

# **Holocaust-Era Insurance Claims**



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## **Nazi Confiscation of Insurance Policy Assets**

### Plenary Session on Holocaust-Era Insurance Claims

This description of the confiscation of the insurance policies of Jews and other designated enemies of the National Socialist State is based on my research for a book that will appear in English and German on the Allianz AG, the German Insurance Industry, and the National Socialist regime. I wish to make it clear that I have been asked to undertake this study, as an independent scholar with no obligation to Allianz beyond producing a professional work of history. The confiscation of Jewish insurance policies and related measures constitute only a part of my study of the relations between the company and the regime, and I am in no way personally or professionally engaged in the search for unclaimed and unpaid policies. I study insurance policies, whether compensated or uncompensated, primarily for information about the relations between the company and its Jewish customers. This said, the processes by which the Nazis despoiled Jews of their insurance assets are of great importance to my work, and I shall do my best to clarify them. I shall concentrate on life insurance policies with a face value of between 10,000 and 100,000 Reichsmark, that is, the larger type of policy that constituted a substantial investment and asset. I should note that policies above 30,000 RM were extremely rare. Finally, I will say a word about postwar compensation programs. Let me emphasize that these are necessarily very summary remarks, and I will expand on some of the points made here and deal with some of the other issues in the breakout sessions.

I think it important to point out at the very beginning that life insurance was a popular form of saving and investment for middle class

\_\_\_\_\_ ) on assets imposed on the Jews and the systematic measures then taken to drive Jews from German economic life. As a result of the increased radicalization of National Socialist expropriation measures, panic took hold among Jewish policyholders, and there was a flood of repurchases. The evidence I have seen shows that the Allianz paid promptly and correctly to their Jewish policyholders, and this would seem to be true of the other major companies. Such payment was in any case required of all companies, no matter how large the number of Jewish policyholders they had, by the Reich Supervisory Office for Insurance (Reichsaufsichtsamt für Versicherung).

The fact that the insurance companies paid out the repurchase price, however, does not mean that the Jews had full and free access to their money. Jews who planned to emigrate normally had to state their intention to the authorities and, in certain instances, transform their bank accounts into blocked emigrant accounts (Auswanderersperkkonten) from which they could only withdraw funds with the permission of the tax authorities upon certification that they had paid the Flight Tax and the Asset Tax and any other taxes that may have been due. In some cases the revenue offices simply ordered the blocking of the accounts of Jews who had not fully paid their taxes or who were liable to further taxation. Insurance proceeds were paid into such accounts at the instructions of the insured, who in effect had no other choice but to issue such instructions. In other cases, the insured simply instructed the insurance company to pay insurance proceeds directly to the financial authorities. Finally, even if Jews could gain access to their funds, the exchange controls made it impossible for them to take more than a very limited sum of money outside Germany so that many emigrating Jews retained money in the blocked emigrant account, sometimes for the use of relatives remaining in Germany. In any case, by 1939, the processes of indirect confiscation as I have described them had thus become barely distinguishable from those of direct confiscation.

Nevertheless, the direct confiscation of Jewish insurance assets had different foundations from the indirect confiscation in connection with tax and other currency and financial obligations discussed until now. The basis for such confiscation already existed in the Law for the Seizure of Assets of Enemies of the People and the State (Gesetz über die Einziehung volks- und staatsfeindlichen Vermögens) of July 14, 1933 which, along with an accompanying law on termination of the citizenship of such persons (Gesetz über Wiederruf von Einbürgerungen und Aberkennung der deutschen Staatsangehörigkeit), allowed the government to confiscate the assets of Communists and other designated enemies of the regime. Some use of this legislation was made to confiscate Jewish assets throughout the 1930s, particularly of Jews who had emigrated and those who had aroused the ire of the regime through their activities abroad. The names of those deprived of citizenship were normally published in the official government journal (Reichsanzeiger), and the Gestapo then proceeded to inform the relevant bank and insurance organizations that the assets of these persons were confiscated and were to be turned over to the financial authorities. In the case of insurance, this meant that the repurchase value was to be calculated and the sum transferred to the designated Revenue Office.

The reporting and confiscation of Jewish assets was turned into a requirement by the 11<sup>th</sup> Decree of the Reich Citizenship Law of November 25, 1941 (11. Verordnung zum Reichsbürgergesetz), which mandated the confiscation of all Jewish assets for Jews regularly residing abroad. By this time, of course, most of those who had not emigrated had been deported to concentration camps in the East, which constituted “residing abroad,” and were now systematically deprived of their citizenship and property. Indeed, the decree was directly connected with the effort to deport all Jews remaining in the Reich who had not already been deported that had begun earlier in the month. Under Paragraph 7 of the decree, organizations and persons who had control of such assets – insurance companies, for example – were required to report them within a very short period of time. It cannot be said that the insurance companies showed any enthusiasm for this decree, not because of discernible moral or ethical considerations, but because they had neither the personnel nor the resources to identify the Jewish policies in their possession, many of which were free of premiums and thus of constant bookkeeping requirements and were not easily identifiable as Jewish. The records I have seen suggest that the initiative usually came from the Gestapo and other authorities, which turned up with the names of the Jews, announced the deprivation of their citizenship, and then used the information collected on their assets to contact the insurance companies and order payment of the repurchase value to the Regional Revenue Office in which the Jews had resided. I think it important to recognize that insurance at this point was among the lesser assets subject to seizure since the moneys in question had already been surrendered in one form or another by the general despoliation of the Jews and their forced emigration in 1933-1939.

In the case of German Jews, therefore, postwar restitution for insurance was primarily concerned with compensation for prematurely terminated policies and the proceeds of policies subsequently seized from insurers and blocked bank accounts. The payments were made by the government under the postwar restitution and compensation agreements. Under the compensation laws, the insurance companies, including foreign companies operating in Germany, were responsible for checking their files for the policies of former Jewish customers and calculating the amounts to be paid by the government.

Swiss and insurance companies of other countries allowed to do business in Germany were subject to the confiscatory regulations and decrees I have described, as, after 1938-1939, were the Italian companies operating in Austria and then in the Sudetenland and in so-called

Protectorate of Bohemia and Moravia. Swiss companies argued during and after the war that the German government, not they, was liable for the Jewish insurance monies they had paid out to the National Socialist regime. In the case of law suits against the Swiss both during and after the war, U.S. courts ruled against the Jewish claimants in favor of the Swiss insurance companies, although back in Switzerland, Swiss courts ruled in favor of Jewish claimants in cases where their policies specifically stated that payment could be made either in Germany or in Switzerland. Italian companies have denied payment obligation on the claims of customers in Poland and the former Czechoslovakia by of the socialization of their assets in those countries after the war. The Austrians issued an Insurance Reconstruction Law in September 1955 requiring that claims for all insurance contracts issued prior to January 1, 1946 would be paid on the basis of a reduction of the claim by 60%. The Dutch apparently were able to transfer stolen insurance assets from their collection point in the bank of Lippmann, Rosenthal & Co., which had been aryanized by the Nazis and used for such purposes, to the relevant insurance companies and mandated settlements with their Jewish customers. Manifestly, we are thus confronted with very diverse practices and solutions with respect to compensation of Jewish insurance assets, which run the gamut from the absence of any compensation in the former Communist countries to varieties of compensation in Germany, Austria, and the Netherlands.



# **Mr. Glenn Pomeroy**

NORTH DAKOTA COMMISSIONER OF INSURANCE  
PRESIDENT, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS  
UNITED STATES

## Plenary Session on Holocaust-Era Insurance Claims

Thank you, Ambassador Olson.

It is a great honor to be here, to work with you, and be a part of this historic undertaking.

My colleague, New York Superintendent of Insurance, Neil Levin and I hope to briefly outline steps U.S. Insurance Regulators have taken throughout this past year with respect to insurance issues. In particular, we have had a very productive summer and fall as we have worked hard in search of a solution to the issue of unpaid Holocaust era insurance claims.

First of all, I need to briefly describe U.S. Regulatory environment for insurance.

In the U.S., this industry is not regulated at the national level, here in Washington, D.C., but is regulated by the states. Each state has a primary regulator for the insurance sold there. That person is responsible for licensing the companies and agents that sell in that state and oversee the products that are sold there. Each state is assisted in their individual effort by the collective effort of the National Association of Insurance Commissioners, the NAIC. The NAIC is a membership organization that brings all states together for various voluntary efforts such as developing model laws or facilitating joint enforcement activity.

Last year, with the publicity surrounding the restitution of Holocaust-era assets from Swiss banks, the issue of unpaid insurance policies began to draw national attention as well. A growing body of public evidence suggested that several major insurance companies had sold policies to people of Jewish faith in the 1920s and 30s, but they had never paid a claim on those policies to the rightful parties...the insured.

In September of 1997, the NAIC created a Working Group to investigate these issues and identify the appropriate role for the NAIC and the states in the search for justice – helping Holocaust survivors and their heirs resolve claims stemming from policies sold during the Holocaust era.

The Working Group began by holding a series of hearings around the country. I attended our first hearing held here in Washington, D.C., last fall. My colleagues and I listened first hand to the personal accounts of several Holocaust survivors whose parents had been sold either a life policy, property policy, or dowry policy. The purchasers of these policies, generally the parents of the persons who testified, perished in the concentration camps at the hands of the Nazis. They left behind children who, though they managed to somehow survive the Holocaust, had never managed all these years later to be adequately compensated under the insurance policy purchased by their parents.

The hearing was a powerful experience for all of us. We sat with Holocaust survivors and looked into their eyes as they fought through their emotions to tell us their stories. A woman, for example, who recalled the day long ago when a door to door salesman came by to sell her father and insurance policy. How thrilled he was that notwithstanding the discriminatory practices then targeted at the Jewish community, here was one company that wanted his business. She recalled for us the circumstances surrounding the murder of her parents, her own survival, and her unsuccessful efforts over the last several years to receive just compensation under the policy.

And so, after conducting several hearings through the country, this past Spring, the NAIC decide to establish a committee of nine states and work toward the establishment of an International Commission to resolve unpaid claims to Holocaust survivors and their heirs.

Given the importance of this issue to all the states, as President of the NAIC, I was asked to head up this effort and I asked Superintendent Levin to serve as Vice Chair. As he and I and other colleagues from around the country, many of whom are also here today, began our work this spring, for me personally, there were two particularly inspiring moments that gave direction to the passion that all of us felt for this cause.

The first came in early May when this new committee of State Insurance Commissioners met in New York and met with Rabbi Israel Singer. Rabbi Singer, in his own powerful and articulate way, encouraged us to be guided by achieving an outcome that was both swift and fair. Swift because for Holocaust survivors still living we don't have time to debate or litigate this matter for the next ten years. Fair because as we heard last night and this morning this is not about money this is about justice. This is about doing what we can to obtain justice – now!!

Work with the companies, Rabbi Singer implored, and the honorable men and women who now run them. Let cooperation and

collaboration be our cornerstone and not confrontation because if confrontation is the chosen path, no one will win and everyone will lose. Rabbi Singer's words meant a great deal to our committee and we have tried to honor them with our actions.

For me, the second defining moment came in June, when I had the opportunity at the planning session for this conference, to visit personally with Ben Mead who heads the American Gathering of Holocaust Survivors and who, with his granddaughter, led the Remembrance Service last evening. Ben told me that it was this wish that when people today work on these issues, that they always remember that we are not talking about academic issues, or not just talking about abstract numbers, but real people, who lived and worked and dreamed – and who purchased insurance policies as part of their dreams for the future – a future that would never come.

Ben told me his own story. As Rabbi Singer mentioned, Ben's family didn't have much money, sometimes they even had to forgo a trip to the grocery store. But, they would always make their weekly insurance payments. Ben told me how he, as a little boy, was the only child in the neighborhood who didn't have a bicycle, his family couldn't afford it, and yet his father made sure the insurance payment was made – every week.

Now, here in the U.S., I'm from North Dakota. As I began this involvement, I was aware that perhaps only one survivor resided in my state and, sadly, she passed away this summer. Obviously, this issue is not one that impacts directly the people in my state – but that doesn't matter – not anymore. Not when I think about my friend Ben Mead, and think about when he was a young boy with parents who loved him but were taken from him – forever.

I think about my own young son, and I realize that I am personally connected to this issue now in a way that is powerful and profound – even a little difficult to explain.

And so, we worked throughout the summer to create an International Commission. Through a "Memorandum of Understanding," which has now been signed by six insurance companies and over 40 states, an agreement was reached in August and the Commission was formed.

This Commission is made up of representatives from the insurance regulators, both U.S. and Europe, the companies, the survivor organizations, and the State of Israel. The goal is to work with collaboration rather than confrontation.

Superintendent Levin will explain in more detail about the Commission, its process, and how it will approach its task to achieve the moral accounting that must take place now, before it is too late.

Yes, this is difficult. And, yes this is complicated. We are talking about horrible activity that occurred over 50 years ago. In so many cases, policyholders were murdered and all their records destroyed. Many companies have since either been taken over by the Nazis or nationalized by Eastern European governments in the years following World War II.

But, these difficulties are tiny and insignificant compared to the tremendous responsibility we now bear – the tremendous opportunity we now have – to achieve, under our watch, a measure of justice by working with others who share our responsibility and our opportunity.

Through the work of the International Commission, we have created the process to get the job done. And now, the Commission must to its work.

Thank you.

# **Mr. Neil D. Levin**

SUPERINTENDENT, NEW YORK STATE INSURANCE DEPARTMENT AND  
VICE CHAIR, NAIC INTERNATIONAL HOLOCAUST COMMISSION  
TASK FORCE  
UNITED STATES

## Plenary Session on Holocaust-Era Insurance Claims

Thank you, Commissioner Pomeroy.

It is a great honor to be here and to be part of this historic conference.

As you all recall this conference began with comments by Ambassador Eizenstat and Mr. Wiesel who spoke so eloquently about the moral and ethical imperatives for addressing issues which have been lingering for over 50 years. This was followed by Secretary of State Albright's personal and moving plea to give people back their history. I would like to take a few moments to speak about how the International Commission will strive to do this.

The theme of this conference is voluntary action based on a moral foundation. This also is the theme of the International Commission. The Commission is composed of thirteen members, all of whom have joined voluntarily: Three representatives from the United States commissioners, three representatives from the international Jewish and survivor organizations and six representatives from the European insurance companies and regulators. There are also three observer spots for the survivor and Jewish groups, an observer spot for the State Department and an observer spot for the European Economic Commission.

The International Commission has already begun meeting and has initiated its work. As part of its mandate, the International Commission will oversee an audit process and is currently developing an audit program. However, we are going to learn from the successes and problems of the Volcker Committee. The Commission is committed to a "top-down" review and will not expend millions of dollars combing through every shred of paper in Europe. Further, the Commission is committed to using the work of auditors the companies have already hired if that work meets an appropriate standard in order to avoid unnecessary costs. At all times we will be attempting to maximize

recovery for Holocaust victims and minimize expenditures for auditors and lawyers.

Further, the Commission is committed to a claims driven process and is currently setting up a claims resolution process with a 1-800 number to receive and process claims. Our goal is for the complete process to be user friendly. The claims process will operate with relaxed standards of proof that will acknowledge the passage of time and the practical difficulties of the survivors, their beneficiaries and heirs in locating relevant documents.

The Commission will work to resolve all of the claims within two years and payments to survivors and their heirs will be made throughout the Commission's two-year investigation.

The Commission has also created a humanitarian fund and a fund to deal with nationalized claims and claims against companies that are no longer in existence. We are proud to be able to say that we already have an upfront contribution of \$90 million from the insurance companies towards those funds. The Commission plans to move quickly to determine how these amounts will be allocated to Holocaust victims. Further, the insurance companies have committed to pay the expenses of the Commission so that no money is taken away from survivors.

In addition, Mr. Eagleburger and the U.S. State Department will lead an effort to encourage other insurance companies and foreign governments to participate in the Commission. Today we are making an appeal to the 44 countries represented here to participate in this Commission. I would like to personally commend the six companies that are participating in the International Commission yet unfortunately they only represent 25% of the market during that time period. Not one company has come forward that is not doing business in the United States. I must ask the question why? There is a moral and ethical obligation to aid in this effort to restore and rewrite history for the survivors.

We should end the 20<sup>th</sup> Century differently than it began -- with a global community with a strong conscience -- a community that is unafraid to remember and is committed to moral and ethical renewal. We must commit to open our archives to take steps to make them accessible and to commit to preserve these archives. Just recently I was able to learn about my own personal history through access to archives in Belarus and the Ukraine. This is the least we can do for all of the survivors.

As we were reminded by Elie Weisel, Secretary of State Albright and Under Secretary of State Eizenstat, our efforts here today are about a

lot more than money. They are about a gesture of restitution and contrition, rewriting history and letting the victims witness before they die, the support of the governments around the world who sat by silently for far too long.

Thank you, and I look forward to working with all of you in this effort.



# **Mr. Herbert Hansmeyer**

MEMBER OF THE BOARD OF MANAGEMENT  
ALLIANZ AG

## Plenary Session on Holocaust-Era Insurance Claims

Mr. Bindenagel, Secretary Eagleburger, Judge Mikva, distinguished Ladies and Gentlemen,

I would like to extend my sincere thanks to you for the opportunity to participate in the Washington Conference on Holocaust-Era Assets on behalf of Allianz AG. The topic of insurance policies held by the victims of the Holocaust is very challenging and not at all comparable to the dormant accounts in Swiss banks - not only because many countries - each with its own history and political and legal aspects - are involved, but also because insurance itself is a rather complex area of business.

I would be pleased if I could contribute some information to Conference participants for their discussion of Holocaust-era insurance claims.

Allow me to begin by emphasizing that Allianz AG is committed to achieving clarity on this issue. Furthermore, it is, and has always been, our policy to pay all legitimate claims of our policyholders. This is naturally also the case for unsettled claims of our company from Holocaust survivors and their families.

In this respect, we are determined that justice is done. It is for this reason that Allianz AG is a participant in the International Commission under the chairmanship of Secretary Eagleburger. At this juncture, I would like to express my personal and my company's thanks to him for taking on this difficult task. Under his guidance this commission will certainly bring us all a step closer to our common pursuit of a just resolution. In this respect, I would also like to express my personal appreciation to the U.S. State Department and the U.S. Holocaust Memorial Museum for organizing this important international forum. This, too, will certainly help us all achieve clarity on the factual circumstances before, during and in the aftermath of the Second World War.

That many insurance claims might have remained unpaid after the Second World War came, quite frankly, as a surprise to Allianz AG. Even more surprising to us was the accusation - made in no uncertain terms in the New York lawsuit that for more than 50 years we had not paid claims to victims of Nazi persecution. This, ladies and gentlemen, is quite simply untrue. It is vitally important that those of us seeking to address these issues in a constructive manner realize this.

The reason that the lawsuit came as a surprise to us - and let me emphasize this clearly - was that we did know that, as far as Germany is concerned, most insurance claims had been previously paid fairly and correctly, the majority of them before the war. In addition, the majority of cases were included in post-war compensation programs and treaties among the nations involved in the war. It was our understanding that these programs - initiated after World War II by the Allied governments and continued to this day by the Federal Republic of Germany had, in fact, settled all claims. The restitution laws were exceedingly comprehensive and did include claims on insurance policies. In short, we had to assume that the combined efforts of the Allied governments and the Federal Republic - with the assistance of the German insurance sector - had made it highly unlikely that claims remained unsettled.

However, when the lawsuit was filed, it became clear that there were unanswered questions around already settled policies but even more about nationalized policies, particularly in Eastern Europe. As many of the participants here today know, Allianz sought from the very beginning to be open for a constructive dialogue. Above all, we stated quite clearly our commitment to treat this with the highest level of integrity. We see this as our responsibility to all policyholders past and present.

Many of you are aware of our efforts in this area. In April 1997, we established 24-hour helpline call centers in North America, Europe and Israel to enable potential claimants to contact us directly with inquiries in the most unbureaucratic manner possible. We asked Arthur Andersen to conduct an independent audit of relevant file inventories in Germany in order to see whether policies had, contrary to our knowledge, remained unsettled. And we invited Professor Feldman, renowned expert of history at the University of California at Berkeley, to research our company's history independently and publish his findings.

We further sought to come to a dialogue with the US insurance commissioners and the organizations that have represented Holocaust survivors for decades, seeking to find together a constructive means of addressing the concerns of all involved. The result of these talks was the

establishment in August of the International Commission, chaired by Secretary Eagleburger.

We are committed to creating a very sound international process for settling potentially open insurance claims. Ladies and gentlemen, I am personally convinced that we are together- on the right path toward a swift and just resolution of these issues.

Nonetheless, we have observed that discussions remain partially hindered by lingering problems of perception on the issues involved. This is, in some respect, understandable. As I said, the technical side of insurance is difficult to understand, and has been made even more complex by the passage of more than 50 years since the events under consideration took place. Additionally, these issues involve many countries across Europe West and East all with their diverse legal and historical aspects.

Especially for Eastern Europe, it is not easy to get to the hard facts of the fate of policies because the insurance companies and their branches were nationalized after the war. Still, we must make this effort.

Because of Allianz AG's position as the largest insurer in Germany both today and in the early decades of this century our focus has naturally been primarily on Germany. The independent audits I have already mentioned were conducted initially on the file inventories of Allianz Lebensversicherungs-AG, our German life insurance subsidiary. They were then extended to inventories held by Vereinte Leben, a German life insurance company acquired by Allianz AG in 1996.

The auditors faced a daunting task; under consideration were more than one point four million individual paper files on policies issued between 1920 and 1945. No separate file inventories for people persecuted by Germany's Nazi regime existed, and the files have not in any way been computerized.

Identification of victims of the Holocaust was particularly difficult. Methods for identification using direct and circumstantial evidence contained in the files had first to be developed. Finally, Arthur Andersen provided us with a clear evaluation of the status of files, giving us an assessment on what happened to those insurance policies and how our companies have dealt with them.

The audit results showed that, of the files examined, the vast majority of policies were, in fact, previously paid out at the request and into the accounts of individual policyholders. Some 70 percent of the files audited involved cases in which the policy had been canceled prematurely and been cashed in. Again, almost all were cancelled by the

policyholder, while cancellations on Nazi Government order were rather rare.

Ladies and gentlemen, in considering these facts from the view of an insurance company which of course we must do if we truly want clarity on insurance issues, we should not lose sight of other important aspects as well.

In the years leading up to World War II, Jewish people in Germany came under increasing pressure from the Nazi regime. That regime first sought to exclude Jews from the economic, social and political life of Germany, then sought to plunder their property, and ultimately perpetrated one of the most heinous crimes against humanity ever recorded - the Holocaust.

Thus, when people sought to cash in their life insurance policies, they may have done so in a desperate effort to alleviate increasing financial burdens from unjust levies and taxes, or to facilitate emigration. They did so in order to escape no uncertain peril to their lives. This is a fact that cannot and should not be left out.

It is for this reason that the postwar German government provided compensation not only for the value of policies confiscated by the Nazi regime in the late 1930s and through 1945, but also for instances in which people suffered a financial loss on policies cashed in early. Our research has shown that around 70 percent of the Jewish files of our companies were later made part of the German government's restitution and compensation programs.

And let us be quite clear on this, neither the insurance customers themselves nor the insurers benefited in any way when people cashed in and thus canceled their insurance policies. But it was and still is the responsibility of an insurer to pay the cash value on a policy at cancellation if requested. It may be interesting to note that recently conducted audits of the German Insurance Department have shown that, in such cases, our company not only paid, but paid quickly, in some instances hand-delivering insurance payments to peoples homes. Thus the Nazi government's efforts to directly seize Jewish assets under expropriation laws were quite frequently unsuccessful because the policies were previously paid out or, if they were still in force, carried loans and prepayments, leaving sometimes only very little, if anything at all, for the Nazi regime to confiscate.

The question remains, though: Despite earlier payments and comprehensive compensation programs, is it still possible that some policies remained unsettled? The answer is yes, but only in the small number of cases where the beneficiary or heir could not be found by the

companies in the turmoil after the war or did not claim under a policy in the compensation proceedings.

Did the companies keep the money, as was the case with the dormant accounts? The answer is no they did not. After the war all German life insurance companies were technically bankrupt and kept alive through government subsidies the so-called equalization funds - which exactly matched their liabilities. The German Insurance Department conducted audits for a period of 18 years on these subsidies. If the liability did not materialize, then the subsidy had to be paid back to the government. Therefore the companies could not enrich themselves with funds due under unsettled policies. In other words, there are no dormant assets from unclaimed policies.

Despite this fact, it is our firm belief that policies that remained truly unsettled should be paid regardless of statutes of limitations and bureaucratic red tape. This has always been our policy, and it remains our policy as part of our voluntary participation in the International Commission.

We still have a great deal of work to do in achieving clarity on all these issues. This is particularly true in terms of efforts to address claim payments that were hindered by the chaos in which Europe found itself during and after the War waves of emigration, the rebuilding of entire countries and, especially, the nationalization of the private insurance industry in a number of countries in Eastern Europe. Determining how to address these issues will take some time. However, as a further sign of our commitment to assisting Holocaust survivors, the International Commission has created funds that will be available to support needy survivors whose claims may be complicated by such factors.

Ladies and gentlemen, I remain personally convinced that we can best achieve our common goal of justice and clarity through continued dialogue between companies, regulators, claimants and, of course, governments. Again I would like to express my appreciation for this conferences efforts and offer Allianz AG's assurances that we share your goals and will continue to support all constructive efforts to address these issues.

Thank you.



# **Prof. Gerald D. Feldman**

PROFESSOR OF HISTORY, UNIVERSITY OF CALIFORNIA, BERKELEY AND  
FELLOW, AMERICAN ACADEMY IN BERLIN  
UNITED STATES

## **Confiscation of Insurance Assets: Special Issues**

Break-out Session on Holocaust-Era Insurance: Historical Overview,  
Nazi Confiscation of Insurance Policy Assets

In my presentation to the Plenary Session, I sought to outline the basic manner in which German-Jewish assets were confiscated. I distinguished between indirect and direct confiscation. The former was the consequence of the economic deprivation experienced by Jews through loss of livelihood, the financial needs arising from decisions to emigrate, and financial impositions upon Jews. Thus, many of the proceeds received from the repurchase of insurance policies ended up in blocked accounts or at various Finance Ministry revenue offices either, in the first case, as a guarantee that they would pay their taxes or, in the second, in actual payment of those taxes. Direct confiscation took place under decrees allowing the State to deprive Jews who had emigrated or who had been deported in the East of their citizenship and confiscate their assets. It was systematized under the 11<sup>th</sup> Decree of the Reich Citizenship Law which mandated that insurance companies, banks and other institutions holding Jewish assets actually report them to the financial authorities so that they could be confiscated and threatened penalties for non-compliance.

What I want to do now is to flesh out some of these points, addressing in particular some of the more technical issues involved and the behavior of the insurance companies in these processes. To begin with, I would like to make the point that Jews were valued customers until the regime turned them into poor customers and bad risks. In 1935,

for example, Allianz sent around a circular to its branches and daughter companies asking that it be alerted to the names of persons who were emigrating, to Switzerland, Palestine, or elsewhere, so that the companies connected with Allianz in those countries could try to keep these customers. Such a circular would have been inconceivable two years later, but it is revealing of the effort to sustain a measure of normal business practice in an increasingly abnormal situation. Similarly, the correspondence in the policies I have seen demonstrate a desire to maintain as much of the worth of the policies as possible under the circumstances. Many Jewish customers moved very slowly in giving up their insurance. Finding themselves unable to pay premiums, they often turned their policies into paid-up policies, which maintained at least the present worth of the policies. Thus, in the case of a twenty-year policy converted in its seventh year, the value would be about thirty percent of what it would have been had it come to term. Conversion, however, also kept the way open for a return to the old policy and full value if premium payments were resumed. Some Jewish policyholders were very uncertain as to what to do and, as far as I can tell from the correspondence I have seen, they received objective and straightforward advice with respect to borrowing on their policies and the details of buying them back if that seemed necessary to the customer.

Clearly it is very much to the interest of any insurer to have its customers hold on to their policies until they come to term since the profit made on prematurely terminated policies was either negligible or non-existent. In some cases there was even a loss. German companies, unlike their American counterparts, did not impose surrender charges. The cash surrender value of a twenty-year policy after seven years was slightly below twenty percent. Obviously it was much more to the interest of the customer not to take the disproportionate loss on present and expected value entailed in buying a policy back. Insurance companies that tried to hold on to their Jewish customers, therefore, were doing so at the very least because it was in their interest. By 1937-1939, however, this was becoming increasingly pointless. The introduction of the Four-Year rearmament program at the end of 1936 made Field Marshall Hermann Göring, who was its head, particularly anxious to mobilize Jewish assets, while radical elements in the National Socialist Party put increasing pressure on Jews as well. Jews could no longer afford to pay premiums and were increasingly inclined to emigrate. There was a veritable flood of cash-ins beginning in mid-1937, and a particularly dramatic development following the November Pogrom. The statistical findings of Allianz tend to confirm the impressionistic

findings of my reading of the policies. Cancellations shortened the average life of policies by about half, that is, from 20 to 10 years, thereby diminishing the average cash value of Jewish policies to about 38% of anticipated full value. In the end, cancellations far outweighed conversion to paid-up policies. Of the Jewish policies sampled, 69% were cancelled, while only 17% were converted. There is good evidence that the shift from indirect to direct expropriation took place in the latter part of 1939 and early 1940 before it was legally imposed in late 1941. Most Jews holding insurance, therefore, cashed in their policies by force of circumstances prior to 1940.

The flood of repurchases in 1937-1939 obviously was a cash drain on the insurers, and given the way Jews were treated in Germany, one naturally raises the question as to whether insurers tried to deny Jewish customers immediate access to their money. I have found no such evidence with respect to Allianz. There was at least one case, the Isar Insurance Company, which tried to gain government permission to convert Jewish policies into premium free policies rather than pay out the repurchase value. Isar was peculiar in that it had a particularly large number of Jewish policyholders acquired when it took over the German block of the business of the Austrian Phoenix company, which had gone bankrupt in 1936. Isar, however, was denied permission to withhold payments for repurchase by the Reich Supervisory Office for insurance and paid out two million marks to Jewish policyholders in 1938-1939. Leaving aside legal niceties, this was of course quite logical quite once one reflects on National Socialist intentions. Robbing the Jews of their insurance assets required their monetization, whether by the Jews themselves or, as in the case of direct confiscation, by the government. The regime had nothing to gain by leaving such assets in the hands of the insurance companies.

Let me now expand somewhat on one of the most confusing of all the issues connected with the insurance question both with regard to the policies and with regard to compensation question, namely, currencies and their worth. This problem is especially difficult for Americans, who have experienced neither a hyperinflation nor the introduction of a new currency in this century. The Germans have undergone this experience twice, first in 1922-1923, and then in 1945-1948. In the first case, the new Reichsmark was denominated at a ratio of 4.2 trillion paper marks to one dollar or a trillion paper marks to one Reichsmark. In the second case, the now old Reichsmark was denominated at ten RM to one DM in the currency reform of 1948. I want to concentrate here on the interwar currency issues and their

implications for insurance and will talk about the postwar currency reform with respect to the compensation issue in the breakout session devoted to that problem.

Given the fate of the German mark, it is understandable that after 1923 many Germans did not want to take out insurance companies denominated in Reichsmark but rather wanted policies denominated in real values, gold mark values. These took various forms. Some policies were denominated in fine gold, this being measured as 1/2790 kilograms fine gold equaling one gold mark or, at a minimum, one Reichsmark, thereby insuring the customer receipt of at least the Reichsmark equivalent in fine gold. Policies denominated in gold marks were presumed to be on a dollar basis, that is 4.2 gold marks to the dollar, thereby allegedly insuring customer whatever the real value might be in Reichsmark. Other policies were denominated in dollars or Swiss franc. Some of them even took out their policies with Swiss or other foreign companies operating in Germany for good measure. What they did not anticipate, however, was the currency instability of the Great Depression, especially after September 1931, when England went off the gold standard. The Germans did not go off the gold standard in theory but they effectively did so in practice by introducing exchange controls during the banking crisis of July 1931. With the end of currency convertibility, it was very much to the German advantage to have insurance assets denominated in RM, and a good case could be made that this was also to the advantage of insurance policyholders after the United States devalued the dollar by 41% in January 1934 and the Swiss devalued their currency by 35% in 1936. Companies like Allianz offered their customers the opportunity to convert their dollar and gold denominated policies at the old rate of 4.2 RM to the dollar rather than at 2.5 marks to the RM, which became the new exchange rate. Not surprisingly, most customers took advantage of this offer before conversion to a Reichsmark basis became compulsory in August 26, 1938. It is important to bear in mind that this was not a policy aimed specifically against Jews. All German insurance policy holders were subject to these conversions. The real purpose was for the government to get more hard currency for the Four Year Plan, and insurers were compelled to convert the hard currency they had used to cover their gold mark obligations into Reichsmark and then to invest these Reichsmark in Reich bonds.

The damage done to Jews in connection with these currency issues was a product of the exchange control restrictions first introduced in July 1931, that is before the Nazis came to power, and then

progressively made more severe after 1933 so that emigrating Jews could not take more than a very limited amount of their money out of the country. The Reichsmarks Jews had left after paying their various taxes and for the costs of their emigration had to be converted at a very unfavorable rate at the Gold Discount Bank, so that Jews could usually take no more than a pittance of their cash assets out of the country. The alternative was to leave a blocked account in Germany. This meant that insurance proceeds often had to be retained in Germany in an emigrant blocked account. The emigrant could arrange to have money paid to his relatives in Germany from such an account but could not use such money for himself or have it transferred since he had become a “non-resident” (Devisenausländer) with respect to currency matters.

The 11<sup>th</sup> Decree of the Reich Citizenship Law of November 1941 not only mandated the confiscation of all such accounts and the face value of all insurance policies of Jews remaining in Germany but also made banks and insurance companies liable for reporting these assets within six months. It received further elaboration in the 13<sup>th</sup> Decree of the Reich Citizenship Law issued on July 1, 1943 which ordered that the assets of all deceased Jews were the property of the Reich. The 89 insurance companies operating in the Reich in 1941 had over five million policies and were undergoing manpower rationalization because of the war effort. There was no effective way of going through these policies systematically to find Jews, and there are of course many names, Rosenberg, for example, that could be Jewish. For this reason, the Reich Group for the Insurance Industry regularly sought extensions and exemption from penalties for delays in compliance. These were granted only on a rather short-term basis and with the proviso that the company would have to pay interest on the delivery of insurance assets after the deadline. Whatever the efforts at compliance, my sense is that actual confiscation depended on the Gestapo reporting names and policy numbers, these often being at its disposal because of the requirement after April 1938 that Jews report all their assets. Once such confiscation instructions came in, the insurance companies were no less “correct” in calculating and delivering the repurchase value of the policies to the Revenue Offices than they had been in doing so for the rightful owners of the policies in earlier years.

Finally, as I noted in the plenary session, the confiscation of Jewish insurance assets spread as the Third Reich expanded. The areas incorporated in the Reich, beginning with Austria, and going on to the Czech lands, the Polish areas outside the General Government, and Alsace-Lorraine. The confiscation of Jewish assets in Austria seems to

have been pursued with particular vigor, and this shows up in Austrian files dealing with insurance issues. I have not yet done much work on the seizure of Jewish insurance assets in the occupied areas during the war. Various decrees issued by the military authorities and or civilian authorities in the occupied areas of France, in Belgium and Luxembourg in 1941 and 1942 also mandated the seizure of assets of Jews who had fled and emigrated. In this way, the expropriation of Jewish insurance assets by the National Socialist regime became a European-wide phenomenon.

# **Mr. Tomas Jelinek**

OFFICE OF THE PRESIDENT  
CZECH REPUBLIC

## **Insurance in the Nazi Occupied Czech Lands: Preliminary Findings<sup>1</sup>**

Break-out Session on Holocaust-Era Insurance: Historical Overview,  
Nazi Confiscation of Insurance Policy Assets

An overview of the insurance industry during the Second World War in the territories of what is now the Czech Republic is presented, with the emphasis on the fate of the life insurance policies of the Holocaust victims. The first chapter characterizes the Czechoslovak insurance industry before the Second World War. The second chapter deals with the period between 1938 and 1945, including the occupation of the "Sudetenland" and the consequent establishment of the "Protectorate of Bohemia and Moravia."

### THE INSURANCE INDUSTRY BEFORE WWII

Inter-war Czechoslovakia<sup>2</sup> was one of the most industrialized countries in Central and Southeastern Europe.<sup>3</sup> Its economy was highly dependent on the exportation of goods, following from the fact that 70% of the industrial production of the former Habsburg Empire was concentrated in the Czechoslovak territory, though only 26% of the

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<sup>1</sup> Prepared for the Washington Conference on Holocaust-Era Assets in 1998. Based on the findings of the Czech Working Group on Holocaust Insurance.

<sup>2</sup> Czechoslovakia was established on October 28, 1918. It consisted of 21% of the former Austro-Hungarian Empire: Bohemia, Moravia, Slovakia, Silesia, Ruthenia (Transcarpathia).

<sup>3</sup> The former Hapsburg Empire

Empire's population lived there. After the disintegration of the Habsburg Empire common market, the newly-born Czechoslovak state was faced with the challenge of finding foreign markets for Czechoslovak goods. In order for the economy to survive, at least 30% of industrial production needed to be exported.<sup>4</sup> Upon reaching this level of exportation, Czechoslovakia became one among ten member states of the League of Nations with the highest industrial product per capita and was also one of the seven biggest weapon suppliers in the world.

Before the Second World War, Czechoslovakia was, in many respects, a modern and dynamic state which was able to maintain its democratic system throughout the rise of authoritarian regimes in the region. However, one cannot claim that inter-war Czechoslovakia was a free market economy. From the turn of the century, banks already had controlling influence over numerous industries and had become a primary force in furthering oligopolistic business organizations. The links between banks and industrial and commercial enterprises limited competition by internalizing functions of the market.<sup>5</sup> The most famous example of such an arrangement was Zivnostenska banka, which spread its influence not only in Czechoslovakia, but also throughout Southeastern Europe. After the world economic crises of the early thirties, a strict exchange control and other protectionist measures were introduced in Czechoslovakia, as they were in many countries in the region.<sup>6</sup> Most of the industry was organized through cartel agreements.

Inter-war Czechoslovakia was an important intermediary between western economies, namely Britain and France, and Southeastern Europe. In the same period Western entrepreneurs were competing with German companies for their share of the Czechoslovak market. Consequently, German capital tried to extend its influence in order to undermine Czechoslovak economic connections with Western countries and allies in the region. While the principal direct investors in inter-war Czechoslovakia were Great Britain and France, German entrepreneurs obtained their influence through cartel agreements.<sup>7</sup>

The Insurance sector in inter-war Czechoslovakia was comparable to the insurance industry in any developed country. There was a tradition of availability of all types of insurance, and

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<sup>4</sup> Teichová 1994a, p.25.

<sup>5</sup> Teichová 1994b, p.84.

<sup>6</sup> Teichová 1994b, p.90.

<sup>7</sup> For details see Teichová 1994a and compare this argument, particularly in the insurance industry, with Axis Penetration of European Insurance (1943) p.15-16.

Czechoslovakia had very strong international ties. Foreign companies controlled much of the industry within the country (for data on life insurance see Table 1), while the business share of Czechoslovak companies abroad was negligible.

The insurance industry went through a number of troublesome transitions following the First World War. The first was the period of transformation which occurred during the division of the territories of the Austro-Hungarian Empire. At this time, Czechoslovakia was faced with the task of creating an independent Czechoslovak insurance sector. The second difficult period for the insurance industry resulted from the economic crises of the nineteen-thirties, during which the growth of new businesses slowed, the total sum of premiums decreased, and administrative costs increased. The third tumultuous period for the Czechoslovak insurance sector was the result of the collapse of the Fenix Insurance Company in 1936, which greatly undermined the public’s trust in the insurance industry. The incident required that the state, together with the insurance sector, consolidate Fenix. The total loss was Kc 1,450 million,<sup>8</sup> and the regulatory organization of the insurance industry had to be entirely revised.

**Table 1 - The Life Insurance Sector during 1933-1936 (in millions of Kc)**

Year	Domestic insurance companies					Foreign insurance companies				
	Total sum of direct and indirect business									
	Insured capital	Premium		Pay out		Insured capital	Premium		Pay out	
		Gross	Net	Gross	Net		Gross	Net	Gross	Net
1934	9 626	471	361	146	115	6 398	304	233	120	92
1935	9583	431	327	170	130	4 142	189	142	72	53
1936	9606	441	341	168	131	4 261	195	146	76	56

Source: Kral 1937, p.130.

For the purpose of our current attempt to resolve the issue of the insurance policies of Holocaust victims, it is important to be familiar

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<sup>8</sup> Kral 1937, p.39.

with the following main legal regulations of insurance activities before World War Two.

In 1924, the Ministry of the Interior, which was responsible for the supervision of the insurance sector, issued a regulation forbidding insurance companies to denominate their policies in other than Czechoslovak currency. In 1933, the same was done for policies denominated in gold. Also in 1933, insurance clients complained about the unjust calculation of reduced insurance policies. Their compensation by different companies was resolved by a regulation which stated that those conditions had to be written on every life policy.

The most important legal change in the inter-war period was the *Law on securing the claims of insurance companies' clients and concerning state supervision (No.147/1934)*. This law mandated a necessary level of reserve funds for insurance payments. The reserve funds had to be held separately from the rest of the property of the insurance companies. However, in the case of foreign companies, the law permitted locally licensed branches of foreign companies to manage the funds.

At the end of 1937, there were 48 domestic insurance companies in Czechoslovakia. 24 had foreign direct investors. The total sum of foreign holdings was Kc 32.8 million, 40% of the basic capital of all companies with foreign participation. The most active companies were Italian companies with a direct investment of Kc 20.8 million, followed by German and Swiss companies with the direct investment of Kc 8 million and Kc 4 million, respectively.<sup>9</sup>

In 1938, there were 28 domestic and 6 foreign life insurance companies in Czechoslovakia (for details see Appendix 2). The average life insurance policy face value was Kc 13,142 in domestic companies, and 28,869 K in foreign companies. There were about 1.255 million people insured with Czechoslovak companies, while foreign insurance companies insured about 161,000 clients.

#### THE INSURANCE INDUSTRY IN THE YEARS 1938-1945<sup>10</sup>

The question of property claims against Czechoslovakia was raised immediately after Nazi German annexation of the so called

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<sup>9</sup> Teichova 1994 a, p.34-41.

<sup>10</sup> For basic information about the history of the Protectorate see Appendix 1.

Sudetenland. Though the main concern was the division of the gold and hard currency reserves of the Czechoslovak Central Bank, the insurance industry was also subject to division. All insurance business in the Sudetenland was transferred from Czechoslovak companies to German, Austrian, Italian or Swiss insurance companies (see Table 2). Although an international agreement about the division of insurance business between Nazi Germany and Czechoslovakia was under preparation before March 15, 1939, the final separation was carried over by June 30, 1939, three month after the occupation of the rest of the Czech territory. According to the rules proclaimed by the Nazi administration all insurance policies signed prior to October 10, 1938 at the territory of the former Czechoslovakia (i.e. deadline for final separation of the "Sudetenland") belonged to the insurance companies in the Protectorate if the insurance company had established headquarters in the "Protectorate" before December 31, 1938 and if the insured object was in the same territory by this date. At the same time the insurance business in Slovakia and in the areas annexed by Poland and Hungary had to be separated.

The vast majority of the Jewish population of "Sudetenland" escaped and moved to the territory remaining under Czechoslovak control. One can assume that the fate of the insurance policies and other property of those who remained was identical to that of Jews from Germany and Austria, where policies and other property were confiscated by the Reich. In 1943, the total premium income of insurance companies in Sudetenland was estimated to be approximately 13 million RM in life insurance and about 30 million RM in general insurance.<sup>11</sup>

**Table 2 Transfer of Czechoslovak Insurance Activities in Sudetenland**

Name of original company	Taken over by	
	Life Insurance	General Insurance
Albrechticka		Sudetendeutsche Union Versicherungs - A.G.
Cechoslovakia	Donau-Concordia, Lebensvers. - A.G.	Moravsko-slezska Brno
Ceska vzajemna	Victoria zu Berlin	

<sup>11</sup> Axis penetration of European Insurance (1943), p.30.

Ceskomoravska	Riunione	Schles. Feuer-Vers.- Gesellschaft
Elbe - Schaden		Albingia, Vers. - A.G.
Hasicska	Manheimer Lebensvers. - Gesell., A.G.	Gothaer Feuerversicherungs- bank
Koruna	Rothenburger Lebensvers., A.G.	Sudetendeutsche Union Versicherungs - A.G.
Kvas	Donau-Concordia, Lebensvers. - A.G.	Donau-Concordia Allgemeine Versicherung- A.G. Erste Allg. Unfall-u. Schadens Vers. Gesellschaft
Lipa	Donau-Concordia, Lebensvers. - A.G.	Sudetendeutsche Union Versicherungs - A.G.
Loyd	Terra, Spar- u.Lebensvers.A.G.	Moravsko-slezska Brno
Merkur	Donau-Concordia, Lebensvers. - A.G.	Deutsche Allgemeine Versicherungs - A.G. Allgemeine Unfall- u. Haftpflicht-Vers.- A.G.
Moldavia- Generali- Sekuritas		Erste Allg. Unfall-u. Schadens Vers. Gesellschaft
Narodni	Manheimer Lebensvers. - Gesell., A.G.	Sudetendeutsche Union Versicherungs - A.G.
Patria	Donau-Concordia, Lebensvers. - A.G.	Sudetendeutsche Union Versicherungs - A.G.
Plananska		Allgemeine Elementar Versicherungs-A.G.
Praha	Rothenburger Lebensvers., A.G.	Aachener u. Munchener Feuer-Vers.-Ges.
Prazska mestska	Rothenburger Lebensvers., A.G.	Moravsko-slezska Brno
Prvni ceska		Victoria, Feuer-Vers.-A.G. Leipziger Hagel-Vers.-A.G. Wiener Allianz, Vers.-A.G.
Rolnicka	Manheimer Lebensvers. - Gesell., A.G.	Manheimer Vers.-Ges. Wiener Allianz, Vers.-A.G.
Slavia	Alianz Lebensversicherungs, A.G.	Alianz, Vers.-A.G. Wiener Allianz, Vers.-A.G. Bayerische Vers.-Bank, A.G. Kraft-Vers.-A.G.
Slovanska	Donau-Concordia,	Moravsko-slezska Brno

	Lebensvers. - A.G.	
Vorsorge	Volksfursorge, Lebensvers. A.G.	
Vseobecna	Deutsche Herold, Volks-u. Lebensvers. - A.G.	Sudetendeutsche Union Versicherungs - A.G.
Zemska zivotni	Offentl. Vers. - Anstalt der Sachs. Sparkassen	Offentliche-rechtliche Sachversicherungsanstalt

Source: Marvan (1993), p.314

In order to understand more about the background the following review shows control of individual companies by several foreign insurance concerns and groups operating in Czechoslovakia and "Sudetenland" at the end of 1938.<sup>12</sup>

### 1. Italian Group

#### Assicurazioni Generali Concern

*Assicurazioni Generali for Czechoslovakia*

*Moldavia Generali*

*Securitas*

*Prvni ceska zajistovaci banka (First Czech Reinsurance Bank)*

#### Riunione Adriatica di Sicurta Concern

*Riunione Adriatica di Sicurta for Czechoslovakia*

*Ceskoslovenska pojistovna (Continental)*

### 2. French Group

*La Nationale - Vie*

*La Nationale - Incendie*

### 3. Swiss Group

*Basilejska dopravní pojistovna*

*Basilejska požární pojistovna*

*Svýcarská národní pojistovna*

*Helvetia*

Concern of Zurich, Unfall-und Schaden-Vers. A.G.

*Merkur*

Concern of Schweizerische Rückversicherungs-Ges.

*Kotva*

*Dunaj*

*Concordia*

<sup>12</sup> Document from Ceska pojistovna Archive dated Oct. 8, 1938.

## 4. British Group

*Anglo-Elementar*

## 5. German Group

Concern of Victoria in Berlin*Victoria-Leben*Concern of Leipziger Feuer-Vers.Ges.*Union*Muncher Ruckversicherung-Ges. (group of interests)*Czechoslovakia**Slovanska pojistovna**Evropska pojistovaci spolecnost*

After the Nazi occupation of the rest of Czechoslovakia at the beginning of the Second World War, the insurance companies from nations at war with Nazi Germany halted all their activity in the "Protectorate Bohemia and Moravia". Their business was taken over by German companies (for example, the Anglo-Elementar Insurance Company was taken over by Colonia from Cologne).

A few weeks after the occupation, the first insurance regulation was introduced aiming directly at Jews. On April 29, 1939, a meeting took place between representatives of the Ministry of the Interior, the (formerly Czechoslovak) National Bank, and representatives of the Deutsche Reichsbank. Consequently, the Ministry of Interior issued a circular "Regulation of insurance conditions of non-Aryan policyholders" (No.18623/39-16) declaring both that Jews could only receive their insurance payments to accounts in a selected group of banks, and that these bank accounts would be regulated by the state. Jews were not allowed to change conditions of their insurance policies (e.g. cession, changing of the beneficiary, etc.).<sup>13</sup> Exceptions could be granted by the Ministry of Interior with the consent of the National Bank. However, this regulation did not specify who should be considered Jewish. Later on, in the letter of Association of Czechoslovak Insurance Companies to all its members (dated April 17, 1939) in order to overcome this problem, it was specified that every client had to sign a statement about his/her *Aryan origin*. In the circular of the Ministry of Interior (No. 23728/39-16) from April 27, 1939 it was stated that Jewish clients can be honored the cash benefits up to K 5,000 by their insurance companies without the preliminary permission of the Ministry of Interior and the National Bank.

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<sup>13</sup> State Central Archive MV-SR k.6352

Any benefit exceeding K 5,000 could be honored without such a permission only on condition that the money was used as a remittance of public services, taxes, fees etc. and transferred directly to the public revenue office. We have found several documents of Star Insurance Company showing that such payments were realized. We may even argue that this company tried to help Jewish clients in order to give them some cash and its clerks calculated their benefits in such a way that they would not exceed K 5,000.<sup>14</sup>

In June 21, 1939 the "Reichsprotector for Bohemia and Moravia" issued a decree about the Jewish property. For the purpose of our discussion it is important that since that time the Jewish origin was defined according to the Nurnberg laws at the territory of "Protectorate". Almost all property had to be registered by July 31, 1939<sup>15</sup> and it fell under the control of "Protectorate". Another important regulation (No. 25761/39) which significantly influenced the treatment of Jewish clients by insurance companies was issued by the Revisory Department of Finance Ministry in January 23, 1940. It was generally stated that all payments to Jews have to go to their bank accounts, which were under state control.<sup>16</sup> With this stricter regime the limited possibility for Jews to cash directly their insurance policies, which had been in place so far, was abolished. All individual requests of non-Aryan insurants concerning their policies had to be submitted to the Revisory Department of Finance Ministry for individual consideration. The Ministry of Interior made the final decision on the individual applications based on the reference from Finance Ministry.<sup>17</sup>

Application of all these regulations was so complicated that the Association of Insurance Companies published a special guide for insurance industry with respect to Jewish laws. This guide was very detailed and it also dealt with "mixed marriage households" (i.e. Aryan with non-Aryan). By law, Jews could only withdraw up to K 3,000 from their bank accounts per month. However, they were obliged to pay from this amount premiums of their private insurance policies up to the limit of K 750 per month. If the total of the premium payments exceeded K

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<sup>14</sup> State Central Archive, Ministry of Interior (No.1197/40-16).

<sup>15</sup> The definition of Jewish property was very flexible (e.g. what was Jewish company or a company under the Jewish influence) and it was estimated about 20 billions K.

<sup>16</sup> This regulation was reflected in the circular of Interior Ministry (No.6055/40-16).

<sup>17</sup> State Central Archive, Ministry of Interior (No.23293/40).

750, a person could apply to the Revisory Department for the permission of a higher limit for monthly withdrawal. The guide was written in 1941 by Regierungssassessor Herbert Schmerling, an official from the Revisory Department (Department No.16) of the Finance Ministry. This Department was deeply involved in the agenda of Jewish property. An important role in the expropriation of Jewish property in "Protectorate" was played by Reichsbankrat Walther Untermohle who cooperated closely with Department No.16 . As a member of the Economic Department in the Office of the Reichsprotektor Untermohle was later responsible for the Property Office (details see below).

### **Supervision of the Insurance Industry**

The Insurance industry in the "Protectorate" was supervised by the Ministry of Interior until January 15, 1942. At that time, the responsibility was passed to the Ministry of Economy and Labor which was under the direct control of Nazi Germany. Beginning with May 15, 1941, the insurance industry in the "Protectorate" was centralized in a manner identical to the situation in Nazi Germany. The entire industry was controlled through a central institution, the Central Association of Private Insurance in Bohemia and Moravia (Zentralverband der Vertragsversicherung in Bohmen und Maren), which was designed to serve as an intermediate between the insurance industry and the government. Two economic divisions were established under this association: one for life insurance and the other for general insurance. The chairman and vice-chairman of the association were appointed by the Minister of the Interior (later by the Minister of Economy and Labor). German citizen Robert Rozenkranz, previously a special envoy of the Reichsprotektor in the organization of the Protectorate insurance industry, was the first chairman to be appointed. Circulars of the Association are a very good source of information on the development of the insurance industry during the "Protectorate," particularly concerning the issue of confiscations during the Protectorate (see Appendix 3).

### **Jewish emigration**

At the beginning of the "Protectorate" the Jewish emigration was still viewed by the German authorities as a main "solution of the Jewish question." Expropriation of the property of Jewish emigrants was organized in order to strengthen expansion of German banks and industrial groups in the "Protectorate." Already in March 29, 1939 it was

agreed by the representatives of German banks, German Ministry of Economy, Gestapo, and Sicherheitsdienst that Jews would be allowed to emigrate only if they left their property by a German bank. Otherwise Gestapo would not allow them to emigrate.<sup>18</sup> Jews seeking the emigration permit also had to deposit their private insurance policies at an authorized bank.<sup>19</sup> However private insurance policies could be used to cover the emigration tax if the emigrant did not have other means.

The official Jewish emigration was organized by the Center for Jewish Emigration (Zentralstelle für jüdische Auswanderung)<sup>20</sup> which was founded by the Hitler-appointed, German Reichsprotektor Konstantin von Neurath in July 15, 1939. This institution was supervised by the chief of Sicherheitsdienst Walter Stahlecker, and it was closely cooperating with Adolf Eichmann in the Berlin Gestapo Headquarters. In order to manage the Center's property the Emigration Fund for Bohemia and Moravia (Auswanderungsfond) was established in March 5, 1940. The occupation authorities intended to use this Fund to support the German settlement of the "Protectorate"<sup>21</sup>. The Center issued 16,782 passports till the first quarter of 1941. According to the report of the Prague Jewish Community from 1942, 25,977 Jews left the Protectorate between March 15, 1939 and November 30, 1942.

The insurance policies of people who emigrated illegal or "broke the law" in any other way were confiscated by Gestapo. This applied to all the former Czechoslovak citizens who decided to leave the "Protectorate" and even to those who left before the Nazi German occupation.

With the beginning of deportations of Jews to concentration camps and ghettos, the Center for Jewish Emigration was responsible for confiscation of their assets. People asked to register for transport had to declare again all their property including their private belongings (e.g. suits, furniture, food rations vouchers, etc.). They were forced to give the power of attorney to the Center for Jewish Emigration to administer this property.

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<sup>18</sup> Kary (1991), p.34.

<sup>19</sup> Zajisteni zidovskeho majetku (1941), Vol. VIII., p.6.

<sup>20</sup> It was renamed as Center for Solving of the Jewish Question (Zentralamt für die Regelung der Judenfrage) in August 12, 1942.

<sup>21</sup> Kary (1991), p.64.

## Property Office

Since the beginning of the occupation the Gestapo, which ordered the confiscation of assets of the people and organizations which were declared the "enemies of the Reich", had to look after this property as well. However, with the growing volume of assets, this was more and more difficult to manage (in March 1941 the total of the confiscated property was estimated to be K 10 billion). To free Gestapo for its original mission on September 2, 1941, the reichsprotector established the Property Office (Vermögensamt) to administer the confiscated property. As far as the insurance policies are concerned there is a report of the Prague Gestapo Headquarters from July 1, 1942 which states that K 54.4 million of repurchase value were confiscated from insurance companies in the Protectorate. The report gives the following breakdown:

Assicurazioni Generali in Trieste	K 20,172,418
Victoria Berlin	K 13,470,549
Riunione Adriatica	K 5,959,330
Star-Versicherungsanstalt	K 4,676,389
Prager Stadt. Versicherungsanstalt	K 2,700,589
Anker (Kotva)	K 2,548,180
Slavia	K 2,136,240

There were other 22 insurance companies on the list, but the amount of money confiscated from them ranged only between K 500 to K 500,000. We do not know whether the Gestapo headquarters in Brno filed separate reports or whether the Prague office reported for the whole "Protectorate". It is likely that most of the policies were life insurance policies, for the following reasons. The first, Generali, Victoria, Anker (Kotva), and Star were licensed only for life insurance business. The second, life insurance was the most common form of capitalized insurance policies.

## CONCLUSION

The research done so far reveals the set of rules used by the Nazis to control insurance in the "Protectorate". The rights over the confiscated policies were transferred to Gestapo (later the Property Office) or the Center for Jewish Emigration. There is an evidence that

these institutions were not required to have the original insurance agreement to receive the payments.<sup>22</sup> The history of the cash flows from confiscated policies is not yet fully documented. The archive of the former Czech Escomt Bank and of the Dresdner Bank could reveal the evidence of these transactions. The recent search in the archive of the Czech Union Bank (Deutsche Bank Group) so far uncovered documentary evidence of the transfers of the Holocaust victims' insurance policies to the Property Office and to the Emigration Fund.

The Czech Working Group on Holocaust Era Insurance comprises of the representatives of President Havel's Office, of the Federation of Jewish Communities in the Czech Republic, the Czech Insurance Company, the Finance Ministry, and the Ministry of foreign Affairs. In the past year the Czech authorities have been cooperating with the US insurance regulators namely with the Holocaust Claims Project of the Washington State Insurance Commissioner's Office. We hope that the creation of the international commission of Holocaust insurance will further enhance the international cooperation in this field.

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## APPENDIX 1

### **Historical Background of the Protectorate**

(based on Mastny, Vojtech, 1971, *The Czechs Under Nazi Rule: The Failure of National Resistance, 1939-42*, Columbia U.P. - New York, pp.55-76)

Following the signing of the Munich Treaty, the Second Czechoslovak Republic came into existence on September 30, 1938. The Republic existed for less than six months, for on March 15, 1939, when Hitler invaded and occupied the Czech lands. During the Second Republic, the border areas of Bohemia and Moravia, known also as the Sudetenland, were forced to surrender to Nazi Germany.

Based on the extent to which the Protectorate's economic and military infrastructure was incorporated into the Reich, one can divide the Protectorate era into two periods. The first period, which extends from the Protectorate's creation in March, 1939, until the end of 1942, has been characterized as a "strict system of [economic and military] controls" which allowed for a certain amount of personal, economic, and political autonomy among Protectorate citizens. The Reich market was intended to "supplement rather than substitute for the traditional Western markets." However, anti-Semitic and anti-Communist legislation was put into effect, and there was a substantial expansion of German business interests into the territory. From the end of 1942 until the end of the war,

the Protectorate economy and military were used primarily for Reich purposes, and the Protectorate became an integral part of the Reich's economic infrastructure.

Preparation for the "seizure of arms and for the control of defense industries" began at least three months before the invasion on March fifteenth. Therefore, though the political infrastructure of the protectorate was largely "improvised," the economic organization of the Protectorate, along with the military organization, was handled with extreme precision. The Czech lands were viewed as a valuable military and economic center for the Reich, as well as a source of liquid assets which could be converted into "sorely needed" foreign currency.

The Nazis had direct economic control through two networks; The Economics Department in the Office of the Protector, which was a "prolonged arm" of the Berlin Ministry of Economics, and through military contracting. The Central Office for Public Contracts coordinated the military production with other programs. The entire store of Czech weapons and ammunition was secured and sent to Germany. All defense plants were inspected, and managers were required to provide data about input and output capacity in meticulous questionnaires. Over two-hundred thousand patents and technical designs were usurped by the Germans, and power stations and gas works stations were taken over. Czech companies were forced to sell part of their stock at prices dictated by Germans, or to create a German majority among stockholders by increasing their capital. The Hermann Goring works acquired capital control over the Czech leading suppliers of arms in the Protectorate, Škoda and Brunner Waffen, and over Poldi and Vitkovice, the largest steel producers.

Before the war, the Nazis had preceded ruthlessly to satisfy their immediate needs in the Protectorate by seizing arms and trying to put gold and foreign exchange at their command. As a long-term economic policy, however, they avoided measures which would drive the Czechs to desperation. German firms kept their activities within strict limits, under the watchful eye of Hans Kehrl, a high official of the Reich Ministry of Economics, who tried to prevent excesses which would cause disruptions. The system left the Czechs enough room for their own economic activity.

All the same, it cannot be forgotten that the Protectorate was a militarily occupied territory. Although the Nazis did not insist upon total economic mobilization during the first two years of the occupation, they nevertheless transformed the newly created Czech institutions into instruments subject to their own control. They only needed to impose

their own appointees in the Central Associations to make use of the sweeping powers provided by the system. There were frequent incidents of arbitrary interference on an administrative level. In several cases, the Nazi supervisors ordered local Czech authorities to submit all business correspondence for their approval or even insisted on the use of German for the conduct of business in local Czech agencies.

## APPENDIX 2

### List of life insurance companies in 1936:

- | Domestic companies:                                       | Foreign companies:                |
|---|-----------------------------------|
| 1. Concordia  | 1. Assicurazioni Generali - Italy |
| 2. Cechoslovakia  | 2. Donau (Dunaj)- Austria         |
| 3. Ceska vzajemna zivotni                                 | 3. Anker (Kotva) - Austria        |
| 4. Domov a Slovakia                                       | 4. La Nationale - France          |
| 5. Fenix (Star)   | 5. Riunione Adriatica - Italy     |
| 6. Hasicka  | 6. Victoria - Germany             |
| 7. Karpatia   |                                   |
| 8. Koruna   |                                   |
| 9. Legie  |                                   |
| 10. Loyd  |                                   |
| 11. Merkur  |                                   |
| 12. Narodni   |                                   |
| 13. Patria  |                                   |
| 14. Pece  |                                   |
| 15. Pojistovna prumyslu kvasneho                          |                                   |
| 16. Praha   |                                   |
| 17. Prazska mestska a Prazska mestska zivotni a duchodova |                                   |
| 18. Prudentia   |                                   |
| 19. Republikanska   |                                   |
| 20. Labe zivotni  |                                   |
| 21. Rolnicka  |                                   |
| 22. Slavia  |                                   |
| 23. Slovanska   |                                   |
| 24. Slovenska   |                                   |
| 25. Union   |                                   |
| 26. Vseobecna   |                                   |
| 27. Zemska  |                                   |

## APPENDIX 3

**Circulars of Central Association of Private Insurance in Bohemia and Moravia**

1. Ia-44/42 Topic: Confiscation of Insurance Policies
2. Ia-51/42 Topic: Confiscation of Insurance Policies
3. Ia-17/43 Topic: Confiscation of Insurance Policies
4. Ia-23/43 Topic: Form of the Property Office which enables confiscation without insurance policy agreement
5. Ia-2/43 Topic: List from Gestapo- confiscated property



# **Mr. Rudolph Gerlach**

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## **Break-out Session on Holocaust-Era Insurance: Postwar Government Compensation Programs and Nationalization**

1. I take the pleasure to be one of the presenters on postwar government compensation programs and nationalizations. I am no historian but an officer of the German insurance supervisory authority. I have been working on insurance issues of Holocaust victims for nearly a year, as Chair of the BAV Working Group on Holocaust Issues and lately as a member of the International Commission. My work is dealing with insurance in Germany. Therefore I shall concentrate my remarks on compensation and nationalization of insurance companies there.

There is little to say about nationalization of insurance business in Germany, because it occurred only in East Germany, while insurance business, like other businesses, remained in the private sector in West Germany. In East Germany private insurance companies were expropriated and liquidated while new state owned companies under public law were set up. So the in West Germany still existing private companies lost all their assets in the East.

2. This panel concerns life insurance contracts of victims of the Holocaust. Potentially there might be claims against insurance companies or there might be claims for compensation against the German state.

### **2.1 Insurance claims:**

In most cases prior to 1941 after cancellation of the insurance contract by the Jewish policyholder the surrender value had been paid to the policyholder. Legal consequence was: The contractual relationship has expired by performance, the insurance company has been released from its obligation to perform. In the lapse of time and increasing of persecution the bank accounts of victims were frozen, so payments on these accounts could not reach their holders anymore. Later on the insurance companies were forced by Nazi law to turn over all surrender

values and all other payments to the German state. Therefore the life insurance companies generally have not been enriched by Jewish life insurance contracts. Unpaid claims are conceivable only in cases in which the contract had not been recognized as such with a Jewish policyholder.

The German Federal Supreme Court decided in 1953 that the expropriations were at no time lawful and were unlawful even at the time when they were formally effective. In paying to the Reich the surrender value, which the Reich had expropriated, insurers were released from their obligation. Claims of the persons concerned deriving from the unlawful nature of the acts of the Reich in expropriating property could be asserted under the restitution and compensation laws.

## **2.2 Compensation Programs:**

2.2.1 Different programs were set up, first under Military government, later under government of the German "Länder" to return property that had been taken by Nazi government from victims (restitution) or to compensate for loss of freedom, health, income, and property or other financial losses (compensation).

After establishing the Federal Republic of Germany the German government assumed responsibility for the injustices of the Nazis and proposed legislation to continue these programs. It entered into discussions with the State of Israel that lead to the Israel-German Treaty of 1952. Finally a restitution law and a compensation law were enacted by the German parliament.

The most important of these laws is the latter, the Federal Compensation Law of 1956. It provides compensation not only to victims of the Holocaust but to victims of all kinds of Nazi persecution. This law contains special provisions dealing with life insurance policies: Provisions on entitlement, the procedure, and the calculation.

The restitution and compensation program was run very efficiently with the help and support from foreign official authorities as well as private organizations. The compensation authorities had to inquire abroad if they needed information. There were lawyers who specialized in this area. Information on the compensation program was made public in the media both in Germany and in foreign countries. Jewish organizations were involved as well. They were entitled to receive proceeds if no heir could be found. They also supported the fact-finding and provided assistance to claimants.

Both, life insurance companies and the German federal insurance supervisory authority, took part in the compensation procedure. The

companies on request of the compensation agencies were obliged to answer all questions they were asked by the agencies. The compensation agencies also had to perform hearings with the insurance supervisory authority. The supervisory authority performed audits of the insurance companies for many years in order to confirm that the calculations were right. The vast majority of policies belonging to victims of the Holocaust were included in these programs (over 70 %).

Calculations and assumptions favored victims. The basic premise of the compensation procedure was that a victim of the Holocaust should be treated as if no persecution had ever taken place. The amount of compensation was determined following the policy terms, considering currency conversion and providing additional grants. Only unpaid premiums and payments that the policyholder himself had received were deducted. Payments to government authorities were not considered.

According to the compensation program, claimants were put on the same, or a better, footing than West German citizens who had not been persecuted. The file examinations have shown that most policies were cancelled by the policyholders themselves, in many other cases the premium payment stopped. In an insurance case with no persecution involved, the policyholder would receive much less due to this fact. Not so the compensation law. The compensation for the policy was based on the face value of the policy, that is the full amount of the insurance. Only then, unpaid premiums and payments to the policyholder were deducted. Payments to the policyholder were deducted only insofar as they actually benefited the claimant.

In a given example, which has been approved by an actuary in my working group and which is attached to my paper, the victim of Nazi persecution is preferred to a non-victim considerably. He receives 2,510 DM, the latter only 815 DM, that is less than a third. Since the victim of Nazism has received full compensation, according to the applying rules there is no legal basis for further claims concerning the same insurance policy.

2.2.2 Applications for compensation payments for financial loss with regard to life insurance policies pursuant to the specific laws could be made for a total of 13 years. The laws provided a cutoff date for applications at the end of 1969. A reinstatement may be possible, if the victim or the heirs can show that they did not know of the relevant facts without any fault of their own.

According to the Law to compensate victims of National Socialist persecution of 1994, which was enacted following German

reunification, applications for compensation can now be made also by inhabitants of former East Germany, who had not been entitled for compensation before the reunification.

2.2.3 According to calculations of the German Ministry of Finance as of 1 January 1998 (s. "Frankfurter Allgemeine Zeitung", 8 Sept. 1998) German public administration has paid out through compensation and restitution programs 102,1 Billion DM. Future payments, especially pension payments, will amount to approximately additional 24 Billion DM. Further payments come out of an agreement between the Federal Government and the Jewish Claims Conference concerning the establishment of a Fund of 200 Million DM for the aid of Jewish victims of the Holocaust in Eastern Europe, who are needy and have not received any compensation yet.

## ATTACHMENT

### GERMAN COMPENSATION LAW

#### **Sample comparison calculations**

Base data:

Sum insured:	Reichsmark 10,000
Birth date	June 1, 1895
Begin of insurance	June 1, 1925
Maturity date	June 1, 1960
Compensation proceeding (if any)	June 1, 1960

#### *Example I: No victim of Nazi-persecution*

Termination of premium payment:	June 1938
At maturity date (1960) policyholder is alive	
Payout:	815.70 DM

#### *Example II: Victim of Nazi persecution*

Cancellation of contract and confiscation of surrender value by Nazis	June 1938
At maturity date (1960) policyholder is alive	
Payout:	2,516.50 DM

**ATTACHMENT**  
**DETAILED CALCULATION EXAMPLE I AND II:**

*Example I: No victim of Nazi persecution*

sum insured	10,000 RM		
conversion to non-contributory policy (1938):	4,240 RM		
i. e.	DM	424	
profit participation and dividends:	DM	138.20	
old savings compensation	<u>DM</u>	<u>253.50</u>	
	DM	815.70	
deductions:			
premiums	DM	0.	
<hr/>			
<b>Total benefit paid out in 1960</b>	<b>DM</b>	<b>815.70</b>	
<b>to policyholder by insurance company</b>			

*Example II: Victim of Nazi persecution*

sum insured: 10,000 RM  
 cancellation of policy (1938), confiscation of proceeds by Nazis  
 surrender value: 2,110 RM

but: face value considered conversion of face value - RM - into face value DM

assuming (fictive) premium payments	DM	4,250
profit participation and dividends:	DM	892.50
old savings compensation	<u>DM</u>	<u>429.00</u>
		5,571.50

deductions:

no deduction of confiscated amount		
premiums payable in RM converted 1:10	DM	231.40
<u>premiums payable in DM after 1948</u>	<u>DM</u>	<u>2,823.60</u>
<b>Total benefit paid out 1960</b>	<b>DM</b>	<b>2,516.50</b>
<b>to policyholder by compensation office</b>		



# **Dr. Tamás Földi**

DIRECTOR OF THE PUBLIC POLICY INSTITUTE  
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## **Insurance Claims in a Historical Context with a Special Regard to the Holocaust in Hungary**

Break-out Session on Holocaust-Era Insurance: Postwar  
Government Compensation Programs and Nationalization

### SUMMARY

Recent emergence of claims by Holocaust survivors on property lost during or after the Holocaust era is a consequence of the end of the fall of communism in Eastern Europe. This made possible the reparation for human and material losses in East-European countries and gave a rise to claims by Holocaust survivors for lost assets, as well as, for those assets which were owned by the victims of the Holocaust.

In the early seventies Germany paid reparation to individual survivors who lived in Hungary but they received relatively low amounts.

Hungarian governments prior to 1990 made only vague declarations on reparation but were effectively reluctant to pay, although Hungary had also an own share in the Holocaust misdeeds. The reluctance was due mainly to political reasons but the relatively low income level of the general public, the potential claims of non-Jewish civilians were also a hindrances in this respect, aggravated by the fact that Hungary had in the afterwar period a relatively large Jewish origin population which is still today about 80, 000 - 100,000.

First the largest postwar inflation and later the liquidation of private insurance companies made impossible payments to owners of life insurance policies based on contracts concluded prior to 1945. Heirs

of Holocaust victims shared in this respect the fate of other citizens of the country. Capital collected by mostly directly or indirectly foreign-owned insurance companies could have been served as a basis for paying insurance claims, since the loss of their Hungarian affiliates and partners was insignificant in relation to their total capital. On the other hand similar claims could have been raised by other Hungarian citizens who owned insurance policies.

Recently beyond the general rules of reparation of the victims of totalitarian regimes the Hungarian government acknowledged a special responsibility towards the remaining Jewish population and pays an additional [pension] to Holocaust survivors. The extension of the respective Public Foundation by those assets which belonged to victims without legal successors would be a justified and feasible way of satisfying claims. According to the Hungarian legal principles individuals have no more domestic legal title to claim for assets lost since such claims by individuals were settled paramountly through the Hungarian reparation legislation after 1990. This legislation covering several acts and amendments tried to balance the payment capacity of the country and the justified claims, but did not involve the reparation of losses of insurance policy holders.

Motto: "A peace loving man ... does not allow perverting his or others' truth, clear rights, doing out of his and others' *deserved claims*<sup>1</sup> by no kind of brute force, intimidation, dissuasion, and dirty tricks. (From the "Ten Commandments of Policy Conduct of a Peace Loving Man" by István Bibó).<sup>2</sup>

## INTRODUCTION

Claims by Holocaust survivors and by victims of other crimes against humanity committed by totalitarian regimes pose a number of difficult questions. Several approaches to such problems can be applied parallelly, which do not overlap each other. The most general approach is

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<sup>1</sup> italics by the author of this paper

<sup>2</sup> *István Bibó* (1911-1979) one of the most eminent political thinkers, cabinet minister during the 1956 revolution.

the ethical one which condemns all crimes and justifies all claims regardless to law or historical circumstances. Nevertheless, even this approach cannot be totally refused as non-valid. The legal approach often yields another judgment than the ethical one by taking into account specific points of views that may be disregarded by a general ethical approach. There exist a difference between the retrospective judgment of the question and that taking into consideration specific historical circumstances. This paper applies the last mentioned approach and tries to reveal historical facts and describe circumstances contemporary to the misdeeds, thus putting the question into a historical context.

Just from this point of view it is almost unavoidable to raise the question why claims by Holocaust survivors came to the foreground of interest after more than 50 years. Possible explanations of this are manifold. It can be hardly denied that the collapse of the Soviet Empire contributed to the revival of such claims since Jews living in the satellite countries alongside with the victims of communism have the right to be compensated. This is the more topical since in these countries Holocaust survivors did not get a reparation adequate to their human and personal losses neither from their home country nor from Germany. Namely Germany satisfied such claims to a restricted degree because the justified suspicion that the reparation provided, will help more the communist governments suffering of an acute shortage of Western currency than Holocaust survivors. Other countries that hold assets of Holocaust survivors shared this assumption. Another argument for the restricted reparation paid to Jews in the East European countries was that in many cases the governments of the countries concerned were themselves accomplices in crimes committed against Jewry by the German Nazis.

Reparation was put on the agenda almost immediately after the fall of communism. Although the solutions were different in methods and extent in the various countries of Eastern Europe, the start of the process activated also those survivors of Holocaust who emigrated to the West after the war and also those who avoided persecution by emigrating before the extermination started but left behind large assets in the countries concerned. Many victims of the Holocaust and the persecution prior to it placed their assets in the banks of third countries. Another source of claims can be attributed to the fact that after the end of WW2 the victorious occupying powers confiscated in Germany or in other countries such precious goods that belonged originally to people of Jewish origin (gold, artifacts) but were previously confiscated by the authorities of the countries concerned. Historical investigations which were hindered prior to 1989 because of the bipolarity of international

relations and also the reglementations of archives, not to open their records prior to 50 years after they were deposited, then proved the existence of such goods. These investigations proved also that some countries accepted the offer by communist countries in secret talks to withhold originally Jewish property as a kind of reparation for losses they suffered by nationalization of their property by communist governments. Thus the fall of communism in Europe put the whole question under a new light. Perhaps a psychological momentum can also be [found] behind the new wave of claims. Immediately after the war many survivors were happy because of having avoided the worst consequences of persecution and did not take so much care about their losses. By now even the youngest survivors of the Holocaust are becoming elderly people. They would not like to miss the last chance to get a reparation for their material or pecuniary losses. Many of them are in need of a supplementary source of income in retirement especially in East-Central- Europe.

### THE HISTORICAL BACKGROUND

1. Hungary was occupied by German troops at March 19, 1944. In April 1944 a number of legal acts were issued that deprived the Jewish origin population, which enjoyed until then a relative good position in Hungary in comparison to other German occupied or satellite countries, of their human and civil rights. Their wealth was conscribed and practically confiscated<sup>3</sup>. Except Budapest Jews, over 440,000 persons were deported during the summer of 1944 to Auschwitz, Germany and Austria. Out of them over 150,000 including 10,000 from Budapest came from the present territory of Hungary. Further 90,000 – 100,000 were deported after the mass deportation. As a consequence 200-210,000 people of the present territory and a quarter of million from the rest of the territories under transitory Hungarian rule lost their lives.

Human losses were caused also by the Soviets. The estimated number of those who died in Russian POW camps reached 20,000.

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<sup>3</sup> The latter measure was taken by the Government Decree 1944. 1600/ME on the registration and freezing of the property of Jews. In *Magyar Közlöny*. Official Gazetteer. vol. 1944. (in Hungarian.)

The number of survivors at the present territory of Hungary was about a quarter of million and at the other territories only about 75,000.<sup>4</sup> This ratio does not express real proportions of losses at the present territory of Hungary since many Jews fled from last mentioned territories to the present territory of the country.

Almost every deportee and most of those who were not deported lost their movable properties or at least a considerable part of it.

Statistical evidence is neither available of the number of those who lost their lives and had life insurance policies nor of the number of those survivors who were the potential heirs of those insured. Nevertheless, since the death toll was higher at the less developed territories of the country than the average, one may assume that more insured persons' legal successors survived, than of those who were not insured and perished by the Holocaust.

Although most of the human losses occurred after the German occupation of Hungary, losses of the Jewish origin population started already before that period and affected not only those living within the present borders of Hungary but also those who became subject to Hungarian authorities as a result of the expansion of Hungarian territories between 1938 and 1941 on account of Czechoslovakia, Romania and Yugoslavia. Over 40,000 lives were lost as a result of two major measures taken by the Hungarian government:

- From July 1941 those who could not prove their Hungarian citizenship were deported to the German occupied former Polish territories which led finally to their execution by the SS. Many lives were lost due to the lack of food and shelter and the cruelty of Ukrainian Nazis, who tortured them during the deportation march. Later this measure was annulled.

- From 1939 on Jews were excluded of the normal military service and forming for them labor service units has started which arrived to a climax in 1944. People of Jewish origin called up to these units wear their own civil clothing and the adaptation to changing weather was made possible only with a help of their families, if at all. When Hungary entered the anti-Russian war labor service units were transported to places which became the theater of war (Ukraine) and were simple by their circumstances much more exposed to losses of their lives than ordinary soldiers, not to speak of the wide-spread brutality of Hungarian soldiers who were their guards. It is difficult to distinguish between the

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<sup>4</sup> For data above see Stark Tamás: *Jewry during the Catastrophy Period and after the Liberation 1939-1955*. MTA Történettudományi Intézet. Budapest 1995. 109 p. (in Hungarian)

losses which occurred by their deprived situation and the losses caused by military actions and the hard winter. Nevertheless the fact that in 1942 actions were taken by the Hungarian Ministry of Defense to refrain brutality proves that many human losses were caused by other reasons than winter and warfare.<sup>5</sup>

2. From October 1944 up to April 1945 the present territory of Hungary became a theater of war. War damages, confiscation of material and pecuniary goods by both fighting foreign armies caused a loss of 40 per cent of the estimated national wealth of the country in 1944. 0,7 per cent of these losses were suffered by social insurance and private insurance companies that made out in absolute terms USD 30 million of 1938 value. National income which was in the prewar years much below the European average fell down in 1945/46 to the half of that of the previous year, and in the next year it arrived only to 60 per cent of base period. Due to human losses suffered per capita national income decreased somewhat less.

3. The foreign balance of the country was characterized by a total prewar debt of USD 578 million in October 1945, and Hungary had to pay as reparation according to the peace treaty of Paris after deducing the later decreases USD 131 million at 1945 prices. According to the Potsdam Agreement in 1945, Hungary lost its 280 million USD liabilities with Germany accumulated by wartime exports, while the claims by Germany making out a value of USD 30 million were ceded to Soviet-Russia.<sup>6</sup>

4. Foreign and domestic debts, as well, as money emission by the Soviet army and the emission of the pengő currency by the National Bank of Hungary to cover current government expenditure and overall shortages caused a hyperinflation of unprecedented height, which totally ruined the actual currency system of the country. The process was halted only in 1946 by introducing a new currency, the forint.<sup>7</sup>

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<sup>5</sup> The concise history of the Holocaust in Hungary is described by Braham, Randolph: *The Politics of Genocide. The Holocaust in Hungary*. Vol.1-2. New York 1981. Columbia University Press. 1269 p.

<sup>6</sup> Pet Iván - Szakács Sándor: *The history of the Hungarian economy of four decades 1945-1985*. Vol. 1. The reconstruction and the period of directive planning. Budapest 1985. Közgazdasági és Jogi Könyvkiadó. pp. 17-25. (in Hungarian)

<sup>7</sup> Ausch Sándor: *Inflation and stabilization in the years 1945-1946*. Budapest 1958. Kossuth Könyvkiadó. 190 p. (in Hungarian) and Pet -Szakács op. cit. 43-76.

The total collapse of the pengő currency freed the government of the obligation to convert pengő notes to the new currency issued.<sup>8</sup>

5. Changes in property rights started immediately after the liberation by the Russian Army of a substantial part of the Hungarian territory of the Nazi rule. First, land was deprived of owners of large landed estates by the land reform that distributed land among landless rural population or nationalized it. Nationalization of non-agricultural private property started also in 1945 with the mines, then at the end of 1946 the five biggest metallurgy and engineering companies, as well as the major electric power stations were put under government's economic control.<sup>9</sup>

But already prior to this, owners of companies in the manufacturing industry were deprived of their right of disposition by the Soviet Army, the mostly communist lead worker's councils, government commissioners and the legal actions by the government.<sup>10</sup>

In 1947 the eight largest banks and 344 other banks and companies were nationalized. Further major steps of nationalization included after March 1948 the manufacturing industry and wholesale trade later on retail trade. Also the largest part of small and medium sized companies was either nationalized or forced into government controlled co-operatives.

As a result of large-scale nationalization in 1948 joint stock companies were transformed to national enterprises their stocks and other securities issued by them became invalid. So the Stock Exchange having been reopened in 1946 was closed in 1948 too.<sup>11</sup>

In 1952 urban and larger non-urban residential estate was also nationalized.<sup>12</sup> Private sector was reduced also by the forced collectivization and as a result, its share fell under 5 per cent of the produced GDP.

The confiscation of most of the movable and all immovable property of emigrants was an additional violation against property rights

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<sup>8</sup> See: Pet -Szakács op. cit. 62.

<sup>9</sup> See: Pet -Szakács op. cit. 37-75.

<sup>10</sup> Földi Tamás: First steps of restriction of capitalists' property rights in the Hungarian manufacturing industry (up to the Fall 1945) in *Közgazdasági Szemle*. Vol.10. no. 4. April 1963 pp. 385-398 (in Hungarian)  
Documents on the history of Hungarian manufacturing industry 1945-1946. In *Levéltári Közlemények*. Vol. 31. 1961. pp. 205-262 (in Hungarian)

<sup>11</sup> See: Pet -Szakács op. cit. pp. 76-103

<sup>12</sup> Decree issued by the Presidential Council 4/1952 *Magyar Közlöny*. Official Gazetteer. February 17, 1952 (in Hungarian)

that lasted throughout the whole Communist era. Emigration was rather widespread among middle class people regardless to their ethnic origin.

About 40,000 Jews left Hungary before the Communist regime closed the borders in 1949. In 1956, when a massive emigration took place having embraced all strata of the society, further 20-25 thousand Jews left the country.<sup>13</sup>

Some thousands left Hungary between 1956 and 1989 mostly illegally, since the regime tolerated emigration to a very small extent. Many of them were of Jewish origin. Emigration did not stop even after 1989 but remained without legal consequences.

## SITUATION OF THE INSURANCE SECTOR UNTIL 1948

1. The number of insurance companies enlisted in the Insurance Yearbook for 1943/1944 was 36.<sup>14</sup>

Prewar insurance companies were of a larger number since the affiliates of British insurance companies having had their registered head office outside Hungary stopped their activities after Hungary declared war against Britain in 1941. Their assets and liabilities were transferred to the remaining insurance companies. The total number of insurance companies in Hungary with head office registered abroad, prior to 1941 was 22.<sup>15</sup>

Wartime inflation affected the insurance sector as well.<sup>16</sup> Severe losses were caused to insurance companies due to war damages of office buildings and residential real estate owned by them, different kinds of confiscation by the occupying foreign powers, the freezing of their bank accounts, hyperinflation that hit their securities. The latter loss was the more significant since during the war insurance companies were obliged to purchase government bonds which totally lost their value. Also the devaluation of their real estate fortune added to the dramatic situation. Their assets ceased to bring yields even after the stabilization since rental prices were fixed at a low level and no revaluation act was issued to convert security values to the new currency. Insurance companies after

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<sup>13</sup> See: Stark *op. cit.* p. 107

<sup>14</sup> *Hungarian Insurance Yearbook*. Vol. 35. 1943-1944. Budapest 1943. 346 p (in Hungarian)

<sup>15</sup> Verbal information by Dr. Gál Nyáry, legal adviser to the Center of Credit Institutes Corp.

<sup>16</sup> *Hungarian Insurance Yearbook*, 1943-1944 pp 124-127.

the massive nationalization did not dispose anymore with reserves to pay. In spite of the optimistic statements of an author, who as the editor remarks was an eminent expert hiding under a pseudonym, insurance companies were near to bankruptcy. To be honest to that unknown person one has to admit that those tasks which he attached to his forecast could not be fulfilled in the coming years.<sup>17</sup>

3. According to the last mentioned source 17 domestic and 10 foreign insurance companies were active at the insurance market. After 1945 the number of insurance companies decreased as consequence of the take-over of nine German and Austrian owned insurance companies by the Russian owned but in Hungary registered East-European Insurance Corp., which followed from the decisions of the Potsdam Agreement. Four of them were of Austrian and four of German property, the remaining one was registered in Budapest, but since belonging to the confiscated Anker shared the latter's fate. Among these Allianz, Anker and Victoria merits a special mentioning. Generali, Adria being of Italian ownership were among those foreign insurance companies that maintained their businesses after 1945 too. Those Austrian insurance companies in which British, Italian or Hungarian participation could be indicated were exempt of the confiscation. Both Italian companies participated in Hungarian insurance companies as well.<sup>18</sup>

According to another source, published almost simultaneously, the number of private insurance companies was only 22 out of which seven were foreign-owned already in prewar time and two others had new Russian owners. The difference can be attributed to different starting points: whether these sources quoted items that were figuring at the Registry Court or they refer only to those which actually made businesses.<sup>19</sup>

Russian owned companies were transferred to the Hungarian State late 1954. Insurance companies merged with the Hungarian State Insurance Company.

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<sup>17</sup> *Hungarian Insurance Compass, 1947*. Vol. 11. Budapest 1947. Apor Sándor. pp. 18-22. (in Hungarian)

<sup>18</sup> *Hungarian Insurance Compass 1947*. pp. 123-161. and the information provided by Dr. Nyáry

<sup>19</sup> *Business Financial and Stock Exchange Compass for the years 1947/1948*. Ed. by János Kallós. Budapest 1948. Kallós Albert pp. 249-257.

## COLD NATIONALIZATION OF INSURANCE COMPANIES

1. Against the common belief insurance companies were never nationalized, they existed formally until 1950. What happened was a process that may be called "cold nationalization". This included the liquidation by legal force of insurance companies. The executor of the liquidation was the Hungarian government and the State took over also the real estate assets of insurance companies in 1950, i.e. two years before the general nationalization of urban residential estate.<sup>20</sup>

2. The "cold nationalization" started with merging insurance companies into 10 which were to be liquidated. Their accounts are still managed by the Pénzüntézeti Központ Rt. (Center of Money Institutions Inc.) an existing financial institution under government control.

3. During the liquidation insurance companies were forced to hand over their assets and liabilities - except those related to life insurance - to the newly established State Insurance national enterprise. Nevertheless the latter did not become neither a proprietor - being merely an administrator of the balances mentioned - nor a *de iure* successor of the liquidated companies.

4. The recently established foreign insurance companies in Hungary did not claim for being a legal successor of their pre-1950 companies since the latter were *de facto* liquidated by the Hungarian government.

5. However it is an open question how much of the assets of the foreign owned insurance companies could be saved by hidden financial transactions of the consequences of cold nationalization or of the take-over of their assets by the Soviets.

6. Finally holders of pre 1945 insurance policies did not receive any return on their capital accumulated.

## SPECIAL ISSUES RELATING TO LIFE INSURANCE

1. Foreign companies' role in life insurance business has decreased in the interwar period. In 1928 their share was still almost 52.5 per cent while up to 1938 this share has reduced to 27.6 per cent,

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<sup>20</sup> 4247/1949 Government decree amended by the 113/1950 MT Government decree on the liquidation of some enterprises and 2444/1950 MT Government decree on the property rights, management recording and trade of state owned immovable property. See the respective volumes of *Magyar Közlöny*.

although the total revenue of insurance premia did not reach the 1930 level up to 1940. The decrease of foreign share was mainly due to the bankruptcy of the Austrian Phoenix Insurance Corp., a major actor in the life insurance business whose assets were taken over by a company registered among Hungarian insurance companies. Another factor of the decrease was the enlargement of the territory of Hungary after 1939 where mostly Hungary based companies could raise their share in insurance business although to a lesser extent in life insurance than in the total insurance business.<sup>21</sup>

2. Until 1941 *vis major* clauses were valid for life and property insurance. In 1941 a decree expanded the validity of life insurance to loss of human life caused by war events against a minimum extra payment out of which a fund was established to cover the expenses of insurance companies. (This extension did not relate to property insurance.)

No distinction was made in this respect between Jews and non-Jews. This situation lasted until the German occupation of Hungary. In comparison to other compatriots Jews were *de iure* handicapped in insurance matters in the period between March 19, 1944 and April, 1945.<sup>22</sup>

Nevertheless, actual conditions restricted the possibility to raise such claims to a minimum, since the time lag between the start of such losses and the deprivation of rights was too short for raising by documents well established claims.

3. Prior to the stabilization in 1946 a decree generally prohibited both active and passive insurance payments. Insurance policy holders' rights were severely restricted in order to bring their claims in line with remained payment capacity of the insurance companies. The revaluation was fixed in pengő and adópengő (a money substitute). The decree contained also the potential prolongation of the payment of dues to maintain insurance contract of those who could fulfill their obligations. This decree seemed to save but actually paralyzed the life insurance sector.<sup>23</sup>

This legal action was not only aimed at the restriction of surplus money outflow not controlled by the National Bank, but also caused by the fact that insurance companies lost most of their assets.

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<sup>21</sup> *Hungarian Insurance Yearbook 1943-1944*. pp. 124-130.

<sup>22</sup> Verbal information by Dr. Gál Nyáry

<sup>23</sup> Government decree 6400/1946 ME on the revaluation of life insurance claims. *Magyar Közlöny*. Official gazeteer. 1946. no. 127. June 6. (in Hungarian)

According to a cautious criticism of the decree by the anonymous contemporary author already cited the revaluation life insurance policies was still unripe for a final judgment, since those who issued the decree did not take into consideration the disastrous situation of insurance companies which are not able to collect capital only to cover the risks involved in life insurance.<sup>24</sup>

This fact was reflected by the amendment of the 6400/1946 which prolonged the procedure of revaluation up to mid-1947. Simultaneously it was allowed to pay rents in monthly installments at a fixed rate corresponding to 1/5 of the nominal pengő value valid at the end of 1944.<sup>25</sup> Nevertheless an actual revaluation did not take place and as a consequence no payments were possible.

During the liquidation of insurance companies life insurance was exempt of the annihilation, but even this did not change the situation of insurance policy holders.

According to some estimations the present value of the life insurance claims by victims of Holocaust is about USD 2.5 billion.<sup>26</sup> According to our own calculations some 80,000 Jewish origin people had life insurance policies.

Only quite recently and only foreign insurance companies admitted their responsibility for claims of former policy holders and an agreement was reached with the Italian insurance company Generali that shows a willingness to pay a lump sum of USD 100 million as compensation. The discussion is still going on with Generali and also the German Allianz is involved in such discussions.<sup>27</sup>

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<sup>24</sup> See *Hungarian Insurance Yearbook* p. 21.

<sup>25</sup> Government decree 12.640/1946 ME on the revaluation of claims arising from life insurance contracts amending the decree 6.400/1946 ME.

<sup>26</sup> The Endless Story. Recent development of reparation matters. In *Szombat* 1998 no. 8. p. 18.

<sup>27</sup> The Endless Story cited above

## THE TREATMENT OF THE COMPENSATION OF PEOPLE OF JEWISH ORIGIN UNTIL 1990<sup>28</sup>

1. The first postwar Hungarian government acknowledged the responsibility of the Hungarian State in face of the Jewish origin people who lost their lives and/or property. This statement was never really followed by government actions prior to the fall of the communist regime. The Provisional National Government elected by the Provisional National Assembly late 1944 established already in 1945 the Government Commissariat for Relinquished Goods. Among the goals to be followed figured the task to use relinquished goods without a legal heir for the partial reparation of those who suffered damages due to deportation, but this task was never accomplished. Goods left behind by Hungarian Nazis or of those who took a refuge to Germany when Russian Army neared and the inheritance of deportees were equally treated.<sup>29</sup>

2. In 1946 a law was adopted by the Parliament on the establishment of a "Jewish Restitution Fund" which was designed to take over the property of those who lost their lives during the persecutions and had no legal successors. It should have been the goal of this Fund first to collect Jewish property, then to sell it and to support the survivors of persecution from the acquired capital. The property to be collected should have covered all movable and immovable property. Implementing this law started only after the Paris Peace Treaty was signed.<sup>30</sup>

3. The Paris Peace Treaty signed by the actually communist led Hungarian government in early 1947 obliged Hungary to hand over the property of the non-survivors without a legal successor to organizations

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<sup>28</sup> A summary review of the reparation process up to 1998 is presented by the paper of Feldmájér Péter: Bitter Restitution. *Szombat*. English edition 1998. pp. 2-5., in Hungarian a more detailed account is given by the recent manuscript of Lea Feldmájér, entitled "*The History of the Reparation of the Jewish Community from the Jewish Restitution Fund to the Hungarian Jewish Heritage Public Foundation*". 14 p. + supplements 10 p.

<sup>29</sup> Ács Gábor: The non-restituted fund. In *Szombat*. 1995. no. 7. p. 3. (in Hungarian)

<sup>30</sup> Act 1946. XXV on denouncing and milderling the consequences of the persecution suffered by teh Hungarian Jews. *Corpus Iuris Hungarici*, 1946. Ed. by Vincenti G. - Gál L. Budapest no date. Franklin Társulat pp. 104-106. reprinted in Gonda, László: *Jewry in Hungary 1526-1945*. Budapest 1992. Századvég Kiadó. pp. 299-304. Government decree 3200/1947 ME published in the respective volume of *Magyar Közlöny*.

of survivors in order to support them. This was in line with the formerly mentioned Hungarian law but even this has not been really implemented although the Jewish Restitution Fund started its operation in October 1947. In 1948 an inventory on proprietorless goods was compiled which is still to be found in the archives of the Center for Credit Institutes Corp. The sales of relinquished goods started after a long delay in 1949. Until mid-1953 the Fund sold properties in a value of almost 3 million forint legally equal to less than USD 300.000. The legal title of collection and sales of immovable goods were largely hit by the nationalization of residential estate that comprised also those immovables, which belonged to the potential assets of the Fund. The sad story of the Fund ended in 1954, when its assets were transferred to the State Office of Ecclesiastic Affairs, which sold later on step by step the relinquished properties. This process lasted until 1981. Incomes were used to cover the expenses arising of the legal obligation of the government which confiscated the wealth of the Jewish Community, to fund current activities of the Jewish religious communities. A part of this wealth was nationalized.<sup>31</sup>

Communist governments argued such a way that all citizens enjoy social care there is no reason to create differences among citizens according to past injuries. Facts behind this hypocritical stand show that while reforming the pension system, pensions were determined regardless to employment prior to 1945, a term which was prolonged in 1959 up to 1929. This meant that if somebody achieved pensioner age (60 years) as born in 1899 and worked between 1913 and 1929 these 17 years were not regarded as active period. A hidden additional deficiency of this new act was that between 1929 and 1933 a massive unemployment had existed in Hungary which in fact for many shortened the respective period by further years. In contrast to members of small business co-operatives who were included to pension schemes already in 1951, private small shopkeepers were embraced by the pension system not before 1962 and private retail traders even later, in 1970. These facts clearly show that instead of the social care principle the promotion of nationalization and government control was the leading principle of the pension system. It can be added that many people of Jewish origin belonged to the handicapped categories.<sup>32</sup>

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<sup>31</sup> Ács Gábor op. cit. pp. 4-5.

<sup>32</sup> For the data see General Directorate of Nation-wide Social Security: *Four Decades of Social Security 1945-1985*. Budapest 1985. Népszava Könyv és Lapkiadó. pp. 11-14.

4. The Hungarian government did not return confiscated Jewish owned precious metals which were taken over at the end of the war by the French and US army without a claim for the property and returned to the National Bank of Hungary after the Paris Peace Treaty became valid i.e. in 1947 and in 1948. Later these were sold by government-controlled agencies. (For further developments see the next chapter.)

5. In 1971 between German authorities and the Budapest-based Organization for Promoting the Interests of People Persecuted by Nazism in Hungary an agreement was concluded about the reparation to be paid for Jewish origin people who were Hungarian residents at the beginning of the year. Accordingly the Organization which stood under communist control collected claims and received German reparation. A sum of 97 million German Mark was transferred in three installments and converted at an unrealistically low but legally valid exchange rate to the Hungarian currency and paid out with deduction of expenses to 60,000 claimants. Those who were subject to inhumane medical experiments received a special reparation.<sup>33</sup> Some German companies paid compensation to former slave laborers who served in their factories (e.g. I.G. Farbenindustrie).

6. The failure of the Jewish Restitution Fund was of epochal importance. The number of people to be compensated decreased not only by emigration but also by natural mortality. This contributed to the decrease of Holocaust claimants during the last more than 50 years. When comparing data of survivors i.e. potential claimants was 325,000 just after the war, in 1957 under *ceteris paribus* circumstances still over 200 thousand claimants should have been satisfied. In 1971 German reparation involved merely 60,000 people and the present number of Holocaust claimants is below 20,000 Lea Feldmájér rightly puts an emphasize on the loss which Hungarian Jewry suffered due to the lack of implementation of the respective laws of 1946/1947.<sup>34</sup> The reluctance of the post-war reparation of Holocaust survivors had another consequence as well. During the period between 1947 and at least the beginning of the eighties so many other injuries were committed by the communist governments that they diminished the relative weight of the anti-Semitism driven sins of the former governments, not to speak of those

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<sup>33</sup> Government decree 21/1971 on the satisfaction of some reparation claims by the National Organization for Promoting the Interest of People Persecuted by Nazism in Hungary. in *Magyar Közlöny* 1971. pp. 489-490. Documents from the Archives of the Alliance of Jewish Communities in Hungary.

<sup>34</sup> Feldmájér, Lea op. cit.

who suffered under both totalitarian regimes (forged trials, intra-country deportation, confiscation, nationalization).

### THE GENERAL PRINCIPLES OF REPARATION OF MATERIAL LOSSES CAUSED BY TOTALITARIAN REGIMES IN HUNGARY

1. The laws issued after the political change in 1990 admitted the responsibility of the Hungarian government for losses caused by the legal actions of governments contradicting their responsibility to observe human rights and general principles of law.

2. Simultaneously Hungarian legislation rejected the principle of direct reprivatization i.e. to reestablish the property right of former owners - except the constructed immovable formerly owned by churches - in order to avoid endless and overcomplicated claims by more than one owner for the same property and because of the changes in those immovable properties during the time passed. (Some were demolished, other were hugely expanded etc.) Law making avoided also to follow the principle of general and unified compensation based on citizen's rights. The law expressed a strive for determining claimants right case by case. This determination ended in most cases in providing persons having suffered persecution and/or material losses and their legal successors with "reparation bills" that were intended for use to buy consumer goods, to purchase immovable, or rights generating income, to sell them at secondary market. These bills are traded at the Stock Exchange and underwent considerable changes in actual value between 20 and 90 per cent of the nominal value.

3. A further restriction in Hungarian law making is that legal persons are excluded from the reparation process. Thus only natural persons acquired the right to be compensated.

4. Also those foreign residents or citizens fall under reparation laws who lived in Hungary during the periods of persecution and suffered human and material losses.

5. In order to balance the payment capacity of the country and the justified claims the amount of reparation is fixed at a low proportion of the lost value.

THE REPARATION FOR PEOPLE OF JEWISH ORIGIN AFTER  
1990<sup>35</sup>

1. In general the rules of reparation of the losses suffered by people of Jewish origin do not differ from those relating to people who suffered losses because other causes than racial discrimination. But this is the final result of a prolonged discussion on Jewish claims, which started at a zero point. Decisions by the Court of Constitution remedied deficiencies of the original reparation acts. E.g. claims due to military work service accomplished within the borders of Hungary were initially not regarded as legal title for reparation. This was amended by a later act.

2. In 1993 the Court of Constitution after having investigated the story of the Hungarian Jewish gold took a decision which excluded the individual reparation of the former owners of the confiscated gold. The part of this, which belonged to persons without a legal successor and was sold by the State, is to be involved into the reparation in favor of the propriety of a fund for Jewish reparation, an organization the creation of which delayed until 1996.<sup>36</sup>

3. In 1996 the Hungarian Jewish Heritage Public Foundation was established to which an annually fixed amount should be allocated by the Budget and from this the survivors can obtain an age dependent monthly support paid out through the Pension Fund.<sup>37</sup>

According to a message from New York dated June 7, 1997, the Hungarian government transferred an amount of USD 28 million to the World Jewish Congress, out of which the estimate 20.000 Hungarian Holocaust survivors will receive a regular monthly aid.<sup>38</sup>

4. So far as the reparation of foreign residents is concerned the following data are available.

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<sup>35</sup> See Feldmájer Péter op. cit.

<sup>36</sup> Court of constitution decision 16/1993 AB (III. 12.)

<sup>37</sup> See *Szombat* 1996. no. 10. pp. 6-8.

<sup>38</sup> <http://www.internet.hu/zsido/zsh> 24 htm Untitled

**Table 1. Reparation of foreign residents by cases and in the percentage of the total reparation payments**

<b>Reparation by titles</b>	<b>No. of cases</b>	<b>Paid amounts</b>
Reparation of personal losses	596,019	56,249,116 thousand forints
out of which foreign residents	33.13 %	35.95 %
USA	16,855	2.71 %
Israel	11,980	0.80 %
Germany	7,709	2.862 %
Reparation of lost assets	1,429,494	80,920,422 thousand forints
out of which foreign residents	72,859	12.62%
USA	11,388	2.13%
Israel	3,808	0.04%
Germany	29,548	5.14%

Source: Kárpótlás és kárrendezés Magyarországon 1989-1998 (Reparation and Setting of Claims on Losses 1989-1998), Budapest, 1998, Napvilág Publisher, pp. 685-693.

The interpretation of these data needs further investigation. It can be supposed that a reasonable number of US claims fulfilled were raised by non-Jews, while the data relating to Germany overwhelmingly reflect claims raised by those German residents who were deported as a consequence of the Postdam agreement.

5. Swiss banks and the government transferred a lump sum of USD 8 million to the Hungarian Jewish Heritage Fund.

6. Recently also the German government shows a willingness to pay for Holocaust survivors living in Hungary, although the requirements set for the entitlement are far from being satisfactory, not to speak of the procedural side.

## CONCLUDING REMARKS

The problems of the reparation for people of Jewish origin is far of the final solution. The following reasons make this solution difficult:

- the economic and of living level of Hungary and especially the lability of the equilibrium of the central budget,
- the moral and real argument by people of Jewish origin that their losses were disproportionate higher than those of non-Jews, also

backed by the fact that many of them suffered under both totalitarian regimes,

- the in part open, in part hidden anti-Semitism existing in the country with the second largest Jewish community in Europe (about 80-100 thousand). Politicians in Hungary are afraid of the expansion of anti-Semitism in the light of a special treatment of Jewish losses in a country where almost each citizen suffered material losses especially after 1944, when Hungary became a theater of war and as a consequence of the four decades of communism. This circumstance is considered also by the Hungarian Jewish community which is relatively moderate in claiming for additional reparation under new legal titles. (e.g. the author of this paper has no information about claims against Hungarian companies or their legal successors, which enjoyed the benefit of military labor service in their war-time production activities. A reason for this is that many of those who accomplished such a service were that time happy to avoid harder circumstances than those which prevailed in most of these factories, not to speak about those cases, where the original owners of the workplaces were themselves, Jews. This is not a speculative example but relates to a concrete situation well known by the author of this paper).
- the rivalry among Jewish organizations and especially the differences between those in Hungary and abroad,
- the fact that most of the people of Jewish origin who suffered persecution have no real contact with any of the Jewish organizations participating in the discussion to solve the problems,
- the reluctance of those who should pay compensation for the wealth they acquired as a consequence of the Holocaust without hard pressures. Recent readiness to fulfill such claims is due to avoiding further humiliation of those institutions which were involved in withholding Jewish property or compensation for the gains that can be attributed to forced services by Jews during the period of persecution.

A way out of the present situation could be that those foreign insurance companies still existing and having been participated to a large extent in Hungarian life insurance business should take the responsibility for compensating the proven heirs of life insurance policy holders or the Hungarian Jewish Heritage Foundation. Their payments would compensate the capital collected prior to 1944 by companies which they owned directly or indirectly. Such payments could contribute to the

compensation of survivors, whose number is diminishing day by day and also to the preservation of Jewish cultural heritage and the constructed objects belonging to it.

Finally, it has to be admitted that research on Holocaust insurance claims necessitates further investigation of historical records. This research should be accomplished in the near future. Such a research requires substantial efforts that cannot be based exclusively on voluntary work. Therefore, I suggest that a reasonable and proportionate amount of the compensation paid or to be paid in the future by insurance companies should be allocated for promoting the respective research. This proposal is taking into account the difficulties of identifying insured Jews and expresses also the intention to preserve the names of victims also this way.

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#### *About the author*

*Born in Budapest in 1929. He is of Jewish origin and survived in the ghetto in Budapest. After having graduated at the Hungarian University of Economic Sciences in 1952, received six years later his Doctor title in economic history. Between 1956 and 1963 he published a series of papers on the economic history of the postwar period. He was employed over thirty years by the Hungarian Academy of Sciences and even today is the editor in chief of its English language economic journal. At present besides being the director of a private foundation based public policy institute, he is also the head of a research group assisted by the National Scientific Research Foundation (OTKA) investigating the reparation process in Hungary. His main publication is a two volume trilingual encyclopedic dictionary on comparative economic systems published in 1992 in Munich, London, New York.*

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# **Prof. Vojtech Mastny**

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## **The Impact of Post-World War II Nationalizations and Expropriations in East Central Europe on Holocaust-Related Assets**

Break-out Session on Holocaust-Era Insurance: Postwar  
Government Compensation Programs and Nationalization

The purpose of this presentation is to examine and evaluate the developments in the countries of East Central Europe where communist regimes were established after World War II with regard to the causes and consequences of the policies of nationalization and expropriation relevant to the holocaust-related Jewish assets.

The imposition of communism on East Central Europe after the defeat of Nazi Germany created a situation there radically different from that in Western Europe, where the end of the war meant political liberation, restoration of the rule of law, and continuity of the market economy. The East Central European developments, which brought widespread political, economic, and social damage, were complicated by the fact that the introduction of Soviet-style communist systems as it eventually took place after a brief period of genuine or sham coalition governments had not originally been planned to be implemented in the ways and at the time it was. There was less design than most contemporaries believed during the Cold War, thus making the proper understanding of the transitional period both crucial and difficult. The consequences were disastrous all the same—not only for the peoples concerned and the European order, but ultimately also for the local communist regimes and the Soviet Union as well.

Since the conditions in all countries were not the same, also the patterns of their development during the critical postwar years were often

quite different. Until the conclusion of the 1947 peace treaties with the defeated countries in Europe except Germany, the distinction between enemy and allied nations accounted for much of the difference. Germany, Italy, Hungary, Romania, and Bulgaria were in the former, Poland, Czechoslovakia, and Yugoslavia in the latter category, Austria straddling uneasily both because of its having been an integral part of Nazi Germany yet classified by the Allies for reasons of political expediency as its victim, entitled to be reconstituted as a separate state. In practice, the distinction was less respected albeit more readily invoked by the Soviet Union than by the West—primarily for the sake of economic exploitation.

Taking into account the political and economic changes that took place, there were three distinct stages of development:

1. The immediate post-hostilities period, lasting approximately until the end of 1945, characterized by widespread lawlessness and chaos, during which nationalization and expropriation measures were often taken haphazardly and inconsistently.
2. The transitional period of from 1946 to 1948, when nationalizations and expropriations were put into effect as a result of deliberate, though not necessarily systematic policies, introduced in ostensibly legal fashion by governments in which communists exercised important, sometimes decisive, influence but did not hold exclusive power.
3. Sovietization since 1948, when the Stalinist system was purposefully imposed by the local communists on behalf of the Soviet Union in all the areas where Moscow was firmly in control, namely, Poland, Czechoslovakia, Hungary, Romania, and Bulgaria, as well as—with limitations given by concern about the Western powers participating in the control of Germany—in the Soviet zone of Germany and the Soviet-occupied part of Austria, though not in Yugoslavia where such a system had already been introduced by the local communists on their own initiative.

The outstanding features of the first period were indiscriminate looting and violence by the advancing Red Army, the full dimensions of which have only recently been revealed from evidence in former Soviet and other communist archives.<sup>1</sup> In this respect, the difference between occupied and supposedly liberated countries was more in degree than in kind. Property deemed to belong to Germans and their allies, to persons labeled as Fascists or collaborators, and to other arbitrarily described

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<sup>1</sup>Norman N. Naimark, *The Russians in Germany: A History of the Soviet Zone of Occupation, 1945-1949* (Cambridge: Harvard University Press, 1995).

enemies was stolen, carried away, or simply destroyed. The Red Army systematically dismantled and transported to the Soviet Union industrial plants in not only the Soviet zone of Germany but also other territories it had overrun. From Hungary, for example, the entire equipment and inventory of the partly US-owned Tungsram electric company, known as the flagship of the country's industry, was shipped away by Soviet troops in 600 railroad cars.<sup>2</sup>

There was a measure of spontaneity in what was happening: the Vienna populace, for example, started looting the city's leading department store, formerly Jewish-owned, even before Soviet soldiers came to finish the job.<sup>3</sup> Everywhere individuals used the opportunity to settle personal scores, or simply acted out of greed. The victims were by no means merely Germans, let alone Nazis. They included Hungarians living in Czechoslovakia, and sometimes anyone who spoke German, occasionally even returning Jewish inmates of Nazi concentration camps whose native tongue happened to be German, and German anti-Fascists.

Much of the lawlessness, however, was not only tolerated but also encouraged by the Soviet authorities and local communist parties. This was particularly the case in the defeated countries that were at the mercy of the new occupation power, but was also common in the ostensibly liberated Poland and Czechoslovakia, where provisional coalition governments – unelected but not yet fully controlled by communists – were allowed to perform administrative functions. The resulting policies were not necessarily consistent. Different Soviet agencies in occupied Germany often operated at cross purposes and in other countries the activities of local communists were at first not sufficiently coordinated with Moscow. Politically, the Soviet Union was trying to win the victims of Nazism on its side, yet economically it was antagonizing them by its rapacity. It turned over formerly German territories to Poland, yet not before clearing away most of the movable assets.

In Hungary, Poland, Czechoslovakia, as well as the Soviet zone of Germany, the first radical economic measure was land reform, implemented under direct Soviet pressure. Arguably, the breaking up of large estates and redistribution of land were long overdue; however, the

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<sup>2</sup>László Borhi, *The Merchants of the Kremlin: Soviet Economic Penetration in Hungary*, Cold War International History Project Working Paper, forthcoming (Washington: Woodrow Wilson International Center for Scholars, 1999), pp. 7-8.

<sup>3</sup>Guenter Bischof, *The Leverage of the Weak: Austria in the First Cold War, 1945-1955* (Basingstoke: Macmillan, 1999), pp. 16, 36.

manner in which the land reform was conducted and its consequences were destructive rather than constructive. The goal was to break the power of the old landowning classes without giving the security of tenure to farmers; in Czechoslovakia, much of the confiscated land became state rather than private property. Eventually, temporary beneficiaries of the land reforms fell victim to the Stalinist collectivization of agriculture.

Czechoslovakia was also the country where the nationalization of industry and business, including private insurance, started first—as early as the fall of 1945. Aimed primarily but not exclusively at supposed national enemies and traitors, it was introduced by a series of presidential decrees, and implemented before being ratified by the later elected parliament. Reminiscing on the manner in which nationalization started, the chief of the communist-controlled Czechoslovak labor unions Antonín Zápotocký later observed that “had the party not begun pursuing nationalization regardless of established laws, it would not have compelled the noncommunist government to issue the nationalization decrees . . . . We had to teach people that it was not possible to maintain the old legality . . . but that it was important to violate it.”<sup>4</sup>

As an emergency measure—which later proved permanent—the post-World War II governments moved quickly to freeze bank accounts and insurance policies, denominated in deeply depreciated currencies. Access was allowed only in exceptional cases, to be determined by the authorities, and was seldom granted. All claims had to be reported, sometimes within an unreasonably short time limit, after which the state assumed the right to dispose with them.<sup>5</sup> In Hungary, they were effectively extinguished in August 1946 as a result of revaluation following the currency reform that had ended the worst hyperinflation history had seen.

The notion of “enemy assets” was used to justify arbitrary seizure of property. All that belonged to the defeated Germans was war booty in the Soviet view. Hence the Soviets opposed the nationalization pursued by Austria's non-communist government, with parliamentary support by the communists, which was intended to save the country's enterprises from being claimed by the Soviets as German-owned. Everywhere the alleged German assets included property stolen by the

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<sup>4</sup>*Rudé právo* [Prague], 31 January 1953.

<sup>5</sup>“Dekret presidenta republiky o znárodnění soukromých pojišťoven” [Decree by the President of the Republic on the Nationalization of Private Insurance Firms], 24 October 1945, *Sbírka zákonů a nařízení* [Collection of Laws and Ordinances], 1945, no. 103, pp. 224-31.

Nazis from Jews who had perished in the holocaust or emigrated. The newly installed governments—whether or not controlled by the communists—made little, if any, effort to identify, much less indemnify, the original owners, few of whom were inclined to file claims in such an unpropitious time.

The policy, or rather the lack of policy, of the postwar governments was consistent with their official line against anti-Semitism, which precluded singling out Jews as a special category, and was facilitated by the willingness of those surviving Jews who chose not to emigrate to assimilate and adapt to the new order. This willingness, encouraged by the Soviet Union's image as liberator from Nazism, also helps to explain the prominence of Jews in the new government administrations and communist party apparatus, especially pronounced in countries where relatively higher numbers of Jews survived, notably Hungary, but also in Poland and in Czechoslovakia.<sup>6</sup>

In traditionally anti-Semitic countries, such as Poland, anti-communism and anti-Semitism often merged. The notorious Kielce pogrom of June 1946, carried out with the complicity of the police, has long been regarded a provocation by the communist-controlled Warsaw regime calculated to discredit its political opponents in the forthcoming elections; from new evidence it appears more like a spontaneous outburst that the regime had not anticipated and was unprepared to handle.<sup>7</sup> All considered, whether victims or accomplices of the emerging communist regimes, Jews in East Central Europe remained in a precarious position.

Once the immediate postwar chaos subsided, the support for the idea of nationalization, which extended wide across the political spectrum in East Central Europe, did not substantially differ from its popularity much of Western Europe. This was the time when the bankruptcy of old-fashioned capitalism in the Great Depression was still a fresh memory, when the notion that capitalists had precipitated the war in order to profit from it enjoyed its superficial attraction, and when the public ownership of the key sectors of the economy was therefore widely regarded as not only politically correct but also socially just and economically beneficial. In such countries as Great Britain and France,

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<sup>6</sup>Charles Gati, "A Note on Communists and the Jewish Question in Hungary," in his *Hungary and the Soviet Bloc* (Durham: Duke University Press, 1986), pp. 100-107; Michael Checinski, *Poland: Communism, Nationalism, Anti-Semitism* (New York: Karz-Cohl, 1982), pp. 76-82.

<sup>7</sup>Andrzej Paczkowski, *Pó\_ wieku dziejów Polski, 1939-1989* [Half a Century of Polish History] (Warsaw: Wydawnictwo Naukowe PWN, 1998), pp. 190-93.

nationalizations of key economic branches believed to be in the public interest were carried out by non-communist governments.

In East Central Europe, too, nationalization was by no means supported only by the Soviets and the communists, nor were these always the ones promoting it most eagerly. In Czechoslovakia, it was the social democratic minister of industry, Bohumír Laušman, who urged immediate complete nationalization at a time when the communist prime minister Klement Gottwald described such a policy as “madness.” In Gottwald’s opinion, the need was for the establishment of clear boundaries between the nationalized and the private sectors in order to ensure “juridical security.”<sup>8</sup> Under the guidance they had been receiving from Moscow, the East Central European communists did not envisage the abolition of private enterprise within any particular time frame; in fact, they saw in its preservation a key feature distinguishing their “new democracies” from the Soviet system.<sup>9</sup>

The distinction conformed with the concept of “national roads to socialism,” supported actively promoted by the Soviet Union. This did imply eventual abolition of private enterprise though without a time frame; at issue, for the time being, were the different ways in which this ideological goal could be accomplished. On that subject, there were genuine discussions among communists in each country, particularly lively in Poland, as well as genuine differences between countries, which set especially apart East Germany—where Moscow regarded the preservation of private enterprise an indispensable prerequisite for Germany’s reunification under Soviet auspices.<sup>10</sup> Thus, even though there was no design, the policies steered by Moscow converged toward the ideologically defined communist economic model whose attainment was to be determined by politics rather than by economics.

In the event, the pace proved faster than originally anticipated. It was forced by the mounting Cold War confrontation between East and West, which Stalin had neither wanted nor expected yet precipitated all the same, and by the diminishing utility for him of the East Central

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<sup>8</sup>Josef Korbel, *The Communist Subversion of Czechoslovakia, 1938-1948: The Failure of Coexistence* (Princeton: Princeton University Press, 1959), pp. 163-64.

<sup>9</sup>Benon Dymek, *PZPR, 1948-1954* [The Polish United Workers' Party, 1948-1954] (Warsaw: Państwowe Wydawnictwo Naukowe, 1989), pp. 19-45.

<sup>10</sup>Wilfried Loth, *Stalins ungeliebtes Kind: Warum Moskau die DDR nicht wollte* (Berlin: Rowohlt, 1994), pp. 142-48.

European coalition governments, whose viability he had overestimated.<sup>11</sup> But the economic transformation still preserved some specific features in each country even after the political turnabout had taken place. These included in Poland the creation of particularly large state enterprises, in Czechoslovakia the nationalization of smaller units than elsewhere, in Hungary the establishment of the most elaborate system of state control. The prevailing pattern was that of controlling and restricting but not yet abolishing private enterprise. This was, as Zápotocký's proclaimed it, "a national revolution, not a social revolution . . . it does not socialize, it nationalizes. It does not set out to abolish private capitalist enterprises, it puts them under control."<sup>12</sup>

In this political and legal limbo, the private insurance industry, together with banking, found itself in a more difficult predicament than other economic branches. It became victim of the notion that it was the state's obligation to provide for the protection of individuals as well as the society against accidental damages and losses. The communists considered the state, with its greater available resources and the supposedly superior wisdom of its planners, more suitable to discharge that obligation than could any private enterprise, guided by the principle of profit. They caricatured capitalist insurance firms as inherently dishonest.

Once private enterprise was proclaimed both economically and morally inferior to public enterprise, it could only be made beneficial to the people if protected against its worse instincts. In practice, this meant cutting credit and imposing a system of regulations which, along with the depreciation of currency, made doing sound business increasingly difficult. As a result, most private firms became "trapped in an impasse of shortage of money and credits, fixed prices, increasing taxation, and accumulating deficit," yet were forbidden to stop production.<sup>13</sup>

It was a tribute to the vitality of the remaining private enterprise, the largely uninterrupted continuity of economic expertise, and the still unimpaired willingness of the population to work hard that the ideological experimentation, made worse by the drying up of foreign economic assistance other than UNRRA because of the incipient Cold

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<sup>11</sup>Vojtech Mastny, *The Cold War and Soviet Insecurity: The Stalin Years* (New York: Oxford University Press, 1996), pp. 23-29.

<sup>12</sup>Antonín Zápotocký, *Po staru se \_ít nedá* [We Cannot Live the Old Way] (Prague: Práce, 1949), p. 66.

<sup>13</sup>Iván T. Berend and György Ránki, *The Hungarian Economy in the Twentieth Century* (New York: St. Martin's Press, 1985), p. 193.

War, did not prevent a remarkably fast postwar recovery. This was particularly impressive in Hungary after its 1946 currency reform. By 1948-49, Hungary, Poland, and Czechoslovakia achieved the production levels, though not the standard of living, that had existed before the war.

The catastrophe that followed was the result of the imposition from the outside of the Soviet model, with its rigid planning, distorted priorities, disincentives for individual initiative, and reliance on compulsion. The economic change that took place in 1948-49 was the direct consequence not of the communist seizure of political power—which had occurred gradually or abruptly in the different countries already before—but rather of the abandonment by the communists themselves of the concept of “national roads to socialism.” This happened during the second half of 1948 at direct Soviet pressure in response to the Stalin-Tito break, which led Yugoslavia on its own, anti-Soviet road, as well as to the incipient recovery of Western Europe under the Marshall Plan, which prompted Moscow to organize its European dependencies into an economic grouping of its own, the Comecon.

The introduction of the Stalinist economic model, aimed at wiping out the last vestiges of private enterprise, was done in a fashion calculated to make a reversal, much less restitution, all but impossible; the advent of socialism Soviet-style was understood by its architects as marking the irresistible march of history. Whether the preferred way of eliminating foreign business interests was liquidation (as in Poland and Hungary) or takeover (as in Czechoslovakia), there was an intended break in continuity, conducive to regarding past claims and records as obsolete, and discarding them accordingly. In any case, the assets were confiscated by the state.

The state monopolized all insurance, formally assuming all liabilities of both local and foreign-based companies. In Poland, the introduction in the fall of 1948 of the Soviet banking model, with its management by the ministry of finance through the monopoly of the central bank supplemented by specialized banks for particular kinds of domestic and foreign operations, coincided with the transfer of all insurance surpluses into the state budget. As the Cold War progressed in the early 1950s, the Stalinist regimes also obliterated all Western economic presence in a campaign which assumed particularly vicious forms in Hungary—the country where such presence used to be more extensive than elsewhere. Not only were Western enterprises and other assets confiscated without compensation, but also local and even foreign employees of Western firms were framed as “saboteurs” and paraded at

show trials, before being condemned to long prison sentences and eventually released for ransom.<sup>14</sup>

The trials prominently featured some of the communist officials who had previously been instrumental in enforcing the now superseded partial nationalization policies or had been involved in the similarly obsolete Soviet assistance to Israel in 1948, which had failed to meet Stalin's expectations. In that operation, which had been erroneously calculated to manipulate the Jewish state against the West while also being conducted for profit, Czechoslovakia had played the key role as a Soviet subsidiary.<sup>15</sup> Accordingly, as was Stalin's habit, its communist officials of Jewish origin who had been involved in the operation had to pay for his miscalculation. But his victims also included fanatical anti-Zionists, such as the deputy Czechoslovak minister of finance notorious among applicants for emigration to Israel for extorting from them their remaining property for the benefit of the state.<sup>16</sup>

By 1953 Stalin, having exhausted the utility of his Jewish disciples among Eastern European communists, followed in Hitler's footsteps by conducting a violent anti-Semitic campaign which was possibly intended to culminate in genocide.<sup>17</sup> Yet since the campaign was cut short by his death, the Jews remaining in East Central Europe were not singled out for a persecution anywhere comparable to Hitler's. Instead they suffered much like all subjects of the communist regimes from the policies of pauperization that were the end product of the Sovietization of the economy and its militarization since 1950. Periodic confiscations of private savings by means of "currency reforms" were part and parcel of the system. The reforms in Poland in 1950 and in Czechoslovakia in 1953 included, among other measures, the final cancellation of all insurance policies, which had until then been formally blocked.

During the subsequent periods of détente, the post-Stalinist regimes tried reluctantly to satisfy Western demands for compensation for nationalized foreign property, and agreements to that effect were

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<sup>14</sup>Borhi, *The Merchants of the Kremlin*, pp. 49-52.

<sup>15</sup>Jiří Dufek, Karel Kaplan, and Vladimír Šlosar, *Československo a Israel v letech 1947-1953* [Czechoslovakia and Israel in 1947-1953] (Prague: Institute for Contemporary History, 1993).

<sup>16</sup>Meir Cotic, *The Prague Trial: The First Anti-Zionist Show Trial in the Communist Bloc* (New York: Herzl Press, 1987), pp. 225-26.

<sup>17</sup>Louis Rapoport, *Stalin's War against the Jews: The Doctors' Plot and the Soviet Solution* (New York: Free Press, 1990).

concluded with the United States as well as with other Western countries. Not all of the communist countries concluded such agreements with all the Western governments involved, and the common feature of the settlements achieved was the gross inadequacy of the lump sums paid as final compensation for all losses. Disbursement of these sums was left up to the recipient governments, which followed different practices in different countries. Indemnifying claimants who had come forward, the Western governments did not make any particular efforts to identify and compensate original Jewish or other owners of the properties nationalized by the communists if claims had not been advanced.

The democratic and pro-Western governments that emerged in East Central Europe from the wreckage of the communist regimes in 1989 have not considered compensation of insurance or other claims from the pre-communist era a high priority. Not only did they find themselves financially strapped by inheriting economies mismanaged by their predecessors, but they have also been faced with a flood of more recent claims by victims of communism, which understandably commanded immediate attention. Thus Poland has partly paid off its own residents for their prewar insurance policies, despite the extensive destruction of the pertinent records, but excluded from compensation anyone living abroad. To illustrate the complexity of the tangle on the example of Czechoslovakia, claims have been pursued against it by the expelled Sudeten Germans, some of whom had been beneficiaries of Nazi-stolen Jewish property, before themselves losing this and other property to the Czechoslovak state, for which losses they were later partly indemnified, though not by the Czechoslovak but by the West German government, which in turn seeks compensation from the Czech and Slovak Republics as the legal successors of the extinct Czechoslovak state—compensation to be balanced against restitution claims for the damage caused by Germans in these countries during World War II.

The main conclusions to be drawn from the historical analysis of the exceedingly complex situation that has evolved since World War II are the following:

First: Unlike in Western Europe, in the countries that became communist the post-1945 developments have not created clearly identifiable winners and losers, but only different categories of losers, Jewish and others, including the respective populations along with their governments, besides the foreign firms unlucky enough to have done business in the area.

Second: The distinctiveness of the injustices suffered by Jews in East Central Europe after 1945 is blurred in comparison with the unique catastrophe of the holocaust that had taken place before.

Third: The destruction or disappearance of assets as a result of the communist-engineered political, economic, and social upheaval and the irrationality of the ideologically motivated policies that had caused it have made a fair restitution of the damage difficult if not impossible.

Fourth: Such a situation makes not only legal claims very difficult to substantiate, much less enforce, but makes also moral claims less clear cut and persuasive than those arising from the Nazi-inflicted injustices during World War II. Accordingly, except in the case of clearly identifiable owners, compensation is a matter of philanthropy, which by differentiating between Jewish and non-Jewish victims of communism would risk reawakening in East Central Europe's fragile democracies the very scourge of anti-Semitism that has fortunately been receding.



# **Ms. Elzbieta Turkowska-Tyrluk**

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POLAND

## **Break-out Session on Holocaust-Era Insurance: Postwar Government Compensation Programs and Nationalizations**

1. Before World War II, a widely developed insurance market existed in Poland. In 1839, 79 insurance agencies were active, on the territory of the Polish People's Republic, that is;

- 15 joint stock companies, in this two companies in liquidation and two, in relation to which under the judgement of the court of second instance bankrupt was announced;
- 10 counter – insurance agencies, conducting business on a broader level, of which two placed in liquidation;
- 42 small counter – insurance agencies, of which only one was a life counter – insurance agency. From among the small counter – insurance agencies five just before the second world war were placed in liquidation;
- 5 public insurance agencies;
- Postal Savings Bank as a public corporation performing the insurance business;
- 6 foreign insurance agencies: two English, two Italian, two German.

2. After the end of World War II, pre-war insurance agency estates were not nationalized, but their liquidation was executed. In relation to the insurance agencies, the act from the 3<sup>rd</sup> of January 1946, concerning the main branches of national economies, becoming the property of the State, was not in force. (Law Gazette Nr. 3, item 17, with later changes.)

On the 3<sup>rd</sup> of January 1947 a decree the ordering of personal and property insurance (L. G. Nr.5 it. 230). From the day the decree comes into force, that is the 3<sup>rd</sup> of January 1947, the local and foreign, private insurance agencies, regardless of their legal condition, have lost their right for a further conduct of the insurance business.

Only two pre-war insurance agencies received a license for conducting business, in the scope, settled in the decree, that is:

- 1) Warta Reassurance Company J.S.C. in Warsaw and
- 2) Polish General Counter-Insurance, of which both were nationalized.

In connection with the rest of the agencies the liquidation was to be conducted by the Polish General Counter-Insurance, later transformed into the Polish National Insurance, and for the foreign agencies, active on Polish territory, the main representative of the foreign insurance agency or the liquidation will be assigned by the court in virtue of its office.

However, in connection with insurance agencies, which are engaged only in personal insurance, the liquidation of their operations was to be performed by special, personal insurance agencies, which were brought into being, but were never created.

However, for agencies, of which the liquidation, for whatever reasons, was not completed on the strength of the decree's regulations, from 1947, according to [sec.] 2 act 1 orders of the Minister of Finance from the 29<sup>th</sup> of June 1959 on the principles and the course of insurance agencies liquidation, which lost the right of conducting the insurance business (L.G. Nr. 40, it. 211), the liquidator assigned was the Polish National Insurance.

In accordance with this, the Polish General Counter-Insurance took over the management and property of the liquidated insurance companies from their hitherto authorities. The liquidation was conducted on the basis of liquidation plans confirmed by the Minister of Finance, and during the liquidation, to ensure a proper realization of the proceedings, generally valid legal regulations were employed.

Notwithstanding the property connections in the joint stock capital between some liquidated agencies, principles of the separate character of property in relation to each of the agencies were strictly abided. In connection with this, separate balance-sheets, plans of satisfying creditors, reports of liquidation, etc. were prepared.

Jointly the Polish General Counter-Insurance conducted the liquidation of 25 insurance agencies that is:

- three public insurance agencies,
- six larger counter-insurance agencies,
- one small counter-insurance agency
- ten joint stock companies, in this one with the lone stock of Polish Capital,

- six foreign insurance agencies (two German, two English, and two Italian).

In relation to two of the “larger” counter-insurance agencies, operating in Poland before the war, that is:

- “Dniestr” Counter-Insurance Agency in Lwów
- “Karpatia” Counter, Life Insurance Agency in Lwów

Liquidation procedures were not conducted, as all the property was left on the territory, which did not enter into the composition of the territory of the Polish State.

From among the small counter-insurance companies only one was liquidated, as investigations conducted by the Polish General Counter-Insurance showed, that no property was left by these companies for which the investigation ought to be conducted, or the existing property was not sufficient to cover the costs of liquidation.

At this moment I would like to remark, that as far as the local companies, also with foreign contribution of capital were brought to trial in all virtues only up to the amount of property possessed in the balance, the foreign companies operating in Poland were brought to trial on the strength of art. 74 of the Polish Republic’s President order from the 26<sup>th</sup> of January 1928 concerning supervision of insurance (L.G. Nr. 9 it. 64) their whole property, the one found in Poland as well as the property outside its borders. In practice this meant securing the rights of creditors and the insured, as well as the right to demand the existing commitments from the Head Office of the insurance company.

As I have mentioned earlier, six foreign insurance companies, through the mediation of main agencies, operated in Poland before the War.

In spite of provisions art. 2 para. 1 of the act from 3<sup>rd</sup> of January 1946 about the state taking over the main branches of national economies (L. G. Nr. 3 it. 17) on the strength which the nationalization of German insurance companies was to take place, also in relation to them liquidation procedures were conducted.

During the procedure of their liquidation it was ascertained, that:

1) The Bavarian Insurance Company - German Joined Stock Company - Headquarters in Katowice did not possess any movables or real estates in Poland. No claims in connection with liquidated company were registered, both in virtue of the insurance contracts entered before the war, as well as in virtue of workers’ and other debts.

2) Aachen-Munich Insurance Company against the headquarters in Katowice also did not possess any real estates and the company’s

movables found in Katowice were assigned for covering the workers' compensation.

Both companies' securities were not lost during the occupation period of were removed from Germany.

Owner of English insurance companies policies: "Alliance" and "Prudential" settled abroad, they were directed to collect the payments from these policies at the company's headquarters in London, as on the Polish-English financial contract from the 11<sup>th</sup> of November 1954 they did not provide from the funds found in Poland.

Similarly the owners of insurance policies of Italian companies "Assicurazioni Generali" and "Riunione Adriatica di Sicurtà" who settled abroad were directed to the Headquarters in Trieste, Poland, however, in spite of numerous negotiations: in 1959, in 1972 and in 1977, in this scope, did not sign a mutual, financial agreement with Italy.

In Poland, for the owners of the above-mentioned English and Italian insurance companies, the payments from the policies were covered by the Polish State from the sums gained from the properties of those companies in Poland.

3. In a great majority of causes the one real element of assets of the liquidated insurance companies were the real estates, usually urban, saved after the war, of which the value was calculated according to the technical estimated norms, taking into the account the technical state of those real estates and also the destruction caused by the war.

The value of the securities, into which composition entered mostly pre-war bonds issued by the state, communal union and other long term credit institutions, such as the Bank of Local Economy, Land Credit Associations etc. was accepted as zero, because these loans were not repaid, and the bonds did not possess no real value.

The valuation of other bonds was done taking under consideration: decisions of indemnification contracts entered by Poland with other countries together on mutual terms.

To the passive debts of the liquidated companies were assigned mostly: the costs of liquidation, commitments from the insurance policies, taxes, stamp duties, other possible commitments and claims in virtue of shares or stocks.

Pricing both the assets and passive debts was unified both for the local companies, local companies with foreign stock capital and the foreign insurance companies operating in Poland. Also the claims in virtue of the owned policies were treated equally both in the case of Polish citizens in the country and abroad, and citizens of other countries

(apart from claims from persons living abroad directed to English and Italian companies – justification as above).

The repayments from policies present by persons living abroad were transferred abroad, in accordance with the contemporary law, only after achieving a foreign permit. Depending on whether Poland signed a mutual contract with a given country in the scope of foreign circulation, money could be transferred either to the policy owner's country or transferred only to the blocked accounts of foreigners in Poland, to use in Poland.

4. Orders of the Minister of Finance from the 29<sup>th</sup> of June 1958, in the case of the principles and the course of liquidation of the insurance companies, which lost the right of conducting the insurance business originally anticipated, (section 3, act 1) that creditors of the liquidated insurance companies should, if they have not done this in the course of the hitherto liquidation operations, notify his liquidator in writing of his claims, within the period of six months, counting from the day of this orders coming into force, that is the 21<sup>st</sup> of January 1960.

In accordance with section 10 of the objective orders the responsibility for announcing in a widely read, daily newspaper the place and appointed time of the beginning and end of payments and imparting information on this subject by the Polish National Insurance, was imposed on the liquidator.

This condition was fulfilled by the PNI, which printed numerous notices about conducting liquidation procedures of pre-war insurance companies, both in the Polish Monitor and few other daily newspapers of an all-Polish and local range, such as "Trybuna Ludu," *Zycie Warszawy*," *Rzeczpospolita*."

The time of submitting claims was prolonged three times, in turn from the 31<sup>st</sup> July 1961, 30<sup>th</sup> June 1964 and finally till the 30<sup>th</sup> October 1979, in relation to the claims directed to the two last, Italian insurance companies:

1) ITALIAN JOINT STOCK COMPANY National assurance in Triest – Assicurazioni Generali Triesta, Management for the Republic of Poland in Warsaw;

2) ITALIAN JOINT STOCK COMPANY Riunione Adriatica di Sicurtà, Adriatic Insurance Company in Triest, Management for the Republic of Poland in Warsaw;

Only these two insurance companies were not yet liquidated in the course of the hitherto conducted procedures (notice from April 1979).

5. Compensation from the policies of the pre-war liquidated insurance companies were repaid after presenting the original policy and evidence of the share payments from August 1939, and each case was dealt with separately (separate liquidation check-ups).

Commitments from the insurance contracts in relation to the authorized persons, were regulated according to principles defined in the general conditions of insurance, but if the total sum of those commitments did not have coverage in the balance sum of the property of the given liquidation mass, the payments were placed in proportion with the existing funds.

The assignation of insurance sums in relation to the policies stated in zlotych in gold, and made out before the 8<sup>th</sup> of November 1927, was done by re-counting, first on the strength of the law itself in ratio 1 zloty in gold equals 1.72 zloty in circulation, and then the new sum was accepted as the nominal sum of the policy on the 31<sup>st</sup> of August 1939, composing the basis for later calculations, according to generally valid principles and it was re-counted into zloty in relation 1:1, not taking into account the height of the parity in the given pre-war period.

In the above way the recountings of the given group of policies did not refer to the policies with the amount in zloty in gold, but made up by different insurance companies following the date of the President orders from the 5<sup>th</sup> November 1927, in connection with change of the monetary system, coming into force, as these policies were calculated according to the relation 1 zloty in gold equals 1 zloty in circulation.

Policies stated in foreign currencies, if it had not yet been done on the strength of the law itself till the 1<sup>st</sup> of August 1934, were re-counted into zloty according to suitable in-force regulations.

In every case the final sum of the policy was calculated according to regulations of the orders of the Cabinet from the 27<sup>th</sup> of June 1958 regarding the definition of the ratio of re-counting claims from insurance contracts of liquidated insurance companies (L.G. Nr. 38, it. 243).

6. Naturally, in the case of life Insurance, death suffered as the result of the Holocaust was treated as death resisted to war procedures. From the liquidation papers it appears, that in spite of excluding the repayment of compensation in the case of death suffered as the result of war procedures by particular insurance conditions, the compensations were repaid to everyone who submitted the claim in virtue of the entered insurance contracts.

While repaying the policies qualified for repayment it was admitted, that in reality the insured stopped to pay shares from the 1<sup>st</sup> September 1939. As the cessation occurred without any fault on the part of the insured, but was the result of that created by the occupant, in Poland conditions, making it impossible for the citizens to pay the shares, it was accepted that the responsibility of insurance companies is not suspended and will last till the end of the war, that is till the 9<sup>th</sup> of May 1945.

And so the insured, who lived past the day of the 9<sup>th</sup> of May 1945, were repaid the insurance sum decreased in proportion to the period for which the premiums were paid before the 1<sup>st</sup> of September 1939 and the full period of the insurance, with deductions of policy loans.

At the repayment also the heirs of the dead during the War, were repaid the full sum of insurance, after the deduction of the possible loans and overdue premiums (generally for half of the war period).

7. Poland as a country occupied by Germany during World War II and which citizens suffered a great deal from the hands of the Nazi occupant, up till this day did not get the full settlement of compensation for the victims of the Nazi crimes on the part of Germany. No compensation program existed for the victims of Holocaust.

It should, however, be noticed that on the 16<sup>th</sup> of October 1991 as the cause of an agreement between the Republic of Poland's Government and the German Federal Republic, a foundation, "The Polish-German Reconciliation" was founded, which operated according to the legal regulations in force in the Republic of Poland.

On the strength of the above-mentioned agreement, the GFR Government, actuated by humanitarian reasons, donated 500 million DM for granting help to the victims who especially suffered by Nazi persecutions.

The "Reconciliation" Foundation grants financial help, one time performance character. The help granted by the Foundation is not a compensation and cannot be treated as satisfaction for all the suffered wrongs.

Polish citizens, as well as those of Jewish origin, alive on the 8<sup>th</sup> of January 1992, who in personally deposed the application, living permanently on the Republic of Poland's territory, and being victims of special Nazi persecution, have the right of soliciting for the financial help from the Foundation's means, these are:

- stay in the Nazi concentration camps, ghettos and prisons;

- stay in the so-called Polenlager, which are severe work camps for Poles in Slaak;
- deportations from the place of settlement and forcing over the period of over 6 months to work for the benefits of the Third Reich;
- repressions during the stay in Stalaga;
- persecutions toward children (which during them turned 16):
  - a) born in the concentration camps, ghettos, prisons and the children of the Holocaust.
  - b) taken away from parents for purposes of Germanization, deported to work camps, forced to work at the place of stay; children, whose both parents were taken to concentration camps, imprisoned or to compulsory work, and which, were through this devoid of parental care, as well as those born in the Third Reich as the children of compulsory workers.

To finish I would once more like to emphasize, that in Poland, occurred a liquidation of property of pre-war insurance companies, in accordance with the law, and not their nationalization. This fact for a great number of the authorized, on the basis of insurance contracts entered before the Second World War, made possible the execution of their rights.

# **Prof. Gerald D. Feldman**

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## **Compensation and Restitution: Special Issues**

### **Break-out Session on Holocaust-Era Insurance: Unpaid Claims**

My purpose in these remarks is to try to expand somewhat on the ways in which restitution and compensation for insurance were carried out following the German defeat in 1945. As was the case with respect to confiscation, so with respect to compensation and restitution, it is very important to understand the role played by currency and exchange regulations as well as by inflation and currency reform. Even before Germany had been fully occupied, the Supreme Commander of the Allied Forces had issued Law No. 53, which contained exchange regulations that, among other things, banned the payment of life insurance policies for persons living outside of Germany. While this measure was obviously aimed at preventing National Socialists and Germans abroad from getting access to their assets, it also prevented Jewish and anti-Nazi emigrants from collecting on their life insurance as well. Indeed, it was only in June 1950, that is, two years after the currency reform, that the Allies were prepared to entertain individual requests for payments of insurance to persons living abroad. Ironically, however, these had to be paid on a blocked DM account. Procedures were relaxed in 1951, and these peculiar restrictions were terminated with the London Agreement of 1953. Nevertheless, DM blocked accounts remained non-convertible until July 1958, that is, just five months before the DM became fully convertible.

The currency reform of June 21, 1948 determined both the currency in which insurance policies were to be denominated in the future and the currency in which insurance compensation was finally to be denominated. The optical impression of some Jewish émigré getting

79.87 DM in 1957 on a 5,000 RM policy taken out in 1925 is one that is likely to produce irritation and even rage, especially when one is used to today's price levels and when one considers the great success and wealth of German insurance companies at the present time. My job as an historian, however, is to try to reconstruct past times and make what happened then intelligible. Insurance is a liquid asset, and inflation inevitably favors those holding material assets over those holding liquid assets. By the time of the currency reform, the RM was virtually worthless, and cigarettes were actually being used as a currency. In fact, as at the end of the hyperinflation in 1923, people were turning to barter, trading eggs, for example, for a dental examination. All currency reforms involve an arbitrary decision about the relationship between the old currency and the new. In 1923-1924, the German government set the ratio of paper marks to the dollar at 4.2 trillion to 1, lopped off twelve zeros and pegged the RM at 4.2 to 1, which was the old parity. In 1948, when convertibility was not of significance, the value was simply set at 10 RM to 1 DM. The important thing was to create confidence by creating a new currency, limiting the amount of currency in circulation, and thereby inducing people to make goods available and get back to work. All insurance policies, indeed all liquid assets, non-Jewish as well as Jewish, were thus reduced to a tenth of their previous nominal value, but the purpose was to create a real value. One of the most important guarantees of such real value was the continued Allied occupation, and it was indeed the occupation authorities in the West which helped to insure the control of the currency and mandated its rapid acceptance. The currency reform must be viewed as an event that made compensation of liquid assets possible with real as opposed to worthless money. It goes without saying, of course, that the National Socialist regime was responsible for the necessity of currency reform, but in this instance they had despoiled everyone by bankrupting the nation in order to help pay for the war.

This also helps to explain why it was the German Federal Republic, not the insurance companies, which took over the responsibility for compensation and restitution that developed following the treaties with Israel and the Claims Conference of 1952 and the London Agreement of 1953. The insurance companies had been compelled to invest heavily in German State bonds (Reichsanleihe), and these were worthless. Prior to the currency reform the insurance companies were limited in the amounts they could pay out to policyholders by the occupation authorities, and their resumption of operations depended on state guarantees. In effect, they were rendered

dependent on the government for past obligations and reliant upon new business for any future success they might have. The one significant obligation remaining to them was to search their files for Jewish policyholders when called upon to do so and to calculate compensation claims according to the formula devised by the Federal Compensation Office. As far as I can tell, they performed this task quite diligently, charging the government about 9.50 DM for their labors.

As Dr. Gerlach has pointed out in his paper, compensation to victims of National Socialism for insurance losses was based on the presupposition that they would have maintained their insurance policies, that is, paid their premiums and collected the full value of insurance when the policy came to term were it not for their persecution. Values and premiums for the period prior to the currency reform were calculated in RM and then recalculated in DM. For the period after June 1948, both values and premiums were calculated in DM. Since he has already described and illustrated the method used, I shall not repeat what he said here. Instead, let me turn very briefly to what happened in the Soviet Occupation Zone of Germany and the former GDR and say a few words about Austria. The Soviets liquidated all the old insurance companies in 1945, took over their assets, and created state companies. Policyholders were given the option of contracting a new policy with these companies that would automatically reinstate their old policies. The right to make claims against the old insurers was denied. This remained the state of affairs until the collapse of the GDR. The Unification Treaty of August 1990 has made provision for a new regulation of claims arising from the war, but such legislation has not yet been issued. This does not, however, preclude individual agreements between insured and previous insurers.

Finally, let me turn to the Austrian case. Between 1959 and 1964, the Federal Government of Germany entered into a series of bilateral agreements with a variety of countries for the purposes of compensation of victims of Nazism. In the case of Austria, 102 million DM was given, 96 million DM of which was used to compensate loss of income of victims of Nazi persecution and to compensate victims in other countries, while the remaining 6 million were to compensate for lost property. Austria had nothing comparable to the German compensation legislation. Insofar as insurance was concerned, the Austrians confronted a situation similar to that of the Germans in that their insurance companies were insolvent at war's end. An Insurance Transition Law of 1946 limited the amount companies could pay out, while the *Österreichisches Versicherungs AG*, which was a successor to

the Phoenix--a special case because of its bankruptcy in 1936--and was in particularly dire straits, was barred from making any payments on policies paid up prior to May 1, 1946 and was limited in what it could pay out on policies that were still active. These restraints were eased as the condition of the Austrian economy stabilized. The Insurance Reconstruction Law of September 8, 1955 mandated that claims regarding life insurance policies created after January 1, 1946 would be paid in full, while those created before that date would be reduced by 60%. The payment of the latter policies was to be made possible by government bonds and cash advances. All policies were to be converted into Austrian currency. A special fund was set up in 1955 for Phoenix annuitants providing three million shillings annually. It is interesting to note, in conclusion, that there were complaints about these arrangements by victims of the National Socialist regime at the time and that the Austrian government was charged with violating the Austrian State Treaty. The U.S. Embassy in Vienna, however, took the position that "It is the opinion of the Embassy that the foregoing laws are ameliorative and not confiscatory in nature. Insofar as the insolvent 'Phoenix' Insurance Company is concerned, the laws were designed to rehabilitate it and to save its assets for the benefit of all its policy holders and may be characterized as bankruptcy or reorganization legislation."<sup>1</sup> Whether this is a valid judgement or not is difficult for me to say without further study, but I think it is interesting as a reflection of attitudes at the time and provides some perspective from which to judge the far more extensive and elaborate arrangements made by the German Government with respect to compensation and restitution of victims of National Socialism in the realm of insurance.

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<sup>1</sup> James K. Penfield, Minister-Counselor of Embassy to the Department of State, November 10, 1955, National Archives of the United States, RG 59, 863.08/11-1955, Box 4792. I am grateful to Dr. Oliver Rathkolb for bringing this document to my attention.

# **Ms. Catherine A. Lillie**

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## **Government Compensation Programs and Unpaid Claims**

### Break-out Session on Holocaust-Era Insurance: Unpaid Claims

Thank you for this opportunity to present the work of the Holocaust Claims Processing Office. The HCPO was established by Governor Pataki in September 1997 as a division of the New York State Banking Department. It grew out of the NYSBD's investigation into the wartime activities of SBC's, UBS's and Credit Suisse's New York Agencies and was initially intended to assist claimants with unresolved claims against Swiss financial institutions. However, it soon became apparent that our claimants also needed help with other types of claims, most notably insurance claims. Therefore, the HCPO added claims for unpaid insurance policies written in Europe in the pre-war and Holocaust-Era to its mission. The mandate did not end there. Today, the HCPO assists claimants with a vast array of claims: the majority still reference Swiss banks and European insurance companies, but there is an ever increasing number of claimants filing claims for lost, looted or stolen art, as well as for assets deposited with European financial institutions, be they Austrian, British, Dutch, French, German, or Italian.

Overall, the HCPO has handled in excess of 5,000 inquiries in the past year. Of these, 2,600 have been insurance-related inquiries from 22 countries and 43 states. These inquiries have generated 1,300 claims from 18 countries and 36 states. The majority of insurance claims have come in from the US, Canada, the United Kingdom and Australia; the majority of domestic claims are not surprisingly from NY, IL, CA, FL, NJ, and TX. But, essentially, it is true that wherever people fled to in the 1930s and 1940s, we now have claimants, be that as close as Canada or

as far afield as Australia or Israel. What started off as an additional service that we wanted to offer survivors and their heirs with banking claims has now turned out to be half the work the office does on any given day, and on some days well more.

I hasten to point out, however, that while there are 1,300 claimants, this actually means that we have claims for more than 1,900 insured persons. The reason is simple. In many instances, individuals had multiple policies. In other instances, the claimant may well be the sole survivor of a sizable family, the members of which were well-insured, or just insured. Either way, many of our cases refer to more than one policy.

Claims currently filed with the HCPO reference a little more than 100 companies as identified by claimants. The HCPO is currently trying to determine how many successor companies are in fact involved. It may be as few as two dozen. The most frequently cited companies remain Generali, Phoenix, RAS, Victoria, Allianz, Anker, Basler and Donau. But claimants have also identified Barmenia, Fonciere, Gerling, Hermes, Isar, Lloyds, Merkur, Nordstern, ÖVAG, Swiss Life, Star and Vita, to name but a few. We have actual policy documents in every imaginable Central European language for some of these, and policy numbers for many many more.

I have given much thought to how to best give you a sense of where these policies were written, not just by whom. But the frequent border changes in Central Europe that you are all aware of make this challenging. When going back to reconstruct how many Polish, Czech, Romanian, Hungarian or even Austrian claims the HCPO currently has on its books the first question one must ask is at what point in time, according to which borders? Roughly speaking in terms of pre-1938 borders the majority of our claims are Austrian, Polish, Czech and Hungarian. There is also a handful of Romanian, Yugoslav and Bessarabian claims, some of which are rather well documented. In terms of post-1945 borders, however, the countries involved are more numerous.

But numbers don't tell the whole story. Our experience has been far more complex than this. We have an exceptional team of multi-lingual professionals with a wide array of talents who process written and verbal inquiries and claims in eight different languages, drawing on their knowledge of European history, as well as their banking, insurance and legal backgrounds. Our staff provides assistance in a variety of ways: preparing the claims either by appointment or over the telephone. They assist in securing documentation where claimants do not have appropriate documents; they research successor companies where these

are not known. They then continue on and submit claims to the appropriate companies, and European regulatory authorities. The ultimate goal is to alleviate the burden and cost that claimants have encountered when proceeding on their own.

Claims range from the purely anecdotal, through the detailed that are merely lacking the original paperwork, to the partially or even fully documented cases. For the most part we are dealing with life, dowry, and education policies, as well as the occasional annuity, property, fire, health and pension policies. Unlike the Swiss Bank cases that we have worked on (where only 10-15% of account holders can be linked to a specific bank), almost 50% of the policyholders can be linked to an insurance company.

Those who cannot provide documentation do know significant details. What sorts of details are these? Claimants know there was insurance; they even recall purchasing it, and they remember perhaps the name of the agent and location. They can remember the piggy bank sporting a company logo, which they received when purchasing a policy. Some have memories of a fearful and frenzied attempt to bury their documents while in the ghetto -- the only available form of safekeeping. Unfortunately in many cases this desperate ruse failed. They remember accompanying parents to medical exams, or to photographers for dowry policy photographs. We have claimants who accompanied their father, an insurance salesman, on sales trips. And we have a claimant with very vivid memories of Generali Christmas parties in Warsaw -- both her father and grandfather were senior managers of the Polish subsidiary of this Italian insurance company.

We have devoted a lot of time and energy to listening very carefully to our claimants. Often, the details that may lead us to connect the insured to the company that wrote the policy are not apparent in the information supplied on the claim form the HCPO uses. But extensive follow up conversations frequently reveal a degree of detail that emerges in the retelling of highly traumatic events. Details such as the piggy bank, which I know was red and domed, and German. The claimant can even place the logo on it. Unfortunately the one detail that is missing is an accurate description of that logo. But I am hopeful that one day soon a claimant will walk in, lamenting the loss of the paper policy but proffering a red, domed piggy bank as proof.

Documentation, and by this I mean actual paper documentation, where it exists is no less vivid. There are of course the handwritten lists kept by families that itemized their assets. Moreover, claimants have pre-war and wartime confirmation letters from insurance companies

referencing policy numbers and policies. In some cases we have seen postwar confirmation of the existence of policies, and clarification of who received the proceeds during the war. One claimant's father owned two life insurance policies written by Basler. They were seized by the Nazi government in 1942 in accordance with the 11<sup>th</sup> ordinance of the Reich's citizenship law (25 Nov 1941) because he was "abroad". To the best of our knowledge, the policyholder never received restitution from the German government. This is not an isolated case.

In 46% of cases the claimants can provide some sort of link to the company that originally wrote the policy. These are predominantly life and dowry policies; in some instances there are also some property, fire, health and pension insurance policies. I stress "originally" wrote the policy because needless to say, in many instances that is only a starting point. We have had many claims for Phönix policies, written all over central and Eastern Europe. As you are all well aware, Phönix went bankrupt in 1936 and companies scrambled to carve up Phönix's holdings and incorporate the portfolios into their own. Thus, the Austrian Phönix portfolio was incorporated into OVAG, the German portfolio into Isar, the Czech portfolio into Star, the Polish portfolio into the PZU, and so on. For policies written in contested geographical areas such as Trans-Carpathia, this was often just the first move and far from the last, making successor companies difficult to research. The pre-war Nazi consolidation of the insurance industry and the post-war reconstruction of this industry add to the difficulties encountered in successor company research, and nationalization issues that pertain to policies purchased in Eastern Europe are no less complex.

The chopping and changing of company holdings is not the only hurdle to successful research. The vast array of companies in pre-war Europe, the tendency to buy locally, from subsidiaries of larger, more prominent companies, complicates matters further. Moreover, Europe is a vast place. In order to do business effectively, it had to be conducted in a dozen languages, through local subsidiaries or branch offices. Thus, although the companies most frequently cited by claimants are Generali, Phönix, RAS, Victoria, Allianz, Der Anker, Basler, and Donau, they are mentioned in a variety of different languages, frequently referring to a local company that was backed by a home office in Vienna or Prague, Trieste or Berlin.

But linguistic confusion is not just prevalent when trying to determine company names. It is also apparent when trying to verify claimants' personal details. On the whole, people stayed put as borders were moved around them, dominant languages and currencies changed,

etc. Contested territories switched backwards and forwards between Czechoslovakia, Hungary and Romania. Our claimants have documents that show their names, addresses, dates of birth and value of their policies in three different languages and currencies. Until recently one of my favorite examples was the claimant who provided documentation from Cluj, Kolosvar and Klausenburg – all the exact same place in present-day Romania. But I have recently been told by an archivist at Yad Vashem that Nagy Szolozs offers a far greater challenge – it has 26 variations!

In other examples claimants have come in convinced that the policies they are seeking were written by one company and the HCPO's research has been able to determine that it was in fact quite another. How do we do this? Let me give an example. A claimant, originally from Vienna, came into the HCPO relatively certain that his father's life insurance policy was written by Der Anker or Phönix. A reasonable assumption, given the size of these companies and the fact that the policy was purchased in Vienna. Neither Der Anker nor Austria Lebensversicherung (the Phönix successor) had any record. So the HCPO researched this claimant's father's tax records. The Vermögensverzeichnis on file at the Austrian Federal Archives revealed a Victoria life insurance policy, and even cited its repurchase value as of July 1938. Again, this is not an isolated case.

Another example is a claimant who contacted the HCPO over a year ago. She has her Anker dowry policy purchased by her mother in Czechoslovakia in the late 1930s to ensure an adequate dowry of 50,000 Czech Crowns. By the time the claimant found the HCPO she had already been married and widowed twice, all without ever receiving the dowry her mother had intended for her. To add insult to injury, this claimant has not only the actual policy, but also every premium receipt for every payment made, all the way into the ghetto and from there to the camps. The claimant here is the sole survivor of a sizeable family and this policy is the only link that remains to that pre-war world. Anker's home office in Vienna has consistently refused to offer payment on this policy because it claims not to be the legal successor to the policy. Instead, it prefers to present itself as a fellow victim, claiming to have lost all its assets to nationalization in the former Czechoslovakia and Hungary. Over the years, the Czech authorities have repeatedly asserted that these policies were seized by the Nazis. Moreover, in this case, where the policy was written in a contested territory, it was apparently transferred to Hungarian portfolios. In any case, the German or the Hungarian governments are cited as the more appropriate places to

address these claims. In this way, claimants have been sent from pillar to post for over 50 years.

It is true that some of these claims were settled in the 1940s, 1950s and 1960s and restitution was indeed received by some. But in the chaos of postwar Europe some policyholders and their heirs were missed, even in Western Europe. While German insurance companies have provided assistance with Western European claims that were missed in the post-war period, policies written by Eastern European subsidiaries or branches of Austrian, Italian or German and French companies are generally refused. Companies cite nationalization decrees in Czechoslovakia, Hungary and Poland, as a result of which they lost their assets. Moreover, parent companies claim to have lost their archives along with their other assets in nationalization. This explanation has been offered even in cases where claimants have supplied the original policy and premium payment receipts. Without their original archives, some companies have been extremely unwilling to consider assessing the value of policies presented to them.

The reasons are fairly self-explanatory of course, and have been outlined by Prof. Feldman in the past. Jews were dispossessed of their assets in a variety of ways, some more direct than others were. There was outright seizure of the policy by the Gestapo after “flight” to the East, but there was also surrender to the tax authorities to cover a variety of punitive taxes. Or there was repurchase by the policyholder/insured in an attempt to fund emigration. Or there was the failure to meet premium payments, because of loss of livelihood for example. We have certainly received very detailed information from a variety of insurance companies listing loans that were taken out against policies, or illustrating how failure to maintain premium payments resulted in a loss of value of the insurance policy. Or citing repurchase dates and amounts. Unfortunately, some of these repurchases occurred after the policyholder had already been incarcerated or had perished in a concentration camp. Alternatively, there are considerable payment details that have come out of Austrian insurance companies listing exact payment dates and amounts in the 1950s. While this information is very welcome, it is also hugely problematic: the companies cannot tell us who received those payments in the 1950s, yet the heirs can confirm that the insured were murdered 15 years earlier.

So where do matters stand now, from the claimants’ perspective? Before the creation of the International Commission on Holocaust-Era Insurance Claims chaired by Lawrence Eagleburger, the HCPO had been offered ten settlements, covering a total of 19 policies. To date none of

our claimants have accepted the offers, and a brief overview may explain why. The offers range from a low of \$50 to a high of \$3,000, but all combined add up to just under \$10,000. Vastly different approaches to valuation are of course the reason for these enormous disparities. One of our claimants who purchased a policy in 1923 in Berlin for a one-time payment of 5,000,000 marks and a final payout of 10,000,000 in 1948 has discovered that the policy is not worth the paper it is written on. Not only was there a period of currency stabilization just after he purchased his policy (Germany was struggling with hyperinflation, after all), but then there was the creation of the Reichsmark. And the creation of the Deutschmark in 1948 three months before his policy was due wiped out any remaining value.

Similarly, Austrian companies have been very adept at calculating the value of the policies they wrote in the 1930s. First the Schilling replaced the Krone. Then the Reichsmark was introduced, only to be replaced with the new Schilling after the war. All these changes must be accounted for. However, companies have then proceeded to offer no interest for the fifty-plus years that followed these conversions. Thus, claimants feel that insult has been added to injury when their four policies are assessed at a total of \$50 despite being written in gold Schillings or gold dollars.

In many instances, companies have insisted, even where policy documents remain, that they cannot assess the value of the asset on the basis of these documents alone. Or they have assumed that, where repurchase values were listed on asset declaration forms such as the Vermögensverzeichnis, that payment was made. Who received it remains for someone else to determine. The company's liability has been removed. Usually these letters end with the suggestion that there may well be more documentation elsewhere.

I will readily admit that the historian in me loves this continued quest for more and more documentary evidence and detail. I am often dumbfounded by the documents that claimants can provide, by the stories of how paper was safeguarded or rescued. I am frequently amazed at the detail that can be found on tax forms and the like if one is prepared to look. And I could happily go on at great length about individual cases that the HCPO has handled in the past year. But to be perfectly candid, the historian in me is also confronted daily with a terrible conflict inherent to this subject matter: the inevitable mortality of the generation of survivors still with us. Our claimants are getting older every day. Their health is not improving. That other part of me, the part that carries the responsibility for the HCPO and its claimants, is far more enamoured

with the concept of speedily arrived at “rough” justice. Many have been trying to arrive at resolution for more than half a century. If they are to witness any closure for themselves, we must all work to achieve it sooner rather than later.

# Mr. Bobby Brown

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## Break-out Session on Holocaust-Era Insurance: Unpaid Claims

Ladies and Gentlemen:

I come to you as the Representative of an ancient people whose history has been stolen.

Since World War II, the entire Jewish people have moved from their countries of origin. Ask a Frenchman in Paris or an Italian in Milano or a German in Berlin where their ancestors lie and they will take you to the local cemetery and show you the graves of their forefathers. They can show you the town records, the church registry and the family bible, which lists their family tree. Almost no Jew today lives in the same town as his grandparents. We have lost our history. We no longer remember the maiden names of our grandmothers or the number of uncles and cousins that we lost.

But much of that "history" was written in a most unusual historical record - in the ledgers and policy information of European insurance companies. There lie the maiden names, the occupations, the addresses of the former homes and the names of the children designated to inherit those policies.

We never assigned insurance companies the task of holding our history; we never thought that they would record our families' stories but they did - and with the ferocious appetite of some Rip Van Winkle, reawakened and with a thirst for knowledge that had been denied too long - we now come forward and say: Give us the history that you hold; give us the life stories of our forefathers. Tell us who we are; tell us what happened; return to us our heritage; publish the names.

I come to you today with a message of hope; hope that we had given up for lost; hope from the places which we thought were lost forever.

A Jewish family having survived the ravages of the First World War begins to build a new life for itself in the unstable political and economic climate of Eastern or Central Europe. They buy a life insurance policy from a trusted neighbor and friend. It is bought as a

way of saving for the uncertain days ahead. It is bought as a pension plan; It is bought to pay for the wedding of that most precious of treasures – a daughter. Slowly, the sky fills with the clouds of hatred, racism, political instability and economic upheaval. Discrimination begins. Job loss. Education denied. Degradation and violence. Our family seeks an escape but the “civilized world” has turned its back and refused them entrance. The confiscations, the destruction, the “round-up,” the trains, the ghettos, the dogs, the helmets, and the cursing. The selection, the camps, the beatings, the starvation, the disease and death.

And yet, the hope that maybe, if the children live, a policy issued in better times, will be there for a new life for the children – that after the darkness, a new day of security and a new beginning for the precious remnant that survives.

As the voltage on the electrified fences is turned off and the gates opened, as a new life must be started from the ashes and tears, a recollection of that policy, issued during better times, comes to mind. It is the key to the door of opportunity; it is the first step on a tall staircase; it is the past reaching out to help the future – AND IT IS DENIED.

This was the story of many. It was the story of Herman Klein, the proprietor of the Budapest factory of the Parker Pen Company who lost his home, his furniture, his business, and his family. In 1947, Herman Klein spent many nights completing the forms at the Register of Enemy Debts in his new home in Palestine. He listed every possession in the hope that his property would be restored. He included the linen shutters on the kitchen windows of his Budapest home, the washbasin with pipe fittings, the gold bracelet, tie clip, ladies ring and medallion, totaling 69 grams of gold and the 88 fountain pens that were stolen from Herman Klein, the former Head of the Parker Pen Company. He carefully listed his insurance policies

Providencia Insurance Company, Budapest	Herman Klein	Policy No 52418	Issued 22 February 1937
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Providencia Insurance Company Budapest	Herman Klein	Policy no. 52412	Issued 19 February 1937
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Generali Insurance Company, Budapest	Herman Klein	Policy no. 64620	Issued 24 October 1929
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Generali Insurance Company, Budapest	Herman Klein	Policy No. 74490	Issued 24 February 1934
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Phonix Insurance Company	Herman Klein	Policy no. 530258	Issued 22 December 1932
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Herman Klein carefully notes on the yellowed form that his policy states that all currencies are convertible to gold. Herman Klein never again saw his linen shutters, never again saw his 88 pens and never received any payment for his insurance policies.

Erwin Steiner, was born in Budapest on the 6 June 1888. Erwin sat with his insurance agent on September 9, 1927 and took out this policy (holds up copy of Generali policy).

It is clearly stated on this policy that in 20 years Mr. Steiner would receive 1,000 “New York” dollars; his monthly premium would be \$14.92. But Mr. Steiner was to die in the crematoria at Auschwitz in 1944 and when Mr. Steiner’s surviving son applied to receive his father’s bequest, he was denied because his father had stopped paying his premiums. In the depth of the camps struggling each day for a crust of bread and wome watery soup, Erwin no longer had any possibility to pay \$14.92 each month.

An insurance policy is a contract of faith where one side promises to pay premiums and the other side promises protection, a future and hope. For many Jews, it was that future, that hope and that protection that kept them going another day, and another day, in the very Gates of Hell.

I am a child of survivors. I am a proud representative of the reborn State of Israel - reborn from the ashes of European Jewry and I am full of hope. Because I have the honor to be Israel’s representative on the International Commission on Holocaust Era Claims, I am full of hope that the heirs of Herman Klein, the Parker Pen manufacturer from Budapest, and the heirs of Erwin Steiner, whose ashes were lost through the chimneys of Auschwitz, will regain the dignity that has been denied them. The world will quickly forget the words we say here, but will never forget the justice we seek to achieve here.

I – with this Conference – am full of hope.