-ranking ideologues. Similarly, perhaps the most famous victim of the Holocaust, Anne Frank, shares her last name with the notorious governor-general of occupied Poland, Hans Frank, who was hanged at Nuremberg.

ICHEIC, in close cooperation with the German Foundation and a team of experts at the Bundesarchiv, compiled a list of Jewish residents of Germany in 1933-1945. Collective research in archives in Germany, Israel, the United States and other locations—drawing from the information contained in the 1939 census, memorial books, emigration and deportation lists as well as other registers of victims—generated a total of 2.5 million data entries. These were processed and edited in an effort to reconstruct what had been previously unavailable: the most complete list of German Jewish residents ever assembled.

This definitive list of Jewish residents (as defined by the Nuremberg Law⁴¹) was then matched to the electronic policyholder lists for insurance companies that operated in Germany during the years 1920-1945. This policyholder list was the result of all electronic data on German policyholders

⁴⁰ Feldman, *Proceedings of the Washington Conference*, p. 603.

⁴¹ "V. 1. A Jew is anyone who is descended from at least three grandparents who are racially full Jews. Article II, para. 2, second sentence will apply. 2. A Jew is also one who is descended from two full Jewish parents, if (a) he belonged to the Jewish religious community at the time this law was issued, or joins the community later, (b) he was married to a Jewish person, at the time the law was issued, or marries one subsequently, (c) he is the offspring of a marriage with a Jew, in the sense of Section 1, which was contracted after the Law for the Protection of German Blood and German Honour became effective, (d) he is the offspring of an extramarital relationship with a Jew, according to Section 1, and will be born out of wedlock after 31 July 1936." Noakes, J, and G Pridham, eds. *Nazism: A History in Document and Eyewitness Accounts, 1919-1945*. Vol. 1. New York: Schocken Books Inc, 1983. 2 vols. p. 539.

SECTION 4

compiled by the industry. A total of 8 million names was made available by the insurance industry and matched to the list of German Jewish residents. This matching exercise resulted in a subset of 360,000 names of policyholders resident in Germany who might have been Holocaust victims. This list was combined with the list previously compiled from participating companies' records of German policyholders known to be Holocaust persecutees.

OTHER COMPANY LISTS

The total number of identified policyholders in other countries was lower because insurance markets were less developed and company records contained more gaps. Still, using company records that did survive, an additional 123,431 names of policyholders who might have been persecutees were compiled for matching purposes.

PUBLICATION OF LISTS

In keeping with its mission of reaching out to the broadest universe of interested parties, ICHEIC published its research and the 519,009 potential Holocaust era policyholder names on its website. ICHEIC published all names relevant to claimants seeking the return of Holocaust-era life insurance policies, i.e., individuals most likely to have had a life insurance policy of any kind (including education, dowry, endowment or pension/annuity policies) during the relevant period (1920-1945) and who are thought likely to have suffered any form of racial, religious or political persecution during the Holocaust. With the passing of the final claims filing deadline on December 31, 2003, the list was moved from ICHEIC's website to Yad Vashem's website, for use as a research tool. The list may be viewed at the Potential Holocaust Era Insurance Policyholders List at www1.yadvashem.org/pheip.

MATCHING

Having secured information from the sources described above, ICHEIC set out to develop matching protocols to allow for the best use of this information. In close cooperation with outside experts in Israel and England, ICHEIC agreed to a so-called "Soundex" matching process based on the Daitch Mokotov method of transliteration and translation of sounds. This process uses electronic means to match sounds and potential names quickly and accurately, thereby shortening and streamlining the manual review. With such electronic tools available, ICHEIC, its member companies and partner organizations were able to ensure that the information available was put to the best possible use, with appropriate degrees of oversight at the various junctures. In so doing, ICHEIC added significant value to the claims process.

SOUNDEX PROCESS

The foundation of ICHEIC's matching work was the Soundex matching process. This electronic process employs software to compare the information available in the claimant database to other datasets available to ICHEIC. The Soundex system produces variants in spellings of names and towns corresponding to the phonetics of the names to allow for spelling or data entry errors, incorrect, and/or inconsistent transliteration from Cyrillic and Hebrew to Latin alphabets, or simply flawed recollections by later generations no longer fluent in the original language of the area.

By way of example, the Soundex system ensures that the very common spelling difference of Kohn and Cohn, or the less common name Szaje and Schaje, or even Tchaikovsky and Chaikowski, are rendered irrelevant, to allow for these matches to be made. The technique used is based on the Daitch Mokotov method, which translates the sounds of different syllables into a numeric code. The numeric codes are then compared and different techniques are used to eliminate the obviously false identities.

In addition to addressing differences in the spelling of names, ICHEIC's Soundex system was constructed to allow for alternative configurations and variants in the dates of birth, given the global nature of the process. The software made no distinction between various forms of presenting dates, such as using slashes, periods, or whether claimants had used zeros when identifying the single-digit months of the year.

Matches resulting from these comparisons were categorized into 10 different levels, depending on the amount of matched data available and the number of datasets within the entry that matched. A technical description of these procedures and protocols, including explanations of the match designations, is provided in the annexes. This process was applied in all three areas of ICHEIC's matching exercises: (1) ICHEIC's research database to its claims database; (2) ICHEIC's claims database to the German policyholder database; and (3) companies' matching of internal information to information received from claimants/ICHEIC.

ICHEIC RESEARCH DATABASE TO CLAIMS DATABASE MATCHING

ICHEIC's claims database (containing all information received from claimants) was compared electronically at monthly intervals to ICHEIC's research database (the record of all archival research) to identify records where surnames, forenames, and dates of birth "match," that is, records in which these datapoints appear identical or similar. All exact matches were sent to the relevant insurance companies for review.

Non-exact matches were reviewed periodically throughout the claims process and verified to ensure that records from the claims database and those from the research database had been linked correctly, and also to remove duplicates. These matches were then analyzed in detail. Within each of the categories, claims processors identified matches as high-probability, possible, and non-match. High-probability matches were immediately forwarded to companies in the same manner as exact matches.

The identification and transmission of exact and high-probability matches were ICHEIC's top priority initially because these matches constituted the strongest corroborative evidence in support

of claims. Possible matches were reserved for further review and examination by ICHEIC in order to determine whether more information could be gathered to corroborate a match.

This detailed in-house analysis was repeated at the end of the claims-filing period, once the claims database was complete. ICHEIC provided to each member company the section of the ICHEIC research database containing records that pertained to that company. Companies were encouraged to use this research database information to the greatest extent possible.

MATCHING BETWEEN THE ICHEIC CLAIMS DATABASE AND THE GERMAN POLICYHOLDER DATABASE

This matching exercise was stipulated by the October 16, 2002, agreement among ICHEIC, the German Foundation, and the association of German insurers. ICHEIC and the association of German insurers were charged with undertaking a comparison exercise between the ICHEIC claims database and the German policyholder database using established ICHEIC matching procedures and protocols.

In accordance with the agreement, this matching exercise had to be conducted in Germany, subject to European data-protection requirements. Representatives from ICHEIC, the association of German insurers, and the German federal financial services regulator⁴² met to discuss and agree upon technical procedures. Ossenberg & Schneider, the information technology firm that was engaged to facilitate this exercise, worked closely with the technical specialist who developed ICHEIC's matching protocols. Two pilot programs were run and these evaluations were analyzed and necessary adjustments made for the full comparison exercise.

Once ICHEIC's claims database was complete, it was matched to the German policyholder database. Results of this comparison were sent to the German financial services regulator, which identified the company or companies corresponding to each match. Using established claims handling procedures, the matches were then distributed to the relevant companies for further investigation.

As a result of this matching exercise, ICHEIC and its German partners were able to identify and send to appropriate companies approximately 7,000 exact and/or high-probability matches. To clarify, these are matches where the family name, given name and date of birth provided by the claimant exactly or very probably matched information in a record in the German policyholder database.

COMPANY MATCHING

Company matching differed among and between the companies, with differences being the direct result of the format and availability of their surviving records. Overall, however, the agreements signed with all participating insurers and the German Foundation clearly defined the parameters of ICHEIC's

⁴² *Bundesanstalt für Finanzdienstleistungsaufsicht, or "BaFin"*

matching exercises.⁴³ ICHEIC received 60,111 unnamed company claims and circulated these to all those companies that did business in the country of purchase/residence as identified by the claimants.

When a company matched a name from an unnamed claim against its records, that claim was converted in ICHEIC's records to a named claim. With this change came all other benefits of named claims: the responsibility for communicating the final decision on such claims by the company in question, and the right of claimants to appeal such decisions. ICHEIC companies matched 16,243 originally unnamed claims, and made offers totaling more than \$98 million on 7,747 of these. There were a variety of reasons why other matched claims were declined: for instance, because a claimant received previous compensation from a company or a settlement under a government reparation program.

When ICHEIC terminated its contractual relationship with the GTF in November 2004, a significant number of unnamed ICHEIC claims had not yet been matched to Generali's records. As part of ICHEIC's efforts to assist Generali in re-instating full claims-processing operations at Generali's Policy Information Center in Trieste, Italy, ICHEIC performed an electronic matching run between all outstanding unnamed company claims still to be reviewed by Generali and Generali's electronic policyholder list.

FINAL MATCHING RUNS AT LONDON OFFICE FOR NAMED CLAIMS FOR "OTHER" COMPANIES

The exercises ensured that all claims were matched against the research database to capture additional relevant information. Moreover, all named claims and unnamed claims were matched to the appropriate company records: i.e., against the records of those companies that did business in the country of residence or policy purchase identified in the claim. To ensure that named claims were matched to the total universe of available records, rather than just the company they named, they were matched against other companies' records. Thus, even where claimants had inadvertently named the wrong company, or where the policyholder owned more policies than were known to the claimant, ICHEIC's matching exercises were geared towards filling that gap.

RESEARCH IN GERMAN STATE AND LOCAL ARCHIVES

ICHEIC's process was intended for claims on unpaid Holocaust era insurance policies. Policies previously compensated under German government programs were not eligible. Ensuring that policies had not been previously compensated required further research, however. So ICHEIC—in close

⁴³ AWZ matching exercise (Annex F of the July 11, 2003, Agreement between AXA, Winterthur, Zurich, the WjRO, and ICHEIC); German Foundation (Annex H of the October 16, 2002, Agreement with the German Foundation "Remembrance, Responsibility and Future" and the German Insurance Association).

cooperation with the German Foundation, the association of German insurers, and German state and local archives—constructed a means to streamline archival research in Germany to determine whether restitution files existed for policies now being claimed via the ICHEIC process.⁴⁴

ICHEIC's agreement with the German Foundation and the association of German insurers called for a preliminary check of the holdings of the central archive in Düsseldorf; if no match was found there, the presumption for ICHEIC's purposes was that no post-war compensation had been applied for and therefore none had been received. When a match was located, the relevant local archive was approached for the full file, which was then shared with the company researching the ICHEIC claim, in order to determine whether post-war compensation or restitution proceedings had included the relevant policies and, if so, what the outcome of these proceedings had been.

The German Foundation, the association of German insurers, and ICHEIC explored ways to increase staffing levels at the local and state archives. To accelerate this labor-intensive effort, additional archivists (many of whom came out of retirement) were hired for state and local archives, funded initially by ICHEIC and later reimbursed by the German Foundation. In this way, companies were able to receive the results of the archival investigations in time to finalize decisions on claims within the ICHEIC timeframe.

⁴⁴ Specifically, the German Foundation agreement called for a search in the Bundeszentralarchiv (BZK), the central archive in Düsseldorf, Germany, that contains approximately 2 million summary file cards for all compensation and restitution proceedings conducted in Germany after World War II. Cards show the applicants' names; the persecutees' names, if any; the applicants' or persecutees' dates of birth; the applicants' address at that time; the reference number; and the responsible Compensation Authority. The cards were filed solely by the applicants' or persecutees' dates of birth, so that in case of a search request it was of special importance to indicate the exact date of birth. The BZK was thus able to inform ICHEIC and the companies as to whether a certain individual had filed an application for compensation under the BEG with any compensation authority and to specify the reference number under which this matter was dealt with by which compensation authority. See also, http://www.bezreg-duesseldorf.nrw.de/BezRegDdorf/autorenbereich/Dezernat_10/Beitraege/BZK_Merkblatt_englisch_2004.pdf

ICHEIC'S VALUE: IDENTIFYING CLAIMS, PAYING CLAIMANTS!

ICHEIC STRUCTURE – WASHINGTON AND LONDON OFFICES

ICHEIC's chairman and management staff were based in Washington, D.C. Its claims-processing office and activities were based in London. This processing work was centered in Europe because member companies were sensitive to U.S. judicial discovery processes and initially required that documents be retained in Europe, subject to their data protection and other laws.

The London office initially was supervised by ICHEIC's vice chairman. ICHEIC contracted with Capita London Market Services (CLMS, then Eastgate) in Gloucester, England, to process claims. CLMS received claim forms from around the world, registered claims electronically, corresponded with claimants with respect to the receipt of such claims, and distributed claims to the appropriate companies or partner entities. As a result, ICHEIC's London office initially acted more as a contract management hub than a claims-handling entity. During this start-up period, the London office staff was focused on contract oversight and supporting the vice chairman in his negotiations with partner entities.

ICHEIC changed this approach when Chairman Eagleburger hired a chief operations officer to assess and implement the operations frameworks needed to process claims, as agreements with companies, valuations standards, relaxed standards of proofs, and related issues were finalized. Bringing claims-handling operations in-house in London enabled that office to coordinate matching exercises between ICHEIC claims and company records, and to verify and record all decisions issued by companies. With the passage of the ICHEIC claims-filing deadline and the end of large-scale front-end claims processing, the remaining operational claims processing functions were handled in-house directly by ICHEIC staff.

TRANSITION TO ELECTRONIC CLAIM FILES MANAGEMENT

Recognizing the need to organize, retrieve, view, reproduce, and circulate claim files among companies, claims-processing entities, and ICHEIC staff, ICHEIC implemented an electronic document management system (DMS) in October 2004. Once scanned, case files were swiftly transferred between and among those carrying out ICHEIC's operational tasks.

The DMS helped ICHEIC provide claims-related documents to stakeholders more efficiently (including copies of decision letters for the U.S. insurance regulators or copies of entire claim files to ICHEIC companies and claims-processing entities). It also improved ICHEIC's ability to receive, assign, track and resolve queries. With scanned image files, the call center (work that had been transferred to the Claims Conference in New York⁴⁵) could access more information, enhancing the team's ability to assist claimants. By providing simultaneous access to complete claim files for ICHEIC staff

⁴⁵ Call Center operations were transferred from DF King, the original service provider, to the Claims Conference in February 2004, consolidating ICHEIC's operations into one outsourced service provider.

SECTION 5

(including the Appeals Office), DMS obviated the cost and time for CLMS to reproduce and transport paper files.

The scanning initiative also allowed ICHEIC to contract with the Claims Conference in New York to evaluate more than 60,000 claims in the Commission's humanitarian claims process. Similarly, ICHEIC's team handling claims for Eastern European policies with no present-day successor companies (the New York based policy-specific branch of the humanitarian claims process), was able to access electronic files and render decisions on more than 8,000 claims. Because the claims were scanned, an electronic interface for processing claims was created. This allowed the humanitarian team to review claims at the same time that they were with the companies for investigation, a decision that saved several years in Commission operations and hundreds of thousands of dollars that would otherwise have gone to operating costs.

CLAIMS HANDLING: FROM REGISTERING TO INVESTIGATION TO DECISION

CLMS received claims; captured the information electronically; supported/enhanced the claims where possible, with further information from the ICHEIC research database; and forwarded the claims to the relevant company or companies, partner entity, or to the humanitarian claims process for review. Depending on the information provided by claimants, claims were often sent to more than one entity at a time for review.

The destination(s) of a claim depended on its nature. Upon receipt of a claim, ICHEIC's claims processor would categorize it as one of the following: (1) named; (2) unnamed; or (3) ineligible. Ineligible claims were those listing the Former Soviet Union (FSU) as the place where the policy in question was likely to have been issued, hoax claims, or claims on compensation not related to insurance (e.g., slave labor claims, looted real estate, and other asset claims, etc.).⁴⁶

The distinction between named and unnamed claims was important in terms of initial handling. Named claims were sent to the current successor companies, where these existed, or to partner entities. Unnamed claims were circulated to all companies and partner entities responsible for business written in the country of policy purchase or policyholders' residence, in an effort to provide the broadest possible circulation. Within these two categories, there were a number of differences in how various types of named and unnamed claims were handled or to which companies or partner entities they were sent.

⁴⁶ *By far the largest subset of ineligible claims were those listing the FSU as the country of purchase. The historical backdrop for such claims predates the Holocaust by many decades: During the early days of the Russian Revolution, the insurance industry was nationalized into a government monopoly (Gosstrakh) operating under the Ministry of Finance. As such, claims for what limited life insurance products were available were the responsibility of the successor to the former Soviet government. See also, A Survey of Insurance in the USSR, Paul P. Rogers, The Journal of Insurance, Vol. 30, No. 2 (June 1963), pp. 273-279.*

NAMED CLAIMS PROCESS

Renee Goldberg grew up in Czechoslovakia. Deported with her mother to Gross-Rosen, a satellite camp of Sachsenhausen concentration camp in Germany, she is the sole survivor of a sizable family. Her father, who sold ladies' and children's apparel, had the foresight to hand important papers to Renee's nanny, who safeguarded them throughout the war. After the war, Renee Goldberg emigrated to Australia. When she first explored restitution issues during the Cold War, her former nanny forwarded an envelope to Australia. Renee discovered that it contained two life insurance policies along with her father's will.

When completing the ICHEIC claim form, claimants such as Renee Goldberg were able to provide the name of the company or companies that issued the relevant policy and were considered to have "named" claims in the ICHEIC process. This "named" designation meant that the claim was sent to the company (or its successor) that was listed. The insurer wrote directly to the claimant with a final decision. Given that such claims were company-specific, they came with the right of appeal.

On the surface, sending such claims to the companies may seem straightforward, as long as agreements had been reached about how to value and process claims. For claimants such as Renee Goldberg who named Generali, a company still in existence, it was. For claimants such as Alice Bogart, it was not. Mrs. Bogart, who had recovered her father's will in 1945, sought the proceeds of policies written by Star and Phönix in Czechoslovakia, companies for which a present-day successor could not be identified immediately. Where such claims referenced insurers in Eastern Europe, these claims were forwarded into the ICHEIC humanitarian claims process. Claimants also named companies that were not ICHEIC participants, such as Swiss or Austrian insurers covered by the Claims Resolution Tribunal or General Settlement Fund, respectively. Claims naming such companies had to be forwarded to these outside entities for processing.

Even where claimants expressed certainty regarding the issuing company, ICHEIC sought to ensure that these named claims were also researched against other companies' records provided these companies operated in or had acquired the portfolios of companies that operated in the country listed by the claimant as the potential place of policy purchase. This was done through exercises that ensured that all named claims were matched against all relevant company records. Where these named claims were matched to a company other than that identified by the claimant, the claim was also sent to this additional company or companies for investigation and processing.

This process ensured that information for named claims was sent immediately to the company identified, and that the claimant received a response from that company. In addition, the information provided by claimants was matched to all other available records. For George Sachs, who had initially claimed only his father's RAS policy in 1939 Prague, this further comparison resulted in additional matches for his uncle's Generali policies. Despite all of his earlier efforts to seek restitution for family members, Mr. Sachs had not been aware of these policies when ICHEIC located them.

UNNAMED CLAIMS PROCESS

While claims of those who listed the company likely to have issued the policy were treated as named, claims in which the claimant expressed some level of doubt as to the insurance company were

SECTION 5

treated as unnamed. ICHEIC received approximately 60,000 unnamed claims in comparison to the more than 31,000 named claims. The majority of ICHEIC claimants submitted a claim with little information in the hope that ICHEIC would work with its member companies and historical researchers to identify a policy or policies in one or more of their records.

One claimant, the daughter of a Viennese lawyer and decorated World War I veteran, presumed her father had a significant life insurance policy. Her father was arrested on November 10, 1938, the day after the November Pogrom⁴⁷, and incarcerated in Dachau. When he failed to return home for two months, his daughter went to the Hotel Metropol, Gestapo headquarters in Vienna, to demand his freedom. Held overnight, she was allowed to leave with her petrified mother the following morning; her father was released some time later and fled with his wife to Liechtenstein, where they survived the war. The claimant meanwhile, went to England.

Her father returned to Austria after the war and died in Vienna in 1956, without ever having retrieved his policy. While his daughter was convinced that a sizable policy existed, she had no proof, so she did not try to seek compensation until ICHEIC offered an avenue for claimants without documentation.

ICHEIC circulated unnamed claims to participating companies and partner entities responsible for portfolios from the countries listed by the claimant as the potential place of policy purchase. Such a person's claim was circulated to all companies that did business in Austria prior to World War II, and to the General Settlement Fund. Meanwhile a claimant with an unnamed claim who listed Hungary as the country where the policy was likely issued would have that claim sent to Aachener & Münchener, Generali, RAS, and Victoria—the participating companies with portfolios relevant to Hungary. Similarly, if a claimant listed Germany as the country of potential policy purchase, the claim was sent to the association of German insurers, which then forwarded the electronic information to over 70 insurance companies with portfolios of relevance to Germany.

The results of the investigations into named claims went directly from companies to claimants, though ICHEIC staff simultaneously verified the companies' decisions. The results of investigations on unnamed claims were communicated by the participating companies and partner entities to ICHEIC, and then by ICHEIC to the claimants. This approach was designed to streamline the process and reduce the potential for claimant confusion. Given that unnamed claims would circulate to as many as 70 companies (for the German market alone), it was deemed unnecessary to have all those companies write individual letters in response to anecdotal claims.

If a participating insurer who received the claim in electronic format was able to identify a potential match between the unnamed claim information and its records, the company requested a hard copy of the claim form for further review. If, upon further investigation, the company (or companies) confirmed the match, it requested that ICHEIC convert the claim to a named claim. This meant that the company would write directly to the claimant with the decision and that the claimant would be granted the right of appeal. Unnamed claims for which no matches were made were not granted the right of appeal.

⁴⁷ *Termed Kristallnacht ("Night of Broken Glass") by the Nazis, this pogrom was conducted throughout Germany and Austria on November 9 and 10, 1938. The name refers to the broken shop windows of Jewish stores.*

As with named claims, ICHEIC conducted a series of matching exercises to supplement information in unnamed claims. In addition to comparing company records, ICHEIC matched all unnamed claims to its research database in an effort to amplify the information received from claimants. Given the paucity of the information conveyed with these claims, however, and recognizing that even with the enhanced research efforts the ICHEIC database afforded, many of these unnamed claims would not move beyond the merely anecdotal, ICHEIC also constructed a humanitarian claims process that reviewed these claims to determine the likelihood of a life insurance policy having existed during the relevant period. In total, 31,284 awards totaling \$31.28 million were made through this process.

8A1/UNNAMED/UNMATCHED HUMANITARIAN CLAIMS PROCESS

Section 8 of the MOU addresses ICHEIC's humanitarian claims processes.⁴⁸ ICHEIC shorthand refers to the two categories of humanitarian claims by the sections of the MOU that describe them. So-called 8aI claims are those that do not name an insurance company and that, despite ICHEIC's efforts, did not result in a match to company or archival records. Such claims were then submitted to the humanitarian claims process, outsourced to the Claims Conference and reviewed under the supervision of former U.S. National Security Advisor Samuel R. Berger.⁴⁹

⁴⁸ "The IC shall establish and administer a Special Fund consisting of two sections. Each signatory company will make an initial contribution to the two Specific Humanitarian Sections.

A. Specific Humanitarian Section:

(1) This section shall provide relief to claimants who seek relief under policies that cannot be attributed to a particular insurance company as well as to claimants who seek relief under policies issued by companies no longer in existence. These funds shall be separately maintained.

(a) If the audit process develops additional claims and if additional claims are received that fall into the category of paragraph (8)(A)(1) of this section and there are insufficient funds remaining in the segregated (8)(A)(1) account, each signatory company shall make additional contributions as the IC deems necessary to be assessed on an equitable basis taking into account both historic and current involvement.

(2) In addition, each signatory company agrees to make an equitable contribution to this section, to be used to satisfy claims on any of its policies that were nationalized or any of its policies that were paid, as required by local law, to a governmental authority that was not the named beneficiary of the policy. The monies contributed by each signatory company shall be used to satisfy claims awards only against that company. These funds shall be separately maintained.

(a) in the event the audit process develops additional claims and if additional claims are received that fall into paragraph (8)(A)(2) and there are insufficient funds remaining in the segregated (8)(A)(2) account, each signatory company shall contribute an additional amount to pay any monies awarded by the IC on that signatory company's paragraph (8)(A)(2) policies.

⁴⁹ Chairman Eagleburger appointed Samuel R. Berger, former U.S. National Security Advisor, to serve as senior counselor to the ICHEIC humanitarian claims process. Senior Counselor Berger developed the criteria by which claims were evaluated for humanitarian awards, and supervised the payment approval process. The Claims Conference carried out the technical implementation of the program.

Awards on unnamed and unmatched claims in the humanitarian claims process were made on a per-claimant basis. The process for these claims was based solely on the evaluation of highly anecdotal evidence. These claims did not contain documents that met the ICHEIC Standards of Proof and/or assist in the further evaluation of the claims. Even the anecdotal evidence in these claims failed to meet the relaxed standards of proof and ICHEIC was unable to match them with additional information to identify a specific company that might be responsible for the policy. Given these factors, payments made through the humanitarian claims process for unnamed and unmatched claims, while related to insurance, were purely humanitarian awards.

Claims that passed this secondary review and were deemed to have established that the existence of an insurance policy was possible were awarded a one-time humanitarian payment of \$1,000. Such payments were made on a per-claimant basis, rather than on a per-policy basis. Subsequently the chairman determined that named company claims that ICHEIC and the company in question were unable to match should also be submitted to this secondary review process to determine whether they might be eligible for a humanitarian payment. Recognizing that nothing could compensate for the historic injustice of the Holocaust, these humanitarian payments were intended as a small acknowledgement of the suffering endured.

Claimants received them in this spirit, with one New Jersey family writing “that no amount of money would compensate the loss of lives and our terrible past experiences, these payments, however, provide some kind of comfort, because it was us, their children, our parents probably had in mind, when they signed up for these insurances.” Another claimant, a rabbi in New York, wrote “this letter . . . is a grateful acknowledgement of the humanitarian award that you have sent me. Knowing the difficulty of your work, I appreciate the award which will be used in the spirit of my mother whom I was unable to save from Germany.” A claimant in London noted that his father would “have been impressed that after all these years his prudence should still have found some recognition”. And a claimant in Jerusalem shared the following with ICHEIC: “It was not the reward that excited me, for which I am naturally grateful, but the way you expressed the humanitarian process that you are dealing with. You made me think back about people dear to me—people from my childhood whom I loved very much, and at the same time about an episode in my life I would like to forget.”

EASTERN EUROPEAN HUMANITARIAN CLAIMS PROCESS

In addition to the 8aI process for claims that remained unmatched despite ICHEIC’s research efforts, the MOU called for a policy-specific humanitarian effort to settle claims naming Eastern European insurance companies with no present-day successors. Alice Bogart was able to reconstruct her family’s financial affairs based on her father’s will that had been hidden by a non-Jewish friend. Her initial efforts to claim her father’s three pre-war Czech policies in 1945 failed; subsequent efforts to claim the proceeds were equally unsuccessful.

Given that evidence of the policies existed, and that these policies were written by Eastern European companies with no present-day successors, Alice Bogart’s claim was reviewed in ICHEIC’s 8a2

Eastern European Humanitarian Claims Process, designed to address claims such as these, named after the section of the MOU that discussed humanitarian claims commitments.

As part of its MOU, ICHEIC committed to process claims on companies that were either liquidated or nationalized post-war. This provided claimants an avenue that would have remained unavailable but for the Commission's efforts. These claims, while documented, could not be referred to a specific company for processing, so ICHEIC took on the claims-processing tasks itself. This policy-specific branch of ICHEIC's humanitarian claims process was completed by a small team of ICHEIC staff housed at the New York State Holocaust Claims Processing Office. In addition to providing office space at no cost, the New York insurance regulator made extensive technical assistance available through the HCPO's staff.

The 8a2 team handled claims in which, based on the company-country matrix, the issuing company could not be linked to a participating insurer or partner entity and had no present-day successor that could be approached independently for settlement. A five-person staff reviewed more than 8,000 claims in 12 months. In some cases, claimants had named the company; in other cases, ICHEIC's research had identified documentation. Because there were no present-day successor companies to turn to for additional information, the staff reviewed claims on the basis of this information. In so doing, they essentially replicated the companies' internal claims processing operations.

FILLING OTHER GAPS

In addition to the humanitarian efforts defined by the MOU and described here, ICHEIC extended the use of its humanitarian funds to three small subsets of claims. First were documented claims, largely discovered as a result of ICHEIC's archival research, that provided clear evidence of the existence of an insurance policy but failed to identify the company that issued it. For example, a number of the Slovak asset declarations recorded by ICHEIC's researchers listed life insurance policies, but failed to note any company details, thus making it impossible to determine a present-day successor. ICHEIC's 8a2 team reviewed the documentation in each of these cases and made a determination as to whether these matches should be paid. Where positive determinations were made, the team issued awards calculated in accordance with ICHEIC's valuation guidelines.

The other two subsets of claims resulted from gaps in the Austrian General Settlement Fund's terms of reference and operating agreement struck with ICHEIC. The GSF's final deadline for the receipt of claims was November 28, 2003, predating ICHEIC's deadline for the receipt of claims by four months. Despite lengthy discussions between ICHEIC and the GSF, the GSF remained unwilling to accept claims naming Austrian companies under the GSF's purview received by ICHEIC after November 28, 2003. By holding fast to this cut-off point, the GSF excluded approximately 100 claimants from filing with the appropriate claims processing entity. ICHEIC determined that, to avoid penalizing these claimants further, it would review these claims and make awards from its humanitarian funds, as appropriate. A total of \$500,000 was awarded to this subset of claimants.

SECTION 5

Similarly, according to the GSF's interpretation of its terms of reference, the GSF is not responsible for policies issued by Austrian companies and their subsidiaries outside the territory of Austria as of March 13, 1938. As a result, claimants who sought the proceeds of policies issued in Eastern Europe by companies such as Der Anker could not apply to the GSF for settlement of these unpaid claims.

An example of such a claim is that filed by a claimant in Washington, D.C. Her father purchased three Der Anker policies in Bratislava in 1923; he perished in Auschwitz in 1944, but his daughter, who escaped Czechoslovakia on a Kindertransport, had a final letter from her father from November 1941 and three policies stamped with an anchor and an address in Vienna. Because these policies, issued by the Slovak subsidiary of an Austrian company, were written outside Austria, the claimant did not meet the GSF's eligibility requirements. Had it not been for ICHEIC's humanitarian fund, she would have had no way to receive compensation for her father's documented policies.

To ensure that claimants with valid claims were treated as fairly as possible, ICHEIC determined that its humanitarian funds could be used to make awards on such valid claims. With the assistance of the U.S. Department of State, ICHEIC has sought from the GSF and the Austrian government reimbursement for the \$4.5 million awarded to claimants as a result of this decision, as well as the \$500,000 awarded on so-called Austrian late claims. To date, no such reimbursement has been forthcoming. But ICHEIC remains hopeful that these funds will be made available to the Claims Conference, the entity responsible for administering the disbursement of ICHEIC's remaining humanitarian funds, for the benefit of Holocaust survivors.

SUMMARY NUMBERS:

In closing, ICHEIC was able to achieve the following results:

- Named claims: ICHEIC member companies (including those companies operating under the trilateral agreement) received 14,351 named claims for processing and made 5,448 offers on such claims, totaling \$121.1 million.
- Matched claims: Member companies were able to match an additional 16,243 unnamed claims against their records and made 7,747 offers on matched claims, totaling \$98.4 million.⁵⁰
- Humanitarian claims processes: More than 34,000 claimants received awards totaling \$61.82 million through ICHEIC's humanitarian claims processes. More than 31,000 awards were made through the 8a1 process for a total of \$31.28 million; 2,874 awards were made through the 8a2 Eastern European process for a total of \$30.54 million.
- ICHEIC research located almost 78,000 individual Holocaust era policies and resulted in the publication of 519,000 potential Holocaust era policyholder names on its website.

⁵⁰ Certain matched claims did not result in awards for the following reasons: some matches were not confirmed as they were to very common names; some policies matched were not in force during the Holocaust era; some policies matched and in force were previously compensated.

- In addition, \$169 million was committed to humanitarian programs that benefit survivors worldwide.

Individual claimants received anywhere from \$1,000 to more than \$1 million. The low end of this range reflects the prevalence of many small-sum policies in pre-war Europe; the high end of the range is the result of claimants filing for multiple policies, as well as a smaller subset of high-value policies.

As a result of the Commission's efforts, a total of \$306 million was offered to more than 48,000 claimants. These numbers demonstrate ICHEIC's success in addressing a broad array of claims, including claimants who were able to provide documentation or the name of the insurer and those who submitted purely anecdotal recollections. The ability to settle so many claims after such a long time, and particularly those without documentation, is one of the hallmarks of ICHEIC's success and illustrates the importance of the commission's archival research and the matching conducted by the participating insurers and partner entities. Many of these claims would have been impossible to settle successfully via litigation, given the paucity of information available to claimants. But for the ICHEIC process, claimants with only anecdotal evidence would not have been able to secure settlements. The ICHEIC process was conducted at no cost to claimants. And the participating companies, who contributed a total of \$550 million to cover unnamed, matched and humanitarian claims in addition to the named claims for which they clearly had a responsibility, did so on a purely voluntary basis.

OVERSIGHT, VERIFICATION, AUDIT, AND APPEALS

ICHEIC's structure reflected its mission: to identify claimants and settle equitably claims traceable to unpaid Holocaust era insurance policies. The claims process was designed to encourage claimants to file, regardless of whether they possessed documentation. ICHEIC worked to augment these claims and forward them to the appropriate companies and processing entities. ICHEIC's oversight structures provided confirmation that claims were processed correctly.

It was critical to ICHEIC's mission that decisions on claims, regardless of their final outcome, were reached in accordance with ICHEIC rules and guidelines. For this reason, the Commission created a series of internal checks and balances to provide for a fair, transparent process.

ICHEIC's financial oversight structure was the first to be created. Next, ICHEIC established the ground rules for independent audits, dictated by written agreements that ICHEIC entered with its participating companies and partner entities, reviewed by ICHEIC's Audit Mandate Support Group (AMSG). ICHEIC's rules and guidelines also defined the appeals structure, the independent second review process available to claimants who appealed in decisions rendered in their individual claims. Finally, ICHEIC's Executive Monitoring Group provided a flexible means of adapting and adjusting processes where necessary to fulfill ICHEIC's mission.

FINANCIAL OVERSIGHT

SUMMARY

ICHEIC was originally funded by participating companies' contributions to the Bermuda Trust. Late in 2000, ICHEIC established the Financial/Administrative Advisory Committee (FAAC), to develop and maintain appropriate structures for financial management to monitor the financial performance of ICHEIC. In mid-2002, in anticipation of receipt of the German Foundation Agreement's funds, a chief financial officer was hired.

Composed of five members, with representatives from all ICHEIC stakeholder groups, the FAAC was chaired by the Pennsylvania Insurance Commissioner. Recognizing the growing financial and administrative complexities resulting from new memberships, associations and settlement agreements, the FAAC provided oversight and monitored effective cost controls consistent with the overall mission of ICHEIC.

The FAAC met regularly and provided reports to ICHEIC for approval including the current year budget and the total estimated projected expenses. In addition, the FAAC annually recommended (and the full ICHEIC approved) the appointment of independent auditors to conduct a financial audit of ICHEIC's books and records in accordance with generally accepted US auditing standards. Each year's audit resulted in an unqualified opinion.

Subsequent to the receipt of the German Foundation funds, ICHEIC developed an investment committee to make decisions/recommendations regarding the investment of the settlement funds. The committee was composed of representatives from all stakeholder groups: the CFO of

the Claims Conference sat on the committee as an observer. In accordance with the investment guidelines established by the FAAC, this group made decisions regarding the types of duration of investments and recommended adjustments to the investment guidelines from time to time. The Investment Committee met on average three times per year.

INDEPENDENT AUDITS – TO ENSURE THAT THE COMPANIES AND PROCESSING ENTITIES WERE DOING WHAT THEY NEEDED TO DO FUNCTION OF AUDITS

ICHEIC required all entities directly involved in claims processing and decision-making to be audited by an internationally recognized accounting firm or, in the case of the German companies, their government regulator accompanied by ICHEIC observers. While audits varied according to the entities audited, requirements were defined in such a way as to confirm that all procedures were structured and decisions rendered appropriately. Parameters were defined and agreed to by all participants at the outset as part of the AMSG's early work, and all subsequent agreements with participating companies and partner entities reflect the importance accorded to the performance standards and appropriate measures.

Such audit reviews were important. At the front end, they provided neutral third parties with access to company records to determine which historical records had survived and how records had been secured and made accessible throughout the claims process. By using outside auditors who reported back to a specific committee, ICHEIC was able to secure access to previously inaccessible records; the reports back to the committee resulted in thorough reviews of the auditors' findings by a representative group of ICHEIC stakeholders. As a result, the early audits helped reduce historical suspicions and increased participants' trust in some of their fellow stakeholders.

A subsequent second stage audit was conducted to ensure that all entities responsible for the various aspects of claims processing had performed appropriately; the results were reported to the same committee, building on its technical expertise and intimate understanding of the claims process. Similarly, ICHEIC's own operations were independently audited to ensure ICHEIC standards were met in the humanitarian claims processes. This two-stage audit process helped establish confidence in the claims process and ICHEIC's ability to fulfill its mission.

The audits confirmed that ICHEIC's processes and the work conducted by the participating companies and organizations were subject to sufficient checks and balances to ensure credible results. All audit reports are published on ICHEIC's website (www.icheic.org), underscoring ICHEIC's commitment to public transparency.

COMPANY AUDITS AUDIT STANDARDS

The following five audit standards (i.e., performance standards against which the companies' performance could be measured) agreed to by all participants in 1999 form the foundation of the independent audits of companies that signed the original MOU:

- (1) Identification of relevant companies;
- (2) Identification of relevant archives;
- (3) Identification and securing of relevant records;
- (4) Databasing of relevant records; and
- (5) Investigation of incoming claims.

The first four standards pertain to finding, collecting, safeguarding and accessing records from the relevant period of 1920 – 1945. Standard 5 relates to the companies' processes for receiving and recording incoming claims and inquiries and searching their available records for possible matches. Standard 5 also covers processing the claims and issuing a final decision to the claimant, complete with proper notifications and relevant documents supporting the conclusion. Based on these five standards, ICHEIC's independent audits of the companies that signed the original MOU proceeded in two stages.

As part of the compliance process, the insurers were required to prepare a management report describing the work undertaken to comply with the ICHEIC standards listed above. The establishment of accessible records and a processing system under these standards were then subjected to a "Stage I" audit. The actual handling of claims and inquiries using the records and processing procedures approved under the Stage I audit was then audited under "Stage 2."

Stage I audits were carried out by firms appointed by the insurers. These firms submitted a compliance report, with an attached copy of the management report, relating to each company or group. ICHEIC then appointed a second firm to carry out a peer review of each compliance audit. The peer review auditors also carried out their own limited testing of each insurer's records. All of the firms involved in both compliance and peer review audits had extensive international experience.

For claimants, these audits were relevant because they represented an independent third party's view of which documents had survived and how they should be used. For example, the Stage I audit confirmed that Generali's automated year-end record system, known as the *Stato Fine* records, represented a complete dataset for all policies in force between 1936 and 1944.

Thus, when Ivan Videki learned that his uncle had three insurance policies with Generali, it was the audited *Stato Fine* records that provided the necessary context. According to Generali's records, two of these policies did not appear in their 1936 records and, therefore, had been surrendered or cancelled before the Holocaust era in Hungary. However, the same records showed that a third policy was in force during the Holocaust era, and Mr. Videki received an offer on that policy.

All reports—management, compliance and peer review—were submitted in final draft form to the AMMSG. This committee included representatives of all stakeholders (regulators, Jewish organizations, and companies). When the group met to discuss and consider the auditors' findings, the insurers and audit firms presented their reports for discussion and review. Additional work requested by the AMMSG was carried out by the companies and/or audit firms prior to the finalization of their reports.

Stage 2 audits were carried out by firms appointed directly by ICHEIC. Stage 2 audits examined member companies' handling of claims using the systems and procedures covered in Stage I. The AMMSG reviewed the peer review auditors' findings at debrief meetings, where all members had ample opportunity to discuss the reports and request clarification and/or additional follow-up work.

For each insurer, audits related either to the entire company or group, or to individual subsidiaries or sub-groups. Fifteen entities were subject to Stage I audits and 12 entities were subject to Stage 2 audits.⁵¹

GERMAN FINANCIAL SERVICES REGULATOR (BAFIN) AUDIT

With the German Agreement of October 16, 2002, in effect more than 70 additional companies joined ICHEIC. While the German Agreement called for compliance norms that superseded the original ICHEIC standards, these were largely similar and German ICHEIC companies that had been signatories of the original MOU creating ICHEIC, remained subject to the original five audit standards and ICHEIC's Stage I and Stage 2 audits.

In addition, however, the German Agreement called for an audit of companies representative of the German market as a whole. With the assistance of ICHEIC observers, the German financial services regulator carried out audits of 10 insurance companies selected as representative by mutual consent, none of which were independently members of ICHEIC.

GTF AUDIT

In addition to the audits of participating companies, ICHEIC also conducted an audit of the Generali Trust Fund. By agreement between ICHEIC, Generali and the GTF, the GTF was responsible for the processing of Generali claims between April 2001 and November 30, 2004. On October 31, 2004, ICHEIC terminated its agreement with the GTF based on an independent audit, conducted by Deloitte & Touche LLP, of the GTF's claims-handling procedures and processing. This audit confirmed that the GTF was not maintaining established standards of claims processing, thus

⁵¹ Fewer entities were subject to Stage 2 analysis because (1) Chairman Eagleburger agreed that a subset of Belgian companies would not require a Stage 2 audit as their claims-processing functions had been taken on by the Buysse Commission, a government commission that confirmed claims-handling standards were appropriate; and (2) some company groupings changed between Stages 1 and 2 as a result of mergers and acquisitions over the course of ICHEIC's lifetime.

leading to the termination of ICHEIC's relationship with the GTF. Thereafter, outstanding claims were handled by Generali's Policy Information Center in Trieste, Italy. Claimants who had received decisions without the right of appeal and those with appeals pending were provided with a means of appeal via the Appeals Tribunal.

8A HUMANITARIAN CLAIMS

Consideration of claims qualifying under Section 8a of ICHEIC's MOU was carried out by ICHEIC, with the actual processing of 8a1 claims subcontracted to the Claims Conference. ICHEIC processed the 8a2 claims in house; McGladrey & Pullen, LLP was contracted by ICHEIC to perform an audit of this process. This audit confirmed that claims were accurately and reliably processed in accordance with ICHEIC standards and guidelines.

APPEALS STRUCTURE

BIFURCATED PROCESS

In addition to ICHEIC's audit oversight structure that measured companies' overall compliance with the Commission's processing rules and guidelines, the ICHEIC process also provided a means for claimants to seek a secondary review of the individual decisions they had received. This appeals process was also defined by ICHEIC's rules and guidelines, initially in the Appeals Tribunal's Rules of Procedure for the original ICHEIC companies, and subsequently incorporated as the Panel Appeals Guidelines, Annex E of the German Agreement, for the German market. Claimants who had filed claims naming a specific company or whose claims had been matched to a specific company and who disagreed with the decision they received, could exercise their right of appeal. Best described as an independent judicial second review of decisions rendered by companies, the appeals process was administered by an independent office in London, within the ICHEIC office, with management assistance from the Commission's senior staff.

Arbitrators were judges or mediators of international standing, recruited globally to staff the two parallel appeals processes established under the ICHEIC umbrella:

- The Appeals Tribunal considered appeals of decisions from ICHEIC member companies AXA, Generali, Winterthur and Zurich, as well as those against Allianz and RAS that were dated prior to October 16, 2002, the date of the Trilateral Agreement. The Appeals Tribunal also assumed consideration of appeals on GTF decisions issued before ICHEIC severed its relationship with the GTF where claimants had not been appropriately notified of their right of appeal through the GTF.
- The Appeals Panel considered appeals on decisions from German insurance companies and the German subsidiaries of non-German companies as well as those against Allianz and RAS that were dated after October 16, 2002.

Judges and arbitrators, while urged to apply ICHEIC rules and guidelines, were independent in their decision-making process.⁵² Claimants were able to submit new evidence, restate their positions, and participate in an oral hearing if they chose to make their case directly to the arbitrators and judges.

Claimants such as the former Czech resident who had applied for the policies claimed by his father from the Foreign Claims Settlement Commission and was turned down by two companies, citing prior compensation, was able to appeal this decision. The arbitrator agreed with the claimant, and awarded the ICHEIC valuation of his father's policies, minus the amount previously received from the FCSC.

SUMMARY NUMBERS AND THE EFFECT

In total, the Appeals Tribunal received 1,257 appeals, of which 281 resulted in awards totaling almost \$5 million. The Appeals Tribunal dismissed 880 appeals; in 96 appeals proceedings, appellants withdrew their appeal before a final decision was rendered, largely as a result of revised offers from the respondent companies.

The Appeals Panel received 955 appeals, of which 104 resulted in awards for an additional \$1.25 million. The Appeals Panel dismissed 771 appeals; in 80 appeals proceedings, appellants withdrew their appeal before the arbitrators rendered a final decision, again largely because the appellants had accepted revised offers in the interim.

These numbers further illustrate ICHEIC's multiple levels of checks and balances. ICHEIC's internal verification conducted by staff in London provided an additional level of assurance that the decisions issued by companies were in accord with the Commission's rules and guidelines. In combination with the audit results, participating companies and ICHEIC had a real-time window into the accuracy of the decision-making process that allowed them to self-correct when necessary. The

⁵² *The Appeals Tribunal Rules of Procedure Article 5.1: Independence and Impartiality of Arbitrators states "Every Arbitrator shall be and remain impartial and independent of the parties to each Arbitration to which they are appointed." The Appeals Panel's Appeals Guidelines (Annex E of the German Agreement) echo this approach and state clearly in Section 3.5 that "every Panel Member shall be and remain impartial and independent of the parties to each appeal to which he or she is appointed."*

Similarly, with regard to the application of ICHEIC's rules and guidelines, Appeals Tribunal Rules of Procedure, Article 24: Applicable Law states that "the Arbitrator(s) shall determine the substance of any dispute, matter or issue raised in an Appeal that is not governed by the Succession Guidelines or the Valuation Guidelines in accordance with principles of equity and justice." Article 25: Succession Guidelines states that "Arbitrator(s) shall apply the Succession Guidelines set out in Annex II to these Rules to determine any matters concerning the right of the claimant to succeed or inherit the benefits of an insurance policy (the "Proceeds") from the person who was entitled to the Proceeds at the time of the insured event." Article 26: Valuation Guidelines states "Arbitrator(s) shall apply the Valuation Guidelines set out in Annex III to the Rules to determine any question relating to the current value of the proceeds of an insurance policy claimed in an Appeal." For the Appeals Panel, the Appeals Guidelines were incorporated into the Trilateral Agreement, Annex E, and clearly state that the Agreement and its Annexes (which include the Valuation Guidelines and Succession Guidelines) govern the resolution of all appeals submitted to this appeals process.

result: fewer appeals. Furthermore, as the numbers show, those appeals that were filed resulted in limited awards. When compared to the overall \$306 million extended to ICHEIC claimants, the \$6.1 million awarded via these two appeals processes show that ICHEIC's member companies usually applied correctly the rules and guidelines agreed to in the ICHEIC process. However, the appeals process provided claimants with the opportunity to question the decisions received and be heard by an impartial third party.

EXECUTIVE MONITORING GROUP

In addition to the financial (FAAC) and operational (AMSG) oversight structures and the appeals processes, all of which were rooted firmly in ICHEIC's agreements, rules and guidelines, ICHEIC identified the need for a more flexible and immediate operational review. Thus, Chairman Eagleburger created a small team of experts to provide a timely review of claims processing within companies.

A representative of the U.S. insurance regulators and a representative of the Jewish groups, both of whom had been intimately involved with building the claims process and developing the rules and guidelines that applied to its many component parts, formed the Executive Monitoring Group under the chairmanship of Lord Archer.⁵³ Staffed by the claims process manager in ICHEIC's London office, this group reviewed claims processing within companies to determine whether corrective steps were required.

The EMG was able to move quickly, respond rapidly, and recommend solutions creatively, by virtue of its limited membership and its expertise. Reporting directly to Chairman Eagleburger, the group met with each of the companies individually and reviewed potentially challenging cases. Through this review, the team recommended new measures to ensure consistency in claims handling across companies and ensure that decision making was in accord with ICHEIC's rules and guidelines, provide for reconciliation of databases, and review company internal matching systems.

CREATION OF VERIFICATION SYSTEM

As a direct result of the EMG's review, ICHEIC created an in-house verification team to cross-check every company decision. ICHEIC's claims team in the London office had to be staffed and trained appropriately. Beginning in December 2003, the team, together with staff and technical support from the Claims Conference and the U.S. insurance regulators, conducted a series of large-scale

⁵³ *The Rt. Hon Lord Archer of Sandwell, QC, was appointed to this position as a result of his work as chairman of the UK Enemy Property Claims Assessment Panel, the UK government's compensation scheme for victims of Nazi persecution seeking the return of assets placed in the UK and confiscated by the UK government during World War II. Lord Archer was a member of parliament from 1966 to 1992; solicitor general from 1974 to 1979; member of the shadow cabinet from 1980 to 1987; and is currently a member of the House of Lords.*

exercises to review decisions (offers and denials) made by member companies. Any discrepancies were reported back to the companies for reassessment and, where appropriate, remedial action. This process included verification that names added to files after they were originally submitted were properly researched.

In addition to these large-scale retroactive verification exercises, the ICHEIC claims team in London continued to verify all company decisions on named claims as they were received. The following claim illustrates their work.

An Israeli claimant, filing on behalf of her uncle and aunt who were both in their mid-90s, sought the proceeds of her grandfather's insurance policy, taken out in Tarnowitz, Poland. The claimant had a copy of the 1940 contract between her grandfather and the German company that had taken over the policy after 1939. An offer was made to the claimant outside of the ICHEIC process in 1998 and was rejected by the claimants because they felt it was not appropriately valued. They re-filed the claim with ICHEIC and received a revised offer based on a misunderstanding of the exact territorial position of the town where the policy had been issued. The verification team went back to the company and to the German insurance association to point out this geographical error, resulting in a revised and significantly higher offer to the claimant.

Verification also served as an early warning system. The verification team was at the nexus of all parts of the claims process and, therefore, could spot trends and systemic issues in time to act on them. ICHEIC staff in London ultimately verified more than 30,000 decisions on claims issued by the participating companies and partner entities.⁵⁴

REVIEW OF COMPANY INTERNAL MATCHING SYSTEMS

At Chairman Eagleburger's request, the EMG analyzed the process used by participating companies and partner entities to match claimant data to company records as well as the analytical methods used in this process. Given that two participating companies, Allianz and Generali, were together responsible for more than 70% of ICHEIC's claims, the EMG carried out in-depth, on-site analyses of the matching procedures used by Allianz, Generali and the GTF.

As a result of these reviews, the EMG recommended, and ICHEIC implemented, a policy that claims should be scanned electronically to facilitate faster and more accurate distribution of information. The group recommended that every effort should be made to ensure that matches between the ICHEIC research database and the ICHEIC claims database reach companies in a timely fashion so that this information might be merged with information found in internal company records.

⁵⁴ In addition to checking every company decision individually, the claims team also had the broad task of reconciling all databases used by ICHEIC, member companies and partner organizations. Such reconciliation was necessary to be sure that all claims sent to companies had been received and processed, and that results were properly recorded. This reconciliation work also confirmed that all research database matches were sent to companies and the appropriate humanitarian process, where they were reviewed and acted upon appropriately, and that decisions on those matches were distributed and recorded correctly.

SECTION 6

Overall, the EMG determined that the companies had implemented effective internal matching processes. They recommended in this context that these practices and procedures should be documented more thoroughly, so as to provide a written record of company matching processes. The group also encouraged companies, regardless of whether their internal matching produced positive or negative results, to be as clear as possible when explaining the results of their efforts in decision letters to claimants.

CONCLUSION

In the field of Holocaust era asset restitution, ICHEIC remains an exception. A diverse group of individuals with seemingly divergent interests—European insurers, U.S. insurance regulators, representatives of global survivor groups, and the state of Israel—was able to agree upon a mission: the identification and settlement of previously uncompensated Holocaust era insurance policies at no cost to claimants.

Together, working largely on the basis of consensus, this group of individuals established a framework to achieve this mission. Nearly nine years after its establishment, ICHEIC distributed offers totaling more than \$306 million on Holocaust era insurance policies to more than 48,000 survivors and their heirs.

The process was comprehensive, both in terms of its participants and in the manner in which it sought to fulfill its mission. Involving insurers, regulators, and survivor representatives, ICHEIC established a process that permitted Holocaust survivors and heirs to submit claims, even if they were unable to provide documentation illustrating ownership of an insurance policy. The information provided was matched to the results of ICHEIC's own research, conducted to maximize the location of insurance-specific documentation. It ensured that participating companies and partner entities applied consistent claims-handling and matching procedures internally and evaluated claims in accordance with ICHEIC rules and guidelines.

The net effect for claimants is best illustrated by George Sachs, a claimant with multiple ICHEIC claims for his father's and uncle's life insurance policies. ICHEIC's claims process enabled him to settle claims for his uncle's life insurance policies on the basis of policy documents that had survived the war hidden with a non-Jewish relative in Czechoslovakia. In addition, through ICHEIC's matching process, a life insurance policy (previously unknown to him) was discovered for his uncle. Finally, after 17 years of discussion with the present-day successor to his father's pre-war insurer, George Sachs was able to settle his undocumented claim for his father's life insurance policy via the ICHEIC appeals process.

HUMANITARIAN ALLOCATIONS

George Sachs is representative of all ICHEIC claimants, not least because his claims tested all aspects of ICHEIC's claims and appeals process. As such, he illustrates the exhaustive nature of ICHEIC's efforts. ICHEIC's primary goal was to settle claims for unpaid life insurance policies lodged by Holocaust survivors and their heirs. Recognizing that despite all participants' best efforts, some policies would remain heirless, ICHEIC's members determined that any residual funds remaining after all claims had been settled, would be allocated to humanitarian programs, most notably social service programs to benefit survivors, and education programs to ensure that those who perished would be remembered by future generations.

There was significant debate among the various stakeholders regarding the appropriate proportional allocation of funds between these two laudable yet different purposes as well as the most

SECTION 7

appropriate time for distribution of such funds. With survivor representatives strongly urging that ICHEIC should not wait until the final claim had been decided, the first allocations were funded in May 2003. In keeping with general practice for funds reclaimed from Holocaust-related assets, funds were allocated 80% to social welfare and 20% to Holocaust-related education. This division recognized the importance of ensuring that survivors could see out their lives in dignity, while also noting the need to educate future generations about the Holocaust.

The vast majority of ICHEIC's humanitarian funds (\$132 million, out of \$169 million total) was committed for social welfare benefits, including healthcare and home-care services to assist survivors with basic daily tasks. Oversight and distribution were outsourced to the Claims Conference. In a second program, the ICHEIC Service Corps, university students were linked with local Holocaust survivors in a program of home visits. In addition to providing a service to survivors, this program provided an educational opportunity for students, while at the same time serving to strengthen Jewish identity and leadership in the undergraduate population. It was piloted at two universities in Florida and seven universities in New York, with coordination provided by Hillel: the Foundation for Jewish Campus Life. As part of its contributions to Holocaust education, ICHEIC funded (1) a multi-year, multi-week camping experience, the Initiative to Bring Jewish Cultural Literacy to Youth in the Former Soviet Union, developed and administered by the Jewish Agency for Israel; and (2) a project led by Yad Vashem to conduct Holocaust education in Europe.

The educational efforts funded by ICHEIC ensure that the stories of claimants and their efforts to seek restitution will endure.

In February 1947, Dr. Loebstein of Chicago wrote to the U.S. Embassy in Vienna seeking assistance. "As an American citizen, I am writing to you for help. I lived in Austria and in Czechoslovakia until 1938 and had a life insurance policy with the Assicurazioni Generali in Vienna. For this insurance I have to get now my money. I would be very glad if you could tell me to whom I have to write."⁵⁵

Half a century later, U.S. insurance regulators continued to receive such letters, and ICHEIC was born. For the more than 90,000 claimants who sought assistance with claims for Holocaust era insurance policies that had remained unpaid, ICHEIC's efforts have demonstrated that justice delayed was not, finally, justice denied.

⁵⁵ *Record Group 84, the Foreign Service Posts of the Department of State, NARA. Dated February 13, 1947.*

