

ANNEX B

RELAXED STANDARDS OF PROOF FOR LIFE INSURANCE POLICIES*

PART A

The Foundation "Remembrance, Responsibility and Future", the International Commission on Holocaust Era Insurance Claims (ICHEIC) and the German Insurance Association establish the following Relaxed Standards of Proof for use by German insurance companies (insurance companies) to assess the validity of unpaid life insurance claims from the Holocaust-era. The insurance companies will review claims pursuant to Relaxed Standards of Proof based on the information provided by the claimant as well as information discovered during the insurer's investigation of its files, records and archives, together with documents and records recovered during the search of appropriate archives by ICHEIC. The Relaxed Standards of Proof have been established to make it as easy as possible for a claim to be assessed, taking into account all relevant information.

- A In making a claim related to an insurance policy issued to a victim of the Holocaust, a claimant:
- 1 shall show that it is plausible, in the light of all the special circumstances involved, including but not limited to the destruction caused by World War II, the Holocaust and the lengthy period of time that has passed since the insurance policy in question was obtained, that the claimant is entitled, either in whole or in part, to the benefits of the insurance policy under consideration.
 - 2 shall submit all relevant documentary and non-documentary evidence in the claimant's possession or under the claimant's control that may reasonably be expected to be submitted in view of the circumstances and the years that elapsed, of that particular claim, including but not limited to the history of the claimant and the claimant's family, the history of the policyholder/beneficiary/insured (if they

*The eligibility criteria for non-life insurance policies is set out in Sections 2 (2) and (3) of the Agreement.

are not the claimant), and whether or not the policyholder, insured or claimant was a victim of the Holocaust;

- 3 shall submit a copy or reproduction of any original document about the insurance contract within the claimant's possession or control;
- 4 shall disclose whether the claimant or, to the claimant's knowledge, any other person has applied for, or received, any payment, compensation, reparations or restitution from any government or organisation in respect of the policy under consideration;
- 5 shall disclose the identity of any person known to the claimant whom the claimant believes or may have reasonable grounds to believe may have a valid claim to the benefits of the policy under consideration; and
- 6 shall not submit any evidence in support of a claim which the claimant knows is falsified, forged or materially misleading.

B In assessing a claim by a claimant, the participating insurance companies have agreed:

- 1 not to reject any evidence as being insufficiently probative of any fact necessary to establish the claim if the evidence provided is plausible in the light of all the special circumstances involved, including but not limited to the destruction caused by World War II, the Holocaust and the lengthy period of time that has passed since the insurance policy under consideration was obtained;
- 2 not to demand unreasonably the production of any document or other evidence which, more likely than not, has been destroyed, lost or rendered inaccessible to the claimant;
- 3 to consider all information submitted by the claimant together with all information recovered by the insurers and ICHEIC during their search of insurer and other appropriate archives and at all times to consider the difficulties of proving a claim after the destruction caused by World War II, the Holocaust and the lengthy period of time that has passed since the insurance policy under consideration was obtained.

C The existence of an insurance policy¹ will be considered adequately substantiated by any one of the following:

- 1 an original or copy of an insurance policy;
- 2 original or copies of premium receipts for an insurance policy;
- 3 information in the records of an insurer that verifies the existence of an insurance policy;
- 4 written correspondence between the insurer or agent or representative of the insurer and the claimant that verifies the existence of an insurance policy;
- 5 records held or maintained by any governmental body that verify the existence of an insurance policy;
- 6 records of any governmental body held by the claimant that verify the existence of an insurance policy.

The review process shall also consider whether any other document or statement, or combination of documents or statements, are sufficient to substantiate the existence of an insurance contract (“catch-all” provision).

D Evidence of details of the insurance contract, the contract’s history, information on any payment made to the policyholder, on blocked accounts or any government by the insurer and details of any payment, compensation, restitution, reparations, as well as nationalisation shall be considered adequately substantiated by any of the following documents, including but not limited to:

- 1 correspondence with an insurer or the agent or representative of an insurer;
- 2 information in the records of an insurer;
- 3 records held or maintained by any governmental body that verify the above mentioned details surrounding the insurance contract;

¹ Please note: The existence of an insurance policy does not automatically mean that the claim
(continued...)

- 4 records of any governmental body held by the claimant that verify the above mentioned details surrounding the insurance contract.

The review process shall consider whether any other document or statement, or combination of documents or statements, are sufficient to substantiate the above-mentioned details surrounding the insurance contract. (“catch-all” provision)

Information about personal circumstances may be gathered from the following documents, including but not limited to:

- 1 photographs;
- 2 maps;
- 3 reports or notices published in any newspaper, gazette or other journal;
- 4 diaries and personal letters;
- 5 family histories or tree;
- 6 birth or death certificates;
- 7 employment or school records;
- 8 military records;
- 9 a sworn or affirmed statement or affidavit, made by the claimant or by any person having relevant knowledge or authority;
- 10 immigration or emigration records;
- 11 letters, written evidence;
- 12 mortgages;
- 13 any other evidence that the claimant may wish to add to his file.

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is valid.

PART B

There can be no question that there has to be sufficient and adequate evidence of a contractual relationship with an insurance company. In the first instance the claimant is invited to provide whatever evidence he has. But whatever evidence the claimant can offer—and even if there is none—the companies will, as part of the claims process, carry out a thorough investigation of their records and where, deemed appropriate by the company, a search of outside archives, to help the claimants find evidence of the contractual relationship, even if they themselves have none. Satisfaction of that requirement will be determined in accordance with these Relaxed Standards of Proof, which are to be interpreted liberally in favour of the claimant; all parties agree to this basic concept. There is intentionally built into the Relaxed Standards of Proof wide latitude and flexibility. Indeed it is understood that, under the catch-all provisions, non documentary evidence, as well as other documentary evidence not specifically mentioned or contemplated in the Relaxed Standards of Proof, will be considered in determining the existence of a policy.

When the existence of the contract has been established, the burden shifts to that company. At this point the relevant details of the contract (e.g. type of insurance, value insured, premium and duration) need to be determined. This will be done using evidence from the claimant, the company or other outside sources.

Once the existence and details of the contract or claim are established, the company must establish the status of the contract, i.e. what, if any, adjustments are to be made to the value of the claim (i.e. loans, forfeitures, redemptions, payment of insured benefits, etc.). Most importantly the company will have to demonstrate, either from its own records or from external documentary evidence that it has fulfilled its contractual obligations.

A company's ability to satisfy this burden will depend, in part, on the adequacy of the records available to it. It is understood that some company records have been destroyed, either during the war or in the normal course of business, making it impossible to state with complete certainty whether any particular claim was paid or otherwise reduced in value. A company may present any evidence from its own records or external sources, which would prove that a payment was made to the proper insured or a beneficiary.

If a company is unable to demonstrate that a policy has been paid or that the value should otherwise be adjusted, the full payment of the sum insured under the policy, as calculated under the Valuation Guidelines (Annex D) will be offered.

Decisions based on these factors, like all other decisions, will be subject to the appeals procedure. Those hearing and deciding the appeals will be authorised to make fresh reviews of the record (including evidence offered under the catch-all provisions). This procedure will insure that those with strong evidence of a claim, even if purely non documentary, as well as those with less persuasive evidence, will be given an appropriate and fair review while maintaining the integrity of the process. The named companies will be afforded the opportunity to show that payments and adjustments were made, but claimants will not be unduly prejudiced by a lack of records or a presumption of payment where proof is unavailable.

In short, the process established in the Relaxed Standards of Proof allows the claimant to bring non documentary and unofficial documentary evidence for assessment, and guarantees that any claim (irrespective of what evidence the claimant can produce) will be thoroughly researched to see if conclusive evidence of the contract can be found. But it also avoids the risk to the integrity of the review process which would arise if payments were made on the basis of non documentary or unofficial documentary evidence, irrespective of its strength and plausibility.

PART C

Relaxed Standards of Proof will also apply where the burden of proof lies with the insurance company in accordance with Section D of Part A of this document. Under the Relaxed Standards of Proof the companies may use any evidence available to them from their own records or external archives to prove the status of the policy. In this context so-called “negative evidence” (eg, an inference from the absence of a policy from certain company registers that the policy did not exist or was cancelled or paid) is in principle admissible in determining a claim and in an appeal, subject to sufficient supporting evidence being available from the audit process and elsewhere, to show that the company records in question are trustworthy and comprehensive. However, where the Agreement provides for the use of “deemed dates” to determine whether a policy had been confiscated or paid into a blocked account, the “deemed dates” must also apply to such negative evidence. Accordingly,

“negative evidence” from a company register showing that a policy had been paid after the “deemed date” would, in the absence of other evidence, create a presumption that the payment had been made into a blocked account or confiscated (see the provisions in the Valuation Guidelines Annex D, Sections 4 and 5), and the converse would apply before a “deemed date”.