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## Holocaust Era Claims: Mission Not Accomplished

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The International Commission on Holocaust Era Claims (ICHEIC), with a mandate to help policyholders and their heirs receive monies from unpaid Holocaust era insurance claims, held its final meeting in Washington, D.C., on March 20. After nine years, ICHEIC is out of business.

In the weeks following ICHEIC's closing, there have been articles chronicling that organization's alleged successes. While those same articles mention that ICHEIC has had its share of critics, not enough thoughtful analysis has been given to the commission's real failures.

ICHEIC is often lauded for having processed, free of charge, more than 90,000 claims and compensated more than 48,000 claimants. What is not made clear, however, is that, of these 48,000 claimants, about 34,000 of them received so-called humanitarian awards of \$1,000. Only 14,000 claimants who applied to the commission were compensated because their relatives were actually determined to have bought insurance policies.

To put this in perspective, the Conference on Jewish Material Claims Against Germany recently met with German Chancellor Angela Merkel to bring to her attention the fact that the German social security administration has denied ghetto pensions to about 61,000 of the approximately 70,000 survivors who applied for such compensation. With a failure rate of over 87 percent, the German program has been rightfully and widely criticized by survivors and Jewish and humanitarian organizations. Considering that ICHEIC has done only marginally better, why hasn't there been a similar public uproar?

Over the years, ICHEIC fostered the notion that claimants were denied compensation solely because they did not have adequate documentation regarding purchased insurance policies. However, we are aware of numerous claimants (only the commission knows the precise number who fall in this category) who, in fact, had definitive proof that policies were purchased, but were nonetheless denied compensation because the commission allowed the use of "negative evidence."

For example, if a claimant had a copy of an actual insurance policy that her relative had bought from the Generali Insurance Company, but the policy information did not appear in Generali's records, the "negative evidence" would lead to her application being denied. It was ICHEIC's decision to allow the use of "negative evidence," which certainly belies the claim of Lawrence Eagleburger, the commission's chairman, that the organization's principal purpose was to find claimants and pay them.

Other examples of ICHEIC's failings include the way in which it dealt with decisions made by the Generali Trust Fund (GTF). The trust fund was created to process claims concerning Generali and, in that capacity, had the authority to determine if claimants had compensable claims. As early as November 2002, ICHEIC had concerns that GTF's performance was below acceptable standards and, in late October 2004, the commission terminated its relationship with the trust fund, citing GTF's gross incompetence. Despite acknowledging GTF's sub-par performance, ICHEIC refused to review any of the fund's final decisions, thereby denying claimants a fair decision-making process.

There has been mention in the press that ICHEIC, over its nine-year lifespan, spent approximately \$100 million on administrative expenses. Because the commission distributed about \$300 million to the 48,000 claimants noted above, for every \$3 that went to the heirs of insurance owners, about \$1 went to keep ICHEIC's bureaucracy afloat. The commission, which was funded with about \$550 million, is going out of business with monies left over.

According to various press reports, ICHEIC has disbursed between \$174 million and \$200 million through a humanitarian fund to support Holocaust education and needy survivors. Unanswered questions include who made these "humanitarian" decisions and, indeed, whether it was ever in ICHEIC's mandate to disburse money for philanthropic purposes.

Among those benefiting from the commission's largesse is a program called the "Initiative to Bring Jewish Literacy to Youth in the Former Soviet Union." From 2004 to 2006, ICHEIC spent \$3.4 million to send children to camp in St. Petersburg and Moscow. While a good cause, one would be hard-pressed to find a true nexus between that grant and ICHEIC's mission to facilitate the processing of insurance claims from the Holocaust period.

At the final commission meeting, Chairman Eagleburger is quoted as having said that ICHEIC "has achieved its goal of bringing a small measure of justice to those who have been denied it for so long." As a lawyer who has closely worked with ICHEIC claimants, I sadly disagree. For nine years, ICHEIC failed the very people it was created to serve. n

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