

HOLOCAUST ERA ASSETS—AFTER THE PRAGUE CONFERENCE

HEARING BEFORE THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE: U.S. HELSINKI COMMISSION ONE HUNDRED ELEVENTH CONGRESS SECOND SESSION

MAY 25, 2010

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**HOLOCAUST ERA ASSETS—AFTER THE PRAGUE
CONFERENCE**

MAY 25, 2010

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HOLOCAUST ERA ASSETS—AFTER THE PRAGUE CONFERENCE

MAY 25, 2010

COMMISSION ON SECURITY AND COOPERATION IN EUROPE,
Washington, DC.

The hearing was held from 2:30 to 3:22 p.m. EST, 428A Russell Senate Office Building, Washington, DC, Senator Benjamin Cardin (D-MD), Chairman, Commission on Security and Cooperation in Europe, presiding.

Members present: Hon. Benjamin Cardin, a Senator from the State of Maryland, Hon. Alcee Hastings, a Member of Congress from the State of Florida and Hon. Chris Smith, a Member of Congress from the State of New Jersey.

Witnesses present: Stuart Eizenstat, Partner, Covington & Burling LLP, former U.S. Ambassador to the European Union.

HON. BENJAMIN CARDIN, A SENATOR FROM THE STATE OF MARYLAND

Mr. CARDIN. Let me welcome you all to the Helsinki Commission hearings. I've been informed that the House has a series of votes so I assume that Congressman Hastings, who had planned to be here, will be delayed as a result of that. And he's asked that we start the hearing, knowing full well that schedules are going to be difficult during this last week before the Memorial Day recess.

I also want to welcome you to the recently renovated small business committee hearing room. I serve on the small business committee and this room was recently renovated to reflect the importance of small business to our economy. And it's a pleasure to have Ambassador Eizenstat with us, and I'll have a little bit more to say about that.

Twenty years ago, the establishment of democratically elected governments in Central and East Europe gave us hope that at long last, we would be able to deal with property restitution issues left over from the Nazi era, World War II. With democratically elected governments, we thought that we would be able to get these issues addressed in a more open and transparent way, bringing justice to people who had waited a long time in regards to property that was wrongfully taken.

The Helsinki Commission began to examine some of these issues and convened its very first hearing on property claims issues in 1996. And it's interesting that Ambassador Eizenstat was our witness at that hearing, so it's nice to have Ambassador Eizenstat

back with us 15 years later. Unfortunately, we still have some issues that are unresolved.

We were very heartened when the Czech government agreed to host a conference to examine outstanding issues relating to Holocaust-era assets. I introduced a resolution in the Senate specifically condemning the Czech government and supporting the goals of the Prague conference. Separately, I cosponsored, with Sen. Nelson, a resolution on specific problems of restitution or compensation for property seized in Nazi and Communist eras.

I do want to take a minute to express my concerns about two countries that were mentioned by name in the Senate resolution. First, let me talk about Poland. Successive governments in Poland have promised to adopt an effective general property compensation law, but no government to-date has been able to do so.

I understand that this is a particularly complex problem in Poland. Poland probably had greater border changes and more population transfers or expulsions at the end of the war than any other country in the region. And the confiscations carried out during the Nazi occupation were compounded by confiscations undertaken by the Polish Communist regime.

In other words, addressing this issue in Poland may be especially challenging. But I do not believe it is impossible. Indeed, the adoption of a limited property compensation law in 2005, for Poles who were originally from territories beyond the Bug River, was a useful start to addressing private property claims, but it should not be the end. Every major political party in Poland has supported draft legislation on property compensation and I hope the Prime Minister will be able to carry through on his stated commitment to see a general property law adopted.

Second, the resolution we introduced last year also drew attention to the situation in Lithuania. Unfortunately, Lithuania's 1995 law on the return of property to religious associations is needlessly restrictive. I hope the Government of Lithuania will fulfill promises it has made to revisit the legal framework and ensure that community property—not limited to houses of worship only, but also including, for example, schools—is returned. I might tell you that last year, we brought these issues directly up to the Lithuanian government when our annual meeting was held in Vilnius.

We are honored to have before us today Ambassador Stuart Eizenstat. His full bio is available and I will not go through citing or embarrassing him on all of his accomplishments. Ambassador Eizenstat is our former U.S. Ambassador to the European Union. In the 1990s, he led the negotiations for the United States with the Swiss, German, Austrian, and French private sectors and their governments on Holocaust-era bank accounts, slave and forced labor, unpaid insurance policies, immovable property, and the restitution of or compensation for stolen communal and private property. Last year, he led the U.S. delegation to the Prague Conference and he has just returned from follow-up discussions in the Czech capital.

As Lord Janner said of him at the conference in Prague last year, Stuart Eizenstat has "labored through the endless complexities to secure tangible results." Ambassador Eizenstat, it's truly a pleasure to have you once again before the Helsinki Commission. And we are joined by Congressman Smith, who is working his way up.

And if you would just wait for one moment, I would like to give Congressman Smith an opportunity, if he would like, to make some opening comments before we get started.

**HON. CHRIS SMITH, A MEMBER OF CONGRESS FROM THE
STATE OF NEW JERSEY**

Mr. SMITH. Thank you very much, Mr. Chairman, and I thank you for calling this very important hearing. And I'd like to welcome Ambassador Eizenstat and everyone and thank them for joining us this afternoon.

I'm sorry to note that one of the witnesses from one of the commission's earlier hearings on Holocaust assets, Jan Sammer, passed away just a few months ago. He was a principled and tenacious advocate for property rights in the Czech Republic. And I, along with, I know, everyone in this room, am deeply saddened that the Czech Republic did not resolve its unjust and discriminatory practices before his death, and indeed, has not done so yet.

Mr. Chairman, our government must pursue justice for those robbed by the Nazis and their accomplices and still defrauded by governments who connive at the Nazis' crimes by refusing to make them right. Each year, we lose more Holocaust survivors and that precious generation of witnesses will soon be gone. The failure to return their properties is tragic proof of the axiom, justice delayed is justice denied.

Very often, the failure to return properties is morally incomprehensible and impossible to justify and reflects very poorly on the government concerned. Let me mention just one such case: Three years ago, I joined with other members of our commission to write to the Hungarian foreign minister regarding artwork looted from the family of Martha Nierenberg during World War II.

The Hungarian government does not dispute that these paintings were unjustly taken from the family. In fact, the family's paintings had been on display in Hungarian museums with signs stating as much. Yet, the Hungarian government refuses to return the paintings to their rightful owner. This is blatant and a gross injustice.

Mr. Chairman, many wrongs of the Holocaust can never, ever be undone, but this one can. The Hungarian government has the legal authority to return these stolen paintings and has the moral responsibility to do so. Likewise, other governments in Europe have a serious moral responsibility to return property stolen during the Holocaust.

Really, is it hard to imagine how some people sleep at night living in homes stolen from Jewish families during the Holocaust, enjoying paintings and real estate stolen from those victims while the victims' descendants are cut off and shut out? How do the government officials that enable this injustice sleep at night?

Ambassador Eizenstat, welcome again and I thank you for your extraordinary leadership and vision in demanding justice for those who are unjustly deprived of their property. Thank you.

Mr. CARDIN. Thank you very much, Congressman Smith. I appreciate very much you coming by. Ambassador Eizenstat.

**STUART EIZENSTAT, PARTNER, COVINGTON & BURLING LLP,
FORMER U.S. AMBASSADOR TO THE EUROPEAN UNION**

Mr. EIZENSTAT. Thank you very much. I'm really honored to be here but even more pleased with the fact that you and Congressman Smith and Congressman Hastings and others are elevating this issue again because it's very important to do so.

I'd be remiss if I didn't begin by saying that the Office of Holocaust Assets at the State Department, which was created in the Clinton administration and continued in the Bush and now Obama administration, does an enormous amount of work with very few people. They're all excellent; they're dedicated.

Christian Kennedy is just ending a three-and-a-half year tenure as special envoy of Holocaust issues; Douglas Davidson, a very experienced and excellent career Foreign Service officer is taking his place and Basil Squirellus (ph), John Becker (ph), Liz Naikan (ph), Greg Matheson (ph), some of whom work only part-time, get a tremendous amount done on this issue.

I have, as you mentioned, just come back from Prague for follow-up negotiations to the fifth of five international Holocaust-related conferences—the first being in London in 1997 on Nazi looted gold; the Washington Conference on Holocaust-Era Assets, which focused on art in '98; the January 2000 Stockholm Conference; and the December 2000, Vilnius Conference, all of which were aimed at belated justice for Holocaust survivors and their families but also for other victims of Nazi oppression.

All of these were in the context of negotiations I led during the Clinton administration in which \$8 billion in revenues were obtained for Holocaust victims and other victims of Nazi aggression—the majority, by the way, of that money from non-Jews—from Swiss and French banks, German and Austrian slave labor and forced-labor companies, insurance companies and others, leading to the return of thousands of pieces of looted art and many other properties.

We are indebted to the Czech government for hosting and providing leadership for the historic Prague conference, which is by far the most ambitious of the five conferences in which I have participated. It has covered the widest array of issues, some of which, remarkably, were not considered before, like the social welfare needs of survivors and private property compensation or restitution. It also has provided new momentum on issues such as art recovery.

And it's the first, Mr. Chairman, of the Holocaust-related conferences to provide a follow-up mechanism. The Czechs have just created, and in Prague, I helped inaugurate with the foreign minister, the European Shoah Legacy Institute, which will ultimately be located in Terezin.

During the conference, we also managed to build a consensus around a series of non-binding moral commitments for action. Embodied in something we call the Terezin Declaration, of which all 47 participating states accepted and which we're now trying to develop specific private property guidelines and best practices. I'd like to submit a copy of that declaration for the record and focus on three of those commitments: improved social welfare benefits for survivors, private property compensation and art restitution.

On social welfare: Elderly Holocaust victims have unique social welfare needs. Many survivors lost their entire families in the Holocaust and have no family support network in their old age. Recent studies by the Jewish Claims Conference indicate that some half of the world's 500,000 Holocaust survivors live in poverty—35 percent of those in Israel do so; 25 percent of Holocaust survivors in our own wealthy country live in poverty; in New York City, our greatest financial center, over 33 percent do.

This is an unacceptable situation: that those who suffered so grievously in their youth should now have to sustain in their declining years deprivation and poverty. Hundreds of thousands of survivors around the world face significant health problems and they are in such dire financial circumstances that they simply cannot live out their remaining years in dignity. They need many things—in particular, home care.

As the Terezin Declaration noted, focusing for the first time on their social needs, several states have begun to use a variety of creative mechanisms to provide assistance both to those needy Holocaust survivors and to other victims of Nazi persecution. This includes, for example, special Social Security benefits to non-residents.

Austria provides for all of its survivors regardless of where they live, special homecare benefits; the use of assets from heirless property. And some countries are also proposing to adopt other methods of support, such as making all concentration camp survivors eligible to receive a pension as war veterans. I believe France is doing that.

The Federal Republic of Germany, of course, provides perhaps the most prominent example. It designated in 1951 the Conference on Jewish Material Claims against Germany as a successor organization for unclaimed property in former East Germany and to negotiate what is now \$100 billion of payments over the past 60 years for the benefit of Holocaust survivors. That is by far the single-largest source of funding. It goes through the claims conference to meet unmet social needs.

The second issue is property restitution, to which you referred in your eloquent statement, Mr. Chairman. And let me turn to that. In 1994, then-Assistant Secretary of State Richard Holbrooke, when I was ambassador to the European Union, asked me to take on a dual role as a special representative on Holocaust issues to try to encourage the new democracies to which you referred in the former Soviet/East bloc to reconstitute communally owned property for Christian and Jewish communities.

They are communities that were unable to practice their religion either because they were devastated during World War II or because of restrictions under Communism, and they needed the physical infrastructure to rebuild not just religious but also their cultural life. And so we encouraged the return of churches, synagogues, schools, community centers, even cemeteries in order to give them that physical infrastructure to rebuild their shattered lives, shattered by the twin tragedies of the 21st century, Nazism and Communism.

I found in going through virtually every country in Central and Eastern Europe that there was a complete lack of a comprehensive,

systematic way of handling immovable property claims except in the Federal Republic of Germany. We're going to submit, with your permission, in the next several weeks, a country-by-country analysis of where things stand. But let me focus on three countries where long-overdue improvements are necessary.

The first is Poland, to which you referred, Mr. Chairman, whereas you mentioned for several years, governments have been making efforts to enact legislation governing private property restitution. After several attempts, the Polish government, we understand, has now prepared new legislation, which in due course it intends to submit to parliament.

This new law would benefit not only current residents in Poland, but also all those living abroad who were either themselves or their family residents in Poland at the time of the taking both by the Nazis and by the Communists thereafter. Unfortunately, in our view, the proposed legislation still falls short in certain ways. For example, it does not include property in Warsaw, which is home to the largest pre-war Jewish population in Poland. And we hope that this draft law can be improved.

However, we do understand that there is a plan which has some promise for the city of Warsaw to fill this void with a city law that will provide a compensation program funded by the sale of city-owned property. And we're hopeful that the best practices that we're now negotiating and which the Czech prime minister has indicated he will declare if our negotiation is successful on June 9th, will add an additional impetus.

Poland has been participating in these talks and we hope that this will encourage them. It is, as you say, an extremely difficult issue. They were victims themselves as well as the Jews. They suffered a double loss because of the Communist taking. And we understand and support the notion that non-Jews whose property was taken by the Communists should also benefit.

Another area of potential progress in the near future is communal property in Lithuania, a country where not enough has been done to return communal property. And we understand the government, with the tacit agreement of the local Jewish community, may be submitting a communal property proposal to the parliament soon.

And finally, Romania, which has established a fund to pay compensation for property claims. But that fund, Mr. Chairman, was created in 2005; it's still not operational. At the same time, there is some modest array of hope because they've hired a major-fund manager, and that fund manager is there to manage the fund. Presumably, that indicates their willingness to move forward.

The Terezin Declaration urged participating states to implement their own national programs to address these unresolved immovable property issues and recommended an intergovernmental effort to develop nonbinding guidelines and property processes for the return of communal and private property, something that has not been done in any of the previous conferences. And this is all being done under the auspices of the newly created European Shoah Legacy Institute, which will be at Terezin.

Last is artwork: Since the adoption of the Washington Principles on Nazi Looted Art, in 1998, which I helped negotiate, the major

art markets have radically changed. Art auction houses like Christie's and Sotheby's have established their own full-time, in-house experts to look at the provenance of any art they handle from the 1933-to-1945 years passing through Europe.

Our own American museums have created a central search engine so a claimant can put a particular claim through that search engine and it goes to scores of museums around the country. There have been hundreds of pieces of art returned. Austria, for example, has actually incorporated the Washington Principles into domestic legislation. So has Russia but they have not implemented their own lay.

The Terezin Declaration reiterated national commitments to the Washington Principles and also emphasized two issues of particular importance since those original principles were negotiated in 1998, and that is the need to develop the provenance of artworks through careful research and scholarship, and to resolve disputes based on the available records about the location and ownership of works during the Holocaust period whenever possible through alternative dispute resolution processes.

It urged the courts, Mr. Chairman, and other fora that decide art restitution cases to base their cases on the facts of the individual case rather than relying on technical legal grounds such as a statute of limitations. And here, permit me to be very frank: The momentum following the 1998 Washington conference to return looted art to its rightful owners has significantly dissipated.

It has generated into lengthy, costly litigation in which the holders of art increasingly use technical defenses like statutes of limitation rather than making a decision on the merits. For sure, every claimant is not making a just claim but those claims ought to be considered. And that's what the Washington Principles and Terezin encourage; based on the merits and not on technical defenses.

The Washington Principles called for the establishment of commissions or other fora to handle these cases rather than going to court. The United Kingdom, Germany, France, Austria and the Netherlands all have established such commissions; we in the United States have not. To try to address that issue, the State Department has held a series of what we call town-hall meetings with all the stakeholders in the American art world.

We have not yet come up with a model for a commission—what qualifications commissioners should have, how they would be appointed, who would pay for their cost, how it would be structured, what their responsibilities would be—but we're still studying it; we're very interested in continuing to look at it and we certainly would welcome your ideas and those of the commission on this matter.

Let me conclude with the following: Where do we go from there? Our job in the State Department is to work with the states that participated in the Prague Conference to convert the moral commitments in the Terezin Declaration into action. That's what we're doing with the best practices that we're now negotiating. That is the job that the European Shoah Legacy Institute has likewise committed itself. They are, for example, talking about having a possible conference in 2012 to look at the implementation.

But I want to close with two issues that I feel very, very strongly about. The first is that elderly survivors or their families are often at wit's end in knowing how to seek the return of their real, immovable property; their artwork or other possessions brutally taken from them; so by force, say, by the Nazis or their collaborators. They're simply stymied.

There is only one place in the United States of America where anything systematically is being done to try to help them. They can't hire lawyers; they don't know the language abroad. And so the only place is the New York Banking Commission's Holocaust Processing Office under the inspired direction of Anna Rubin with a small, paid staff with whom I've met, paid for by the taxpayers of New York.

It does afford a venue to help claimants navigate foreign records and judicial or administrative proceedings but it's a very tiny office. It's funded with the generosity of New York taxpayers and, by the way, they handle claims all over the world; not just New York residents. We do not have any other vehicle to do this. I call on the Helsinki Commission and your leadership to consider how to establish a process similar to, or augmenting, or supporting the New York office with the resources to research and facilitate claims.

Just again on a personal basis, you cannot imagine how many poor people call me asking for help: Where do I go, who do I see, how do I understand the local language, what lawyer in Poland or the Czech Republic or Slovakia can help me? We need to have a method of doing it. The State Department, Mr. Chairman, cannot do it because of the espousal doctrine. We do not espouse claims for people who were not American citizens at the time of the taking. That's a long-established fact. So we need to try to find ways, perhaps, building on the New York office, to support that. Time is running out and the hourglass is fast ending.

Second and last, as a former U.S. ambassador to the EU, I want to say something. I am a great supporter of the European Union. It's one of the great exercises in shared sovereignty. It has united East and West Europe in a harmonious, democratic and free-market project. It's really quite amazing.

But, while some individual members of the EU have done good work in restituting property and providing compensation and social justice for survivors of the Holocaust and other victims of Nazi oppression, the EU as an institution which regards itself as a moral power in the world has done very, very little collectively to right particular wrongs of the past.

It was, after all, not in the United States, it was in Europe where these heinous crimes against Jews and non-Jews were perpetrated. It is in Europe, not the United States, where property was confiscated. It was in their member-states. Even so, they continue to take a hands-off approach to those member-states who do not live up to obligations, some of which they voluntarily accepted in acceding to membership; nor has the EU committed any funding, for example, to the European Shoah Legacy Institute.

It seems to me that it's time for the European Union not to simply leave Holocaust-era issues to the United States, but to deal with them as well with their own member-states and with their own financial resources in the European Commission, and to as-

sume their proper place in a partnership with us and other countries to resolve the many outstanding Holocaust-related problems that still confront the continent 70 years after the Shoah.

Again, with your permission, we would like to submit, later, a country-by-country assessment of where the property restitution issue lies. Thank you again, and thank you, again, for your leadership.

Mr. CARDIN. Well, Ambassador Eizenstat, thank you for your testimony. Your entire testimony, along with the supplements and country-by-country will be made part of our record. I just want to underscore the difficulty that people have in pursuing claims. My office was contacted many years ago concerning a claim in Romania for the return of property that was wrongfully taken.

And they had been through the Romanian courts several times with successful results, but no property. And this was going on for many years, and the only way we were able to get it successfully handled was putting a spotlight on it, causing a lot of international attention, and ultimately, the property was returned.

I mention that because I don't know how many people, how many families can go through that type of a process. It was very costly. It took a lot of travel, a lot of time. And there needs to be a more streamlined approach. So we certainly will take a look at your concerns, and we applaud the state of New York for what it's doing on processing claims for their citizens. But there should be some process here in the United States to deal with so many of our citizens who have open matters. And we'll take a look at that and see whether we can't help that along.

You mentioned the Terezin Declaration several times, and I just came back from a follow-up meeting. There was originally, I think, either 46 or 47 countries, I believe that were a part of it. In the follow-up conference, it is my understanding, only 30 states participated. Is there anything to be read into the fact that you didn't have quite the same level of interest in your most recent meeting?

Mr. EIZENSTAT. I don't think so. It's a good question, but I don't think so. And the reason is that when I look back to the run-up negotiating sessions that we had to the Prague conference, and then the ultimate Terezin Declaration which came from it, we did not have all 47 countries in the working group. There is a core group that we call friends of the chair—the chair being the Czechs.

There have been four or five negotiating sessions with the friends of the chair. And then we had the broader negotiation with 30 countries just last week in Prague. Again, that's basically the same number we had in the run-up sessions before. The Czech prime minister, Prime Minister Fischer, is personally going to send a letter to the heads of government and heads of state of all 47 countries asking them to come to Prague, or send a representative, for the declaration of these principles. And I would hope to get very close to the full complement of these countries.

Mr. CARDIN. Well, that's encouraging. Do you want to just explain to us what is meant by—legally non-binding and without prejudice to applicable international laws and obligations, which is, I understand, the language in the Terezin Declaration?

Mr. EIZENSTAT. Yes, sir. Senator and Chairman, going back to the Washington principles on art, we learned a very hard lesson in

negotiating those principles, and that is that if we tried to establish what in effect would be an international treaty—a binding, legal document—that we would never get anywhere. We made these, therefore, moral principles, legally nonbinding.

It's a sort of contradiction of terms, but it is meant to mean that each state can act within its own national laws, as it sees fit, but that these are moral principles that should guide it.

Now the fact is, one would say, well, if that's the case, what good is it? I can assure you that the Washington principles, although not legally binding, have, as I mentioned in my testimony, dramatically changed the entire art world. It's created a context. Everything we've done has been non-binding. The \$8 billion we negotiated wasn't done by fiat or by mandate; it was done by using the moral force of the United States of America to help mediate these disputes.

That's what we're trying to do, together with the Czechs and the other friends of the chair countries, with property restitution. I believe once we have these principles outstanding, it will give us a litmus test, a standard, by which to judge actions that will allow you, as chairman, and the Helsinki Commission, to ask countries to live up to those standards, even though they're not legally binding. If we tried, again, to make them legally binding, we wouldn't get to first base.

Mr. CARDIN. No, I agree with the strategy. It is an anomaly to say non-legally binding. I mean, it just seems, as an inconsistency, to use those terms—legally non-binding.

Mr. EIZENSTAT. It's meant to reinforce the fact that they're non-binding.

Mr. CARDIN. Right, right. You've mentioned several times the European Shoah Legacy Institute. I believe the United States has committed to making a contribution to that institute. You've indicated Europe has—EU has not been willing to do that. Can you just explain how the European Shoah Legacy Institute fits into the framework of what was accomplished in the Czech conference?

Mr. EIZENSTAT. Let me first say that this was entirely, at its inception, a Czech initiative. They wanted to have what would be the first follow-up institution from any of our conferences. There's never been a connective tissue between London in 1997 and Prague in 2009.

So their notion was to create an institute—ongoing—staffed by the government, and contributed to by other countries. We have indicated we would contribute \$150,000 a year for five years; the state of Israel, I think, \$75,000 a year for the next several years; and they're looking for other contributions. It would have a permanent staff. It's now temporarily in Prague; it will be in Terezin.

And its job is to see to it that it acts as a voluntary forum by which survivors, survivor groups and other Nazi victims and NGOs can look at the latest developments in the area. They will encourage the implementation of the commitments in the Terezin Declaration—in particular, private and communal property principles. They will have central databases that will be available. So it's really a very thoroughgoing effort.

I met, when I was in Prague just a few days ago, the new executive director and the chairman of the board, who, the chairman is

himself a Holocaust survivor from Auschwitz. It's really a quite remarkable undertaking. They're going to also encourage, in cooperation with the Holocaust Education, Remembrance and Research Taskforce, Holocaust education. So it's a very thoroughgoing, across-the-board effort to really put meat on the bones of the Terezin Declaration.

Mr. CARDIN. Do any other European countries, other than the Czech Republic, indicate a willingness to help and support this? Germany and Austria have indicated that they would help on a project-by-project basis. They've not yet made a decision on whether to commit general funds for staff, but they have indicated that they would consider project-by-project support. And this is where the European Commission comes into play.

The European Commission has a very, very large cultural budget. This is a perfect thing for them to support, as well as to do more to encourage member states on property restitution. But I really hope that they will do so. They came to the Prague Conference. One of the commissioners gave an eloquent statement about the importance of what we were doing. And I would hope that eloquence would be translated into funds and to support.

And we'll follow up with our contacts with the European community. You mentioned several times this country-by-country analysis. Who prepared that?

Mr. EIZENSTAT. The country-by-country analysis was prepared by, again, the small-but-excellent staff of the office of Holocaust assets, now under Doug Davis, and previously, Christian Kennedy. And it's done by a quite exhaustive effort going to groups like the American Jewish Committee, to the Jewish Claims Conference, to others who work on the ground, touching base with local Jewish communities in those countries, touching base with the governments, looking at what state of the law exists in those countries.

So it's a major effort. I don't want to, frankly, exaggerate this. If you look at other reports the State Department does—the human rights reports, for example—these are, oftentimes, much more detailed with a much larger staff. But given the very small staff—and at that, some are working part time—it's quite remarkable how much they can turn out. So they go through all of these efforts to try to develop a country-by-country analysis.

Mr. CARDIN. I'm just curious as to whether it may have more attention if it were sponsored by an institute or a group coming out of the Terezin Declaration so that it gets more acceptance among the European capitals. But is this report going to get—is this country-by-country analysis going to get the attention it needs in Europe?

Mr. EIZENSTAT. I hope so. I mean, one of the things that the European Shoah Legacy Institute can do is serve as a repository for that kind of a report, disseminate it to countries and urge that they take action based on that report. So that would be, actually, something quite interesting for us to propose to the Shoah Legacy Institute.

Mr. CARDIN. It's also a matter of the credibility of the report. And I'm not at all challenging the quality of this country-by-country report, but it needs to have international credibility. When the State Department issues its reports on the status of human rights

or on trafficking issues, it is taken very seriously in the capitals around the world because they know the quality and objectivity that is being put into this.

And I think it's important, also, if this country-by-country report is going to be used as the yardstick to measure progress being made in capitals that still have yet to do what is necessary.

Mr. EIZENSTAT. I agree with that. There is one difference, however: For example, the human rights report gets much more press attention. It's very difficult to get press to focus on this issue. So that's, again, why I'm so grateful that you're holding this hearing.

Mr. CARDIN. Well, I have another suggestion on that, and that is, you talk about best practices, and we all like to use best practices. I guess that's our human nature, to showcase what countries are doing well. But I've found, in Helsinki, the way you get the most attention is to bring out those that are the worst cases, rather than the best cases, and calling them out by name.

And it seems to me that if we expect to make progress, it's the way we made progress on violations of human rights, by calling out specific countries and practices against specific individuals—that's necessary in regards to these issues. That we also have to bring out those countries that are not doing what other countries are doing, and are deficient.

Mr. EIZENSTAT. But if I may—that's a very good point—if I may offer one other thought, and that is that you and Co-Chairman Hastings consider a joint resolution in which you attach the report, call attention to it, urge that countries take it seriously. It would be a way of also elevating congressional attention, but also the attention of the countries mentioned here.

I think if Congress were to do that, it would be very much appreciated. And you could also attach the Terezin Declaration. Hopefully, by then, we will have our best practices and guidelines completed for immovable property, and that would form the basis, perhaps, of something that could be referred to in a joint resolution.

Mr. CARDIN. We'll certainly try to give it higher visibility. You mentioned Lithuania's moving forward with communal property laws; are they going to correct the concerns by the Jewish community on the returns of educational facilities?

Mr. EIZENSTAT. This is an issue I've been working on for 15 years. At Prague, and I think induced by the Prague Conference, they did make a specific monetary proposal to try to monetize this so it wouldn't be just a property-by-property issue. The figures that they mentioned at that time were conditional, spent over many, many years, and at that point, at least, there wasn't a broad acceptance among survivor groups and Jewish organizations.

I can't speak for them in terms of their views now, but I think that there is some willingness to try to come together with the government of Lithuania and reach an agreement. And I think Lithuania's interested in resolving this issue, finally. And again, hopefully, our new best practices will be a further encouragement for Lithuania to complete this.

Mr. CARDIN. I think our expectations are that Lithuania will get this job done. I mean, they're taking on major responsibilities in international organizations. In the OSCE, they're taking on a leadership position—the leadership position. And they have been very

forthcoming in acknowledging that they have to do better, and now, it's time for them to get the law passed and implement it.

Mr. EIZENSTAT. I agree, and there's someone who's been very interested in these issues who is now in the parliament in the ruling party—Emanuel Zingeris—and I hope that his leadership will also help.

Mr. CARDIN. Well, we'll be following that carefully. I want to just underscore the point you raised about the impoverishment of Holocaust survivors. I mean, it's absolutely heart-wrenching when you see the status of so many people who were victimized during World War II living in extreme poverty, including in wealthy nations. And what is the strategy? I mean, time is running out. Congressman Smith, in his opening statement, pointed out that the victims are getting old.

And if we don't act now, it's going to be too late. What can we do to really make an impact—a significant impact on the quality of their life so that they can at least get some of the benefits from these restitution issues?

Mr. EIZENSTAT. Well, I appreciate the sense of urgency, which we certainly share with you. For one thing, if we can deal with the immovable property issue, particularly communal property, and that can be sold, it will create a real opportunity for funds, because almost 100 percent of the Nazi victims who are living in Central and Eastern Europe are in or close to poverty level.

And so this would be a very excellent way of dealing with it. There are other ways. For example, in Austria, they have a very creative program in which they've now located, in their national library, several thousand Holocaust-era books which were stolen. They're selling it to their national museum. The national museum is paying money, which will then be distributed through their national fund for victims.

It's very difficult to deal with the social issue, given budget constraints. But if I may, just to give a sense of urgency to this, as of—and this is taken from the November, 2009 report of the conference on Jewish material claims against Germany. I think these figures are valid. The total Jewish Nazi victim population, as of December 31, 2010—end of this year—is expected to be 516,700. It is estimated that, at the end of this year, of that number, 259,000 will be living in poverty.

That includes 73,000 in Israel, 25,000 in Central Europe, 90,000 in the former Soviet Union, and 45,800 in our country. This is very difficult. The question of whether there should be special compensation funds for victims here—we've talked to members of the House—former Congressman Wexler. It would be very difficult, at a time when there's a lot of poverty here, to say that there should be an extra complement of funds for these victims. Again, I think the best thing we can do is to try to provide things like home care.

The Germans, at the last negotiations in March of 2010, agreed to \$55 million in home care, worldwide. That is a crying need. If you can keep people from being institutionalized and giving them help with their daily medicines and their daily needs, that would be a very good thing. And again, if we can make progress on property restitution, that is one real area where, by selling those prop-

erties, something can happen. Let me give you an example, if I may.

There are several hundred synagogues that, to its credit, Poland have returned. They've actually done a commendable job on communal property. There are several thousand claims that have been made. They've processed about 30 percent of them. We hope they'll do it faster and more. But they are at least going through a process. Hundreds are returned, but they're returned in areas and in a dilapidated state where there are no people to keep them up.

If a process could be developed by which those properties, which are on real property and which have some value, could be translated into cash, rather than burdening the community with the upkeep of synagogues that won't be used and that they can't maintain, it would be an enormous contribution. And if one could do that for not just Polish survivors in Poland, of whom there are a couple of thousand, but Polish survivors around the world, of whom there are tens of thousands, that would do wonders.

So trying to be creative with the use of communal property would be one excellent way of dealing with this problem. But as you know, we're talking about people whose average age is well, well over 70. Thousands are dying every year—in fact, really hundreds every month. So we all have to have a sense of urgency and creativity about this.

Mr. CARDIN. Well, I thank you and I agree with that conclusion. You have obviously made this one of your priorities in life, and we appreciate that, and you raise this issue at every time you can. You're a person of principle.

I get the feeling that the priority of this issue is not always shared by everyone in the government—our government—that when bilateral meetings take place between world leaders and the United States, property restitution issues may never get on the agenda, even though it's an issue of importance in that country.

Do you have any advice for us—to the Helsinki Commission—as to how we can make this a higher priority among those who set up the agenda in the State Department so that we can follow up on some of these things? It seems to me if you got a friendly push from the administration in some of these countries that are close to enacting law, it would certainly expedite things. But at times, it sort of gets pushed down to, as the administration believes, more urgent issues. How can we make this a higher priority?

Mr. EIZENSTAT. May I say first that Secretary Clinton has raised this issue with Lithuania herself.

Mr. CARDIN. And I didn't mean to make this to this administration.

Mr. EIZENSTAT. No, I understand.

Mr. CARDIN. I mean, this has been a historical problem that predates the Obama administration.

Mr. EIZENSTAT. But just for the record, I think it is important that she did raise this with Lithuania. Undersecretary Hormats' successor, plus the undersecretary of economic affairs has raised this very directly with Poland. You're quite right: The more it's raised, the more it will be paid attention to, and when it's not raised—when there are other issues which take priority—and you know, with Poland, they're a major contributor to NATO troops,

and so forth—we understand that. So the more it can be raised, the better, even if it's the last talking point in a long list of talking points.

In terms of what role the Helsinki Commission can play, it is encouraging senior members of every administration to raise this issue when they are meeting with their counterparts. Again, it doesn't have to be the number one issue; it's not going to be the number one issue. But if it can be raised, it will have an impact. And I think, perhaps, Secretary Clinton raising this with Lithuania, Bob Hormats with Poland—hopefully, that will begin to give the signal that the Obama administration is very, very serious about this issue.

Mr. CARDIN. Well, it's certainly helped that Secretary Clinton, not too many years ago, was sitting on this side of the dais asking witnesses the same questions I'm asking about property issues. So I think she's extremely sensitive on this issue and has been a great friend of the commission, as a former member of the commission. And we do raise these issues. It's on our agenda in every meeting that we have with parliamentary officials and government officials from the relevant countries.

Mr. EIZENSTAT. Let me suggest one other thing, again, and to come back to my last point: We have a new EU ambassador, who's just come. Either publicly or privately, if he could be encouraged to get a message to Brussels that this is of great importance to the Senate of the United States, to the Helsinki Commission—House and Senate—by letter or otherwise, and urge him to intervene with the European Commission to support these efforts—if the Commission—you know, it's not just always the United States—if the Commission, the European Union, the European Council, would go to their member states and say, this is an issue which has to be resolved.

We believe in the rule of law, under the EU; we believe in private property rights in the EU; we believe that European citizens—European citizens—were deprived of their rights when they were European citizens. European property is involved; European principles and moral values are involved. I think that it would make a difference. They have gotten a pass on this issue.

Mr. CARDIN. Well, I think that's good advice, and we will certainly follow through on that. You've given us a lot of good advice, particularly in working with our counterparts in Europe. Let me say I know this has been frustrating that it's been a long time and too many people have been denied the restitution and compensation that they're entitled to, but I must tell you, I give you a lot of credit for the progress that we've made.

It is encouraging to see that this is being taken seriously by 47 countries and that they're coming together in a strategy, an action plan, to bring about results, and they're prepared to have a process for review to share best practices. I can assure you this commission will work very closely with the various countries and with the leaders of this effort to offer our encouragement and do what we can to put a spotlight on it, and particularly to work with our government leaders to continue to make this a priority. Thank you.

Mr. EIZENSTAT. It's much appreciated, and thanks again for your leadership.

Mr. CARDIN. Thank you. With that, the commission will stand adjourned.



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