



**ROBERT WEXLER**  
CONGRESS OF THE UNITED STATES

April 2, 2009

President Barack Obama  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear President Obama:

As a Member of Congress who cares deeply about the well-being of Holocaust survivors in my Congressional district in Florida and across the nation, I respectfully request that your Administration do everything in its power to support the legal rights of survivors to seek redress in U.S. courts for their Holocaust era insurance claims.

As you know, it is the responsibility and duty of the Federal government to ensure that the rights of all Americans are protected under the law. To that end, I believe we have a unique obligation to protect the rights of survivors of atrocities perpetrated during the Holocaust. Given that important obligation, I want to draw your immediate attention to the ongoing issue of Holocaust era insurance claims which have not yet been, to my satisfaction and to that of other members of Congress, fully and properly resolved.

Many Holocaust survivors or heirs of Holocaust victims were rejected by European insurance companies when they sought to claim life insurance policies after World War II. Unconscionably, insurance companies demanded that claimants present death certificates or have physical possession of policy documents, knowing that these documents had been confiscated by the Nazis or lost in the devastation of the Holocaust. This left many claimants without a viable avenue to recover their property.

As you may be aware, some Holocaust era insurance claims were settled either in the post-war years by individual European countries, or from 1998-2007 through the International Commission on Holocaust Era Insurance Claims (ICHEIC). However, a number of insurance claimants strongly believe that neither the post war process nor the ICHEIC process was fair, and that both processes failed to satisfy their basic rights to recover their or their families' unpaid insurance claims. This is particularly disturbing considering that insurance companies profited financially from the confiscated insurance assets and the cash value of these policies.

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The Clinton Administration signed an Executive Agreement in 2001 with Germany that supported the German Foundation 'Remembrance, Responsibility, and the Future' and designated ICHEIC to resolve all Holocaust-era insurance policies issued by German companies and their subsidiaries. In 2001, the United States and Austria also signed an Executive Agreement, which designated ICHEIC to resolve all Holocaust-era insurance policies issued by Austrian companies and their subsidiaries. These Agreements have now, in effect, barred American Holocaust survivors from bringing cases against Holocaust era insurers in U.S. courts, because the Executive Agreements require that the Administration submit Statements of Interest in the Federal Courts, asking these Courts to dismiss Holocaust era insurance cases.

As a matter of principle, a private, voluntary process such as ICHEIC can never be deemed an adequate substitute for a citizen's ability to legally recover insurance policies issued by companies conducting business in this country under U.S. law. The ICHEIC process, while ambitious, did not require full disclosure of Holocaust era insurance policies so survivors and their heirs have never been able to conclusively establish whether policies existed in their name, or in the names of their deceased family members.

As you may recall, insurance companies that remained negligent in addressing Holocaust era insurance claims were uncooperative for decades, until the state of California passed the Holocaust Victims Insurance Relief Act of 1999 which allowed California state courts to review these cases. Other states have passed similar laws. It is critical for the Administration to ensure that Holocaust survivors, who want to have their day in court, are able to do so in an effort to recover their Holocaust era assets.

Holocaust survivors, like every other American, should have the right to seek legal redress in U.S. courts. I urge you to instruct your Administration to work with Congress to re-articulate this basic right. As a first step, I respectfully request that you instruct the Justice Department to amend their October 30, 2008 submission in the Second Circuit Court of Appeals to inform the Court that the position taken by the Government in the brief is retracted and that the issue will be reviewed by the new Administration.

One way of ensuring that survivors have access to the legal system -- while respecting U.S. Executive Agreements with Germany and Austria -- is for your Administration to refrain from asserting a preemption of state laws in litigation. In signing the Executive Agreements in 2000 and 2001, the Clinton Administration and Bush Administration committed to filing statements of interest in federal courts, but not in state courts. It is problematic that European insurance companies are somehow immunized from litigation in state courts. This is a gross violation of our legal system and the basic rights of U.S. citizens. Furthermore, I do not believe that "legal peace" provisions from Executive Agreements should be extended to countries that have no such agreement with the United States.

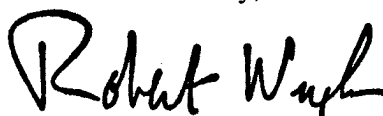
In March 2007, ICHEIC closed its doors and left many Holocaust survivors, including constituents in my congressional district, extremely disappointed with the process and the

outcome. Many claimants believe that ICHEIC did not accomplish its goals. Moreover, many claimants never agreed to accept ICHEIC as the exclusive venue for resolving Holocaust era asset insurance claims. Some experts estimate that a sizeable amount of the policies sold to Jews living in Europe at the beginning of World War II have yet to be paid. If post-war or ICHEIC efforts were unable to successfully resolve Holocaust era insurance claims, then providing access to the U.S. courts is the only reasonable alternative for survivors desiring to pursue their insurance policies.

Finally, I ask that you review and respond to the attached letter from the Holocaust Survivors' Foundation USA (HSF), a national alliance of elected leaders of grassroots Holocaust survivor organizations with thousands of members in 15 states. In this letter, the HSF leadership lays out their concerns and express their desire for a just and fair policy position that your Administration should take to protect their rights and well-being.

President Obama, I believe that your Administration should champion the rights of Holocaust survivors in their waning years, and ask for your support in re-establishing insurance claimants' right to have their day in court. To that end, I look forward to your response to my letter.

Sincerely,

A handwritten signature in black ink that reads "Robert Wexler". The signature is written in a cursive, flowing style with a large initial "R".

Robert Wexler  
Member of Congress

Cc: Attorney General Eric Holder