

The Report of the ICHEIC Task Force on
“The Estimation of Unpaid Holocaust Era Insurance Claims in Germany,
Western and Eastern Europe”

When the International Commission on Holocaust Era Insurance Claims (ICHEIC) was set up on August 25, 1998¹, it was tasked with the establishment of “a just process to collect and facilitate the signatory companies’ processing of insurance claims from the Holocaust period.”² The first priority of the Commission was to formulate and implement an appropriate framework and guidelines to ensure just and efficient processing of claims. Helping former policyholders or their heirs to know they could lodge a potentially successful claim was integral to this effort. This required organizing a far-flung outreach program. To provide research material that might support potential claims arising through ICHEIC’s outreach efforts, ICHEIC’s early work, in addition to the framing of standards of proof and the setting up of a claims processing facility, also involved initiating and executing a search of archival and other sources for documentation. ICHEIC’s initial efforts were driven by the need to establish and support the claims process.

In addition to the claims-driven process, however, ICHEIC recognized it needed further research at a macro level, to assess both the number and the value of insurance policies the Holocaust victim population in the relevant countries might have held before Nazi persecution and spoliation began. As negotiations about how claims would be funded progressed, ICHEIC needed an estimate of the overall value of insurance the companies had written for Holocaust victims, particularly Jewish customers, during the relevant time and how much of that might yet be open to claims.

ICHEIC’s Plenary Session on October 20-21, 1999 determined that ICHEIC’s work would be linked with that of the German Foundation Initiative - which would

¹ With the signing of a Memorandum of Understanding between six European insurance companies, US insurance regulators and representatives of the claimants, i.e. international Jewish organizations and the State of Israel.

² Lawrence S. Eagleburger, testimony before the US House of Representatives Committee on Government Reform, September 16, 2003.

become the Foundation “Remembrance, Responsibility and Future,” (hereinafter referred to as The Foundation). For these purposes, global estimates of the amounts of insurance that had been outstanding and of the claims that still had not been satisfied was critical to determining the financial resources the Foundation would need to make available to ICHEIC. Accordingly, Chairman Eagleburger created a task force, under the joint chairmanship of Glenn Pomeroy, former President of the NAIC and Insurance Commissioner of North Dakota, and Philippe Ferras, Executive Vice-President AXA, Paris, to meet this need on an accelerated basis. The task force met several times over a period of two months in late 1999 and delivered its report to Chairman Eagleburger at year-end.

Chairman Eagleburger posed questions in framing the work of the task force that went beyond the immediate goal of providing input to the discussions with The Foundation. He recognized that ICHEIC would need similar information for all countries under its purview, not just Germany, and believed the task force’s findings also would contribute to the discussion of the valuation of valid claims.

After surveying the available information, the task force reached agreement on the elements it needed in order to estimate the proportion and value of insurance policies that had been held by Holocaust victims and that were still unpaid. The essential elements on which the task force based its work were:

- a) the size of the life insurance market in each country;
- b) the size of the Jewish population in each country;
- c) the rate of participation of the Jewish population in the life insurance market;
- d) the average value of Jewish-owned policies;
- e) the proportion of unpaid policies.

Task force members reached consensus on elements (a)-(d), but differed on the quantification of the proportion and valuation of unpaid policies. These differences went

to the definition of the word “unpaid”. The companies argued that once they had paid out on a policy under the laws of the country in which they were operating, the policy should be considered “paid”; the Jewish organizations argued that as long as the policyholder or his/her designated beneficiary had not received the payment, the policy remained “unpaid”. They also differed on whether policies owned by those who survived the Holocaust should be valued differently from policies owned by those who had perished. The companies felt that for survivors the surrender value of policies should rule, while for those who had perished the full sum insured should be used; the representatives of the Jewish organizations held that the full sum insured should be applied to both. Though these differences of view obviously affected the final estimates, they did not impact the manner of estimation. The Task Force accordingly opted to show a range of values for unpaid policies for each country.

In fulfilling its assignment, the task force had embarked upon largely uncharted waters. Given the tight timeframe allowed for completing the task and the many uncertainties that surrounded the quantification of the required elements (see above), its results by definition should be viewed as working numbers. As such, they have withstood the test of time rather well.

At the time the Task Force started its work, a number of national Commissions were engaged in examining their countries’ behavior vis-à-vis Holocaust Era assets. Though mandates differed among countries and certainly from that given the task force, some of their research in the insurance area, if not exactly parallel to ICHEIC’s quest, allowed comparisons to be drawn and results to be tested. In the main, the Commissions’ findings confirmed the task force’s results in important respects.

The Dutch Commission on financial assets³ brought out its final report in November 1999. Its focus was on determining the extent to which post-war restoration of property rights and restitution might have fallen short from what was required and just. But, because the extent of spoliation in the Netherlands had been so very large, the

³ Begeleidingscommissie onderzoek financiële tegoeden WO-II in Nederland.

Commission's findings, especially in those instances where assets could not easily be hidden from the looter, came relatively close to providing a view of the pre-war situation. Insurance was such a case in point. The Dutch data show the insured sum of all policies surrendered to the Nazis (life insurance, incl. annuities) to be within 5 percent of the insured value for Jewish policyholders as calculated by the task force for its medium scenario. This is remarkably close given that the Commission found that the exclusion of policies with a face value of less than fl 500⁴, which fell below the threshold value at which companies had to report policies to the Nazis, was sufficiently important to warrant attention. Such policies as well as those that simply had not been reported as belonging to Jewish holders, would generally have been cancelled because of non-payment of premia. Although some of these policies were eventually reinstated or compensated by the companies to the original holders or their heirs, many were not. The Commission thus recommended that payment should be made for the uncompensated part of non-reported policies that had belonged to policyholders who died without heirs.

In the case of Belgium, the national Commission⁵ presented its final report in July 2001. Its researchers had been aware of, and indeed cited, the work of the task force. As the Commission could access documentation regarding individual policies company by company – an approach denied to ICHEIC because of the Belgian privacy laws⁶ - it used this micro-approach to build its global findings. It found that the result came “very close to the numbers generated by ICHEIC”⁷. Indeed, it falls toward the lower end of the range the task force calculated for its high propensity scenario and right in the middle of the range for the medium scenario.

The task force had referred specifically to the fact that the results of the researches of the French Commission⁸ had not been available during its deliberations.⁹ That

⁴ The bulk of these were the so-called ‘volksverzekeringen’, which had face values of less than fl 300.

⁵ Studiecommissie betreffende het lot van de bezittingen van de leden van de joodse gemeenschap van België, geplunderd of achtergelaten tijdens de oorlog 1940-45.

⁶ Urgent requests on behalf of ICHEIC for the relevant documentation were denied on the basis of the privacy law of December 8, 1992, which specifically prohibits the making of name lists based on political, religious or philosophical criteria.

⁷ Final Report, p.434.

⁸ Mission d'étude sur la spoliation des Juifs de France.

Commission's results were of particular interest because the task force decided, in their absence, to accord differential treatment to France - and by extension to Belgium and Italy as well - than it did to other countries.¹⁰ In short, for these countries it was assumed that survivors had been fully reinstated or compensated, so that the issue of estimating the number and amount of potentially valid claims related solely to policies issued to those who had perished. Unfortunately, the final report of the French Commission does not help to clarify this issue. The Commission came to the view that it was not possible to assess the eventual losses incurred by survivors, though it notes that the issue of restitution was characterized by "the silence or the indifference of the insurance sector".¹¹ Its work, therefore, concentrated on estimating the portion of policies of the period that had remained unclaimed in 1999 and that could have belonged to Holocaust victims who had perished. Their results fell within the range the task force had estimated in its medium scenario for France.¹²

The cooperation between ICHEIC and The Foundation was formally recognized in the Agreement signed by the United States and Germany in July 2000 regarding the establishment of The Foundation under German law. This agreement provided, inter alia, that the Foundation would transfer €281.211 million to ICHEIC of which €102.259 million were designated for the payment of valid insurance claims. The Task Force's work, as noted above, provided substantive input for this determination. ICHEIC signed an implementing Agreement (hereinafter referred to as The Agreement) with The Foundation and the German Insurance Association on October 16, 2002.

The task force's work also indicated that the research effort that underpinned the outreach program would need to be strengthened and expanded. The Agreement, reflecting this need, called for the collection and publication of "as comprehensive a list as possible of holders of insurance policies issued by German companies who may have

⁹ Report, p.30, par. 74.

¹⁰ Ibid, p. 30, par. 76-77 and tables p. 37-39.

¹¹ Mission d'étude sur la spoliation des Juifs de France, *La Spoliation Financière*, vol. I, p. 242

¹² Ibid, p. 251.

been Holocaust victims.”¹³ This launched a massive effort to generate, within four months of conclusion of The Agreement, a list of all Jews (Nuremberg Laws definition) who resided in Germany during the period January 1, 1933 to May 30, 1945. The majority of the work fell to the Bundesarchiv and was guided by a team of experts appointed by the Bundesarchiv and ICHEIC. The resulting electronic database would then be matched to electronic lists of policyholders for the years 1920-1945 of insurance companies that operated in Germany during that period. As a result of this project, ICHEIC was able to add in April 2003 360,000 names to its list of holders of policies issued to German residents, who might have been Holocaust victims; this brought ICHEIC’s published list for Germany to 395,578.

Similar efforts to expand the database of potential policyholders who might yet have a valid claim were made in other countries. However, problems of access to documentation and generally greater documentation gaps forced these to be far less ambitious than the Foundation-linked project for Germany. Nevertheless, the results allowed ICHEIC to publish a list containing 123,431 names of policyholders for the period 1920-1945, who might have been Nazi persecutees. Here too, the work of the task force provided a guide to these efforts.

To sum up, the work of the Task Force helped gauge the number of unpaid and uncompensated Holocaust era policies for which potential claimants, eligible under ICHEIC’s rules, might come forward as well as the amounts that might be involved. The research cited above enabled ICHEIC to publish 519,009 names of possible Holocaust era policyholders on its website, as of September 15, 2003. ICHEIC had received 81,205 claims eligible under the ICHEIC process, as of April 16, 2004. ¹⁴

¹³ Agreement, ANNEX H.

¹⁴ According to the April 16, 2004 ICHEIC Statistical Report. ICHEIC's claims filing deadline passed on December 31, 2003. A large influx of claims received immediately prior to the deadline and through March 31, 2004 (the cut-off date for ICHEIC's receipt of claim forms obtained by claimants prior to December 31, 2003) is still undergoing processing, the first step of which is determining eligibility under the ICHEIC process.

The 519,009 policyholder names published represented the highest credible estimate of the relevant number of policyholder names for whose policies claims might be lodged, from heirs, relatives, and sometimes original policyholders themselves. There are many more policyholder names than eligible claims for several reasons, including:

1. For some policyholders, the annihilation of all heirs, relatives, or other possible future claimants along with the policyholder as a result of the Holocaust left no person able to file an ICHEIC claim;
2. Some potential claimants who survived the Holocaust passed away prior to the inception of the ICHEIC process, leaving no person able to file an ICHEIC claim; and
3. Some potential claimants elected not to participate in the ICHEIC process, in some instances due to prior receipt of compensation for lost policies through government-administered post-war reparation programs, awards received directly from companies, or for other reasons.

The funding put in place to meet claims and provide for humanitarian initiatives includes, in addition to the initial commitments made by ICHEIC's member companies, \$100 million (plus interest) by the Assicurazioni Generali (an ICHEIC member), \$17.5 million by AXA, Winterthur and Zurich (all ICHEIC members) (in addition to \$7.5 million already contributed), and the above mentioned €102.259 million from The Foundation for claims settlement and operating expenses (up to \$30 million) plus a further €178.952 for humanitarian purposes. The Dutch Insurance Association became a member of ICHEIC and made a contribution of \$ 7.5 million in 2000.¹⁵ In addition, ICHEIC reached agreements with the relevant Austrian, Belgian and Dutch Funds (or Foundations) about the transfer of claims that would fall under their jurisdiction. These numbers cannot be directly compared to the estimates contained in the Report because the latter confine themselves to values of the time. Obviously, current funding needs have to take into account the agreements that have been reached on the calculation of

adjustments for currency fluctuations, inflation, loss of interest, etc. over the past six decades. Furthermore, accommodation must be made as well for the agreements regarding compensation for surrender payments companies made into blocked accounts over which the policyholder had no control and which can be deemed to have been expropriated. Still, the amounts made available to ICHEIC by The Foundation, for example, cover the upper range of the Task Force's estimate for unpaid policies after inclusion of valuation adjustments.¹⁶

As noted above, the Task Force's work has been a positive input to all these efforts and its results have stood up fairly well. Accordingly, its Report may be of general interest and useful to students of the subject matter.

¹⁵ This was before the Agreement between ICHEIC and the Dutch Foundation on handling of claims was signed.

¹⁶ Compensation for payments into blocked accounts is to come from the funds designated for humanitarian purposes.