

The Honorable Ileana Ros-Lehtinen
Ranking Member, Committee on Foreign Affairs
Testimony before the Subcommittee on Commercial and Administrative Law
Committee on the Judiciary
“Holocaust Insurance Accountability Act of 2010”
2141 Rayburn House Office Building
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Thank you Chairman Cohen and Ranking Member Franks for the opportunity to testify on an issue of great importance to me – the legal rights of Holocaust survivors – and the responsibility of insurance companies as it relates to Holocaust-era policies.

I have the honor and the privilege of representing a district in South Florida which is home to one of the largest communities of Holocaust survivors in the nation.

Throughout my tenure, I have worked with several of our colleagues to protect the interests of the survivors against governments, banks, and others who have benefitted from the atrocities committed during the Holocaust and have worked on issues relating to Holocaust-era compensation.

One of the Holocaust-related issues that remain unresolved, and one that many of my constituents regularly reach out to me on – asking for Congressional action – is the matter of unpaid Holocaust-era insurance policies.

Although many decades have passed since the world witnessed the terrible crimes perpetrated by the Nazi regime, many European insurance companies continue to refuse to disclose Holocaust-era insurance policy information or pay Holocaust survivors or families of victims for policies purchased before or during World War II.

These companies have unfairly denied claims, alleging that Holocaust survivors and heirs of the victims, lack proper documentation, such as death certificates, to prove insurance policy ownership.

Denial of claims based on this argument is shameful and outrageous since concentration and death camps, in which many of the Holocaust victims perished, did not issue death certificates.

Further, many of the documents the victims had to substantiate their claims were confiscated by the Nazis or left behind by the victims while fleeing.

In many cases, the only records of policy ownership are in the vaults of the insurance companies, many of which continue to refuse to disclose these documents.

Essentially, what these insurance companies are saying is that they will only settle these claims if the survivors provide policy documentation, which only the insurance companies have and are refusing to disclose.

In 1998, the International Commission on Holocaust Era Insurance Claims or ICHEIC was established, with the objective of settling Holocaust-era insurance claims.

However, the voluntary ICHEIC process was controlled by the European insurance companies and lacked the necessary oversight and enforcement mechanisms.

The insurance companies were never forced to adequately disclose policy information.

If the policy information was not disclosed, how are the survivors supposed to prove policy ownership?

ICHEIC was to apply a relaxed standard of proof when processing Holocaust-era claims, taking into account the special circumstances associated with the Holocaust.

However, evidence indicates that ICHEIC often failed to apply the relaxed standard of proof and, in some cases, placed heavier burden of proof on the survivors than would have been required in a court of law.

The ICHEIC process ended in 2007 after producing payments for only a small fraction of the value of Holocaust-era insurance policies.

A flawed process, which no longer exists, should not be deemed as the exclusive remedy for survivors to recover under their policies, as proposed by those who oppose the Holocaust insurance legislation that I introduced with Congressman Klein.

Some of the insurance companies have stated that they will continue to process claims under ICHEIC-like rules.

But these are empty promises that will lead to little, if any results.

History has already shown that, despite wishful thinking, insurance companies will not do the right thing and will not voluntarily disclose information and pay out claims to Holocaust survivors.

Holocaust survivors, just like anyone else, should have the right to have their day in court to recover under their policies.

Allowing the insurance companies to continue to withhold information and payments, as they did under ICHEIC, without allowing claimants to have access to U.S. courts, is unacceptable.

Companies that have shamefully failed to disclose Holocaust-era policy information and adequately settle claims, should not be granted legal immunity and allowed to be unjustly enriched at the expense of Holocaust victims.

To restore the rights of Holocaust survivors, I introduced the Holocaust Insurance Accountability Act, a bipartisan measure which currently has 37 cosponsors, including our distinguished colleagues on this panel, Representatives Schiff and Garamendi.

Congressman Conyers, Chairman of the Judiciary committee, as well as Chairman Cohen, are just some of the other distinguished Members of the House who have cosponsored this legislation.

The bill seeks to restore the rights of the survivors by blocking preemption of state laws that were passed to allow Holocaust survivors and heirs of victims to have their day in court and to require insurance companies conducting business in those states to disclose Nazi-era insurance policy information.

Ambassador Stuart Eizenstat, who has for years worked closely on Holocaust restitution and compensation issues, and others who oppose this measure argue that this measure will undermine the foreign policy interests of the United States and that "legal peace" should be granted to companies that participated in ICHEIC.

I disagree.

It is not in the interests of the United States to deny survivors their legal rights.

Denying the survivors their rights would not only send the wrong message to the rest of the world about how the United States treats individual property and contract rights, but will send the worst possible message about how we treat victims of the Holocaust.

The number of living Holocaust survivors is shrinking significantly every year.

It is therefore urgent that Congress take immediate action aimed at bringing at least a degree of justice and closure to them after all these years.

I hope that this bill is brought to the House Floor and ultimately enacted into law as soon as possible.

Thank you again for granting me the opportunity to testify at this important hearing.